



TERCENTENARY EDITION
OF
THE GENERAL LAWS
OF
The Commonwealth of Massachusetts

COMPRISING THE GENERAL LAWS ENACTED DECEMBER 22, 1920
TO TAKE EFFECT JANUARY 1, 1921, AS AMENDED
PRIOR TO JANUARY 1, 1932

WITH THE
CONSTITUTIONS OF THE UNITED STATES
AND OF THE COMMONWEALTH

EDITED UNDER THE DIRECTION OF THE GENERAL COURT BY

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Tercentenary Edition of the
General Laws of the

INTRODUCTION.

As directed by chapter 39 of the Resolves of 1929, chapter 58 of the Resolves of 1930 and chapters 67 and 68 of the Resolves of 1931, the undersigned, counsel, respectively, to the Senate and to the House of Representatives, have prepared for publication this tercentenary edition of the General Laws of 1921, as amended prior to January 1, 1932.

It is to be noted that this edition is not a revision of the general statutes of the commonwealth, enacted as a unit by the General Court, as were the revisions known as the Revised Statutes of 1836, the General Statutes of 1860, the Public Statutes of 1882, the Revised Laws of 1902 and the General Laws of 1921.

At the special session of 1920, the General Court enacted chapter 640 (now General Laws, chapter 3, sections 51 to 55, inclusive), establishing the plan known as the "continuous consolidation of the general statutes", providing for the offices of counsel to the Senate and to the House of Representatives and directing that they "shall, so far as possible, draft all bills proposed for legislation as general statutes in the form of specific amendments of or additions to the General Laws". One of the principal purposes of said chapter 640 was to make provision for maintaining the general statutes of the commonwealth in such form that new editions might readily be prepared for publication at periodic intervals, without the delay, inconvenience and expense incident to a general consolidation or revision as theretofore conducted, involving the appointment of a highly paid revision commission and a recess committee of the only kind now entitled to compensation under the constitution and also the calling of a special session of the General Court. In the preparation of the tercentenary edition for publication, this purpose has been achieved.

In anticipation of the preparation of this edition, the undersigned have also reviewed the General Laws and amendments thereof in order to comply with mandates of the General Court, directing them to make recommendations for the correction of errors, omissions, inconsistencies and imperfections therein which may come to their attention, accompanied by drafts of legislation to carry such recommendations into effect. These recommendations and accompanying drafts of legislation appear in the reports of the counsel to the Senate and to the House

of Representatives filed with the clerk of the House of Representatives and printed as House Document 1360 of 1930 and House Documents 1324, 1370 and 1650 of 1931. Chapters 301, 394 and 426 of the Acts of 1931 were based upon the foregoing reports.

The marginal notations opposite the several sections of the General Laws have been revised to include citations of decisions of the Supreme Judicial Court rendered since the publication of the General Laws, concluding with those contained in Volume 273 of the Massachusetts Reports.

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CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

PREAMBLE.

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Preamble.

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America.

ARTICLE I.

Legislative powers, in whom vested

SECT. 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

House of representatives, how and by whom chosen
239 Mass. 603.

SECT. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

Qualifications of a representative
240 Mass. 601.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes,

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to

their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

how apportioned.
See Amendments, XIII, XIV, XVI.
Census.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Vacancies to be filled.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Choosing officers. Power of impeachment.

SECT. 3. [The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.]

Senators, how and by whom chosen.

Amendment XVII a substitute for this paragraph.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; [and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.]

How classified.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Vacancies, how filled.
Amendment XVII a substitute for this provision.

Qualifications of a senator.
240 Mass. 601.

The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

President of the senate, his right to vote.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

President *pro tempore*, and other officers of senate, how chosen.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

Power to try impeachments.

When president is tried, chief justice to preside.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Sentence.

SECT. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the

Times, etc., of holding elections, how prescribed.

	legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.
One session in each year 239 Mass. 603.	The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.
Membership.	SECT. 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.
Quorum. Adjournments.	Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.
Rules. Power to punish or expel.	Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.
Journal.	Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.
Time of adjournment limited, unless, etc.	SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.
Compensation.	No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.
Privileges.	SECT. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.
Disqualification in certain cases.	Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.
House to originate all revenue bills. 126 Mass. 557, 593. 191 Mass. 370.	
Veto.	
Bill may be passed by two-thirds of each house, notwithstanding, etc. 227 Mass. 538.	
Bill not returned in ten days.	

Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. 8. The congress shall have power — to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States; — to borrow money on the credit of the United States; — to regulate commerce with foreign nations, and among the several states, and with the Indian tribes; — to establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States; — to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures; — to provide for the punishment of counterfeiting the securities and current coin of the United States; — to establish post offices and post roads; — to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries; — to constitute tribunals inferior to the supreme court; — to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; — to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water; — to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; — to provide and maintain a navy; — to make rules for the government and regulation of the land and naval forces; — to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions; — to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress; — to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings; — and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECT. 9. The migration or importation of such persons, as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or *ex post facto* law shall be passed.

Provision as to all orders, etc., except, etc.

Powers of congress
 4 Gray, 559.
 14 Gray, 614.
 10 Allen, 200.
 101 Mass. 303.
 106 Mass. 356.
 129 Mass. 580.
 130 Mass. 1.
 143 Mass. 264.
 144 Mass. 523.
 156 Mass. 236.
 160 Mass. 62.
 162 Mass. 113.
 164 Mass. 338.
 190 Mass. 355.
 191 Mass. 545.
 193 Mass. 605.
 201 Mass. 564.
 207 Mass. 167.
 341, 401.
 228 Mass. 101.
 117.
 232 Mass. 329.
 235 Mass. 538.
 572.
 236 Mass. 281.
 237 Mass. 269.
 242 Mass. 47.
 508.
 244 Mass. 47.
 248 Mass. 31.
 254 Mass. 190.
 240.
 256 Mass. 270.
 426.
 258 Mass. 48.
 470.
 261 Mass. 445.
 263 Mass. 444.
 264 Mass. 396.
 266 Mass. 284.
 270 Mass. 511.
 272 Mass. 465.
 139 U. S. 240.
 155 U. S. 401.
 231 U. S. 68.
 246 U. S. 135.
 147.
 3 Op. A. G.
 267.
 Op. A. G.
 (1920) 163.

Provision as to migration or importation of certain persons.

Habeas corpus.

Bills of attainder, etc.

Taxes, how apportioned. See Amendment XVI.

No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

3 Op. A. G. 267.

No export duty.

No tax or duty shall be laid on articles exported from any state.

235 Mass. 572.

242 Mass. 47.

244 Mass. 530.

No commercial preferences.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another.

No money drawn from treasury, unless, etc.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No titular nobility: Officers not to receive presents, unless, etc.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign state.

States prohibited from the exercise of certain powers

7 Cush. 53.
12 Allen, 421,
424, 428.
103 Mass 267.
115 Mass 153.
151 Mass 304.
160 Mass 62.
172 Mass 264.
173 Mass 322.
176 Mass 9.
178 Mass 330.
180 Mass 57.
181 Mass 111.
182 Mass 41,
49, 80.
184 Mass 329.
188 Mass 521.
189 Mass 70,
263.
190 Mass 605.
197 Mass 443.
226 Mass 618.
227 Mass 331.
231 Mass 113.

SECT. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

232 Mass. 329.
235 Mass. 572.
236 Mass. 281.
237 Mass. 619.
240 Mass. 264.
242 Mass. 47.
247 Mass. 334.
253 Mass. 256, 321.

261 Mass. 523.
263 Mass. 444.
264 Mass. 396.
265 Mass. 135.
268 Mass. 413.
270 Mass 69.
221 U. S. 660.

246 U. S. 135, 147.
2 Op. A. G. 125, 195,
261, 354, 426
4 Op. A. G. 33, 272,
278, 282, 407, 529.
Op. A. G. (1919) 32.
Op. A. G. (1920) 120.

ARTICLE II.

President and vice-president, their term of office.

SECT. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected, as follows:—

Electors of president and vice-president, number, and how appointed. Op. A. G. (1920) 201.

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Amendment XII a substitute for this paragraph.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they

shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Electors to vote on same day.

No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Qualifications of president
240 Mass. 601.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

On whom his duties devolve in case of his removal, death, etc.

The president shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

President's compensation.

Before he enter on the execution of his office, he shall take the following oath or affirmation:—

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States.”

His oath.

SECT. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

President to be commander-in-chief. He may require opinions of certain officers, etc., and may pardon.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and con-

Treaty-making power.
191 Mass. 276.
242 Mass. 508.
246 Mass. 462.

Nomination of certain officers.

sent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

When president may fill vacancies.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

President shall communicate to congress.

SECT. 3. He shall from time to time give to the congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

He may convene and adjourn congress, etc.

Shall receive ambassadors, execute laws, and commission officers.

All civil officers forfeited for certain crimes.

SECT. 4. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Judicial power.

242 Mass. 95.
246 Mass. 464.
271 Mass. 575.

Tenure.

Compensation.

Judicial power, to what cases it extends.

130 Mass. 431.
152 Mass. 290.
231 Mass. 313.
237 Mass. 538.
257 Mass. 591.
244 Mass. 23.
47.

248 Mass. 31.
258 Mass. 470.
139 U. S. 240.

See Amendment XI.

SECT. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECT. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers, and consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more states; — between a state and citizens of another state; — between citizens of different states; — between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

Original jurisdiction of supreme court.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

Appellate.

Trial by jury, except, etc.
Trial, where.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SECT. 3. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Treason defined.
Proof.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

Punishment.

ARTICLE IV.

SECT. 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Credit to be given to public acts, etc., of every state.
99 Mass. 267.
116 Mass. 170.
117 Mass. 107.

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| 122 Mass. 156. | 191 Mass. 128. | 232 Mass. 224. | 259 Mass. 1. |
| 126 Mass. 26. | 192 Mass. 137. | 238 Mass. 561. | 263 Mass. 378. |
| 142 Mass. 47. | 203 Mass. 159. | 244 Mass. 40. | 264 Mass. 414. |
| 149 Mass. 223. | 209 Mass. 282. | 248 Mass. 440. | 271 Mass. 545. |
| 189 Mass. 85. | 231 Mass. 113. | 252 Mass. 331. | 133 U. S. 107. |

SECT. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Privileges of citizens of each state.

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|----------------|----------------|------------------|
| 3 Gray. 268. | 173 Mass. 322. | 238 Mass. 396. |
| 11 Allen. 268. | 174 Mass. 29. | 256 Mass. 426. |
| 152 Mass. 230. | 188 Mass. 239. | 4 Op. A. G. 240. |
| 157 Mass. 367. | 236 Mass. 185. | |

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

Fugitives from justice to be delivered up.
112 Mass. 409.
158 Mass. 149.
236 Mass. 453.
258 Mass. 289.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Persons held to service, having escaped, to be delivered up.

SECT. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the congress.

Admission of new states.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Power of congress over territory and other property.

SECT. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

Republican form of government guaranteed.
Each state to be protected.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall

Constitution, how amended.
239 Mass. 349.
259 Mass. 454.
261 Mass. 523.
262 Mass. 603.

call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

Proviso.

ARTICLE VI.

Certain debts, etc., adopted.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

Supremacy of constitution, treaties and laws of the United States. 191 Mass. 276. 256 Mass. 159. Op. A. G. (1918) 44.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

Oath to support constitution, by whom taken. Op. A. G. (1917) 87.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

No religious test.

ARTICLE VII.

What ratification shall establish constitution.

The ratification of the conventions of nine states, shall be sufficient for the establishment of this constitution between the states so ratifying the same.

ARTICLES

IN ADDITION TO AND AMENDMENT OF

The constitution of the United States of America, proposed by congress, and ratified by the legislatures of the several states, pursuant to the fifth article of the original constitution.

Religious establishment prohibited. Freedom of speech, of the press, and right to petition.

ART. I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

196 Mass. 230.
236 Mass. 516.

247 Mass. 500.
249 Mass. 235.

272 Mass. 100.

Right to keep and bear arms. 236 Mass. 516. 247 Mass. 500. 249 Mass. 235.

ART. II. A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

No soldier to be quartered in any house, unless, etc. 236 Mass. 516.

ART. III. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

217 Mass. 500.

249 Mass. 235.

sions voted for as vice-president, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate;— the president of the senate shall, in presence of the senate and house of representatives, open all the certificates and the votes shall then be counted;— the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

ART. XIII. SECT. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECT. 2. Congress shall have power to enforce this article by appropriate legislation.

ART. XIV. SECT. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Slavery
abolished.
236 Mass. 281.
253 Mass. 244.

Appropriate
legislation.

Citizenship
defined.
Privileges of
citizens not to
be abridged.
144 Mass. 10.
147 Mass. 536.
156 Mass. 57.
158 Mass. 509,
598.
166 Mass. 347.
167 Mass. 290.

169 Mass. 387.	232 Mass. 19 28 88, 309.	265 Mass. 135, 166.
175 Mass. 71 369.	235 Mass. 320, 357.	266 Mass. 18.
179 Mass. 131.	236 Mass. 185, 281.	267 Mass. 145, 240, 607.
183 Mass. 242.	237 Mass. 42, 422.	268 Mass. 121, 37.3, 443, 480.
187 Mass. 436.	239 Mass. 424.	269 Mass. 410.
188 Mass. 363.	240 Mass. 55, 264.	270 Mass. 7, 69, 318, 511.
191 Mass. 545.	241 Mass. 406.	271 Mass. 598, 172.
195 Mass. 262.	242 Mass. 99 78, 95.	272 Mass. 19, 25, 113.
197 Mass. 178, 279.	244 Mass. 530.	169 U. S. 649.
200 Mass. 482.	246 Mass. 507.	177 U. S. 155.
201 Mass. 23.	247 Mass. 46, 334, 496, 500.	197 U. S. 11.
203 Mass. 536.	249 Mass. 123.	221 U. S. 660.
204 Mass. 138.	250 Mass. 52, 63, 73, 498.	231 U. S. 68.
207 Mass. 259 601, 606.	254 Mass. 0.	246 U. S. 135, 147.
208 Mass. 607.	253 Mass. 244 321, 478.	2 Op. A. G. 351, 442, 497.
209 Mass. 607.	255 Mass. 369.	3 Op. A. G. 276.
226 Mass. 613.	256 Mass. 426 512, 519, 568.	4 Op. A. G. 138, 282, 386,
228 Mass. 65 101, 117.	257 Mass. 108.	422, 537.
229 Mass. 494.	260 Mass. 335, 441.	Op. A. G. (1917) 51, 52,
230 Mass. 131, 370, 503.	261 Mass. 12 269, 309, 484.	74, 77.
231 Mass. 99.	264 Mass. 318 337.	Op. A. G. (1920) 74.

SECT. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

Apportionment of representatives.
159 Mass. 413.

SECT. 3. No person shall be a senator, or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Certain persons in rebellion excluded from holding office.

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.

Disability may be removed

Debt of United States not to be questioned.

But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Debts incurred in aid of rebellion to be void, etc.

SECT. 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Appropriate legislation.

ART. XV. SECT. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Right to vote not to be abridged on account of race, etc.

159 Mass. 413.

236 Mass. 281.

265 Mass. 166.

SECT. 2. The congress shall have power to enforce this article by appropriate legislation.

Appropriate legislation.

ART. XVI. The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

Taxation of incomes.
247 Mass. 496.
266 Mass. 583.
3 Op. A. G. 267.

ART. XVII. The senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

Senators, how and by whom chosen.
240 Mass. 601.

When vacancies happen in the representation of any state in the senate, the executive authority of such state shall issue writs of election to fill such vacancies: provided, that the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

Election to fill vacancies.

Temporary appointments.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the constitution.

Amendment not retroactive.

Intoxicating
liquors for
beverage pur-
poses pro-
hibited—
236 Mass. 281,
448
238 Mass. 218.
241 Mass.
168, 199.

ART. XVIII. SECT. 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

251 Mass. 569.
252 Mass. 126.

258 Mass. 410.
262 Mass. 603.

270 Mass. 61.
Op. A. G. (1920) 104.

Appropriate
legislation
236 Mass. 281.
Time for
ratification.

SECT. 2. The congress and several states shall have concurrent power to enforce this article by appropriate legislation.

SECT. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the constitution by the legislatures of the several states, as provided in the constitution, within seven years from the date of the submission hereof to the states by the congress.

Right to vote
not to be
abridged on
account of sex.
237 Mass. 589.

ART. XIX. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex.

240 Mass. 601, 611.

241 Mass. 168.

Appropriate
legislation.

Congress shall have power to enforce this article by appropriate legislation.

[NOTE. The constitution was adopted September 17, 1787, by the unanimous consent of the states present in the convention appointed in pursuance of the resolution of the congress of the confederation of February 21, 1787, and was ratified by the conventions of the several states, as follows, viz.: By convention of *Delaware*, December 7, 1787; *Pennsylvania*, December 12, 1787; *New Jersey*, December 18, 1787; *Georgia*, January 2, 1788; *Connecticut*, January 9, 1788; *Massachusetts*, February 6, 1788; *Maryland*, April 28, 1788; *South Carolina*, May 23, 1788; *New Hampshire*, June 21, 1788; *Virginia*, June 26, 1788; *New York*, July 26, 1788; *North Carolina*, November 21, 1789; *Rhode Island*, May 29, 1790.

The first ten of the amendments were proposed at the first session of the first congress of the United States, September 25, 1789, and were finally ratified by the constitutional number of states on December 15, 1791. The eleventh amendment was proposed at the first session of the third congress, March 5, 1794, and was declared in a message from the President of the United States to both houses of congress, dated January 8, 1798, to have been adopted by the constitutional number of states. The twelfth amendment was proposed at the first session of the eighth congress, December 12, 1803, and was adopted by the constitutional number of states in 1804, according to a public notice thereof by the secretary of state, dated September 25 of the same year.

The thirteenth amendment was proposed to the legislatures of the several states by the thirty-eighth congress on February 1, 1865, and was declared, in a proclamation of the secretary of state, dated December 18, 1865, to have been ratified by the legislatures of three-fourths of the states.

The fourteenth amendment was proposed to the legislatures of the several states by the thirty-ninth congress, on June 16, 1866.

On July 20, 1868, the secretary of state of the United States issued his certificate, setting out that it appeared by official documents on file in the department of state that said amendment had been ratified by the legislatures of the states of *Connecticut*, *New Hampshire*, *Tennessee*, *New Jersey*, *Oregon*, *Vermont*, *New York*, *Ohio*, *Illinois*, *West Virginia*, *Kansas*, *Maine*, *Nevada*, *Missouri*, *Indiana*, *Minnesota*, *Rhode Island*, *Wisconsin*, *Pennsylvania*, *Michigan*, *Massachusetts*, *Nebraska* and *Iowa*, and by newly established bodies avowing themselves to be and acting as the legislatures of the states of *Arkansas*, *Florida*, *North Carolina*, *Louisiana*, *South Carolina* and *Alabama*; that the legislatures of *Ohio* and *New Jersey* had since passed resolutions withdrawing the consent of those states to said amendment; that the whole number of states in the United States was thirty-seven, that the twenty-three states first above named and the six states next above named together, constituted three-fourths of the whole number of states, and certifying that if the resolutions of *Ohio* and *New Jersey*, ratifying said amendment were

still in force, notwithstanding their subsequent resolutions, then said amendment had been ratified and so become valid as part of the constitution.

On July 21, 1868, congress passed a resolution reciting that the amendment had been ratified by *Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina and Louisiana*, being three-fourths of the several states of the Union, and declaring said fourteenth article to be a part of the constitution of the United States and making it the duty of the secretary of state to duly promulgate it as such.

On July 28, 1868, the secretary of state issued his certificate, reciting the above resolution, and stating that official notice had been received at the department of state that action had been taken by the legislatures of the states in relation to said amendments, as follows: "It was ratified in A.D. 1866, by *Connecticut*, June 30; *New Hampshire*, July 7; *Tennessee*, July 19; *Oregon*, September 19; *Vermont*, November 9. In A.D. 1867, by *New York*, January 10; *Illinois*, January 15; *West Virginia*, January 16; *Kansas*, January 18; *Maine*, January 19; *Nevada*, January 22; *Missouri*, January 26; *Indiana*, January 29; *Minnesota*, February 1; *Rhode Island*, February 7; *Wisconsin*, February 13; *Pennsylvania*, February 13; *Michigan*, February 15; *Massachusetts*, March 20; *Nebraska*, June 15. In A.D. 1868, by *Iowa*, April 3; *Arkansas*, April 6; *Florida*, June 9; *Louisiana*, July 9; and *Alabama*, July 13.

"It was first ratified and the ratification subsequently withdrawn by *New Jersey*, ratified September 11, 1866, withdrawn April, 1868; *Ohio*, ratified January 11, 1867, and withdrawn January, 1868.

"It was first rejected and then ratified by *Georgia*, rejected November 13, 1866, ratified July 21, 1868; *North Carolina*, rejected December 4, 1866, ratified July 4, 1868; *South Carolina*, rejected December 20, 1866, and ratified July 9, 1868.

"It was rejected by *Texas*, November 1, 1866; *Virginia*, January 9, 1867; *Kentucky*, January 10, 1867; *Delaware*, February 7, 1867; and *Maryland*, March 23, 1867."

And on said July 28, 1868, and in execution of the act proposing the amendment and of the concurrent resolution of congress above mentioned and in pursuance thereof, the secretary of state directed that said amendment to the constitution be published in the newspapers authorized to promulgate the laws of the United States, and certified that it had been adopted in the manner above specified by the states named in said resolution, and that it "has become valid to all intents and purposes as a part of the constitution of the United States."

Subsequently it was ratified by *Virginia*, October 8, 1869, by *Georgia*, again February 2, 1870, and by *Texas*, February 18, 1870.

The fifteenth amendment was proposed to the legislatures of the several states by the fortieth congress on February 27, 1869, and was declared, in a proclamation of the secretary of state, dated March 30, 1870, to have been ratified by the constitutional number of states and to have "become valid to all intents and purposes as part of the constitution of the United States."

The sixteenth amendment was proposed to the legislatures of the several states by the sixty-first congress, at its first session, in 1909. On February 25, 1913, the secretary of state made proclamation to the effect that, from official documents on file in the department, it appeared that the amendment had been ratified by the legislatures of the states of *Alabama, Kentucky, South Carolina, Illinois, Mississippi, Oklahoma, Maryland, Georgia, Texas, Ohio, Idaho, Oregon, Washington, California, Montana, Indiana, Nevada, North Carolina, Nebraska, Kansas, Colorado, North Dakota, Michigan, Iowa, Missouri, Maine, Tennessee, Arkansas, Wisconsin, New York, South Dakota, Arizona, Minnesota, Louisiana, Delaware and Wyoming*, in all thirty-six; and, further, that the states whose legislatures had so ratified the said proposed amendment constituted three-fourths of the whole number of states in the United States; and, further, that it appeared from official documents on file in the department that the legislatures of *New Jersey* and *New Mexico* had passed resolutions ratifying the said proposed amendment. He further certified that the amendment had "become valid to all intents and purposes as a part of the constitution of the United States."

The seventeenth amendment was proposed to the legislatures of the several states by the sixty-second congress, at its second session, in 1912. On May 31, 1913, the secretary of state made proclamation to the effect that, from official documents on file in the department, it appeared that the amendment had been ratified by the legislatures of the states of *Massachusetts, Arizona, Minnesota, New York, Kansas, Oregon, North*

Carolina, California, Michigan, Idaho, West Virginia, Nebraska, Iowa, Montana, Texas, Washington, Wyoming, Colorado, Illinois, North Dakota, Nevada, Vermont, Maine, New Hampshire, Oklahoma, Ohio, South Dakota, Indiana, Missouri, New Mexico, New Jersey, Tennessee, Arkansas, Connecticut, Pennsylvania and Wisconsin; and, further, that the states whose legislatures had so ratified the said proposed amendment constituted three-fourths of the whole number of states in the United States. He further certified that the amendment had "become valid to all intents and purposes as a part of the constitution of the United States."

The eighteenth amendment was proposed to the legislatures of the several states by the sixty-fifth congress, at its second session, in 1917. On January 29, 1919, the acting secretary of state made proclamation to the effect that, from official documents on file in the department, it appeared that the amendment had been ratified by the legislatures of the states of *Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin and Wyoming;* and, further, that the states whose legislatures had so ratified the said proposed amendment constituted three-fourths of the whole number of states in the United States. He further certified that the amendment had "become valid to all intents and purposes as a part of the constitution of the United States."

The nineteenth amendment was proposed to the legislatures of the several states by the sixty-sixth congress, at its first session, in 1919. On August 26, 1920, the secretary of state made proclamation that, from official documents on file in the department, it appeared that the amendment had been ratified by the legislatures of the states of *Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin and Wyoming;* and, further, that the states whose legislatures had so ratified the said proposed amendment constituted three-fourths of the whole number of states in the United States. He further certified that the amendment had "become valid to all intents and purposes as a part of the constitution of the United States."]

A

CONSTITUTION

OR

FORM OF GOVERNMENT

FOR THE

Commonwealth of Massachusetts.

PREAMBLE.

Objects of government. — Body politic, how formed. — Its nature.

PART THE FIRST.

Declaration of Rights.

ARTICLE

1. Equality and natural rights of all men.
2. Right and duty of public religious worship. — Protection therein.
3. Legislature empowered to compel provision for public worship. — Legislature to enjoin attendance. — Exclusive right of electing religious teachers secured. — Option as to whom parochial taxes may be paid, unless, etc. — All denominations equally protected. — No subordination of one sect to another.
4. Right of self-government secured.
5. Accountability of all officers, etc.
6. Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.
7. Objects of government; right of people to institute and change it.
8. Right of people to secure rotation in office.
9. All having the qualifications prescribed equally eligible to office.
10. Right of protection and duty of contribution correlative. — All laws founded on consent. — Private property not to be taken for public uses without, etc.

ARTICLE

11. Remedies, by recourse to the law, to be free, complete and prompt.
12. Prosecutions regulated. — Right to trial by jury in criminal cases, except, etc.
13. Crimes to be proved in the vicinity.
14. Right of search and seizure regulated.
15. Right to trial by jury sacred, except, etc.
16. Liberty of the press.
17. Right to keep and bear arms. — Standing armies dangerous. — Military power subordinate to civil.
18. Moral qualifications for office. — Moral obligations of lawgivers and magistrates.
19. Right of people to assemble peaceably, to instruct representatives and to petition legislature.
20. Power to suspend the laws or their execution.
21. Freedom of debate, etc., and reason therefor.
22. Frequent sessions, and objects thereof.
23. No tax without consent.
24. *Ex post facto* laws prohibited.
25. Legislature not to convict of treason, etc.
26. Excessive bail or fines, and cruel punishments, prohibited.
27. No soldier to be quartered in any house, unless, etc.
28. Citizens exempt from law-martial, unless, etc.
29. Judges of supreme judicial court. — Tenure of their office. — Salaries.
30. Separation of legislative, executive and judicial departments.

PART THE SECOND.

The Frame of Government.

Title of body politic.

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION 1.

The General Court.

ARTICLE

1. Legislative department.
2. Governor's veto. — Bill may be passed by two thirds of each house, notwithstanding. — Bill or resolve not returned within five days to be law.
3. General court may constitute jurisdictions, courts of record, etc. — Courts, etc., may administer oaths.
4. General court may enact laws, etc., not repugnant to the constitution; may provide for the election or appointment of officers, prescribe their duties, etc. — May impose taxes, etc., to be disposed of for defence, etc. — Valuation of estates once in ten years, at least, while, etc.

SECTION 2.

Senate.

ARTICLE

1. Senate, number and by whom elected. — Counties to be districts, until, etc.
2. Manner and time of choosing senators and councillors. — Word "inhabitant" defined. — Selectmen to preside at town meetings. — Return of votes. — Inhabitants of unincorporated plantations who pay state taxes may vote. — Plantation meetings. — Assessors to notify, etc.
3. Governor and council to examine and count votes, and issue summonses.
4. Senate to be final judge of elections, etc., of its own members. — Vacancies, how filled.
5. Qualifications of a senator.
6. Senate not to adjourn more than two days.
7. Shall choose officers and establish rules.
8. Shall try all impeachments. — Oath. — Limitation of sentence.
9. Quorum.

SECTION 3.

House of Representatives.

ARTICLE

1. Representation of the people.
2. Representatives, by whom chosen. — Proviso as to towns having less than 150 ratable polls. — Towns liable to fine in case, etc. — Expenses of travelling to and from the general court, how paid.

ARTICLE

3. Qualifications of a representative.
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5. Representatives, when chosen.
6. House alone can impeach.
7. House to originate all money bills.
8. Not to adjourn more than two days.
9. Quorum.
10. To judge of returns, etc., of its own members; to choose its officers and establish its rules, etc. — May punish for certain offences. — Privileges of members.
11. Senate and governor and council may punish. — General limitation. — Trial may be by committee, or otherwise.

CHAPTER II.

EXECUTIVE POWER

SECTION 1.

Governor.

ARTICLE

1. Governor. — His title.
2. To be chosen annually. — Qualifications.
3. To be chosen by the people, by a majority of votes. — How chosen, when no person has a majority.
4. Power of governor and of governor and council.
5. May adjourn or prorogue general court upon request, and convene the same.
6. Governor and council may adjourn general court in cases, etc., but not exceeding ninety days.
7. Governor to be commander in chief. — Limitation.
8. Governor and council may pardon offences, except, etc. — But not before conviction.
9. Judicial officers, etc., how nominated and appointed.
10. Militia officers, how elected. — How commissioned. — Election of officers. — Major-generals, how appointed and commissioned. — Vacancies, how filled, in case, etc. — Officers duly commissioned, how removed. — Adjutants, etc., how appointed. — Army officers, how appointed. — Organization of militia.
11. Money, how drawn from the treasury, except, etc.
12. All public boards, etc., to make quarterly returns.
13. Salary of governor. — Salaries of justices of supreme judicial court. — Salaries to be enlarged if insufficient.

SECTION 2.

Lieutenant Governor.

ARTICLE

1. Lieutenant governor; his title and qualifications. — How chosen.

ARTICLE

2. President of council. — Lieutenant governor a member, except, etc.
3. Lieutenant governor to be acting governor, in case, etc.

SECTION 3.

Council, and the Manner of settling Elections by the Legislature.

ARTICLE

1. Council.
2. Number; from whom and how chosen. — If senators become councillors, their seats to be vacated.
3. Rank of councillors.
4. No district to have more than two.
5. Register of council.
6. Council to exercise power of governor in case, etc.
7. Elections may be adjourned until, etc. — Order thereof.

SECTION 4.

Secretary, Treasurer, Commissary, etc.

ARTICLE

1. Secretary, etc., by whom and how chosen. — Treasurer ineligible for more than five successive years.
2. Secretary to keep records; to attend the governor and council, etc.

CHAPTER III.

JUDICIARY POWER.

ARTICLE

1. Tenure of all commissioned officers to be expressed. — Judicial officers to hold office during good behavior, except, etc. — But may be removed on address.
2. Justices of supreme judicial court to give opinions when required.
3. Justices of the peace; tenure of their office.
4. Provisions for holding probate courts.
5. Marriage, divorce, etc., until other provision made by law.

CHAPTER IV.

DELEGATES TO CONGRESS.

Election, etc.

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

SECTION 1.

The University.

ARTICLE

1. Harvard College. — Powers, privileges, etc., of the president and fellows confirmed.

ARTICLE

2. All gifts, grants, etc., confirmed.
3. Who shall be overseers. — Power of alteration reserved to the legislature.

SECTION 2.

The Encouragement of Literature, etc.

Duty of legislatures and magistrates in all future periods.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

ARTICLE

1. Oaths of office, etc. — Declaration and oaths of all officers. — Oath of office. — Quakers may affirm. — Oaths and affirmations, how administered.
2. Plurality of offices prohibited to governor, etc., except, etc. — Incompatible offices. — Bribery, etc., disqualify.
3. Value of money ascertained. — Property qualifications may be increased.
4. Provisions respecting commissions.
5. Provisions respecting writs.
6. Continuation of former laws, except, etc.
7. Benefit of *habeas corpus* secured, except, etc.
8. The enacting style.
9. Officers of former government continued until, etc.
10. Provision for revising constitution.
11. Provision for preserving and publishing this constitution.

AMENDMENTS.

ARTICLE

1. Bill, etc., not approved within five days, not to become a law, if legislature adjourn in the meantime.
2. General court empowered to charter cities and to establish limited town meeting form of government in towns containing twelve thousand or more inhabitants. — Proviso.
3. Qualifications of voters for governor, lieutenant governor, senators and representatives.
4. Notaries public, how appointed and removed. — Vacancies in the offices of secretary and treasurer, how filled. — Commissary-general may be appointed, in case, etc. — Militia officers, how removed.

ARTICLE

5. Who may vote for captains and subalterns.
6. Oath to be taken by all officers. — Quakers may affirm.
7. Tests abolished.
8. Incompatibility of offices.
9. Amendments to constitution, how made.
10. Commencement of political year. — Termination of political year. — Governor, etc., term of office. — Meetings for choice of governor, lieutenant governor, etc., when to be held. — Article, when to go into operation. — Inconsistent provisions annulled.
11. Religious freedom established.
12. Census of ratable polls to be taken in 1837, and decennially thereafter. — Representatives, how apportioned. — Towns having less than 300 ratable polls, how represented. — Fractions, how represented. — Towns may unite into representative districts. — The governor and council to determine the number of representatives to which each town is entitled. — New apportionment to be made once in every ten years. — Inconsistent provisions annulled.
13. Census. — Senatorial districts declared permanent. — House of representatives, how apportioned. — Small towns, how represented. — Towns may unite into representative districts. — Basis of representation and ratio of increase. — The governor and council to apportion the number of representatives of each town once in every ten years. — Councillors to be chosen from the people at large. — Qualifications of councillors. — Property qualifications for seat in general court or council abolished.
14. Election by people to be by plurality.
15. Time of annual election of governor, lieutenant-governor and members of the legislature.
16. Eight councillors to be chosen by the people. — Legislature to district state. — Proviso. — Eligibility defined. — Day and manner of election, etc. — Vacancies, how filled. — Organization of government.
17. Election of secretary, treasurer, auditor and attorney-general by the people. — Vacancies, how filled. — To qualify within ten days, otherwise office to be deemed vacant. — Qualifications.
18. School money not to be applied for sectarian schools.

ARTICLE

19. Legislature to prescribe for election of sheriffs, registers of probate, etc.
20. Reading constitution in English and writing, necessary qualifications of voters. — Proviso.
21. Census of voters and inhabitants. — House of representatives to consist of 240 members. — Legislature to apportion, etc. — Secretary shall certify to officers authorized to divide counties. — Division of counties. — Qualifications of representatives. — Districts to be numbered, described and certified. — Quorum.
22. Census, etc. — Voters to be basis of apportionment of senators. — Senate to consist of 40 members. — Senatorial districts, etc. — Qualifications of senators. — Quorum.
23. Residence of two years required of naturalized citizens to entitle to suffrage or make eligible to office.
24. Vacancies in senate.
25. Vacancies in council.
26. Amendments, Art. XXIII, relative to length of residence required of naturalized citizens to entitle to suffrage or make eligible to office, annulled.
27. Officers of Harvard College may be elected members of the general court.
28. Persons having served in the U. S. army or navy, etc., not to be disqualified from voting, etc.
29. Voting precincts in towns.
30. Voters not disqualified by reason of change of residence until six months from time of removal.
31. Amendments, Art. XXVIII, amended. — Person who served in army or navy, etc., not disqualified from voting for having received aid or for non-payment of poll tax, etc.
32. Provisions of Amendments, Art. III, relative to payment of a tax as a voting qualification, annulled.
33. Quorum, in each branch of general court, to consist of majority of members.
34. Provisions of Const., Chap. II, Sect. I, Art. II, relative to property qualification of governor, annulled.
35. Provisions of Const., Chap. I, Sect. III, Art. II, relative to expense of travelling to the general assembly by members of the house, annulled.
36. Provisions of Amendments, Art. XIX, relative to providing for election of commissioners of insolvency, annulled.
37. Removal of justices of the peace and notaries public.

ARTICLE

38. Voting machines may be used at elections.
39. Powers of legislature relative to excess takings of land, etc., for laying out, widening or relocating highways, etc. — Proviso.
40. Amendments, Art. III, relative to qualifications of voters, amended.
41. Taxation of wild or forest lands.
42. Referendum.
43. Powers of general court relative to the taking of land, etc., to relieve congestion of population and to provide homes for citizens.
44. General court may provide for taxing incomes.
45. General court may provide for absentee voting.
46. SECT. 1. Religious freedom.
SECT. 2. Public money not to be expended to aid institutions not wholly under public ownership and control, etc. — Exceptions.
SECT. 3. Care or support in private hospitals, etc., of persons who are public charges.
SECT. 4. Inmates of certain institutions not to be deprived of religious exercises of their faith; nor compelled to attend services, etc.
SECT. 5. Time of taking effect.
47. General court may provide for distribution of food, etc., in time of war, etc., by the commonwealth, cities and towns.
48. Initiative and Referendum.
I. Definition.
The Initiative.
II. Initiative Petitions.
SECT. 1. Contents of initiative petition.
SECT. 2. Certain matters shall not be proposed by initiative petition. — Duty of general court to carry out law approved by the people. — Certain individual rights not to be subject of initiative or referendum petition. — Further excluded matters. — Certain legislative limitations extended.
SECT. 3. Mode of originating, etc. — Secretary of the commonwealth to furnish blank forms, etc. — Time of filing petitions.
SECT. 4. Transmission of proposed measure to the general court.
- III. Legislative Action. General Provisions.*
SECT. 1. Reference to legislative committee and report thereon.
SECT. 2. Legislative substitute for initiative measure.

ARTICLE

- IV. Legislative Action on Proposed Constitutional Amendments.*
SECT. 1. Definition of initiative amendment and legislative substitute.
SECT. 2. Joint session to consider amendment to the constitution. — When governor shall call joint session.
SECT. 3. Proposed amendment to the constitution, form in which to be voted upon.
SECT. 4. Final legislative action to be taken by yeas and nays. — Reference to next general court.
SECT. 5. Submission of amendment to the people. — When amendment becomes part of the constitution.
- V. Legislative Action on Proposed Laws.*
SECT. 1. Legislative procedure on law proposed by initiative petition, etc. — When measure becomes law and takes effect.
SECT. 2. Amendment of proposed law by petitioners and submission of measure to people by secretary of the commonwealth.
- VI. Conflicting and Alternative Measures.*
Conflicting and alternative measures, which shall govern when approved by the people, etc. — General court may provide for grouping, etc., upon the ballot. — Proviso. — Largest affirmative vote to prevail.
The Referendum.
I. When Statutes shall take Effect.
II. Emergency Measures.
Emergency law to contain preamble. — How governor may cause certain laws to take effect forthwith. — Exception.
III. Referendum Petitions.
SECT. 1. Contents of referendum petition.
SECT. 2. Certain matters shall not be the subject of a referendum petition.
SECT. 3. Mode of petitioning for suspension of a law and a referendum thereon. — Duties of the secretary of the commonwealth, etc. — Votes necessary for approval, etc.
SECT. 4. Petition for referendum on an emergency law or a law the suspension of which is not asked for. — Duties of the secretary of the commonwealth, etc. — Votes necessary for approval, etc.
General Provisions.
I. Identification and Certification of Signatures.
II. Limitation on Signatures.

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- III. *Form of Ballot.*
 IV. *Information for Voters.*
 V. *The Veto Power of the Governor.*
 VI. *The General Court's Power of Repeal.*
 VII. *Amendment declared to be Self-executing.*
 VIII. *Articles IX and XLII of Amendments of the Constitution annulled.*
49. Conservation, etc., of natural resources of commonwealth.
 50. Regulation by law of advertising on public ways, etc.
 51. General court may provide for taking ancient landmarks, etc.
 52. General court may take a recess.
 53. Chap. II, Sect. I, Art. X, the last two paragraphs of Amendments, Art. IV and Amendments, Art. V, annulled and superseded. — Military and naval officers, how appointed and removed, etc.
 54. Chap. II, Sect. I, Art. VII, annulled and superseded. — Military and naval forces, recruitment, etc.
 55. Chap. II, Sect. III, Art. VI, annulled and superseded. — Order of succession in case of vacancy in offices of governor and lieutenant-governor.
 56. Return by governor to general court of bill or resolve for amendment, etc.
 57. Amendments, Art. IV, amended. — Women may be appointed notaries public, etc.
 58. Chap. III, Art. I, amended. — Judicial officers, retirement, etc.
 59. Every charter, etc., subject to revocation, etc.
 60. Building zones in cities and towns.
 61. Compulsory voting at elections.
 62. SECT. 1. Commonwealth's credit not to be given to private enterprises.
 SECT. 2. Commonwealth may borrow money for certain purposes.
 SECT. 3. Two-thirds yea and nay vote of general court required to borrow money for any other purpose.
 SECT. 4. Expenditure of borrowed money limited.
 63. SECT. 1. Collection of revenue.
 SECT. 2. The budget, contents, etc. — General court to prescribe form, etc. — Governor may require information.
 SECT. 3. The general appropriation bill. — Supplementary budgets.
 SECT. 4. Special appropriation bills may be enacted, when.
 SECT. 5. Governor may disapprove, etc., items or parts of items in any appropriation bill, etc. — Items to have force of law, unless, etc.

ARTICLE

64. SECT. 1. Biennial election of certain state officers, councillors, senators and representatives; terms of office.
 SECT. 2. Treasurer ineligible for more than three successive terms.
 SECT. 3. General court to assemble annually.
 SECT. 4. When first election under this article shall be held, etc.
65. Members of general court not to be appointed to certain offices, nor receive compensation on recess committees, except, etc.
66. Organization of not more than twenty departments to perform the executive and administrative work of the commonwealth, except, etc.
67. Amendments, Art. XLVIII, amended. — When yea and nay vote shall be taken on emergency preamble.
68. Amendments, Art. III, relative to qualifications of voters, amended to conform to Art. XIX of Amendments to U. S. Constitution.
69. SECT. 1. Women not disqualified from holding public office.
 SECT. 2. Amendments, Art. IV as amended by Art. LVII, further amended. — Re-registration of female notary public when name is changed.
70. Amendments, Art. II, amended. — General court may establish limited town meeting form of government in towns containing more than six thousand but less than twelve thousand inhabitants. — Proviso.
71. Art. XXI of Amendments to the constitution annulled and superseded. — Census of inhabitants and enumeration of legal voters, when taken. — Special enumeration to specify number of legal voters in precincts of certain towns. — Basis for determining representative districts. — Proviso. — House of representatives to consist of 240 members. — General court to apportion, etc. — Secretary shall certify to officers authorized to divide counties. — County commissioners or board of special commissioners provided by law shall divide a county into representative districts. — Changing the time of assembling for such purpose. — No town containing less than twelve thousand inhabitants, no precinct of any other town and no ward of a city shall be divided. — Authorizing limitation of actions calling representative districting in question. — Qualifications of representatives. —

ARTICLE

Districts to be numbered, described and certified.

Art. XXII of Amendments to the constitution annulled and superseded. — Basis for determining senatorial and councillor districts. — Proviso. —

ARTICLE

Senate to consist of 40 members. — General court shall establish districts. — Proviso. — Authorizing limitation of motions calling senatorial districting in question. — Qualifications of senators.

P R E A M B L E .

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

Objects of government.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation, and a faithful execution of them; that every man may, at all times, find his security in them.

Body politic, how formed. Its nature.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain and establish the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

P A R T T H E F I R S T .

A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Equality and natural rights of all men. 115 Mass. 117. 163 Mass. 589. 172 Mass. 311. 191 Mass. 545.

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| 200 Mass. 471, 482. | 251 Mass. 6, 292, 569. | 270 Mass. 7, 69 |
| 208 Mass. 607. | 264 Mass. 469. | 271 Mass. 598 |
| 224 Mass. 122. | 267 Mass. 607. | 4 Op. A. G. 138, 252. |
| 231 Mass. 99. | 268 Mass. 373. | Op. A. G. (1920) 74. |
| 249 Mass. 477. | | |

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons to worship the SUPREME BEING, the great Cre-

Right and duty of public religious worship.

Protection
therein
14 Mass. 340.
29 Fek. 206.
2 Cush. 104.
12 Allen. 127.
214 Mass. 509.
263 Mass. 435.
4 Op. A. G. 418.

Legislature
empowered to
compel provision
for public
worship.

Amendments.
Art. XI, substi-
tuted for this.

Legislature
to enjoin
attendance.

Exclusive right
of electing reli-
gious teachers
secured.

Option as to
whom parochial
taxes may be
paid, unless,
etc.

All denomina-
tions equally
protected.
No subordina-
tion of one sect
to another.

Right of self-
government
secured.
See Art. X of
Amendments
to U. S. Const.

Accountability
of all officers,
etc.

Services ren-
dered to the
public being
the only title to
peculiar privi-
leges, heredi-
tary offices are

ator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

See Amendments, Arts. XLVI and XLVIII.

III. [As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion and morality: Therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.]

IV. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter, be by them [expressly] delegated to the United States of America in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature

neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

absurd and unnatural.
3 Pick. 492

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| 166 Mass. 171 | 226 Mass. 286. | 269 Mass. 410. |
| 167 Mass. 290. | 235 Mass. 320. | 270 Mass. 7 |
| 175 Mass. 599. | 255 Mass. 160. | 1 Op. A. G. 340. |

VII. Government is instituted for the common good; for the protection, safety, prosperity and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity and happiness require it.

Objects of government; right of people to institute and change it.
235 Mass. 320.
239 Mass. 349
269 Mass. 410.
270 Mass. 7.
1 Op. A. G. 340.

VIII. In order to prevent those, who are vested with authority, from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

Right of people to secure rotation in office.
244 Mass. 530.

IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

All having the qualifications prescribed equally eligible to office.
122 Mass. 594.

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| 160 Mass. 586. | 228 Mass. 63. | 1 Op. A. G. 449. |
| 200 Mass. 152. | 240 Mass. 264, 601, 611. | 3 Op. A. G. 497, 507. |

For the definition of "inhabitant" see Part the Second, Ch. I, Sect. II, Art. II.
For absent voting, see Amendments, Art. XLV.
Freedom of elections not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.
For compulsory voting, see Amendments, Art. LXI.
For eligibility of women to public office, see Amendments, Art. LXIX, § 1.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

Right of protection and duty of contribution correlative.
All laws founded on consent.
7 Met. 388.
4 Allen, 466.
108 Mass. 202, 208.
111 Mass. 125, 454.
126 Mass. 438.
131 Mass. 207.
135 Mass. 175.
139 Mass. 29, 341.
147 Mass. 609.
151 Mass. 285, 364.

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| 161 Mass. 302. | 240 Mass. 264. | 264 Mass. 460. |
| 174 Mass. 476. | 242 Mass. 78, 95. | 267 Mass. 607. |
| 191 Mass. 545. | 244 Mass. 530. | 268 Mass. 121, 373, 480. |
| 197 Mass. 279. | 247 Mass. 46. | 270 Mass. 7, 348, 593. |
| 201 Mass. 23. | 249 Mass. 477. | 271 Mass. 172, 598. |
| 224 Mass. 122. | 250 Mass. 52, 63, 73. | 245 U. S. 396 |
| 230 Mass. 1. | 251 Mass. 569. | 3 Op. A. G. 160. |
| 231 Mass. 99. | 257 Mass. 108, 153. | 4 Op. A. G. 483. |
| 232 Mass. 309. | 261 Mass. 523. | Op. A. G. (1919) 107. |
| 233 Mass. 190. | | |

Private property not to be taken for public uses without, etc.

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| 7 Pick. 344. | 106 Mass. 356. | 158 Mass. 509. |
| 12 Pick. 467. | 108 Mass. 202, 208. | 169 Mass. 417. |
| 6 Cash. 327. | 111 Mass. 125. | 173 Mass. 435. |
| 2 Gray, 1. | 113 Mass. 40. | 178 Mass. 199, 330, 363. |
| 7 Gray, 359. | 126 Mass. 427, 438. | 188 Mass. 348. |
| 14 Gray, 155. | 127 Mass. 50, 358, 408. | 194 Mass. 80. |
| 16 Gray, 417. | 129 Mass. 559. | 203 Mass. 26. |
| 1 Allen, 150. | 136 Mass. 75. | 159 U. S. 380 |
| 11 Allen, 530. | 137 Mass. 478. | 1 Op. A. G. 92, 224, 327. |
| 12 Allen, 223. | 142 Mass. 394. | 2 Op. A. G. 72, 263, 423. |
| 100 Mass. 544. | 145 Mass. 509. | 3 Op. A. G. 273, 375, 396. |
| 103 Mass. 120. | 152 Mass. 540. | 4 Op. A. G. 244, 541. |

For certain public uses, see Amendments, Arts. XLIII, XLVII and LI.
Right to receive compensation for private property appropriated to public use not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

Remedies, by recourse to the law, to be free, complete and prompt.

224 Mass. 192.
225 Mass. 237.
227 Mass. 46.
228 Mass. 63.
235 Mass. 357.
242 Mass.
78, 95.

Prosecutions regulated.

8 Pick. 211.
10 Pick. 9.
18 Pick. 434.
21 Pick. 542.
2 Met. 329.
12 Cush. 246.
1 Gray, 1.
5 Gray, 144.
8 Gray, 329.
10 Gray, 11.
11 Gray, 438.
2 Allen, 361.
11 Allen, 238.
264, 439, 473.
12 Allen, 135.
97 Mass. 570.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

247 Mass. 496.

251 Mass. 569.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs, that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

100 Mass. 287.
107 Mass. 172.
108 Mass. 5.
118 Mass. 443.
120 Mass. 118.
122 Mass. 330.
124 Mass. 464.
127 Mass. 550.
129 Mass. 489, 559.
132 Mass. 12.
133 Mass. 503, 578.
141 Mass. 203.
149 Mass. 550.
150 Mass. 66, 334.
158 Mass. 598.
162 Mass. 90.
163 Mass. 411.
169 Mass. 387.
170 Mass. 328.
172 Mass. 311.

173 Mass. 322, 498.
175 Mass. 71.
179 Mass. 131.
184 Mass. 198.
189 Mass. 12.
201 Mass. 23.
207 Mass. 249, 259.
218 Mass. 507.
231 Mass. 99.
232 Mass. 88, 309.
233 Mass. 190.
235 Mass. 357.
236 Mass. 310, 516.
237 Mass. 422, 591.
240 Mass. 264.
241 Mass. 406.
242 Mass. 78, 95.
245 Mass. 405.
246 Mass. 12, 507.

247 Mass. 500.
248 Mass. 1.
249 Mass. 235, 477.
252 Mass. 126.
254 Mass. 190.
255 Mass. 9, 369.
257 Mass. 172.
258 Mass. 98.
259 Mass. 453.
261 Mass. 481.
264 Mass. 460.
265 Mass. 358.
267 Mass. 607.
268 Mass. 373, 443.
269 Mass. 598.
270 Mass. 69.
271 Mass. 172, 598.
272 Mass. 25.
3 Op. A. G. 396.

Right of access to and protection in courts of justice not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

Right to trial by jury in criminal cases, except, etc.
8 Gray,
329, 373.

And the legislature shall not make any law, that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

103 Mass. 412.
122 Mass. 330.

135 Mass. 48.
228 Mass. 63.

Op. A. G. (1920) 95.

Right of trial by jury not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

Crimes to be proved in the vicinity
2 Pick. 550.
121 Mass. 61.
151 Mass. 419.

XIII. In criminal prosecutions, the verification of facts in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

208 Mass. 162.

250 Mass. 309.

267 Mass. 591.

Right of search and seizure regulated
Const. of U. S., Amend't IV.
2 Met. 329.
5 Cush. 369.
1 Gray, 1.
13 Gray, 454.
10 Allen, 403.
100 Mass. 136.
126 Mass. 269.
152 Mass. 12.
152 Mass. 540.
172 Mass. 311.
203 Mass. 516.
209 Mass. 396.
243 Mass. 356.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

246 Mass. 507.

259 Mass. 453.

Protection from unreasonable search not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherwise used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

Right to trial by jury sacred, except, etc. Const. of U. S. Amendt. VII
1 Miss. 412.
2 Pick. 382.
7 Pick. 344.
5 Gray, 144.

8 Gray, 373.	135 Mass. 490.	229 Mass. 478.
11 Allen, 574.	139 Mass. 550.	230 Mass. 197.
102 Mass. 43.	152 Mass. 416.	232 Mass. 88.
114 Mass. 388.	163 Mass. 446.	237 Mass. 591.
120 Mass. 320.	173 Mass. 68.	257 Mass. 172.
122 Mass. 505.	176 Mass. 229.	259 Mass. 453.
123 Mass. 590.	180 Mass. 534, 377.	261 Mass. 299.
124 Mass. 464.	183 Mass. 189.	263 Mass. 121.
125 Mass. 182.	189 Mass. 296.	268 Mass. 373.
128 Mass. 600.	205 Mass. 458.	269 Mass. 379.
130 Mass. 236.	215 Mass. 467.	Op. A. G. (1917) 77.

Right of trial by jury not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth.

Liberty of the press
20 Pick. 206.
4 Op. A. G. 135, 178.

Freedom of the press not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Right to keep and bear arms
Standing armies dangerous
Military power subordinate to civil.

5 Gray, 121.	166 Mass. 171.	1 Op. A. G. 552.
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XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives; and they have a right to require of their lawgivers and magistrates, an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Moral qualifications for office.
4 Op. A. G. 418.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Moral obligations of lawgivers and magistrates.

151 Mass. 50.	156 Mass. 57.	224 Mass. 176.	265 Mass. 425.
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Right of peaceable assembly not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

Right of people to assemble peaceably, to instruct representatives and to petition legislature.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Power to suspend the laws or their execution
16 Mass. 326.
258 Mass. 133.

Modified by the initiative and referendum. See Amendments, Art. XLVIII, I, Definition.

XXI. The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Freedom of debate, etc., and reason therefor.
4 Mass. 1.
265 Mass. 19.

Freedom of speech not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

Frequent sessions, and objects thereof.

No tax without consent
8 Allen, 247.
279 U. S. 620.

Ex post facto laws prohibited.
12 Allen, 421,
424, 428.
155 Mass. 162.
172 Mass. 264.
173 Mass. 322.

Legislature not to convict of treason, etc.

Excessive bail or fines, and cruel punishments, prohibited.

No soldier to be quartered in any house, unless, etc.

Citizens exempt from law-martial, unless, etc.

Judges of supreme judicial court. Tenure of their office. Salaries.
3 Fink, 462.
1 Gray, 472.
4 Allen, 591.
7 Allen, 385.
105 Mass. 219, 225.
208 Mass. 162.
229 Mass. 421.
236 Mass. 310.
249 Mass. 95.
257 Mass. 153.
261 Mass. 12.
268 Mass. 373.

Separation of legislative, executive and judicial departments.

7 Met. 388.
2 Cush. 577.
2 Allen, 361.
8 Allen, 247.
100 Mass. 282.
114 Mass. 247.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties, ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

180 Mass. 57.

265 Mass. 135.

272 Mass. 113.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No magistrate or court of law, shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

5 Gray, 482.
165 Mass. 66.

173 Mass. 322.
178 Mass. 549.

267 Mass. 496.
272 Mass. 113.

180 U. S. 311.
217 U. S. 349.

Protection from unreasonable bail not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

Protection from law-martial not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

272 Mass. 19, 25.

Tenure of their office, etc., not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2, The Referendum, III, § 2.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

116 Mass. 315.
129 Mass. 559.
180 Mass. 357.
136 Mass. 239.
142 Mass. 200.
143 Mass. 190.
174 Mass. 514.
175 Mass. 71.

183 Mass. 535.
201 Mass. 609.
207 Mass. 577.
208 Mass. 610.
212 Mass. 127.
214 Mass. 002.
224 Mass. 122.
231 Mass. 89.

236 Mass. 310.
237 Mass. 619.
240 Mass. 264.
242 Mass. 78, 95.
246 Mass. 164.
251 Mass. 569.
254 Mass. 342.
255 Mass. 160.

258 Mass. 289.
261 Mass. 556.
263 Mass. 444.
271 Mass. 172.
1 Op. A. G. 192, 233.
3 Op. A. G. 219, 424, 507.
4 Op. A. G. 41, 53, 169.
Op. A. G. (1920) 92.

For initiative and referendum, see Amendments, Art. XLVIII
For organization of executive, etc., work of the Commonwealth in not more than twenty departments, see Amendments, Art. LXVI.

PART THE SECOND.

The Frame of Government.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

CHAPTER I.

THE LEGISLATIVE POWER.

SECTION I.

The General Court.

ARTICLE I. The department of legislation shall be formed by two branches, a Senate and House of Representatives: each of which shall have a negative on the other. The legislative body shall assemble every year [on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May:] and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

Title of body politic.

Legislative department
239 Mass. 349.
Op. A. G.
(1919) 48.
For change of time, etc., see Amendments, Art. X.

II. No bill or resolve of the senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revision; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichsoever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two thirds of the members present, shall have the force of a law: but in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

Governor's veto.
99 Mass. 636.
214 Mass. 602.
1 Op. A. G. 168.
3 Op. A. G. 552.

Bill may be passed by two thirds of each house, notwithstanding.
185 Mass. 603.
208 Mass. 614.
227 Mass. 538.
2 Op. A. G. 513.
3 Op. A. G. 415.

For right of governor to return bill or resolve for amendment, see Amendments, Art. LXVI.
For disapproval or reduction by the governor of items in bills appropriating money, see Amendments, Art. LXIII, § 5.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

Bill or resolve not returned within five days to be law.

135 Mass. 594.

192 Mass. 15.

3 Op. A. G. 414.

For exception in case of adjournment of the general court within the five days, see Amendments, Art. I.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes,

General court may constitute judicatories, courts of record, etc.
8 Gray, 1.
12 Gray, 147, 154.

228 Mass. 63.
246 Mass. 464.
269 Mass. 303.
271 Mass. 575.
See Amendments, Art. XLVIII. The Initiative, II, § 2, and The Referendum, III, § 2.
Courts, etc., may administer oaths.

General court may enact laws, etc., not repugnant to the constitution; may provide for the election or appointment of officers, prescribe their duties, etc.
9 Gray, 426.
4 Allen, 466.
6 Allen, 353.
14 Allen, 359.
100 Mass. 544.
111 Mass. 454.
132 Mass. 542.
136 Mass. 75.
138 Mass. 601.
148 Mass. 375.
150 Mass. 592.
153 Mass. 566.
154 Mass. 115, 579.
155 Mass. 117, 598.
158 Mass. 299.
160 Mass. 156, 586.
162 Mass. 113, 516.
164 Mass. 54, 338.
165 Mass. 287, 462, 599.
166 Mass. 83, 589.
172 Mass. 311.
173 Mass. 119.
175 Mass. 154.
176 Mass. 9, 210, 290.
177 Mass. 434.
178 Mass. 199.
180 Mass. 274, 293.
181 Mass. 383.
183 Mass. 242.
185 Mass. 10, 18.
191 Mass. 545.

plaints, actions, matters, causes and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same, whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within the said commonwealth; the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy, reasonable duties and excises, upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

203 Mass. 26.	247 Mass. 191, 500.	197 U. S. 41.
209 Mass. 607.	250 Mass. 591.	260 U. S. 309.
211 Mass. 624.	256 Mass. 512.	2 Op. A. G. 161, 264, 326, 584.
216 Mass. 356, 605.	259 Mass. 1.	3 Op. A. G. 109, 280, 384, 388, 526, 538.
221 Mass. 323.	261 Mass. 523, 556.	4 Op. A. G. 20, 27, 41, 48, 183, 207, 252, 259, 265, 276, 289, 337, 386, 407, 422, 483, 519, 521, 529, 553, 557.
222 Mass. 88.	262 Mass. 603.	Op. A. G. (1917) 24, 77.
234 Mass. 612.	264 Mass. 396.	Op. A. G. (1919) 32.
237 Mass. 422, 493, 523.	266 Mass. 583, 590.	Op. A. G. (1920) 97.
238 Mass. 432.	268 Mass. 443, 480.	
239 Mass. 424, 434.	269 Mass. 67, 410, 503, 598.	
240 Mass. 611, 616.	270 Mass. 593.	
246 Mass. 464.	271 Mass. 172.	

May impose taxes, etc., to be disposed of for defence, etc.

12 Mass. 252.	103 Mass. 267.	183 Mass. 333.	228 Mass. 101, 117.
5 Allen, 428.	114 Mass. 388.	188 Mass. 239.	232 Mass. 28.
6 Allen, 558.	118 Mass. 386.	190 Mass. 110.	233 Mass. 190.
8 Allen, 247, 256.	123 Mass. 493.	193 Mass. 406.	234 Mass. 42.
12 Allen, 75.	126 Mass. 547.	196 Mass. 603.	240 U. S. 153, 146.
312, 560, 612.	127 Mass. 408.	199 Mass. 96.	3 Op. A. G. 294.
98 Mass. 19.	133 Mass. 161.	224 Mass. 31.	299, 409, 491, 495.
100 Mass. 282.	134 Mass. 419.	226 Mass. 268.	4 Op. A. G. 192, 215.
101 Mass. 575.	145 Mass. 108.		

Valuation of estates once in ten years, at least, while, etc.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with

equality, there shall be a valuation of estates within the commonwealth taken anew once in every ten years at least, and as much oftener as the general court shall order.

For the authority of the general court to charter cities and establish limited town meeting form of government, see Amendments, Arts. II and LXX.

For additional taxing power given to the general court, see Amendments, Arts. XLI and XLIV.

For the state-wide referendum on bills and resolutions of the general court, see Amendments, Art. XLII, which was annulled by Amendments, Art. XIA III, General Provisions, VIII.

For the initiative and referendum, see Amendments, Art. XLVIII.

For the power given the general court to provide by law for absentee and compulsory voting, see Amendments, Arts. XLV and LXI.

For the power given the general court to determine the manner of providing and distributing the necessities of life, etc., during time of war, public distress, etc., by the commonwealth and the cities and towns therein, see Amendments, Art. XLVII.

8 Allen, 217.
126 Mass. 517.
4 Op. A. G. 192.

CHAPTER I.

SECTION II.

Senate.

ARTICLE I. [There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts, into which the commonwealth may from time to time be divided by the general court for that purpose: and the general court in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth, the limits of each district, and the number of councillors and senators to be chosen therein; provided that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

Senate, number and by whom elected.
This article superseded. See Amendments, Arts. XIII, XXII and LXXVI.

For provision as to councillors, see Amendments, Arts. XVI and LXXI.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for councillors and senators, viz.: —

Counties to be districts, until, etc.

Suffolk	Six	York	Two
Essex	Six	Dukes County }	One
Middlesex	Five	and Nantucket }	
Hampshire	Four	Worcester	Five
Plymouth	Three	Cumberland	One
Barnstable	One	Lincoln	One
Bristol	Three	Berkshire	Two]

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz. there shall be a meeting on the [first Monday in April,] [annually,] forever, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before the [first Monday in April,] for the purpose of electing persons to be senators and councillors; [and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is

Manner and time of choosing senators and councillors.
237 Mass. 591.
239 Mass. 603.
240 Mass. 601.
See Amendments, Arts. X, XV, XLV, LXI and LXIV, § 1.

As to cities, see Amendments, Art. II.

Provisions as to qualifications of voters superseded by

Amendments,
Arts. III, XX,
XXVIII,
XXX, XXXI,
XXXII and
XL.

Word "inhabitant" defined.

Selectmen to
preside at town
meetings.

Return of
votes.

As to cities, see
Amendments,
Art. II.

Time changed
to first Wednes-
day of January.
See Amend-
ments, Art. X.

Inhabitants of
unincorporated
plantations
who pay state
taxes may
vote.

Plantation
meetings.

Assessors to
notify, etc.

Time of elec-
tion changed
by Amend-
ments, Arts.
X and XV.

Governor and
council to ex-
amine and
count votes,
and issue
summons.
Time changed
to first
Wednesday in
January by
Amendments,
Art. X.
Majority
changed to
plurality by
Amendments,
Art. XIV.

Senate to be
final judge of
elections, etc.,

an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that town, district or plantation where he dwelleth, or hath his home.

3 Mass. 568.

7 Mass. 523.

5 Met. 298.

122 Mass. 594.

See also Amendments, Art. XXIII, which was annulled by Amendments, Art. XXVI.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May] [annually:] or it shall be delivered into the secretary's office seventeen days at least before the said [last Wednesday in May:] and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, seventeen days before the said [last Wednesday in May.]

[And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such place in the plantations respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose accordingly.]

III. And that there may be a due convention of senators on the [last Wednesday in May] annually, the governor with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be chosen by [a majority of] voters, to attend on that day, and take their seats accordingly: provided nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution;

and shall, [on the said last Wednesday in May] [annually,] determine and declare who are elected by each district, to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.]

V. Provided nevertheless, that no person shall be capable of being elected as a senator, [who is not seised in his own right of a freehold within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

As to residence, see also Amendments, Arts. XXII and LXXI.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

See Amendments, Art. LII.

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

239 Mass. 603.

VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth: but the party so convicted, shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX. [Not less than sixteen members of the senate shall constitute a quorum for doing business.]

See Amendments, Arts. XXII and XXXIII.

CHAPTER I.

SECTION III.

House of Representatives.

ARTICLE I. There shall be, in the legislature of this commonwealth, a representation of the people, [annually] elected, and founded upon the principle of equality.

For change to biennial elections, see Amendments, Art. LXIV, § 1.

of its own members
228 Mass. 63.

Time changed to first
Wednesday of January by
Amendments,
Art. X.

Majority changed to plurality by
Amendments,
Art. XIV.

Vacancies, how filled.

Changed to election by ballot.
See Amendments, Art. XXIV.

Qualifications of a senator.
240 Mass. 601,
254 Mass. 617.

Property qualifications abolished by
Amendments,
Art. XIII.

Senate not to adjourn more than two days.

Shall choose officers and establish rules.

Shall try all impeachments
167 Mass. 599,
210 Mass. 214,
239 Mass. 458,
240 Mass. 264.

Oath.

Limitation of sentence.

Quorum.

Representation of the people.

Representatives, by whom chosen. 7 Mass. 523.
Provisions as to representatives superseded. See Amendments, Arts. XII, XIII, XXI and LXXI.

Proviso as to towns having less than 150 ratable polls.

Towns liable to fine in case, etc.

Expenses of travelling to and from the general court, how paid.

Annulled by Amendments, Art. XXXV.

Qualifications of a representative. New provision as to residence. See Amendments, Arts. XXI and LXXI.

Qualifications of a voter. 240 Mass. 691. These provisions superseded by Amendments, Arts. III, XX, XXVIII, XXX, XXXI, XXXII and XLV.

Representatives, when chosen.

House alone can impeach. 210 Mass. 214. 240 Mass. 264.

House to originate all money bills. 126 Mass. 547, 557.

Not to adjourn more than two days. See Amendments, Art. LII. Quorum.

II. [And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls, may elect one representative: every corporate town, containing three hundred and seventy-five ratable polls may elect two representatives: every corporate town containing six hundred ratable polls, may elect three representatives: and proceeding in that manner, making two hundred and twenty-five ratable polls, the mean increasing number for every additional representative.

Provided nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative: but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.]

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

[The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.]

III. Every member of the house of representatives shall be chosen by written votes; [and for one year at least next preceding his election, shall have been an inhabitant of, and have been seised in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.]

Property qualifications abolished by Amendments, Art. XIII.

IV. [Every male person, being twenty-one years of age, and resident in any particular town in this commonwealth for the space of one year next preceding, having a freehold estate within the same town, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative, or representatives for the said town.]

See also Amendments, Art. XXIII, which was annulled by Art. XXVI.

V. [The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.]

Time of election changed by Amendments, Art. X, and changed again by Amendments, Art. XV.

VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them, shall be heard and tried by the senate.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

IX. [Not less than sixty members of the house of representatives, shall constitute a quorum for doing business.]

See Amendments, Arts. XXI and XXXIII.

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house: They shall have authority to punish by imprisonment, every person, not a member, who shall be guilty of disrespect to the house, by any disorderly, or contemptuous behavior, in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house. And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

To judge of returns, elections, &c. of its own members. To choose its officers and establish its rules, &c. May punish for certain offences. 34 Gray, 473. 14 Gray, 226. 224 Mass. 516. 1 Op. A. G. 3.

XI. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases. Provided that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Privileges of members. 4 Mass. 1, 29. 251 Mass. 95. 243 U. S. 521.

Senate and governor and council may punish. General limitation. 14 Gray, 226. 243 U. S. 521.

And the senate and house of representatives may try, and determine, all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

Trial may be by committee, or otherwise. 223 Mass. 516.

CHAPTER II.

EXECUTIVE POWER.

SECTION I.

Governor.

ARTICLE I. There shall be a supreme executive magistrate, who shall be styled, THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be — HIS EXCELLENCY.

Governor.

II. The governor shall be chosen [annually:] and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; [and unless he shall at the same time, be seised in his own right, of a freehold within the commonwealth of the value of one thousand pounds;] [and unless he shall declare himself to be of the Christian religion.]

His title.

To be chosen annually. 240 Mass. 601.

For change to biennial elections, see Amendments, Art. LXIV, § 1. Qualifications.

See Amendments, Arts. VII and XXXIV.

III. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth, shall, at a meeting to be called for that purpose, on the [first Monday of April] [annually,] give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a

To be chosen by the people, by a majority of votes. 196 Mass. 410. 239 Mass. 349. See Amendments, Art. XLV. Time of election changed by Amendments, Arts. X and XV.

As to cities, see Amendments, Art. II.

Time changed to first Wednesday of January by Amendments, Art. X.

Changed to plurality by Amendments, Art. XIV.

How chosen, when no person has a majority.

Power of governor and of governor and council
190 Mass. 616.

May adjourn or prorogue general court upon request, and convene the same.

As to dissolution, see Amendments, Art. X.
Governor and council may adjourn general court in cases, etc., but not exceeding ninety days.

Governor to be commander in chief.

This article annulled and superseded by Amendments, Art. LIV.

fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county thirty days at least before the [last Wednesday in May]; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May]; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives, on the [last Wednesday in May], to be by them examined: and in case of an election by a [majority] of all the votes returned, the choice shall be by them declared and published. But if no person shall have a [majority] of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for, but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

IV. The governor shall have authority from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same on the day next preceding the last Wednesday in May]; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess; and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same: and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

[And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.]

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency or time of adjournment, or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

190 Mass. 616.

VII. [The governor of this commonwealth for the time being, shall be the commander in chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia and navy; and, for the special defence and safety of the commonwealth, to

assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander in chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the state, to which they cannot otherwise conveniently have access.]

Limitation.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council: but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

Governor and council may pardon offences, except, etc. But not before conviction. 109 Mass. 323. 135 Mass. 48. 190 Mass. 616. 210 Mass. 609.

246 Mass. 12.
257 Mass. 386.

261 Mass. 12.
1 Op. A. G. 199.

4 Op. A. G. 119.
Op. A. G. (1920) 179.

IX. All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment.

Judicial officers, etc., how nominated and appointed. 228 Mass. 63. 238 Mass. 379. 240 Mass. 611. 246 Mass. 464.

For provisions as to election of attorney-general, see Amendments, Arts. XVII and LXIV, § 1.

For provision as to election of sheriffs, registers of probate, etc., see Amendments, Art. XIX.

For provision as to appointment of notaries public, see Amendments, Arts. IV, LVII and LXIX, § 2. Appointment, tenure, etc., of judges not to be the subject of an initiative or referendum petition; see Amendments, Art. XLVIII, The Initiative, II, § 2, and The Referendum, III, § 2.

X. [The captains and subalterns of the militia, shall be elected by the written votes of the train band and alarm list of their respective companies, [of twenty-one years of age and upwards:] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments: the brigadiers shall be elected in like manner, by the field officers of their respective brigades: and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

Militia officers, how elected. Limitation of age struck out by Amendments, Art. V. This article annulled and superseded by Amendments, Art. LIII. How commissioned.

Election of officers.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor, the officers elected.

Major-generals, how appointed and commissioned.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

Vacancies, how filled, in case, etc.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

Officers duly commissioned, how removed. Superseded by Amendments, Art. IV.

[And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial pursuant to the laws of the commonwealth for the time being.]

Adjutants, etc., how appointed.

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

Army officers, how appointed.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

Organization of militia.

The divisions of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.]

Money, how drawn from the treasury, except, etc. 13 Allen, 593. 234 Mass. 42. 268 Mass. 450. Op. A. G. (1919) 10.

XI. No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

Certain appropriations of money from treasury not to be subjects of initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2, and The Referendum, III, § 2.

All public boards, etc., to make quarterly returns.

XII. All public boards, [the commissary-general,] all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors adjacent.

Provision for appointment of commissary-general annulled by Amendments, Art. LIII

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases, act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns — and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salary of
governor.
236 Mass. 310.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Salaries of jus-
tices of su-
preme judicial
court.

Compensation of judges not to be the subject of an initiative or referendum petition; see Amendments, Art. XLVIII, The Initiative, II, § 2, and The Referendum, III, § 2.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time be enlarged as the general court shall judge proper.

Salaries to be
enlarged if
insufficient.

CHAPTER II

SECTION II.

Lieutenant Governor.

ARTICLE I. There shall be [annually] elected a lieutenant governor of the commonwealth of Massachusetts, whose title shall be, His HONOR and who shall be qualified, in point of [religion,] [property,] and residence in the commonwealth, in the same manner with the governor: and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner: and if no one person shall be found to have [a majority] of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have [a majority] of the votes of the people to be governor.

Lieutenant
governor: his
title and
qualifica-
tions.
239 Mass. 319.
240 Mass. 601.
See Amend-
ments, Arts.
VII and
XXXIV.
How chosen.
For change
to biennial
elections, see
Amendments,
Art. LXIV, § 1.

Election by plurality provided for by Amendments, Art. XIV.

II. The governor, and in his absence the lieutenant governor, shall be president of the council, but shall have no vote in council: and the lieutenant governor shall always be a member of the council except when the chair of the governor shall be vacant.

President of
council
Lieutenant
governor a
member,
except, etc.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

Lieutenant
governor to be
acting gov-
ernor, in case,
etc.
135 Mass. 594.
See Amend-
ments, Art. LV.

CHAPTER II.

SECTION III.

Council, and the Manner of settling Elections by the Legislature.

Council.
190 Mass. 616.
265 Mass. 191.
Number of
councillors
changed to
eight
See Amend-
ments, Art.
XVI.

ARTICLE I. There shall be a council for advising the governor in the executive part of government, to consist of [nine] persons besides the lieutenant governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together. And the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

Number; from
whom and
how chosen.
239 Mass. 349.
Modified by
Amendments,
Arts. X and
XIII
Superseded by
Amendments,
Art. XVI.

II. [Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room: and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.]

If senators be-
come coun-
cillors, their seats
to be vacated.

III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant governor.

Rank of
councillors.

No district to
have more
than two.

IV. [Not more than two councillors shall be chosen out of any one district of this commonwealth.]

Superseded by Amendments, Art. XVI.

Register of
council.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

Council to
exercise power
of governor in
case, etc.
This article
annulled and
superseded by
Amendments,
Art. LV.

VI. [Whenever the office of the governor and lieutenant governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them, shall during such vacancy have full power and authority to do, and execute, all and every such acts, matters and things, as the governor or the lieutenant governor might or could, by virtue of this constitution, do or execute, if they or either of them, were personally present.]

Elections may
be adjourned
until, etc.
239 Mass. 349.

VII. [And whereas the elections appointed to be made by this constitution, on the [last Wednesday in May annually.] by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: [the vacancies in the senate, if any, shall first be filled up:] the governor and lieutenant governor shall then be elected, provided there should be no choice of them by the people: and afterwards the two houses shall proceed to the election of the council.]

Order thereof.
Affected by
Amendments,
Arts. X, XIV,
XVI, XXV
and LXIV.

CHAPTER II.

SECTION IV.

Secretary, Treasurer, Commissary, etc.

ARTICLE I. [The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives in one room. And that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.]

Secretary, etc., by whom and how chosen.

Treasurer ineligible for more than five successive years.

For provision as to election of secretary and treasurer and receiver-general, see Amendments, Arts. XVII and LXIV. § 1.

For provision as to appointment of notaries public, see Amendments, Arts. IV, LVII and LXIX. § 2. Commissary-general, appointment, Amendments, Art. IV: abolished, Amendments, Art. LIII.

Treasurer and receiver-general ineligible to election for more than three successive terms. See Amendments, Art. LXIV. § 2.

II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable, and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

Secretary to keep records; to attend the governor and council, etc.

CHAPTER III.

JUDICIARY POWER.

ARTICLE I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

Tenure of all commissioned officers to be expressed. Judicial officers to hold office during good behavior, except, etc. But may be removed on address.

134 Mass. 314. 216 Mass. 51. 246 Mass. 464. 271 Mass. 575.

Tenure of office, etc., of judges not to be the subject of an initiative or referendum petition. See Amendments, Art. XLVIII, The Initiative, II, § 2, and The Referendum, III, § 2. For retirement of judicial officers, see Amendments, Art. LVIII.

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required. 122 Mass. 600.

126 Mass. 557. 226 Mass. 268, 607, 613. 251 Mass. 569.
 145 Mass. 587. 236 Mass. 310. 261 Mass. 523, 556.
 186 Mass. 605. 239 Mass. 349. 266 Mass. 583, 590.
 208 Mass. 614, 625. 247 Mass. 589. 267 Mass. 607.
 223 Mass. 516. 250 Mass. 52, 591. 269 Mass. 410, 503, 611.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

Justices of the peace; tenure of their office. 3 Cosh. 584. 1 Op. A. G. 124.

For removal of justices of the peace, see Amendments, Art. XXXVII.

Provisions for holding probate courts
12 Gray, 147.
238 Mass. 313.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

Marriage, divorce, etc., until other provision made by law.

V. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

105 Mass. 325.

116 Mass. 315.

239 Mass. 349.

CHAPTER IV.

DELEGATES TO CONGRESS.

Election, etc.

[The delegates of this commonwealth to the congress of the United States, shall, some time in the month of June annually, be elected by the joint ballot of the senate and house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.]

CHAPTER V.

THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

SECTION I.

The University.

Harvard College.

ARTICLE I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of God, been initiated in those arts and sciences, which qualified them for public employments, both in church and state: and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of God, the advantage of the Christian religion, and the great benefit of this and the other United States of America — it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise and enjoy, all the powers, authorities, rights, liberties, privileges, immunities and franchises, which they now have or are entitled to have, hold, use, exercise and enjoy: and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Powers, privileges, etc., of the president and fellows confirmed.

All gifts, grants, etc., confirmed.

II. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of

Harvard College, or to the said college, by some other description, under several charters successively: it is declared, that all the said gifts, grants, devises, legacies and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

III. [And whereas, by an act of the general court of the colony of Massachusetts Bay passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College: and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy-governor and magistrates; it is declared, that the governor, lieutenant governor, council and senate of this commonwealth, are and shall be deemed, their successors, who with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard College; provided, that] nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

Who shall be overseers.

See Statutes,
1851, 224;
1852, 27;
1859, 212;
1865, 173;
1880, 65, 144;
1889, 104; 132;
1894, 106;
1895, 45;
1896, 191;
1901, 187; 488;
1902, 243;
1910, 113;
1914, 593;
1921, 204.

Power of alteration reserved to the legislature.

CHAPTER V.

SECTION II.

The Encouragement of Literature, etc.

Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people.

Duty of legislatures and magistrates in all future periods.
12 Allen, 500.
103 Mass. 94.
165 Mass. 419.
195 Mass. 607.
227 Mass. 474.
3 Op. A G 387.

For further provisions as to public schools, see Amendments, Arts. XVIII and XLVI.

CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

Oaths of office, etc.

ARTICLE I. [Any person chosen governor, lieutenant governor, councillor, senator or representative, and accepting the trust, shall before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz. —

Abolished. See Amendments, Art. VII.

“I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seised and possessed, in my own right, of the property required by the constitution as one qualification for the office or place to which I am elected.”

And the governor, lieutenant governor, and councillors shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution, and forever afterwards before the governor and council for the time being.]

Declaration and oaths of all officers.

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz. —

For new oath of allegiance, see Amendments, Art. VI.

[“I, A. B., do truly and sincerely acknowledge, profess, testify and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign and independent state; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection and obedience to the king, queen, or government of Great Britain, (as the case may be) and every other foreign power whatsoever: and that no foreign prince, person, prelate, state or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical or spiritual, within this commonwealth, except the authority and power which is or may be vested by their constituents in the congress of the United States; and I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever — So help me, God.”]

Oath of office.

“I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____ according to the best of my abilities and understanding, agreeably, to the rules and regulations of the constitution, and the laws of this commonwealth — So help me, God.”

Provided always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath[s], he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words ["*I do swear,*" "*and abjure,*" "*oath or,*" "*and abjuration*" in the first oath; and in the second oath, the words] "*swear and,*" and [in each of them] the words "*So help me, GOD;*" subjoining instead thereof, "*This I do under the pains and penalties of perjury.*"

Quakers may affirm. See Amendments, Art. VI

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

Oaths and affirmations, how administered.

II. No governor, lieutenant governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold saving that the judges of the said court may hold the offices of justices of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

Plurality of offices prohibited to governor, etc., except, etc. 240 Mass. 264. 249 Mass. 555. 269 Mass. 67. Op. A. G. (1917) 18.

See Amendments, Art. VIII.

No person shall be capable of holding or exercising at the same time, within this state more than one of the following offices, viz. — judge of probate — sheriff — register of probate — or register of deeds — and never more than any two offices which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices and the offices of justices of the peace excepted, shall be held by one person.

Same subject. 1 Allen, 552. 1 Op. A. G. 233, 318.

No person holding the office of judge of the supreme judicial court — secretary — attorney-general — solicitor-general — treasurer or receiver-general — judge of probate — [commissary-general — president, professor, or instructor of Harvard College] — sheriff — clerk of the house of representatives — register of probate — register of deeds — clerk of the supreme judicial court — clerk of the inferior court of common pleas — or officer of the customs, including in this description naval officers — shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

Incompatible offices. For further provisions as to incompatible offices, see Amendments, Art. VIII. Officers of Harvard College excepted by Amendments, Art. XXVII.

Provision for appointment of commissary-general repealed by Amendments, Art. LIII.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

Same subject.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

Bribery, etc., disqualify.

Value of money ascertained.

Property qualifications may be increased. See Amendments, Arts. XIII and XXIV.

Provisions respecting commissions.

Provisions respecting writs. 2 Pick. 592. 3 Met. 58. 13 Gray, 74. 224 Mass. 9.

Continuation of former laws, except, etc. 8 Pick. 309. 16 Pick. 107. 2 Met. 118. 6 Gray, 1. 139 Mass. 29. 148 Mass. 309. 208 Mass. 162.

Benefit of *habeas corpus* secured, except, etc.

The enacting style.

For enacting style of initiative measures, see G. L. 4, § 3.

Officers of former government continued until, etc.

Provision for revising constitution.

For existing provision as to amendments, see Amendments, Art. XLVIII. The Initiative, IV.

III. [In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver at six shillings and eight pence per ounce: and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require.]

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

V. All writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts: they shall be under the seal of the court from whence they issue: they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

VI. All the laws which have heretofore been adopted, used and approved in the Province, Colony or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

237 Mass. 591.

238 Mass. 379.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth in the most free, easy, cheap, expeditious and ample manner; and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time not exceeding twelve months.

VIII. The enacting style, in making and passing all acts, statutes and laws, shall be — "Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same."

IX. [To the end there may be no failure of justice, or danger arise to the commonwealth from a change of the form of government — all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead: and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority; until the general court and the supreme and executive officers under this constitution are designated and invested with their respective trusts powers and authority.]

X. [In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary — the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified

voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

And if it shall appear by the returns made, that two thirds of the qualified voters throughout the state, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office to the several towns to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.]

XI. This form of government shall be enrolled on parchment and deposited in the secretary's office, and be a part of the laws of the land — and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws.

Provision for preserving and publishing this constitution. 239 Mass. 349.

ARTICLES OF AMENDMENT.

ARTICLE I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

Bill, etc., not approved within five days, not to become a law, if legislature adjourn in the meantime. 3 Mass. 567.

See Const., Ch. I, Sect. I, Art. II.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution as the general court shall deem necessary or expedient for the regulation and government thereof and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided also, that all by-laws made by such municipal or city government shall be subject, at all times to be annulled by the general court.

General court empowered to charter cities and to establish limited town meeting form of government in towns containing twelve thousand or more inhabitants. 122 Mass. 344. 200 Mass. 152. 220 Mass. 691. 236 Mass. 564. 243 Mass. 288. 267 Mass. 438. 1 Op. A. G. 337. See A. G. (1918) 38.

Proviso. 112 Mass. 200.

Establishment of such form of town government in smaller towns. See Amendments, Art. LXX.

ART. III. Every [male] citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship who shall have resided within the commonwealth one year, and within the town or district in which he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant governor, senators, or representatives, [and who shall have paid, by himself or his parent, master or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him in

Qualifications of voters for governor, lieutenant governor, senators and representatives. 11 Pick. 538. 5 Act. 298. 291. 7 Gray, 299. 122 Mass. 594. 124 Mass. 596.

144 Mass. 497.
226 Mass. 607.
228 Mass. 63.
237 Mass. 591.
240 Mass. 264,
601.
247 Mass. 583.
1 Op. A. G. 54,
69, 78.

any town or district of this commonwealth; and also, every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned,] shall have a right to vote in such election of governor, lieutenant governor, senators and representatives; and no other person shall be entitled to vote in such election.

See Amendments, Art. LXVIII.

See Amendments, Arts. XXXV, XXXII, XL. See also Amendments, Art. XXIII, which was annulled by Amendments, Art. XXVI.

For educational qualification, see Amendments, Art. XX.

For provision as to those who have served in the army or navy in time of war, see Amendments, Arts. XXVIII and XXXI.

For absentee voting, see Amendments, Art. XLV.

Notaries public, how appointed and removed.
249 Mass. 184.
4 Op. A. G. 124.

ART. IV. Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor with the consent of the council, [upon the address of both houses of the legislature.]

See Amendments, Art. XXXVII.

For appointment of women as notaries public, see Amendments, Art. LVII and Art. LXIX, § 2.

Vacancies in the offices of secretary and treasurer, how filled.

This clause superseded by Amendments, Art. XVII.

[In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.]

Commissary-general may be appointed, in case, etc.

[Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed and commissioned in such manner as the legislature may, by law, prescribe.]

Militia officers, how removed.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe.]

Last two paragraphs of Art. IV annulled and superseded by Amendments, Art. LIII.

Who may vote for captains and subalterns.

ART. V. [In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.]

This article annulled and superseded by Amendments, Art. LIII.

Oath to be taken by all officers.
268 Mass. 497.
2 Op. A. G. 246.
Op. A. G. (1917) 87.
See Const., Ch. VI, Art. I.

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any office, civil or military under the government of this commonwealth, before he shall enter on the duties of his office, to wit:

"I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me God."

Quakers may affirm.

Provided, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word "swear" and inserting instead thereof the word "affirm;" and omitting the words "So help me God," and subjoining, instead thereof, the words "This I do under the pains and penalties of perjury."

Tests abolished.

ART. VII. No oath, declaration or subscription, excepting the oath prescribed in the preceding article and the oath of office, shall be required of the governor, lieutenant governor, councillors, senators or representatives, to qualify them to perform the duties of their respective offices.

ART. VIII. No judge of any court of this commonwealth (except the court of sessions) and no person holding any office under the authority of the United States (postmasters excepted) shall, at the same time, hold the office of governor, lieutenant governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth (except the court of sessions) nor the attorney-general, solicitor-general, county attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust by any of the officers aforesaid shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

Incompatibility of offices.
122 Mass. 445, 600
123 Mass. 253, 525.
239 Mass. 458.
240 Mass. 264, 611.
246 Mass. 464.
269 Mass. 67.
1 Op. A. G. 233.
4 Op. A. G. 457.
Op. A. G. (1917) 18.

ART. IX. [If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two thirds of the members of the house of representatives present and voting thereon, such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two thirds of the members of the house of representatives present and voting thereon; then it shall be the duty of the general court to submit such proposed amendment or amendments to the people: and if they shall be approved and ratified by a majority of the qualified voters voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.]

Amendments to constitution, how made.
This article superseded by Art. XLVIII, The Initiative, IV, and annulled by Art. XLVIII, General Provisions, VIII.

ART. X. The political year shall begin on the first Wednesday of January instead of the last Wednesday of May, and the general court shall assemble every year on the said first Wednesday of January, and shall proceed at that session to make all the elections, and do all the other acts which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. [The governor, lieutenant governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.]

Commencement of political year.
239 Mass. 349, 603.

Further provision for assembling annually.
See Amendments, Art. LXIV, § 3.

Termination of political year.

Governor, etc., term of office.
See Amendments, Art. LXIV, § 1.

[The meeting for the choice of governor, lieutenant governor, senators and representatives shall be held on the second Monday of November in every year; but meetings may be adjourned if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.]

Meetings for choice of governor, lieutenant governor, etc., when to be held.
This clause superseded by Amendments, Art. XV.

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other

officers or persons whatever, that have reference to the last Wednesday of May, as the commencement of the political year, shall be so far altered as to have like reference to the first Wednesday of January.

Article, when to go into operation.

[This article shall go into operation on the first day of October next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; — and the governor, lieutenant governor, councillors, senators, representatives and all other state officers, who are annually chosen, and who shall be chosen for the current year when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer — and the first election of the governor, lieutenant governor, senators and representatives to be had in virtue of this article shall be had conformably thereunto, in the month of November following the day on which the same shall be in force, and go into operation pursuant to the foregoing provision.]

Inconsistent provisions annulled.

Religious freedom established.
8 Met. 153.
122 Mass. 40.
239 Mass. 349.
243 Mass. 331.
263 Mass. 435.
267 Mass. 472.
272 Mass. 100.

See Amendments, Arts. XLVI and XLVIII, The Initiative, II, § 2, and The Referendum, III, § 2.

All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby wholly annulled.]

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted.

“As the public worship of God and instructions in piety, religion and morality, promote the happiness and prosperity of a people and the security of a republican government; — therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses: and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society, a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society: — and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.”

Census of ratable polls to be taken in 1837, and decennially thereafter.
7 Mass. 523.

This article superseded. See Amendments, Arts. XIII, XXI, XXII and LXXI.

Representatives, how apportioned.

Towns having less than 3000 ratable polls, how represented.

ART. XII. [In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality a census of the ratable polls, in each city, town and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid, and each town or city having three hundred ratable polls at the last preceding decennial census of polls may elect one representative, and for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more.]

Any town having less than three hundred ratable polls shall be represented thus; the whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred, and such town may elect one representative

as many years within ten years, as three hundred is contained in the product aforesaid.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented as to that surplus number by multiplying such surplus number by ten and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years within the ten years as four hundred and fifty is contained in the product aforesaid.

Fractions, how represented.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting in each of said towns and districts respectively called for that purpose, and held previous to the first day of July in the year in which the decennial census of polls shall be taken, form themselves into a representative district, to continue until the next decennial census of polls, for the election of a representative or representatives, and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

Towns may unite into representative districts.

The governor and council shall ascertain and determine within the months of July and August, in the year of our Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives, which each city, town and representative district is entitled to elect, and the number of years within the period of ten years then next ensuing, that each city, town and representative district may elect an additional representative, and where any town has not a sufficient number of polls to elect a representative each year then how many years within the ten years, such town may elect a representative, and the same shall be done once in ten years thereafter by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives, which each city, town and representative district may elect as aforesaid, and when the number of representatives to be elected by each city, town or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people and that number shall remain fixed and unalterable for the period of ten years. All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.]

The governor and council to determine the number of representatives to which each town is entitled.

New apportionment to be made once in every ten years.

Inconsistent provisions annulled.

ART. XIII. [A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter, which census shall determine the apportionment of senators and representatives for the term of ten years. The several senatorial districts now existing shall be permanent. The senate shall consist of forty members: and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district. The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants, may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number which shall entitle it to an additional representative. Every town containing less

Census. 122 Mass. 594. Provisions as to census superseded. See Amendments, Arts. XXI, XXII and LXXI.

Senatorial districts declared permanent. Provisions as to senators superseded. See Amendments, Arts. XXI and LXXI.

House of representatives, how apportioned. Provisions as to representatives superseded.

See Amend-
ments, Arts.
XXI and
LXXI.
Small towns,
how repre-
sented.
Towns may
unite into
representative
districts.

Basis of
representation,
and ratio of
increase.

The governor
and council to
apportion the
number of
representatives
of each town
once in every
ten years.

Councillors to
be chosen from
the people at
large.

Provisions as
to councillors
superseded
See Amend-
ments, Arts
XXI and
LXXI
Qualifications
of councillors.

Property
qualifications
for seat in
general court
or council
abolished.

Election by
people to be
by plurality.
251 Mass. 95.

Time of annual
election of
governor,
lieutenant-
governor and
members of
the legislature.

Eight coun-
cillors to be
chosen by the
people.
122 Mass. 594,
598.

than twelve hundred inhabitants, shall be entitled to elect a representa-
tive as many times, within ten years, as the number one hundred and
sixty is contained in the number of the inhabitants of said town. Such
towns may also elect one representative for the year in which the valua-
tion of estates within the commonwealth shall be settled. Any two or
more of the several towns may, by consent of a majority of the legal
voters present at a legal meeting, in each of said towns respectively,
called for that purpose, and held before the first day of August, in the
year one thousand eight hundred and forty, and every tenth year there-
after, form themselves into a representative district, to continue for the
term of ten years; and such district shall have all the rights in regard
to representation, which would belong to a town containing the same
number of inhabitants. The number of inhabitants which shall entitle
a town to elect one representative, and the mean increasing number,
which shall entitle a town or city to elect more than one, and also the
number by which the population of towns, not entitled to a representa-
tive every year, is to be divided, shall be increased respectively, by one
tenth of the numbers above mentioned, whenever the population of the
commonwealth shall have increased to seven hundred and seventy
thousand, and for every additional increase of seventy thousand inhab-
itants, the same addition of one tenth shall be made, respectively, to
the said numbers above mentioned. In the year of each decennial census,
the governor and council shall, before the first day of September, apportion
the number of representatives which each city, town, and representa-
tive district is entitled to elect, and ascertain how many years within
ten years, any town may elect a representative, which is not entitled to
elect one every year; and the governor shall cause the same to be pub-
lished forthwith. Nine councillors shall be annually chosen from among
the people at large, on the first Wednesday of January, or as soon there-
after as may be, by the joint ballot of the senators and representatives
assembled in one room, who shall, as soon as may be, in like manner, fill
up any vacancies that may happen in the council, by death, resigna-
tion, or otherwise. No person shall be elected a councillor, who has
not been an inhabitant of this commonwealth for the term of five years
immediately preceding his election; and not more than one councillor
shall be chosen from any one senatorial district in the commonwealth.]
No possession of a freehold or of any other estate shall be required as
a qualification for holding a seat in either branch of the general court,
or in the executive council.

ART. XIV. In all elections of civil officers by the people of this
commonwealth, whose election is provided for by the constitution, the
person having the highest number of votes shall be deemed and declared
to be elected.

ART. XV. The meeting for the choice of governor, lieutenant-
governor, senators and representatives, shall be held on the Tuesday
next after the first Monday in November, [annually]; but in case of a
failure to elect representatives on that day, a second meeting shall be
held for that purpose on the fourth Monday of the same month of
November.

For change to biennial elections, see Amendments, Art. LXIV, § 1.

ART. XVI. Eight councillors shall be [annually] chosen by the in-
habitants of this commonwealth, qualified to vote for governor. The
election of councillors shall be determined by the same rule that is

required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafterwards, shall divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: provided, however, that if, at any time, the constitution shall provide for the division of the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. [Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the state, or otherwise, shall be filled in like manner, as soon as may be after such vacancies shall have happened.] And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen [annually,] on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of [one year] from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease in the mean time of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant from any cause during an annual or special session of the general court, such vacancy shall in like manner be filled by

230 Mass. 349.
240 Mass. 601.
254 Mass. 617.

For change to biennial elections, see Amendments, Art. LXIV, § 1.
Legislature to district state.

Proviso.

Eligibility defined.

Day and manner of election, etc.

Vacancies, how filled.
For new provision as to vacancies, see Amendments, Art. XXV.
Organization of government.

Election of secretary, treasurer, auditor and attorney-general by the people.

237 Mass. 591.
238 Mass. 379.
240 Mass. 601.

For election biennially, etc., see Amendments, Art. LXIV, § 1.

Vacancies, how filled.

choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

To qualify within ten days, otherwise office to be deemed vacant.

Qualifications.

School money not to be applied for sectarian schools. 12 Allen, 500, 508.
103 Mass. 94, 96.
For original provision as to schools, see Dec. of Rights, Art. III.

ART. XVIII. [All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance exclusively of its own schools.]

This article superseded by Amendments, Art. XLVI.

Legislature to prescribe for election of sheriffs, registers of probate, etc. 13 Gray, 74.
110 Mass. 172.
117 Mass. 599, 603.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe.

121 Mass. 65. 239 Mass. 453. 240 Mass. 264, 611. Op. A. G. (1917) 24.

See Amendments, Art. XXXVI.

Reading constitution in English and writing, necessary qualifications of voters. Proviso. 154 Mass. 413.
237 Mass. 591.
240 Mass. 264, 601.
241 Mass. 168.
247 Mass. 583.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: — provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

For other qualifications, see Amendments, Arts. III, XXVIII, XXX, XXXI, XXXII, XL. See also Amendments, Art. XXIII, which was annulled by Amendments, Art. XXXVI.

Census of voters and inhabitants. 7 Mass. 523.
220 Mass. 609.
239 Mass. 349.
240 Mass. 601.
247 Mass. 583.
254 Mass. 617.
257 Mass. 184.
265 Mass. 19.
269 Mass. 503.
Op. A. G. (1920) 92.
This article superseded by Amendments, Art. LXXI and annulled by Id.
House of representatives to consist of 210 members.
Legislature to apportion, etc. 10 Gray, 613.

ART. XXI. [A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census. The house of representatives shall consist of two hundred and forty members, which shall be apportioned, by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration;

and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law.] [Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

ART. XXII. [A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: — provided, however, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties,

Secretary shall certify to officers authorized to divide counties.

Division of counties.
10 Gray, 613.
224 Mass. 598.
225 Mass. 55.
59, 124.

Qualification of representatives.

122 Mass. 594.
Districts to be numbered, described and certified.

Quorum.
See Amendments, Art. XXXIII.

Census, etc.
7 Mass. 523.
122 Mass. 594.
220 Mass. 609.
239 Mass. 349.
247 Mass. 583.
254 Mass. 617.
Op. A. G. (1920) 92.

This article superseded by Amendments, Art. LXXI and annulled by H.

Voters to be basis of apportionment of senators

Senate to consist of 40 members.

Senatorial districts, etc.

Qualifications of senators.

into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth.] [Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

Quorum. See Amendments, Art. XXXIII.

Residence of two years required of naturalized citizens to entitle to suffrage or make eligible to office. This article annulled by Amendments, Art. XXVI.

ART. XXIII. [No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: provided, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, provided, further, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.]

Vacancies in senate.

ART. XXIV. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of senators elected.

Vacancies in council. 239 Mass. 349.

ART. XXV. In case of a vacancy in the council, from a failure of election or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

Amendments, Art. XXII relative to length of residence required of naturalized citizens to entitle to suffrage or make eligible to office, annulled.

ART. XXVI. The twenty-third article of the articles of amendment of the constitution of this commonwealth, which is as follows, to wit: — "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States, for two years subsequent to his naturalization, and shall be otherwise qualified according to the constitution and laws of this commonwealth: provided, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and provided, further, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.

Officers of Harvard College may be elected members of the general court.

ART. XXVII. So much of article two of chapter six of the constitution of this commonwealth as relates to persons holding the office of president, professor or instructor of Harvard College is hereby annulled.

Persons having served in the U. S. army or navy, etc., not to be disqualified from voting, etc. 237 Mass. 591.

ART. XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of [being a pauper;] or [, if a pauper,] because of the non-payment of a poll tax.

Amended by Amendments, Art. XXXI.

Voting precincts in towns. 229 Mass. 601.

ART. XXIX. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings. All the

For absentee voting provision, see Amendments, Art. XLV.

provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

ART. XXX. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal.

Voters not disqualified by reason of change of residence until six months from time of removal. 240 Mass. 601.

1 Op. A. G. 69.

For absentee voting provision, see Amendments, Art. XLV.

ART. XXXI. Article twenty-eight of the amendments of the constitution is hereby amended by striking out in the fourth line thereof the words "being a pauper", and inserting in place thereof the words:—receiving or having received aid from any city or town,—and also by striking out in said fourth line the words "if a pauper", so that the article as amended shall read as follows: ARTICLE XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

Amendments, Art. XXVIII, amended.

Person who served in army or navy, etc., not disqualified from voting for having received aid or for non-payment of poll tax, etc.

237 Mass. 591.

240 Mass. 601.

ART. XXXII. So much of article three of the amendments of the constitution of the commonwealth as is contained in the following words: "and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned", is hereby annulled.

Provisions of Amendments, Art. III, relative to payment of a tax as a voting qualification, annulled. 237 Mass. 591.

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

Quorum, in each branch of general court, to consist of majority of members.

ART. XXXIV. So much of article two of section one of chapter two of part the second of the constitution of the commonwealth as is contained in the following words: "and unless he shall at the same time, be seised in his own right, of a freehold within the commonwealth of the value of one thousand pounds"; is hereby annulled.

Provisions of Const., Chap. II, Sect. I, Art. II, relative to property qualification of governor, annulled. 240 Mass. 601.

ART. XXXV. So much of article two of section three of chapter one of the constitution of the commonwealth as is contained in the following words: "The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave", is hereby annulled.

Provisions of Const., Chap. I, Sect. III, Art. II, relative to expense of travelling to the general assembly by members of the house, annulled.

ART. XXXVI. So much of article nineteen of the articles of amendment to the constitution of the commonwealth as is contained in the following words "commissioners of insolvency", is hereby annulled.

Provisions of Amendments, Art. XIX, relative to providing for election of commissioners of insolvency, annulled.

ART. XXXVII. The governor, with the consent of the council, may remove justices of the peace and notaries public.

Removal of justices of the peace and notaries public.

Voting machines may be used at elections. 196 Mass. 410. 1 Op. A. G. 602.

ART. XXXVIII. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law: provided, however, that the right of secret voting shall be preserved.

For compulsory voting, see Amendments, Art. LXI.

Powers of legislature relative to excess takings of land, etc., for laying out, widening or re-locating highways, etc.

ART. XXXIX. Article ten of part one of the constitution is hereby amended by adding to it the following words:—The legislature may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, or more land and property than are needed for the actual construction of such highway or street: provided, however, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suitable building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

Amendments, Art. III relative to qualifications of voters, amended.

ART. XL. Article three of the amendments to the constitution is hereby amended by inserting after the word "guardianship", in line two, the following:—and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections.

Taxation of wild or forest lands. 270 Mass. 593.

ART. XLI. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth.

Referendum. This article superseded by Amendments, Art. XLVIII, and annulled by Id., General Provisions, VIII.

ART. XLII. [Full power and authority are hereby given and granted to the general court to refer to the people for their rejection or approval at the polls any act or resolve of the general court or any part or parts thereof. Such reference shall be by a majority yea and nay vote of all members of each house present and voting. Any act, resolve, or part thereof so referred shall be voted on at the regular state election next ensuing after such reference, shall become law if approved by a majority of the voters voting thereon, and shall take effect at the expiration of thirty days after the election at which it was approved or at such time after the expiration of the said thirty days as may be fixed in such act, resolve or part thereof.]

Powers of general court relative to the taking of land, etc., to relieve congestion of population and to provide homes for citizens. 4 Op. A. G. 516.

ART. XLIII. The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: provided, however, that this amendment shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof.

Op. A. G. (1920) 241.

General court may provide for taxing incomes. 226 Mass. 268. 227 Mass. 522. 234 Mass. 42. 237 Mass. 493. 523. 239 Mass. 410. 242 Mass. 242. 247 Mass. 496. 239 Mass. 1. 296 Mass. 547. 583. 270 Mass. 593. 352 U. S. 189.

ART. XLIV. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abate-ments. Any class of property the income from which is taxed under the provisions of this

article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

ART. XLV. The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants in the choice of any officer to be elected or upon any question submitted at such election.

For compulsory voting, see Amendments, Art. LXI.

ART. XLVI. (In place of and substitution for article XVIII of the articles of amendment of the constitution.) ARTICLE XVIII. SECTION 1. No law shall be passed prohibiting the free exercise of religion.

SECTION 2. All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

SECTION 3. Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

SECTION 4. Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.

SECTION 5. This amendment shall not take effect until the October first next succeeding its ratification and adoption by the people.

This amendment not to be the subject of an initiative amendment. See Amendments, Art. XLVIII, The Initiative, II, § 2.

256 U. S. 589.
Op. A. G.
(1920) 208.

General court may provide for absentee voting.
239 Mass. 349.
1 Op. A. G. 552.

Substitute for Amendments, Art. XVIII.

Religious freedom.
263 Mass. 435.

Public money not to be expended to aid institutions not wholly under public ownership and control, etc.
103 Mass. 94.
179 Mass. 571.
214 Mass. 599.
1 Op. A. G. 319.
427, 430.
2 Op. A. G. 75.
100.
3 Op. A. G. 153.
Op. A. G.
(1918) 39.
Op. A. G.
(1919) 10, 15,
102.
Op. A. G.
(1920) 100, 116.

Exceptions.

Giving or loaning credit of the commonwealth restricted by Amendments, Art. LXII, § 1.

Care or support in private hospitals, etc., of persons who are public charges.

Inmates of certain institutions not to be deprived of religious exercises of their faith; nor compelled to attend services, etc.

Time of taking effect.

General court may provide for distribution of food, etc., in time of war, etc., by the commonwealth, cities and towns.
239 Mass. 349.

ART. XLVII. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessities of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine.

242 Mass. 508.

Op. A. G. (1918) 29.

ART. XLVIII.

I. Definition.

Initiative and referendum, definition.
236 Mass. 463.
239 Mass. 349.
247 Mass. 583.
254 Mass. 617.
255 Mass. 369.
257 Mass. 91.
259 Mass. 14.
260 Mass. 423.
261 Mass. 523.

Legislative power shall continue to be vested in the general court; but the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit constitutional amendments and laws to the people for approval or rejection; and the popular referendum, which is the power of a specified number of voters to submit laws, enacted by the general court, to the people for their ratification or rejection.

262 Mass. 603.

267 Mass. 430.

269 Mass. 503.

271 Mass. 582.

THE INITIATIVE.

II. Initiative Petitions.

Contents of initiative petition.
262 Mass. 603.

SECTION 1. *Contents.* — An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition.

Certain matters shall not be proposed by initiative petition.
257 Mass. 91.
262 Mass. 603.
269 Mass. 503.
271 Mass. 582.

SECTION 2. *Excluded Matters.* — No measure that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed, the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect.

Duty of general court to carry out law approved by the people.

Neither the eighteenth amendment of the constitution, as approved and ratified to take effect on the first day of October in the year nineteen hundred and eighteen, nor this provision for its protection, shall be the subject of an initiative amendment.

Anti-air amendment, so-called (Art. XLVI), not to be subject of initiative amendment.
Certain individual rights not to be subject of initiative or referendum petition.

No proposition inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative or referendum petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail and the law martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly.

Further excluded matters.

No part of the constitution specifically excluding any matter from the operation of the popular initiative and referendum shall be the subject of an initiative petition; nor shall this section be the subject of such a petition.

The limitations on the legislative power of the general court in the constitution shall extend to the legislative power of the people as exercised hereunder.

SECTION 3. *Mode of Originating.* — Such petition shall first be signed by ten qualified voters of the commonwealth and shall then be submitted to the attorney-general, and if he shall certify that the measure is in proper form for submission to the people, and that it is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people within three years of the succeeding first Wednesday in December and that it contains only subjects not excluded from the popular initiative and which are related or which are mutually dependent, it may then be filed with the secretary of the commonwealth. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed measure as such description will appear on the ballot together with the names and residences of the first ten signers. All initiative petitions, with the first ten signatures attached, shall be filed with the secretary of the commonwealth not earlier than the first Wednesday of the September before the assembling of the general court into which they are to be introduced, and the remainder of the required signatures shall be filed not later than the first Wednesday of the following December.

SECTION 4. *Transmission to the General Court.* — If an initiative petition, signed by the required number of qualified voters, has been filed as aforesaid, the secretary of the commonwealth shall, upon the assembling of the general court, transmit it to the clerk of the house of representatives, and the proposed measure shall then be deemed to be introduced and pending.

III. Legislative Action. General Provisions.

SECTION 1. *Reference to Committee.* — If a measure is introduced into the general court by initiative petition, it shall be referred to a committee thereof, and the petitioners and all parties in interest shall be heard, and the measure shall be considered and reported upon to the general court with the committee's recommendations, and the reasons therefor, in writing. Majority and minority reports shall be signed by the members of said committee.

SECTION 2. *Legislative Substitutes.* — The general court may, by resolution passed by yea and nay vote, either by the two houses separately, or in the case of a constitutional amendment by a majority of those voting thereon in joint session in each of two years as hereinafter provided, submit to the people a substitute for any measure introduced by initiative petition, such substitute to be designated on the ballot as the legislative substitute for such an initiative measure and to be grouped with it as an alternative therefor.

IV. Legislative Action on Proposed Constitutional Amendments.

SECTION 1. *Definition.* — A proposal for amendment to the constitution introduced into the general court by initiative petition shall be designated an initiative amendment, and an amendment introduced by a member of either house shall be designated a legislative substitute or a legislative amendment.

Certain legislative limitations extended.

Mode of originating, etc. 255 Mass. 366. 257 Mass. 91. 269 Mass. 503. 271 Mass. 582.

Secretary of the commonwealth to furnish blank forms, etc.

Time of filing petitions.

Transmission of proposed measure to the general court. 257 Mass. 91.

Reference to legislative committee and report thereon. 254 Mass. 617. 257 Mass. 91.

Legislative substitute for initiative measure. 254 Mass. 617. 255 Mass. 369. 257 Mass. 91. 261 Mass. 523.

Definition of initiative amendment and legislative substitute.

Joint session to consider amendment to the constitution. 237 Mass. 589.

When governor shall call joint session.

Proposed amendment to the constitution, form in which to be voted upon.

Final legislative action to be taken by yeas and nays. 237 Mass. 589.

Reference to next general court.

Submission of amendment to the people. 220 Mass. 697. 237 Mass. 589. 3 Op. A. G. 370.

When amendment becomes part of the constitution.

Legislative procedure on law proposed by initiative petition, etc. 257 Mass. 91. 269 Mass. 503.

SECTION 2. *Joint Session.*— If a proposal for a specific amendment of the constitution is introduced into the general court by initiative petition signed by not less than twenty-five thousand qualified voters, or if in case of a proposal for amendment introduced into the general court by a member of either house, consideration thereof in joint session is called for by vote of either house, such proposal shall, not later than the second Wednesday in June, be laid before a joint session of the two houses, at which the president of the senate shall preside; and if the two houses fail to agree upon a time for holding any joint session hereby required, or fail to continue the same from time to time until final action has been taken upon all amendments pending, the governor shall call such joint session or continuance thereof.

SECTION 3. *Amendment of Proposed Amendments.*— A proposal for an amendment to the constitution introduced by initiative petition shall be voted upon in the form in which it was introduced, unless such amendment is amended by vote of three-fourths of the members voting thereon in joint session, which vote shall be taken by call of the yeas and nays if called for by any member.

SECTION 4. *Legislative Action.*— Final legislative action in the joint session upon any amendment shall be taken only by call of the yeas and nays, which shall be entered upon the journals of the two houses; and an unfavorable vote at any stage preceding final action shall be verified by call of the yeas and nays, to be entered in like manner. At such joint session a legislative amendment receiving the affirmative votes of a majority of all the members elected, or an initiative amendment receiving the affirmative votes of not less than one-fourth of all the members elected, shall be referred to the next general court.

SECTION 5. *Submission to the People.*— If in the next general court a legislative amendment shall again be agreed to in joint session by a majority of all the members elected, or if an initiative amendment or a legislative substitute shall again receive the affirmative votes of at least one-fourth of all the members elected, such fact shall be certified by the clerk of such joint session to the secretary of the commonwealth, who shall submit the amendment to the people at the next state election. Such amendment shall become part of the constitution if approved, in the case of a legislative amendment, by a majority of the voters voting thereon, or if approved, in the case of an initiative amendment or a legislative substitute, by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such amendment.

V. *Legislative Action on Proposed Laws.*

SECTION 1. *Legislative Procedure.*— If an initiative petition for a law is introduced into the general court, signed by not less than twenty thousand qualified voters, a vote shall be taken by yeas and nays in both houses before the first Wednesday of June upon the enactment of such law in the form in which it stands in such petition. If the general court fails to enact such law before the first Wednesday of June, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition

to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit such proposed law to the people at the next state election. If it shall be approved by voters equal in number to at least thirty per cent of the total number of ballots cast at such state election and also by a majority of the voters voting on such law, it shall become law, and shall take effect in thirty days after such state election or at such time after such election as may be provided in such law.

When measure becomes law and takes effect.

SECTION 2. *Amendment by Petitioners.* — If the general court fails to pass a proposed law before the first Wednesday of June, a majority of the first ten signers of the initiative petition therefor shall have the right, subject to certification by the attorney-general filed as hereinafter provided, to amend the measure which is the subject of such petition. An amendment so made shall not invalidate any signature attached to the petition. If the measure so amended, signed by a majority of the first ten signers, is filed with the secretary of the commonwealth before the first Wednesday of the following July, together with a certificate signed by the attorney-general to the effect that the amendment made by such proposers is in his opinion perfecting in its nature and does not materially change the substance of the measure, and if such petition is completed by filing with the secretary of the commonwealth, not earlier than the first Wednesday of the following July nor later than the first Wednesday of the following August, not less than five thousand signatures of qualified voters, in addition to those signing such initiative petition, which signatures must have been obtained after the first Wednesday of June aforesaid, then the secretary of the commonwealth shall submit the measure to the people in its amended form.

Amendment of proposed law by petitioners and submission of measure to people by secretary of the commonwealth.

VI. *Conflicting and Alternative Measures.*

If in any judicial proceeding, provisions of constitutional amendments or of laws approved by the people at the same election are held to be in conflict, then the provisions contained in the measure that received the largest number of affirmative votes at such election shall govern.

Conflicting and alternative measures, which shall govern when approved by the people, etc.

A constitutional amendment approved at any election shall govern any law approved at the same election.

The general court, by resolution passed as hereinbefore set forth, may provide for grouping and designating upon the ballot as conflicting measures or as alternative measures, only one of which is to be adopted, any two or more proposed constitutional amendments or laws which have been or may be passed or qualified for submission to the people at any one election: provided, that a proposed constitutional amendment and a proposed law shall not be so grouped, and that the ballot shall afford an opportunity to the voter to vote for each of the measures or for only one of the measures, as may be provided in said resolution, or against each of the measures so grouped as conflicting or as alternative.

General court may provide for grouping, etc., upon the ballot.

Proviso.

In case more than one of the measures so grouped shall receive the vote required for its approval as herein provided, only that one for which the largest affirmative vote was cast shall be deemed to be approved.

Largest affirmative vote to prevail.

THE REFERENDUM.

I. *When Statutes shall take Effect.*

When laws passed by general court take effect.
255 Mass. 369.
267 Mass. 430.
268 Mass. 38.

No law passed by the general court shall take effect earlier than ninety days after it has become a law, excepting laws declared to be emergency laws and laws which may not be made the subject of a referendum petition, as herein provided.

Op. A. G. (1919) 78.

Op. A. G. (1920) 194, 199.

II. *Emergency Measures.*

Emergency law to contain preamble.
236 Mass. 463.
268 Mass. 38.

Yea and nay vote on emergency preamble.
See Amendments, Art. LXVII.

How governor may cause certain laws to take effect forthwith.

A law declared to be an emergency law shall contain a preamble setting forth the facts constituting the emergency, and shall contain the statement that such law is necessary for the immediate preservation of the public peace, health, safety or convenience. [A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each house voting thereon, the law shall not be an emergency law; but] if the governor, at any time before the election at which it is to be submitted to the people on referendum, files with the secretary of the commonwealth a statement declaring that in his opinion the immediate preservation of the public peace, health, safety or convenience requires that such law should take effect forthwith and that it is an emergency law and setting forth the facts constituting the emergency, then such law, if not previously suspended as hereinafter provided, shall take effect without suspension, or if such law has been so suspended such suspension shall thereupon terminate and such law shall thereupon take effect: but no grant of any franchise or amendment thereof, or renewal or extension thereof for more than one year shall be declared to be an emergency law.

Exception.

III. *Referendum Petitions.*

Contents of referendum petition.
236 Mass. 463.
239 Mass. 349.
268 Mass. 38.

SECTION 1. *Contents.* — A referendum petition may ask for a referendum to the people upon any law enacted by the general court which is not herein expressly excluded.

3 Op. A. G. 424.

Op. A. G. (1919) 95.

Certain matters shall not be the subject of a referendum petition.
255 Mass. 369.
Op. A. G. (1919) 78.
Op. A. G. (1920) 194, 199.

SECTION 2. *Excluded Matters.* — No law that relates to religion, religious practices or religious institutions; or to the appointment, qualification, tenure, removal or compensation of judges; or to the powers, creation or abolition of courts; or the operation of which is restricted to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that appropriates money for the current or ordinary expenses of the commonwealth or for any of its departments, boards, commissions or institutions shall be the subject of a referendum petition.

Mode of petitioning for suspension of a law and a referendum thereon.
253 Mass. 543.

SECTION 3. *Mode of Petitioning for the Suspension of a Law and a Referendum thereon.* — A petition asking for a referendum on a law, and requesting that the operation of such law be suspended, shall first be signed by ten qualified voters and shall then be filed with the secretary of the commonwealth not later than thirty days after the law that is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed

Duties of the secretary of the commonwealth, etc.

law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than fifteen thousand qualified voters of the commonwealth, then the operation of such law shall be suspended, and the secretary of the commonwealth shall submit such law to the people at the next state election, if thirty days intervene between the date when such petition is filed with the secretary of the commonwealth and the date for holding such state election; if thirty days do not so intervene, then such law shall be submitted to the people at the next following state election, unless in the meantime it shall have been repealed; and if it shall be approved by a majority of the qualified voters voting thereon, such law shall, subject to the provisions of the constitution, take effect in thirty days after such election, or at such time after such election as may be provided in such law; if not so approved such law shall be null and void; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Votes necessary for approval, etc.

SECTION 4. *Petitions for Referendum on an Emergency Law or a Law the Suspension of which is not asked for.* — A referendum petition may ask for the repeal of an emergency law or of a law which takes effect because the referendum petition does not contain a request for suspension, as aforesaid. Such petition shall first be signed by ten qualified voters of the commonwealth, and shall then be filed with the secretary of the commonwealth not later than thirty days after the law which is the subject of the petition has become law. The secretary of the commonwealth shall provide blanks for the use of subsequent signers, and shall print at the top of each blank a description of the proposed law as such description will appear on the ballot together with the names and residences of the first ten signers. If such petition filed as aforesaid is completed by filing with the secretary of the commonwealth not later than ninety days after the law which is the subject of the petition has become law the signatures of not less than ten thousand qualified voters of the commonwealth protesting against such law and asking for a referendum thereon, then the secretary of the commonwealth shall submit such law to the people at the next state election, if thirty days intervene between the date when such petition is filed with the secretary of the commonwealth and the date for holding such state election. If thirty days do not so intervene, then it shall be submitted to the people at the next following state election, unless in the meantime it shall have been repealed; and if it shall not be approved by a majority of the qualified voters voting thereon, it shall, at the expiration of thirty days after such election, be thereby repealed; but no such law shall be held to be disapproved if the negative vote is less than thirty per cent of the total number of ballots cast at such state election.

Petition for referendum on an emergency law or a law the suspension of which is not asked for.

Duties of secretary of the commonwealth, etc.

Votes necessary for approval, etc.

GENERAL PROVISIONS.

I. *Identification and Certification of Signatures.*

Provision shall be made by law for the proper identification and certification of signatures to the petitions hereinbefore referred to, and for penalties for signing any such petition, or refusing to sign it, for money or other valuable consideration, and for the forgery of signa-

Identification and certification of signatures to petitions, etc.

tures thereto. Pending the passage of such legislation all provisions of law relating to the identification and certification of signatures to petitions for the nomination of candidates for state offices or to penalties for the forgery of such signatures shall apply to the signatures to the petitions herein referred to. The general court may provide by law that no co-partnership or corporation shall undertake for hire or reward to circulate petitions, may require individuals who circulate petitions for hire or reward to be licensed, and may make other reasonable regulations to prevent abuses arising from the circulation of petitions for hire or reward.

General court may by law regulate petitions circulated for hire or reward.

II. *Limitation on Signatures.*

Not more than one-fourth of the certified signatures on any petition shall be those of registered voters of any one county.

Signatures, number limited. 260 Mass. 423.

III. *Form of Ballot.*

Each proposed amendment to the constitution, and each law submitted to the people, shall be described on the ballots by a description to be determined by the attorney-general, subject to such provision as may be made by law, and the secretary of the commonwealth shall give each question a number and cause such question, except as otherwise authorized herein, to be printed on the ballot in the following form:—

Form of question on ballot, etc. 271 Mass. 582.

In the case of an amendment to the constitution: Shall an amendment to the constitution (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	—
NO.	—

In the case of a law: Shall a law (here insert description, and state, in distinctive type, whether approved or disapproved by the general court, and by what vote thereon) be approved?

YES.	—
NO.	—

IV. *Information for Voters.*

The secretary of the commonwealth shall cause to be printed and sent to each registered voter in the commonwealth the full text of every measure to be submitted to the people, together with a copy of the legislative committee's majority and minority reports, if there be such, with the names of the majority and minority members thereon, a statement of the votes of the general court on the measure, and a description of the measure as such description will appear on the ballot; and shall, in such manner as may be provided by law, cause to be prepared and sent to the voters other information and arguments for and against the measure.

Certain information for voters to be sent by secretary of the commonwealth. 271 Mass. 582.

V. *The Veto Power of the Governor.*

The veto power of the governor shall not extend to measures approved by the people.

Veto not to extend to certain measures.

VI. *The General Court's Power of Repeal.*

Subject to the veto power of the governor and to the right of referendum by petition as herein provided, the general court may amend or repeal a law approved by the people.

Power of amendment or repeal by general court.

VII. Amendment declared to be Self-executing.

This article of amendment to the constitution is self-executing, but legislation not inconsistent with anything herein contained may be enacted to facilitate the operation of its provisions.

This amendment to be self-executing, etc.

VIII. Articles IX and XLII of Amendments of the Constitution annulled.

Article IX and Article XLII of the amendments of the constitution are hereby annulled.

Amendments, Arts. IX and XLII relative to amending the constitution and referring acts or resolves to the people, annulled. 239 Mass. 349.

ART. XLIX. The conservation, development and utilization of the agricultural, mineral, forest, water and other natural resources of the commonwealth are public uses, and the general court shall have power to provide for the taking, upon payment of just compensation therefor, of lands and easements or interests therein, including water and mineral rights, for the purpose of securing and promoting the proper conservation, development, utilization and control thereof and to enact legislation necessary or expedient therefor.

Conservation, etc. of natural resources of commonwealth. 237 Mass. 598, 239 Mass. 349.

ART. L. Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law.

239 Mass. 349.

204 Mass. 85.

Regulation by law of advertising on public ways, etc.

ART. LI. The preservation and maintenance of ancient landmarks and other property of historical or antiquarian interest is a public use, and the commonwealth and the cities and towns therein may, upon payment of just compensation, take such property or any interest therein under such regulations as the general court may prescribe.

General court may provide for taking ancient landmarks, etc. 239 Mass. 349.

ART. LII. The general court, by concurrent vote of the two houses, may take a recess or recesses amounting to not more than thirty days; but no such recess shall extend beyond the sixtieth day from the date of their first assembling.

General court may take a recess. 239 Mass. 349. 1 Op. A. G. 36.

ART. LIII. Article X of Section I of Chapter II of the constitution, the last two paragraphs of Article IV of the articles of amendment, relating to the appointment of a commissary general and the removal of militia officers, and Article V of the articles of amendment are hereby annulled, and the following is adopted in place thereof: ARTICLE X. All military and naval officers shall be selected and appointed and may be removed in such manner as the general court may by law prescribe, but no such officer shall be appointed unless he shall have passed an examination prepared by a competent commission or shall have served one year in either the federal or state militia or in military service. All such officers who are entitled by law to receive commissions shall be commissioned by the governor.

Chap. II, Sect. I, Art. X, the last two paragraphs of Amendments, Art. IV and Amendments, Art. V, annulled and superseded. 239 Mass. 349. Military and naval officers, how appointed and removed, etc. 216 Mass. 605. 1 Op. A. G. 29, 449.

ART. LIV. Article VII of Section I of Chapter II of the constitution is hereby annulled and the following is adopted in place thereof: ARTICLE VII. The general court shall provide by law for the recruitment, equipment, organization, training and discipline of the military and naval forces. The governor shall be the commander-in-chief thereof, and shall have power to assemble the whole or any part of them for training, instruction or parade, and to employ them for the suppression of rebellion, the repelling of invasion, and the enforcement

Chap. II, Sect. I, Art. VII, annulled and superseded. 239 Mass. 349. Military and naval forces, recruitment, etc. 193 Mass. 406. 239 Mass. 349. 1 Op. A. G. 449.

of the laws. He may, as authorized by the general court, prescribe from time to time the organization of the military and naval forces and make regulations for their government.

Chap. II, Sect. 14, Art. VI, annulled and superseded. 239 Mass. 349.

Order of succession in case of vacancy in offices of governor and lieutenant-governor.

ART. LV. Article VI of Section III of Chapter II of the constitution is hereby annulled and the following is adopted in place thereof: Whenever the offices of governor and lieutenant-governor shall both be vacant, by reason of death, absence from the commonwealth, or otherwise, then one of the following officers, in the order of succession herein named, namely, the secretary, attorney-general, treasurer and receiver-general, and auditor, shall, during such vacancy, have full power and authority to do and execute all and every such acts, matters and things as the governor or the lieutenant-governor might or could lawfully do or execute, if they, or either of them, were personally present.

Return by governor to general court of bill or resolve for amendment, etc. 215 Mass. 57. 239 Mass. 349. Op. A. G. (1919) 48.

ART. LVI. The governor, within five days after any bill or resolve shall have been laid before him, shall have the right to return it to the branch of the general court in which it originated with a recommendation that any amendment or amendments specified by him be made therein. Such bill or resolve shall thereupon be before the general court and subject to amendment and re-enactment. If such bill or resolve is re-enacted in any form it shall again be laid before the governor for his action, but he shall have no right to return the same a second time with a recommendation to amend.

Amendments, Art. IV, amended. 239 Mass. 349.

Women may be appointed notaries public, etc.

ART. LVII. Article IV of the articles of amendment of the constitution of the commonwealth is hereby amended by adding thereto the following words: — Women shall be eligible to appointment as notaries public. [Change of name shall render the commission void, but shall not prevent reappointment under the new name.]

See Amendments, Art. LXIX, § 2.

Chap. III, Art. I, amended. 239 Mass. 349. 271 Mass. 575.

Judicial officers, retirement, etc.

ART. LVIII. Article I of Chapter III of Part the Second of the constitution is hereby amended by the addition of the following words: — and provided also that the governor, with the consent of the council, may after due notice and hearing retire them because of advanced age or mental or physical disability. Such retirement shall be subject to any provisions made by law as to pensions or allowances payable to such officers upon their voluntary retirement.

Every charter, etc., subject to revocation, etc. 239 Mass. 349.

ART. LIX. Every charter, franchise or act of incorporation shall forever remain subject to revocation and amendment.

261 Mass. 523, 556.

Building zones in cities and towns. 234 Mass. 597. 239 Mass. 349. 250 Mass. 52, 63, 73.

ART. LX. The general court shall have power to limit buildings according to their use or construction to specified districts of cities and towns.

255 Mass. 177.

Op. A. G. (1919) 60.

Compulsory voting at elections. 239 Mass. 349.

ART. LXI. The general court shall have authority to provide for compulsory voting at elections, but the right of secret voting shall be preserved.

Commonwealth's credit not to be given to private enterprises. 239 Mass. 349. 261 Mass. 523, 556.

ART. LXII. SECTION 1. The credit of the commonwealth shall not in any manner be given or loaned to or in aid of any individual, or of any private association, or of any corporation which is privately owned and managed.

Op. A. G. (1920) 116.

Commonwealth may borrow money for certain purposes.

SECTION 2. The commonwealth may borrow money to repel invasion, suppress insurrection, defend the commonwealth, or to assist the United States in case of war, and may also borrow money in anticipa-

tion of receipts from taxes or other sources, such loan to be paid out of the revenue of the year in which it is created.

SECTION 3. In addition to the loans which may be contracted as before provided, the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon. The governor shall recommend to the general court the term for which any loan shall be contracted.

Two-thirds yeas and nays vote of general court required to borrow money for any other purpose.

SECTION 4. Borrowed money shall not be expended for any other purpose than that for which it was borrowed or for the reduction or discharge of the principal of the loan.

Expenditure of borrowed money limited.

Op. A. G. (1920) 56, 81.

ART. LXIII. SECTION 1. *Collection of Revenue.* — All money received on account of the commonwealth from any source whatsoever shall be paid into the treasury thereof.

Collection of revenue. 237 Mass. 50, 493.

239 Mass. 349.

261 Mass. 523, 556.

269 Mass. 503.

Op. A. G. (1920) 113.

SECTION 2. *The Budget.* — Within three weeks after the convening of the general court the governor shall recommend to the general court a budget which shall contain a statement of all proposed expenditures of the commonwealth for the fiscal year, including those already authorized by law, and of all taxes, revenues, loans and other means by which such expenditures shall be defrayed. This shall be arranged in such form as the general court may by law prescribe, or, in default thereof, as the governor shall determine. For the purpose of preparing his budget, the governor shall have power to require any board, commission, officer or department to furnish him with any information which he may deem necessary.

The budget, contents, etc. 237 Mass. 50, 493, 239 Mass. 349.

General court to prescribe form, etc.

Governor may require information.

SECTION 3. *The General Appropriation Bill.* — All appropriations based upon the budget to be paid from taxes or revenues shall be incorporated in a single bill which shall be called the general appropriation bill. The general court may increase, decrease, add or omit items in the budget. The general court may provide for its salaries, mileage, and expenses and for necessary expenditures in anticipation of appropriations, but before final action on the general appropriation bill it shall not enact any other appropriation bill except on recommendation of the governor. The governor may at any time recommend to the general court supplementary budgets which shall be subject to the same procedure as the original budget.

The general appropriation bill. 237 Mass. 50, 493, 239 Mass. 349.

Supplementary budgets.

SECTION 4. *Special Appropriation Bills.* — After final action on the general appropriation bill or on recommendation of the governor, special appropriation bills may be enacted. Such bills shall provide the specific means for defraying the appropriations therein contained.

Special appropriation bills may be enacted, when.

SECTION 5. *Submission to the Governor.* — The governor may disapprove or reduce items or parts of items in any bill appropriating money. So much of such bill as he approves shall upon his signing the same become law. As to each item disapproved or reduced, he shall transmit to the house in which the bill originated his reason for such disapproval or reduction, and the procedure shall then be the same as in the case of a bill disapproved as a whole. In case he shall fail so to transmit his reasons for such disapproval or reduction within five days after the bill shall have been presented to him, such items shall have the force of law unless the general court by adjournment shall prevent such transmission, in which case they shall not be law.

Governor may disapprove, etc., items or parts of items in any appropriation bill, etc.

Items to have force of law, unless, etc.

Biennial election of certain state officers—councillors, senators and representatives; terms of office.
237 Mass. 589.
239 Mass. 349, 603.
254 Mass. 617.
255 Mass. 369.

ART. LXIV. SECTION 1. The governor, lieutenant-governor, councillors, secretary, treasurer and receiver-general, attorney-general, auditor, senators and representatives, shall be elected biennially. The governor, lieutenant-governor and councillors shall hold their respective offices from the first Wednesday in January succeeding their election to and including the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of senators and representatives shall begin with the first Wednesday in January succeeding their election and shall extend to the first Wednesday in January in the third year following their election and until their successors are chosen and qualified. The terms of the secretary, treasurer and receiver-general, attorney-general and auditor, shall begin with the third Wednesday in January succeeding their election and shall extend to the third Wednesday in January in the third year following their election and until their successors are chosen and qualified.

Treasurer ineligible for more than three successive terms.

SECTION 2. No person shall be eligible to election to the office of treasurer and receiver-general for more than three successive terms.

General court to assemble annually.

SECTION 3. The general court shall assemble every year on the first Wednesday in January.

239 Mass. 603.

When first election under this article shall be held, etc.

SECTION 4. The first election to which this article shall apply shall be held on the Tuesday next after the first Monday in November in the year nineteen hundred and twenty, and thereafter elections for the choice of all the officers before-mentioned shall be held biennially on the Tuesday next after the first Monday in November.

Members of general court not to be appointed to certain offices, nor receive compensation on recess committees, except, etc.
239 Mass. 349.
Op. A. G. (1919) 74.

ART. LXV. No person elected to the general court shall during the term for which he was elected be appointed to any office created or the emoluments whereof are increased during such term, nor receive additional salary or compensation for service upon any recess committee or commission except a committee appointed to examine a general revision of the statutes of the commonwealth when submitted to the general court for adoption.

Organization of not more than twenty departments to perform the executive and administrative work of the commonwealth, except, etc.
239 Mass. 349.
271 Mass. 582.

ART. LXVI. On or before January first, nineteen hundred twenty-one, the executive and administrative work of the commonwealth shall be organized in not more than twenty departments, in one of which every executive and administrative office, board and commission, except those officers serving directly under the governor or the council, shall be placed. Such departments shall be under such supervision and regulation as the general court may from time to time prescribe by law.

Amendments, Art. XLVIII, amended.

ART. LXVII. Article XLVIII of the Amendments to the Constitution is hereby amended by striking out, in that part entitled "II. Emergency Measures", under the heading "The Referendum", the words "A separate vote shall be taken on the preamble by call of the yeas and nays, which shall be recorded, and unless the preamble is adopted by two-thirds of the members of each House voting thereon, the law shall not be an emergency law; but" and substituting the following:— A separate vote, which shall be recorded, shall be taken on the preamble, and unless the preamble is adopted by two-thirds of the members of each House voting thereon, the law shall not be an

When yeas and nays vote shall be taken on emergency preamble.

emergency law. Upon the request of two members of the Senate or of five members of the House of Representatives, the vote on the pre-misable in such branch shall be taken by call of the yeas and nays. But

ART. LXVIII. Article III of the amendments to the constitution, as amended, is hereby further amended by striking out, in the first line, the word "male".

Amendments, Art. III, relative to qualifications of voters, amended to conform to Art. XIX of Amendments to U. S. Const.

ART. LXIX. SECTION 1. No person shall be deemed to be ineligible to hold state, county or municipal office by reason of sex.

SECTION 2. Article IV of the articles of amendment of the constitution of the commonwealth, as amended by Article LVII of said amendments, is hereby further amended by striking out the words "Change of name shall render the commission void, but shall not prevent reappointment under the new name", and inserting in place thereof the following words:— Upon the change of name of any woman, she shall re-register under her new name and shall pay such fee therefor as shall be established by the general court.

ART. LXX. Article II of the articles of amendment to the constitution of the commonwealth is hereby amended by adding at the end thereof the following new paragraph:— Nothing in this article shall prevent the general court from establishing in any corporate town or towns in this commonwealth containing more than six thousand inhabitants a form of town government providing for a town meeting limited to such inhabitants of the town as may be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town subject to such restrictions and regulations as the general court may prescribe; provided, that such establishment be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose.

ART. LXXI. Article XXI of the articles of amendment is hereby annulled and the following is adopted in place thereof:

Article XXI. In the year nineteen hundred and thirty-five and every tenth year thereafter a census of the inhabitants of each city and town shall be taken and a special enumeration shall be made of the legal voters therein. Said special enumeration shall also specify the number of legal voters residing in each precinct of each town containing twelve thousand or more inhabitants according to said census and in each ward of each city. Each special enumeration shall be the basis for determining the representative districts for the ten year period beginning with the first Wednesday in the fourth January following said special enumeration; provided, that such districts as established in the year nineteen hundred and twenty-six shall continue in effect until the first Wednesday in January in the year nineteen hundred and thirty-nine.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the general court, at its first regular session after the return of each special enumeration, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by said special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts

Women not disqualified from holding public office.

Amendments, Art. IV as amended by Art. LVII, further amended.

Re-registration of female notary public, when name is changed.

Amendments, Art. II, amended.

General court may establish limited town meeting form of government in towns containing more than six thousand but less than twelve thousand inhabitants.

Proviso.

Art. XXI of Amendments to the constitution annulled and superseded.

Census of inhabitants and enumeration of legal voters, when taken.

Special enumeration to specify number of legal voters in precincts of certain towns.

Basis for determining representative districts.

Proviso.

House of representatives to consist of 240 members. General court to apportion, etc.

as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth to certify, as soon as may be after it is determined by the general court, the number of representatives to which each county shall be entitled, to the board authorized to divide such county into representative districts. The county commissioners or other body acting as such or, in lieu thereof, such board of special commissioners in each county as may for that purpose be provided by law, shall, within thirty days after such certification by the secretary of the commonwealth or within such other period as the general court may by law provide, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory and assign representatives thereto, so that each representative in such county will represent an equal number of legal voters, as nearly as may be; and such districts shall be so formed that no town containing less than twelve thousand inhabitants according to said census, no precinct of any other town and no ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. The general court may by law limit the time within which judicial proceedings may be instituted calling in question any such apportionment, division or assignment. Every representative, for one year at least immediately preceding his election, shall have been an inhabitant of the district for which he is chosen and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of such county, and to the clerk of every city or town in such county, to be filed and kept in their respective offices. The manner of calling and conducting the elections for the choice of representatives, and of ascertaining their election, shall be prescribed by law.

Article XXII of the articles of amendment is hereby annulled and the following is adopted in place thereof:

Article XVII. Each special enumeration of legal voters required in the preceding article of amendment shall likewise be the basis for determining the senatorial districts and also the councillor districts for the ten year period beginning with the first Wednesday in the fourth January following such enumeration; provided, that such districts as established in the year nineteen hundred and twenty-six shall continue in effect until the first Wednesday in January in the year nineteen hundred and thirty-nine. The senate shall consist of forty members. The general court shall, at its first regular session after the return of each special enumeration, divide the commonwealth into forty districts of contiguous territory, each district to contain, as nearly as may be, an equal number of legal voters, according to said special enumeration; provided, however, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. The general court may by law limit the time within which judicial proceedings may be instituted calling in question such division. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election

Secretary shall certify to officers authorized to divide counties.

County commissioners or board of special commissioners provided by law shall divide a county into representative districts. Changing the time of assembling for such purpose.

No town containing less than twelve thousand inhabitants, no precinct of any other town and no ward of a city shall be divided.

Authorizing limitation of actions calling representative districting in question.

Qualifications of representatives.

Districts to be numbered, described and certified.

Art. XXII of Amendments to the constitution annulled and superseded.

Basis for determining senatorial and councillor districts.

Proviso.

Senate to consist of 40 members.

General court shall establish districts.

Proviso.

Authorizing limitation of actions calling senatorial districting in question.

Qualifications of senators.

shall be an inhabitant of the district for which he is chosen; and he shall cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth.

The constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the mean time the constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the constitution had been adopted by the requisite number of votes, and the convention accordingly *Resolved*, "That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose, save only for that of making elections, agreeable to this resolution." The first legislature assembled at Boston, on October 25, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled, November 15, 1820, to the people, and by them ratified and adopted April 9, 1821. The fifth Article was annulled by the fifty-third Article, and the ninth Article by the forty-eighth Article.

The tenth Article was adopted by the legislatures of the political years 1820-30 and 1830-31, and was approved and ratified by the people May 11, 1831.

The eleventh Article was adopted by the legislatures of the political years 1832 and 1833, and was approved and ratified by the people November 11, 1833.

The twelfth Article was adopted by the legislatures of the political years 1835 and 1836, and was approved and ratified by the people November 14, 1836.

The thirteenth Article was adopted by the legislatures of the political years 1839 and 1840, and was approved and ratified by the people April 6, 1840.

The general court of the year 1851 passed an act calling a third convention to revise the constitution. The Act was submitted to the people, and a majority voted against the proposed convention. On May 7, 1852, another act was passed calling upon the people to vote upon the question of calling a constitutional convention. A majority of the people having voted in favor of the proposed convention, election for delegates thereto took place in March, 1853. The convention met in the State House, in Boston, on May 4, 1853, and organized by choosing Nathaniel P. Banks, Jr., president, and William S. Robinson and James T. Robinson, secretaries. On the 1st of August, this convention agreed to a form of constitution, and on the same day was dissolved, after having provided for submitting the same to the people, and appointed a committee to meet to count the votes, and to make a return thereof to the general court. The committee met at the time and place agreed upon, and found that the proposed constitution had been rejected.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth Articles were adopted by the legislatures of the political years 1854 and 1855, and approved and ratified by the people May 23, 1855.

The twentieth, twenty-first and twenty-second Articles were adopted by the legislatures of the political years 1856 and 1857, and approved and ratified by the people on May 1, 1857. The twenty-first and twenty-second Articles were annulled by the seventy-first Article.

The twenty-third Article was adopted by the legislatures of the political years 1858 and 1859, and approved and ratified by the people May 9, 1859, and was annulled by the twenty-sixth Article.

The twenty-fourth and twenty-fifth Articles were adopted by the legislatures of the political years 1859 and 1860, and approved and ratified by the people May 7, 1860.

The twenty-sixth Article was adopted by the legislatures of the political years 1862 and 1863, and approved and ratified by the people April 6, 1863.

The twenty-seventh Article was adopted by the legislatures of the political years 1876 and 1877, and was approved and ratified by the people November 6, 1877.

The twenty-eighth Article was adopted by the legislatures of the political years 1880 and 1881, and was approved and ratified by the people November 8, 1881.

The twenty-ninth Article was adopted by the legislatures of the political years 1884 and 1885, and was approved and ratified by the people November 3, 1885.

The thirtieth and thirty-first Articles were adopted by the legislatures of the political years 1889 and 1890, and were approved and ratified by the people November 4, 1890.

The thirty-second and thirty-third Articles were adopted by the legislatures of the political years 1890 and 1891, and were approved and ratified by the people November 3, 1891.

The thirty-fourth Article was adopted by the legislatures of the political years 1891 and 1892, and was approved and ratified by the people November 8, 1892.

The thirty-fifth Article was adopted by the legislatures of the political years 1892 and 1893, and was approved and ratified by the people November 7, 1893.

The thirty-sixth Article was adopted by the legislatures of the political years 1893 and 1894, and was approved and ratified by the people November 6, 1894.

The thirty-seventh Article was adopted by the legislatures of the political years 1906 and 1907, and was approved and ratified by the people November 5, 1907.

The thirty-eighth Article was adopted by the legislatures of the political years 1909 and 1910, and was approved and ratified by the people November 7, 1911.

The thirty-ninth Article was adopted by the legislatures of the political years 1910 and 1911, and was approved and ratified by the people November 7, 1911.

The fortieth and forty-first Articles were adopted by the legislatures of the political years 1911 and 1912, and were approved and ratified by the people November 5, 1912.

The forty-second Article was adopted by the legislatures of the political years 1912 and 1913, and approved and ratified by the people November 4, 1913, and was annulled by the forty-eighth Article.

The forty-third and forty-fourth Articles were adopted by the legislatures of the political years 1914 and 1915, and were approved and ratified by the people November 2, 1915.

In his inaugural address to the general court of 1916, Governor McCall recommended that the question of revising the constitution, through a constitutional convention, be submitted to the people; and the general court passed a law (chapter 98 of the General Acts of 1916) to ascertain and carry out the will of the people relative thereto, the question to be submitted being "Shall there be a convention to revise, alter or amend the constitution of the commonwealth?" The people voted on this question at the annual election, held on November 7, casting 217,293 votes in the affirmative and 120,979 votes in the negative; and accordingly the governor on December 19, 1916, made proclamation to that effect, and, by virtue of authority contained in the act, called upon the people to elect delegates at a special election to be held on the first Tuesday in May, 1917. The election was on May 1. In accordance with the provisions of the act, the delegates met at the State House on June 6, 1917, and organized by choosing John L. Bates, president, and James W. Kimball, secretary. After considering and acting adversely on numerous measures that had been brought before it, and after providing for submitting to the people the forty-fifth, forty-sixth and forty-seventh Articles, at the state election of 1917, and the Article relative to the establishment of the popular initiative and referendum and the legislative initiative of specific amendments of the constitution (Article forty-eight) at the state election of 1918, the convention adjourned on Wednesday, November 28, 1917, "until called by the president or secretary to meet not later than within ten days after the prorogation of the general court of 1918."

The forty-fifth, forty-sixth and forty-seventh Articles were submitted, by delegates in convention assembled, September 28, 1917, August 30, 1917, and October 11, 1917, respectively, to the people, and by them ratified and adopted November 6, 1917.

On Wednesday, June 12, 1918, the convention reassembled and resumed its work. Eighteen more articles (Articles forty-nine to sixty-six inclusive) were approved by the convention and were ordered to be submitted to the people. On Wednesday, August 21, 1918, the convention adjourned, "to meet, subject to call by the president or secretary, not later than within twenty days after the prorogation of the general court of 1919, for the purpose of taking action on the report of the special committee on rearrangement of the constitution."

The forty-eighth Article was submitted, by delegates in convention assembled, November 28, 1917, the forty-ninth Article, August 7, 1918, the fiftieth to the sixtieth Articles, inclusive, August 15, 1918, the sixty-first to the sixty-fourth Articles, inclusive, August 20, 1918, and the sixty-fifth and sixty-sixth Articles, August 21, 1918, to the people, and by them ratified and adopted November 5, 1918.

On Tuesday August 12, 1919, pursuant to a call of its president, the convention again convened. A rearrangement of the constitution was adopted, and was ordered to be submitted to the people for their ratification. On the following day, a sub-committee of the special committee on rearrangement of the constitution was "empowered to correct clerical and typographical errors and establish the text of the rearrangement of the constitution to be submitted to the people, in conformity with that adopted by the convention."

On Wednesday, August 13, 1919, the convention adjourned, *sine die*.

On Tuesday, November 4, 1919, the rearrangement was approved and ratified by the people.

(As to the effect of this action, see Opinion of the Justices, 233 Mass. 603, and Loring v. Young, 239 Mass. 349.)

The sixty-seventh Article was adopted by the legislatures of the political years 1920 and 1921, and was approved and ratified by the people on the seventh day of November, 1922.

The sixty-eighth and sixty-ninth Articles were adopted by the legislatures of the political years 1921 and 1923, and were approved and ratified by the people on the fourth day of November, 1924.

The seventieth Article was adopted by the legislatures of the political years 1924 and 1925, and was approved and ratified by the people on the second day of November, 1926.

The seventy-first Article was adopted by the legislatures of the political years 1928 and 1930, and was approved and ratified by the people on the fourth day of November, 1930.

NOTE.

Tables showing how the statutes of general application effective at the time of the taking effect of the General Laws on January 1, 1921, were disposed of in said General Laws may be found in the first volume of the General Laws (edition of 1920) on pages immediately following the original constitution of Massachusetts, and a table of changes showing the amendments of and additions to the said General Laws during the years 1921 to 1931, inclusive, appears in the volume containing the laws and resolves of the year 1931.

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- CHAPTER 281. The General Laws and their Effect.
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GENERAL LAWS

OF

MASSACHUSETTS

[TERCENTENARY EDITION]

The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND TWENTY

AN ACT

FOR

CONSOLIDATING AND ARRANGING

THE

GENERAL STATUTES

OF THE

COMMONWEALTH

Whereas, The deferred operation of this act would be inconsistent with its intent and purpose to consolidate and revise the general laws as of the thirty-first day of December, accordingly it should take effect before any general legislation enacted in the year nineteen hundred and twenty-one, and it is therefore declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same:

PART I.

ADMINISTRATION OF THE GOVERNMENT.

TITLE I.

JURISDICTION AND EMBLEMS OF THE COMMONWEALTH, THE GENERAL COURT, STATUTES AND PUBLIC DOCUMENTS.

- CHAPTER 1. Jurisdiction of the Commonwealth and of the United States.
CHAPTER 2. Arms, Great Seal and Other Emblems of the Commonwealth.
CHAPTER 3. The General Court.
CHAPTER 4. Statutes.
CHAPTER 5. Printing and Distribution of Laws and Public Documents.

CHAPTER 1.

JURISDICTION OF THE COMMONWEALTH AND OF THE UNITED STATES.

SECT.

1. Citizenship defined.
2. Jurisdiction of the commonwealth.
3. Marine boundaries of the commonwealth.
4. Inspection and repair of state boundaries.
5. Boundary marks not to be removed, etc., without permission. Penalty.
6. Conveyance to the United States of land owned by the commonwealth.

SECT.

7. Concurrent jurisdiction in land acquired by the United States.
8. Officers of United States geological survey or coast survey, or of the department, may enter on land, etc.
9. Right to damages, and determination and recovery thereof.
10. Signals, etc., of United States not to be injured, etc. Penalty.

1 SECTION 1. All persons who are citizens of the United States and
2 who are domiciled in this commonwealth are citizens thereof.

186 Mass. 231.

256 Mass. 568.

Op. A. G. (1920) 223, 269.

Citizenship defined
R. L. 1, § 1.

1 SECTION 2. The sovereignty and jurisdiction of the commonwealth
2 shall extend to all places within its boundaries subject to the concurrent
3 jurisdiction granted over places ceded to or acquired by the United States.

P. S. 1, § 2.

R. L. 1, § 2.

291 Mass. 387.

Jurisdiction of the commonwealth
R. S. 1, § 1.
G. S. 1, § 2.

1 SECTION 3. The territorial limits of the commonwealth shall extend
2 one marine league from its seashore at extreme low water mark. If an
3 inlet or arm of the sea does not exceed two marine leagues in width
4 between its headlands, a straight line from one headland to the other
5 shall be equivalent to the shore line.

3 Gray, 268.

147 Mass. 61.

152 Mass. 239.

139 U. S. 249.

Marine boundaries of the commonwealth
1859, 289.
G. S. 1, § 1.
P. S. 1, § 1.
R. L. 1, § 3.

Inspection
and repair
of state
boundaries.
1808, 269.
1901, 469, § 1.
R. L. 1, § 4.
1916, 288.
1919, 350.
§§ 111, 113.
1931, 394, § 1.

SECTION 4. The department of public works, in this chapter called the department, shall in the year nineteen hundred and thirty-five and in every fifth year thereafter inspect all monuments or other marks defining the location of the boundary lines of the commonwealth, and if any of them have been injured, displaced, removed or lost the department shall, in co-operation with persons duly authorized by the adjoining state, restore them or replace them with suitable stone monuments, and in the same manner set suitable stone monuments at points not properly marked where the state boundary is intersected by the boundary of any counties, cities or towns in the commonwealth or by a highway or railroad. If officers of adjoining states are required to make such inspection at other times, the department may co-operate with them.

Boundary
marks not to
be removed,
etc., without
permission.
Penalty.
1906, 146,
§§ 1, 2.
1916, 288.
1919, 350.
§§ 111, 113
1931, 394, § 2.

SECTION 5. No person shall wilfully or maliciously disturb or injure, or, except as herein provided, remove, obliterate, deface or cover up any monument or mark designating the boundary line of the commonwealth. Any person desirous of removing and replacing any such monument or mark may apply in writing to the department, who may grant permission therefor under its supervision, first making provision for preserving the exact location of the original boundary or mark, and also giving notice to the adjoining state of the time and place at which proposed action is to be taken. The monument shall be reset in the identical location from which it was removed, or at a convenient distance therefrom upon the boundary line. A full description of any change in such monument or mark shall be recorded in the offices of the clerks of the contiguous towns, and a copy thereof shall be forwarded to the state secretary. Violation of this section shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than six months.

Conveyance
to the United
States of land
owned by the
commonwealth.
1880, 184.
P. S. 1, § 7.
R. L. 1, § 8.
1916, 288.
1919, 350.
§§ 111, 113.
1931, 394, § 3.
24 Op. A. G.
279.

SECTION 6. The department, with the approval of the governor and council, may, upon the application of an agent of the United States, in the name and behalf of the commonwealth, convey to the United States the title of the commonwealth to any tract of land covered by navigable waters and necessary for the purpose of erecting a lighthouse, beacon light, range light or other aid to navigation, or light keeper's dwelling; but such title shall revert to the commonwealth if such land ceases to be used for such purpose.

Concurrent
jurisdiction in
land acquired
by the United
States.
1871, 233.
1872, 309.
1873, 43.
1874, 383, § 1.
1875, 35.
P. S. 1, § 4.
1882, 131.
R. L. 1, § 6.
201 Mass. 387.

SECTION 7. The United States shall have jurisdiction over any tract of land within the commonwealth acquired by it in fee for the following purposes: for the use of the United States bureau of fisheries, or for the erection of a marine hospital, custom office, post office, life-saving station, lighthouse, beacon light, range light, light keeper's dwelling or signal for navigators; provided, that a suitable plan of such tract has been or shall be filed in the office of the state secretary within one year after such acquisition of title thereto. But the commonwealth shall retain concurrent jurisdiction with the United States in and over any such tract of land to the extent that all civil and criminal processes issued under authority of the commonwealth may be executed thereon as if there had been no cession of jurisdiction, and exclusive jurisdiction over any such tract shall vest in the commonwealth if such tract ceases to be used by the United States for such public purpose.

1 SECTION 8. In connection with their official duties persons employed
 2 by the United States geological survey or coast survey, or by the de-
 3 partment, may enter upon land and erect works, stations, buildings and
 4 appurtenances; provided, that, in case of such entry or erection by
 5 persons employed by the United States, it shall make adequate pro-
 6 vision by law for compensation for any taking of property thereby.

Officers of
 United States
 geological sur-
 vey or coast
 survey, or of
 the department,
 may enter on
 land, etc.
 1845, 192, § 1.
 G. S. 1, § 4.
 P. S. 1, § 8.

R. L. 1, § 9.
 1903, 150, § 1.
 1916, 288.

1918, 257, § 188.
 1919, 5, § 350, §§ 111, 113.
 1920, 2.

1931, 394, § 4.
 U. S. Rev. Sts. § 4681.
 U. S. C. Title 33, § 881.

1 SECTION 9. In case of entry by persons employed by the common-
 2 wealth, it shall pay all damages thereby caused. In case of entry, not
 3 constituting a taking, by persons employed by the United States, such
 4 persons shall pay all such damages. If the parties interested cannot
 5 agree upon the amount to be paid for damages under the preceding
 6 section, such damages shall be determined and recovered under chapter
 7 seventy-nine.

Right to
 damages, and
 determination
 and recovery
 thereof.
 1845, 192,
 §§ 2-5.
 G. S. 1, §§ 5-7.
 P. S. 1, §§ 9-11.
 R. L. 1,
 §§ 10-12.

1903, 150, § 2.

1918, 257, §§ 189, 190.

1919, 5.

1920, 2.

1 SECTION 10. Whoever wilfully injures, defaces or removes a signal,
 2 monument, building or appurtenance erected, used or constructed under
 3 the authority of the United States shall be punished by a fine of fifty
 4 dollars, and be liable in tort to the United States for all damages so
 5 sustained.

Signals, etc.,
 of United States
 not to be
 injured, etc.
 Penalty.
 1845, 192, § 7.
 G. S. 1, § 9.
 P. S. 1, § 13.
 R. L. 1, § 13.

CHAPTER 2.

ARMS, GREAT SEAL AND OTHER EMBLEMS OF THE COMMONWEALTH.

SECT.

1. Arms of the commonwealth.
2. Official representation.
3. Great seal of the commonwealth.
4. Existing seal to be official.
5. Design for the flag of the commonwealth.

SECT.

6. Display of the flags of the United States and of the commonwealth.
7. Flower of the commonwealth. Injury or destruction, when penalized.

1 SECTION 1. The arms of the commonwealth shall consist of a shield
 2 having a blue field or surface with an Indian thereon, dressed in a
 3 shirt and moccasins, holding in his right hand a bow, and in his left
 4 hand an arrow, point downward, all of gold; and, in the upper corner
 5 of the field, above his right arm, a silver star with five points. The
 6 crest shall be a wreath of blue and gold, whereon, in gold, shall be a
 7 right arm, bent at the elbow, clothed and ruffled, with the hand grasp-
 8 ing a broadsword. The motto shall be "Ense petit placidam sub
 9 libertate quietem."

Arms of the
 commonwealth.
 1885, 288, § 2.
 R. L. 2, § 1.
 Quincy, 468.
 189 Mass. 76.

1 SECTION 2. The coat-of-arms as drawn and emblazoned under
 2 the direction of the state secretary in the year eighteen hundred and
 3 ninety-eight and deposited in his office shall be the official represen-
 4 tation of the arms of the commonwealth of Massachusetts, and all
 5 designs of said coat-of-arms for official use shall conform strictly to
 6 said representation.

Official represen-
 tation.
 1898, 519.
 R. L. 2, § 2.

Great seal
of the com-
monwealth.
1885, 288, § 1.
R. L. 2, § 3.
189 Mass. 76.

SECTION 3. The great seal of the commonwealth shall be circular in form, bearing upon its face a representation of the arms of the commonwealth encircled with the inscription, "Sigillum Reipublice Massachusettensis." The colors of the arms shall not be an essential part of said seal, and an impression from a seal engraved according to said design, on any commission, paper or document shall be valid without such colors or the representation thereof by heraldic lines or marks.

Existing seal
to be official.
1885, 288, § 3.
R. L. 2, § 4.

SECTION 4. The seal of the commonwealth now in use in the office of the state secretary shall be the authorized seal so long as its use may be continued.

Design for
the flag of
the com-
monwealth.
1908, 329.
1915, 37.

SECTION 5. The flag of the commonwealth shall bear on one side a representation of the arms of the commonwealth, as prescribed by sections one and two, upon a white field, and on the other side a blue shield bearing a representation of a green pine tree, upon a white field.

Display of the
flags of the
United States
and of the
commonwealth.
1909, 60.

SECTION 6. The flag of the United States and the flag of the commonwealth shall be displayed on the main or administration building of each public institution of the commonwealth. The flags shall be of suitable dimensions and shall be flown every day when the weather permits.

Flower of the
commonwealth.
Injury or
destruction,
when penal-
ized.
1918, 181.
1925, 112.

SECTION 7. The mayflower (*epigaea repens*) shall be the flower or floral emblem of the commonwealth. Any person who pulls up or digs up the plant of the mayflower or any part thereof, or injures such plant or any part thereof except in so far as is reasonably necessary in procuring the flower therefrom, within the limits of any state highway or any other public way or place, or upon the land of another person without written authority from him, shall be punished by a fine of not more than fifty dollars; but if a person does any of the aforesaid acts while in disguise or secretly in the night time he shall be punished by a fine of not more than one hundred dollars.

CHAPTER 3.

THE GENERAL COURT.

SECT.

1. Secretary to make and deliver lists of persons returned.
2. Persons named on lists may take seats as members.
3. Manner of calling house to order, and who shall preside.
4. Persons having certificates, etc., but not on lists, to present credentials to presiding officer.
5. Notice of certain petitions to be published. Deposit and transmission of petition. Fee to accompany certain petitions.

SECT.

6. Notice, deposit, filing, etc., of petitions for incorporation of educational institutions.
7. Petitions for legislation affecting corporations not subject to §§ 5 and 6 to be deposited, etc.
8. Petition of city or town for authority to borrow money outside the debt limit.
9. Compensation of members of the general court.
10. Compensation of members chosen to fill vacancies or who resign.
11. Payment of members.

SECT.

12. Salary of clerks. Tenure of office.
13. Appointment, salaries and tenure of office of assistant clerks. Clerical assistance.
14. Compensation of chaplains.
15. Sergeant-at-arms, salary, removal, etc.
16. Assistant sergeant-at-arms, appointment, etc.
17. Duties of sergeant-at-arms. Certain legislative employees to have powers of police officers, etc.
18. Certain employees of sergeant-at-arms. Salaries.
19. Number of doorkeepers, etc., authorized.
20. Compensation for travel to doorkeepers, assistant doorkeepers, general court officers, pages, etc.
21. Appointment, etc., of employees of sergeant-at-arms.
22. Custody of journals, etc., of senate and house.
23. Engrossment of bills and resolves.
24. Engrossment of proposed amendments to the constitution.
25. [Repealed.]
26. Books, etc., not to be ordered for members.
27. Members of committees may administer oaths.
28. Testimony before general court or committees thereof.
29. Stenographic reports.
30. Expenses incurred under orders of the general court.
31. Expenses of committees of the general court.
32. Expenses of committees acting during recess.
33. Advertisement of legislative committee hearings.
34. Form of advertisements.
35. Designation of newspapers.

SECT.

36. Postage for legislative committees. Stationery.
37. Auditing of expenses of legislative committees.
38. Payment of fees for witnesses before general court.
39. Definition of "legislative counsel" and "legislative agent".
40. Names of legislative counsel and agents to be entered on a docket, etc.
41. Sergeant-at-arms to keep dockets, etc. Form of entries.
42. Subjects of legislation to be specified on dockets.
43. Members of political committees not to be legislative agents.
44. Compensation not to be contingent upon action of general court. Legislative counsel not to act as legislative agent, when.
45. Written authority to be filed with sergeant-at-arms.
46. Proceedings for disbarment. Effect of disbarment.
47. Opening, closing and disposition of legislative dockets.
48. Employers of legislative counsel and agents to file statements, etc.
49. Penalties.
50. Certain sections not to apply to certain city or town solicitors or assistant solicitors.

CONTINUOUS CONSOLIDATION OF THE GENERAL STATUTES.

51. Counsel for senate and house. Appointment, etc. Certain duties.
52. Counsel to draft bills, etc.
53. Counsel to propose corrections, prepare revisions, etc.
54. Assistance and expenses.
55. Counsel, etc., legislative officers. Exemption from civil service.

1 SECTION 1. The state secretary shall receive and examine the certi-
 2 ficates of the election of representatives to the general court returned into
 3 his office, and make a list of the persons therein named. On the Tues-
 4 day next preceding the first Wednesday of January following a state
 5 election he shall deliver to the sergeant-at-arms a list of the persons
 6 then returned, and upon receiving any further certificates before the
 7 house of representatives is called to order he shall immediately make
 8 and deliver to the sergeant-at-arms a list of the persons returned by
 9 such further certificates. He shall also transmit the certificates, with a
 10 list of all persons returned, to the house of representatives as soon as the
 11 members are called to order.

Secretary to
 make and
 deliver lists
 of persons
 returned
 1844, 143,
 § 3, 4, 6.
 G. S. 2, § 1
 P. S. 2, § 1.
 R. L. 3, § 1.

1 SECTION 2. The persons named on the lists delivered to the sergean-
 2 t-at-arms shall be admitted to take seats as members in the representa-
 3 tives' chamber on said first Wednesday of January or thereafter during
 4 the terms for which they are elected.

Persons named
 on lists may
 take seats
 as members.
 1844, 143, § 5.
 G. S. 2, § 2.

Manner of calling house to order, and who shall preside.
1844, 143, § 7.
G. S. 2, § 3.
P. S. 2, § 3.
R. L. 3, § 3.

SECTION 3. On said first Wednesday of January, between the hours of ten in the forenoon and twelve at noon, the persons so returned and admitted as members into the representatives' chamber shall be called to order by the oldest senior member present, who shall be the presiding officer of the house until a speaker is chosen or the house otherwise determines.

Persons having certificates, etc., but not on lists, to present credentials to presiding officer.
1844, 143, § 8.
G. S. 2, § 4.
P. S. 2, § 4.
R. L. 3, § 4.

SECTION 4. A person having a certificate or other documentary evidence of his election as a representative who is not named on said lists may, after the house has been called to order, present such certificate or evidence to the presiding officer, or to the speaker if one has been chosen, who shall communicate the same to the house for its action thereon; but such person shall not take a seat as a member until permitted by the house.

Notice of certain petitions to be published. Deposit and transmission of petition. Fee to accompany certain petitions.
1831, 43, § 1.
1832, 59.
R. S. 2, § 7, 8.
1857, 261, § 1-5.
G. S. 2, § 8-12.
1862, 91, § 3.
1871, 381, § 11.
P. S. 2, § 5-14.
1885, 24, § 1, 2.
1890, 302.
R. L. 3, § 5, 7.
1924, 170, § 1.
1926, 107, § 1.
1928, 297.
114 Mass. 592.

SECTION 5. Whoever intends to present to the general court a petition for the incorporation of a city or town, for the annexation of one municipality to another, for the consolidation of two or more municipalities or for the division of an existing municipality, or for the incorporation or revival of a railroad, street railway, elevated railroad, canal, telephone, telegraph, water, gas, electric light, power or other public service corporation, for the amendment, alteration or extension of the charter or corporate powers or privileges, or for the change of name, of any such company, whether specially incorporated or organized under general laws, or for authority to take water for a water supply, or relative to building structures over navigable or tide waters, shall give notice of such petition by publishing a copy thereof once in each of three successive weeks in such newspapers as the state secretary, having regard to the locality of the interests involved in such petition, shall direct, the last publication to be made at least twenty-four days before the session at which the petition is to be presented. Such petition with a bill embodying in substance the legislation petitioned for shall be deposited on or before the third Saturday of December in the office of the state secretary, with proof of publication satisfactory to him, and he shall file said petition and bill forthwith with the clerk of the house of representatives, with his endorsement that the required publication has been made.

Every petition seeking as aforesaid the incorporation or revival or change of name of a public service corporation and every petition by or on behalf of such a corporation seeking as aforesaid legislation otherwise amending, altering or extending the charter or corporate powers or privileges of such a corporation shall be accompanied by a fee of twenty-five dollars which shall be paid to the commonwealth.

Notice, deposit, filing, etc., of petitions for incorporation of educational institutions.
1806, 381, § 1, 2.
R. L. 3, § 6, 7.
1912, 481.
1914, 50.
1919, 263, § 1-3, 5.
1923, 51.
1924, 170, § 2

SECTION 6. Whoever intends to present to the general court a petition for the incorporation of a college, university or other educational institution with power to grant degrees, or for an amendment to the charter of any existing educational institution which will give it such power, shall on or before November first prior to its intended presentation deposit the same in the office of the department of education. The petitioners shall give notice of the petition by publishing a copy thereof once in each of three successive weeks in such newspapers as the commissioner of education may designate, the last publication to be made

10 at least twenty-four days before the session of the general court at which
 11 the petition is to be presented; and the petitioners shall, on or before
 12 the third Saturday of December, file with the said commissioner satis-
 13 factory evidence that a copy of the petition has so been published,
 14 together with a bill embodying in substance the legislation petitioned
 15 for. Said commissioner shall file said petition and bill forthwith with
 16 the clerk of the house of representatives, together with his recommenda-
 17 tions relative thereto.

1 SECTION 7. Whoever intends to present to the general court a
 2 petition for the establishment or revival, or for the amendment, altera-
 3 tion or extension of the charter or corporate powers or privileges, or for
 4 the change of name, of any corporation, except a petition subject to the
 5 provisions of section five or six, shall, on or before November first prior
 6 to its intended presentation, deposit the same, together with a bill em-
 7 bodying in substance the legislation petitioned for, in the office of the
 8 commissioner of corporations and taxation. The petition shall spe-
 9 cifically set forth the facts showing why the object sought cannot be
 10 accomplished under the general laws, and if such a petition relates to a
 11 corporation organized or to be organized for purposes of business or
 12 profit, shall be accompanied by a fee of twenty-five dollars, which shall
 13 be paid to the commonwealth. Said commissioner shall examine every
 14 petition filed as aforesaid, and shall attach thereto a certificate or memo-
 15 randum stating whether or not, in his opinion, the object sought may be
 16 accomplished under the general laws or whether the same requires
 17 legislation. He may also insert in said memorandum any other rele-
 18 vant statement which, in his opinion, might be of assistance to the
 19 general court in passing on the petition, and shall file the petition and
 20 bill with the clerk of the house of representatives not later than the third
 21 Saturday of December.

Petitions for
 legislation affecting cor-
 porations not
 subject to
 §§ 5 and
 6 to be de-
 posited, etc.
 1920, 582.
 1924, 170, § 3.
 1926, 107, § 2.

1 SECTION 8. Any petition to the general court, with the accompanying
 2 bill, of any town for authority to borrow money outside the statutory
 3 limit of indebtedness shall be transmitted by the committee of the general
 4 court to which the same may be referred to the director of accounts for
 5 information as to the financial condition of the town, and he shall as
 6 soon as possible make a report thereon to said committee.

Petition of
 city or town
 for authority to
 borrow money
 outside the
 debt limit.
 1913, 677.
 1919, 350, § 52.

1 SECTION 9. Each member of the general court shall receive two thou-
 2 sand dollars for each regular annual session of the term for which he is
 3 elected, and four dollars and twenty cents for every mile of ordinary
 4 traveling distance from his place of abode to the place of sitting of the
 5 general court. The president of the senate and the speaker of the house
 6 of representatives shall each receive two thousand dollars additional
 7 compensation.

Compensation
 of members
 of the general
 court.
 1858, 2, §§ 1, 3.
 G. S. 2,
 §§ 13, 15.
 1921, 498, § 1.
 1924, 502, § 1.
 1929, 333, § 1.

1 SECTION 10. Each member of the general court chosen to fill a va-
 2 cancy, or who resigns his seat during a regular annual session, shall be
 3 entitled to a per diem compensation for the time of his membership at
 4 the rate of two thousand dollars for each regular annual session, and
 5 his mileage as provided in the preceding section.

Compensation
 of members
 chosen to fill
 vacancies or
 who resign.
 1872, 328, § 1.
 1876, 28, § 3.
 1879, 78, § 11.

P. S. 2, § 16.
 R. L. 3, § 9.

1911, 676, § 1.
 1918, 62.

1919, 273.
 1931, 426, § 125.

Payment of members.
1858, 2, § 1.
G. S. 2, § 13.
1872, 328, § 2.
P. S. 2, § 20.
R. L. 3, § 10.
1907, 163.
1912, 13, § 1.
1918, 203, § 1.
1920, 1.

SECTION 11. Each member of the general court shall be entitled to be paid two hundred dollars on account on the day preceding the last legislative day of each month; but such monthly payments in any year shall not exceed in the aggregate the compensation of the member for the annual session; and each member shall, on the last legislative day in which the general court is in session preceding the fifteenth day of each month, be entitled to receive an amount not exceeding the proportion then due at the rate of two hundred dollars monthly.

Salary of clerks. Tenure of office.
1844, 143, § 9.
1858, 2, § 5.

SECTION 12. The clerk of the senate and the clerk of the house of representatives shall each receive a salary of three thousand dollars, and each shall hold office until his successor is qualified.

G. S. 2, §§ 5, 17.	1873, 377, § 2.	1880, 253.	1884, 329.
1867, 167; 305.	1879, 78, § 2.	P. S. 2, §§ 21, 25.	R. L. 3, § 11.
1868, 37.			

[Salaries of present incumbents, 1924, 436, § 1; 1928, 322, § 1.]

Appointment, salaries and tenure of office of assistant clerks. Clerical assistance.
1844, 143, § 10.
G. S. 2, § 6.
1873, 372, § 3.
1879, 78, § 3.
1880, 253.
P. S. 2, §§ 22, 26.
1882, 257, § 1.
1884, 334.
1888, 1.
1894, 394.

SECTION 13. The clerks of the senate and house of representatives, subject to the approval of the senate and house, respectively, may each appoint an assistant clerk at a salary of two thousand dollars who, in the absence of the clerk, shall perform his duties unless a temporary clerk is chosen. Each clerk may remove the assistant clerk appointed by him. The clerk of the senate may also employ necessary clerical assistance at an annual expense of not more than fifteen hundred dollars, and the clerk of the house of representatives may also employ necessary clerical assistance at an annual expense of not more than forty-five hundred dollars.

1899, 100.	1904, 87, § 1.	1915, 271, § 1.
R. L. 3, §§ 12, 13.	1906, 126, § 1.	

[Salaries of present assistant clerks, 1926, 268, § 1; 1928, 322, § 2.]

Compensation of chaplains.
1858, 2, § 6.

SECTION 14. The chaplains of the senate and house shall each receive a salary of seven hundred and fifty dollars.

G. S. 2, § 18.	1879, 78, § 8;	P. S. 2, § 23.	1913, 450.
1872, 7.	304.	R. L. 3, § 14.	1920, 345.

Sergeant-at-arms, salary, removal, etc.
1835, 154.
R. S. 13, §§ 58, 64, 65.
1837, 13.
1843, 9.
1854, 131, § 1.
G. S. 14, §§ 49, 50.
1867, 305.

SECTION 15. The general court shall annually in January choose a sergeant-at-arms at a salary of four thousand dollars who shall hold office until removed or until another is chosen. He may be removed by the general court or, during its recess, may be suspended by the governor and council. If a vacancy or suspension occurs during such recess, the governor and council may appoint a person to perform the duties of the office until a new election.

P. S. 5, §§ 1, 10.	1895, 284, § 2.	1905, 218, § 2.	1927, 340, § 2.
1884, 333.	R. L. 10, §§ 1, 10.	1907, 359, § 1.	1930, 424, § 1.
1887, 128.	1903, 455, § 1.		

Assistant sergeant-at-arms, appointment, etc.
1863, 87.
§§ 1, 2.
P. S. 5, § 2.
R. L. 10, § 2.

SECTION 16. In case of the disability or necessary absence of the sergeant-at-arms, he may appoint, with the approval of the presiding officers of the two branches of the general court or, during its recess, of the governor, an assistant sergeant-at-arms to perform his duties during such disability or absence. His compensation shall be paid by the sergeant-at-arms, who shall be responsible for his fidelity and good conduct in office; but for misconduct or other sufficient cause he may be removed by the general court or, during its recess, by the governor and council.

1 SECTION 17. The sergeant-at-arms shall serve such processes and
 2 execute such orders as may be enjoined upon him by the general court
 3 or by either branch thereof, attend the members or clerks of either
 4 branch when they are charged with a message from one branch to the
 5 other or to the governor and council, maintain order among the spec-
 6 tators admitted into the chambers in which the respective branches
 7 hold their sessions, prevent the interruption of either branch or of the
 8 committees thereof, and shall have the control of, and superintendence
 9 over, his subordinate officers, taking care that they promptly perform
 10 their duties. In respect to any criminal offence committed in any part
 11 of the state house assigned to or used by either branch of the general
 12 court or any committee or officer thereof, or to any such offence com-
 13 mitted against any member of the general court, including any member
 14 of a special commission composed in part of members of the general
 15 court, while acting within the commonwealth in his official capacity as
 16 such member, whether such offence is committed within the state house
 17 elsewhere than as aforesaid, or upon premises outside the state house
 18 while officially used by a committee of the general court or by such a
 19 special commission, the sergeant-at-arms, the doorkeepers and assistant
 20 doorkeepers of either branch thereof, and its general court officers shall
 21 have and exercise all the powers of police officers, and in respect to the
 22 service within the commonwealth of such processes and orders as may
 23 be enjoined upon them by the general court or either branch or by any
 24 committee of the general court or either branch, they shall have the
 25 powers of constables.

Duties of
 sergeant-at-
 arms.
 Certain legis-
 lative em-
 ployees to have
 powers of police
 officers, etc.
 R S 13,
 §§ 59, 60,
 G S 14,
 § 51,
 P S 5, § 3,
 R L 10, § 2,
 1919, 350, § 22,
 1930, 389, § 1.

1 SECTION 18. There shall be a doorkeeper for each branch, each at a
 2 salary of twenty-seven hundred and fifty dollars, and such assistant
 3 doorkeepers as it may direct, each at a salary of twenty-two hundred
 4 dollars; a postmaster at a salary of twenty-five hundred dollars; an
 5 assistant postmaster at a salary of fifteen hundred dollars; a porter in
 6 the lobby of the house of representatives at a salary of sixteen hundred
 7 and fifty dollars; general court officers, each at a salary of two thou-
 8 sand dollars; pages whose compensation shall be seven hundred dollars
 9 each for the regular annual session and a sum not exceeding three dollars
 10 for each day's service after such session; a clerk to take charge of the
 11 legislative document room at a salary of twenty-seven hundred and
 12 fifty dollars, an assistant clerk of said room at a salary of twenty-one
 13 hundred dollars, and such assistants therein as may be necessary, for
 14 whose fitness and good conduct the sergeant-at-arms shall be responsible.

Certain
 employees of
 sergeant-at-
 arms.
 Salaries.
 R S 13, § 59,
 1858, 2, § 7,
 G S 2, § 19;
 14, § 54,
 1865, 228,
 1872, 7,
 1880, 212,
 §§ 1, 3,
 P S 2, §§ 17-
 19; 5, §§ 5, 6,
 1882, 257,
 § 2, 3,
 1887, 116,
 § 1, 3,
 1895, 193,
 §§ 1, 3,
 R L 10,
 §§ 5, 11-14,
 1903, 323, § 1,
 1905, 218.

1907, 359, § 1.	1919, 183, § 1; 235, § 1;	1923, 400, § 1.
1909, 174.	254; 350, § 22.	1924, 401, § 1.
1911, 60; 115.	1920, 346; 593.	1927, 340, § 1.
1914, 710, § 1.	1921, 367, § 1.	1930, 389, § 2;
1917, 244.	1922, 366, § 1.	424, § 2.

1 SECTION 19. The number of doorkeepers, assistant doorkeepers,
 2 general court officers and pages of the senate and of the house shall not
 3 exceed forty-one in all.

1879, 78, § 10.	1895, 11.	1919, 350, § 22.
P. S. 2, § 27.	R. L. 10, § 15.	1923, 228, § 1.
1882, 257, § 4.	1910, 154, § 1.	1930, 389, § 3.

Number of
 doorkeepers,
 etc., author-
 ized.

1 SECTION 20. The sergeant-at-arms, doorkeepers, assistant doorkeep-
 2 ers, general court officers and pages, the postmaster and assistant post-
 3 master, the clerks in the sergeant-at-arms' office, and the clerk, assist-

Compensation
 for travel
 to doorkeepers,
 assistant
 doorkeepers,

general court officers, pages, etc.
1915, 202.
1917, 6.
1918, 66, § 1.
1919, 273, § 1, 2.
1921, 498, § 2.
1922, 8.
1923, 229, § 1.
1924, 502, § 2.
1928, 201, § 1.
1930, 389, § 4

ant clerk and other assistants in the legislative document room shall each receive for each annual session four dollars and twenty cents for every mile of ordinary traveling distance from their places of abode to the place of the sitting of the general court. Payments to persons authorized to receive compensation under this section shall be made from the treasury of the commonwealth in anticipation of an appropriation, in the month of January of each year, upon the certificate of the sergeant-at-arms approved by the president of the senate and the speaker of the house of representatives.

Appointment, etc., of employees of sergeant-at-arms.
1919, 350, § 22.
1920, 593.

SECTION 21. The sergeant-at-arms shall, immediately after his election, with the approval of the presiding officers of the two branches of the general court, appoint such employees as are necessary to fill any existing vacancies in the employees provided for by section eighteen; and no employee provided for by said section, excepting pages, shall be removed except with the consent of the presiding officer of the branch to which he is assigned or of both branches if he is assigned to both. The sergeant-at-arms may appoint and remove such additional clerical and other assistants as the duties of his office may require, and, subject to sections forty-five to fifty, inclusive, of chapter thirty and the rules and regulations made thereunder, may fix their compensation.

Custody of journals, etc., of senate and house.
1844, 153.
G. S. 2, § 21.
1876, Res. 24.
P. S. 2, § 28.
R. L. 3, § 15.

SECTION 22. The journals, files and papers of the senate and of the house of representatives shall be in the custody of their respective clerks during each political year, and thereafter in the custody of the state secretary. The clerk of each branch shall at all times have access to the same. Copies of such journals, files and papers, certified by the clerk of the branch to which they originally appertained or by the state secretary, shall be evidence in like manner as the originals.

Engrossment of bills and resolves.
Const. amend. 48.
(Const. Rev. arts. 76-107.)
1826, 37.
R. S. 13, § 6.
1836, 24.
G. S. 2, § 22.
1877, 201.
P. S. 2, § 31.
1901, 191.
R. L. 3, § 19.
1912, 179, § 1.
1919, 364, § 1.
1920, 388, § 2.

SECTION 23. Bills and resolves passed to be engrossed by the general court, and bills for which initiative petitions are completed under the constitution of the commonwealth, shall, under the direction of the state secretary, be fairly engrossed on parchment or parchment paper in a plain and legible handwriting, or written by a typewriting machine, without interlineation, and with a margin of not less than one inch on each side, and in engrossing bills for which initiative petitions are completed the enacting clause shall be in the form prescribed by section three of chapter four. Each sheet on which bills are engrossed or typewritten shall be eighteen inches long and thirteen inches wide, and each sheet on which resolves are engrossed or typewritten shall be fifteen inches long and ten inches wide. The secretary shall cause the acts and resolves of each session to be neatly and strongly bound in separate volumes of convenient size and lettered on the back with a designation of the contents and the legislative year. If such original engrossed acts or resolves are becoming illegible, he shall cause parchment or parchment paper copies thereof, similar to the originals, to be engrossed, and shall attest them. Such attested copies shall have the same force and effect as the originals.

Engrossment of proposed amendments to the constitution

SECTION 24. All proposed amendments to the constitution which have been agreed to in joint session of the two houses of the general court in the manner prescribed by the constitution shall be engrossed on parch-

4 ment or parchment paper, certified by the clerk of such joint session, 1865, 156.
5 and deposited in the office of the state secretary. P. S. 2, § 32.
R. L. 3, § 20.

1921, 486, § 41.

1 SECTION 25. [REPEALED, 1929, 41.]

1 SECTION 26. No periodicals, publications or books, other than those Books, etc.,
2 printed for the use of the general court, shall be ordered for members not to be
3 thereof at the expense of the commonwealth. ordered for
members.

G. S. 2, § 16.

P. S. 16, § 49.

R. L. 6, § 53.

1 SECTION 27. Senators and representatives, acting as members of a Members of
2 committee of the general court, may administer oaths to persons exam- committees
3 ined before such committee. may admin-
ister oaths.
1825, 90.

R. S. 2, § 10.

G. S. 2, § 20.

P. S. 2, § 29.

R. L. 3, § 16.

1 SECTION 28. A person shall not be excused from attending and testi- Testimony
2 fying before either branch of the general court or before a committee before general
3 thereof upon a subject referred to such committee on the ground that court or
4 his testimony or evidence, documentary or otherwise, may tend to crim- committees
5 inate him or subject him to a penalty or forfeiture; but he shall not thereof.
6 prosecuted or subjected to a penalty or forfeiture for or on account of 1878, 51.
7 any action, matter or thing concerning which he may be required to P. S. 2, § 30.
8 so testify or produce evidence, except for perjury committed in such R. L. 3, § 17.
9 testimony. 1902, 744, § 1.
197 Mass. 172.
142 U. S. 547.
161 U. S. 591.

1 SECTION 29. Stenographic reports of hearings before legislative com- Stenographic
2 mittees or special commissions made at the expense of the common- reports
3 wealth shall, at the conclusion of the work of such committees or com- 1897, 113.
4 missions, be deposited in the state library. R. L. 3, § 18.
1918, 61.

1 SECTION 30. Accounts for expenditures made or services rendered Expenses in-
2 under an order of the general court or of either branch thereof, other curred under
3 than by legislative committees, may be approved by the president or orders of the
4 speaker, by the sergeant-at-arms, or by any other person to whose direc- general court.
5 tion or supervision such expenditures or services have been specially 1857, Res. 19.
6 intrusted. 1858, 158, § 11.
G. S. 15, § 37.
1869, 309, § 1.
P. S. 16, § 40.
R. L. 6, § 43.

1917, 277, § 2.

1 SECTION 31. Except as otherwise provided in this chapter, no joint Expenses of
2 committee of the general court shall, unless authorized by order of both committees
3 branches, incur any expense to be paid by the commonwealth; and no of the
4 committee of either branch shall, unless authorized by the branch to general court.
5 which it belongs, incur such expense. 1877, 181, § 1.
P. S. 16, § 41.
R. L. 6, § 44.
137 Mass. 139.

1 SECTION 32. No committee of the general court shall, after the close Expenses of
2 of the regular session, incur any expense to be paid by the common- committees
3 wealth unless there is an authorized appropriation therefor; nor shall acting during
4 a committee appointed to act during the recess of the general court incur recess.
5 any such expense after the recess. 1858, 158, § 12.
G. S. 15, § 45.
1869, 309, § 3.
P. S. 16, § 44.

R. L. 6, § 45.

1 SECTION 33. No hearing before a committee of the general court, or Advertisement
2 of either branch thereof, shall be advertised at the expense of the com- of legislative
3 monwealth in more than two newspapers published in any county, nor committee
hearings.
1877, 181, § 2.

P. S. 16, § 42. more than twice in any newspaper; and no hearing on a matter of special 4
 1885, 371. legislation affecting the interest of only a portion of the commonwealth 5
 1897, 503. shall be advertised in any newspapers except in those published daily in 6
 1898, 76, § 1. the county of Suffolk and in the localities directly interested therein, if 7
 R. L. 6, § 46. there are any so published, otherwise in those published weekly. No 8
 1903, 283, § 1. hearing shall be advertised where the parties in interest can readily be 9
 reached by notices sent by mail. 10

Form of advertisements. SECTION 34. In all newspapers designated to advertise such hearings, 1
 the advertisements shall be uniformly printed in type not larger than 2
 R. L. 6, § 47. nonpareil, set solid, and without display either in the headings or in the 3
 body of the advertisements. 4

Designation of newspapers. SECTION 35. Advertisements of hearings shall be published only in 1
 1885, 371, § 2. newspapers designated by the chairman of the committee on the part 2
 1897, 503, § 2. of the senate or of the house of representatives and the clerk of the 3
 1898, 76, § 3. committee, subject to the approval of the committees on rules sitting 4
 R. L. 6, § 48. jointly or acting concurrently, and in each case the order for the adver- 5
 1903, 283, § 2. tisement shall be signed by the chairman and clerk of the respective 6
 1921, 343. committees, who shall designate therein the newspapers in which such 7
 1923, 362, § 2. advertisement is to be published, designating daily papers whenever 8
 such are available, and shall file the same with the comptroller, who 9
 shall thereupon forward a copy to the newspapers so designated for 10
 publication and shall give the necessary directions to secure uniformity 11
 in the style and manner of publication, as provided in the preceding 12
 section. The comptroller shall certify all bills for publishing such 13
 advertisements, and shall annually, during the first week in April, 14
 report in detail to the general court the expenses incurred by the several 15
 committees under this section. 16

Postage for legislative committees. SECTION 36. Postage for committees of the general court shall be 1
 Stationery. provided by the sergeant-at-arms, who shall be reimbursed therefor. 2
 1856, Res. 74. The printing, binding and procuring of stationery for the use of the 3
 1877, 181, § 4. senate and house of representatives shall be under the direction of the 4
 P. S. 16, § 43. clerk of each branch, respectively, and shall be approved by him. 5
 R. L. 6, § 49.

Auditing of expenses of legislative committees. SECTION 37. Except as provided in the two preceding sections, no 1
 1875, 186, § 1. money shall be paid from the treasury for expenses incurred by com- 2
 1877, 181, § 3. mittees of the general court unless, at the beginning of each month and 3
 P. S. 16, § 45. at other convenient and necessary times during the session, the clerk of 4
 R. L. 6, § 50. the committee prepares a schedule, on forms furnished by the com- 5
 1923, 362, § 3. ptroller, of the expenses incurred for which bills have been rendered, which 6
 shall be approved in writing by a majority of the members of the com- 7
 mittee and transmitted to the comptroller. If a bill for an authorized 8
 expense incurred during a regular or special session of the general court 9
 is not rendered during such session so that it can be approved as afore- 10
 said, the written approval of a majority of the members of the committee 11
 shall be sufficient to authorize the comptroller to certify it. 12

Payment of fees for witnesses before general court. SECTION 38. Money appropriated for fees of witnesses before the 1
 the general court may be paid to the sergeant-at-arms, who shall pay there- 2
 from the legal fees due to witnesses summoned before committees 3
 authorized to send for persons and papers, upon the certificate of the 4

5 chairman or other member authorized by the committee to certify
6 such accounts, as soon as may be after said witnesses have been dis-
7 charged, and in like manner shall pay the expense of taking depositions
8 authorized by such committees, and shall, within ten days after proro-
9 gation, return to the comptroller an account of such payments, and
10 repay to the state treasurer the unexpended balance of such money.
11 If witnesses are summoned in any session before an appropriation for
12 their payment has been made, the governor may draw his warrant for
13 an amount not exceeding the appropriation made in the preceding fiscal
14 year, and in no case exceeding three hundred dollars.

1 SECTION 39. The following terms, when used in this chapter, shall
2 have the following meanings:
3 "Legislative counsel", any person who for compensation appears at
4 any public hearing before any committee of the general court in regard
5 to proposed legislation, and who does no other acts in regard to the same
6 except such things as are necessarily incident to such appearance before
7 such a committee;
8 "Legislative agent", any person who for hire or reward does any act
9 to promote or oppose legislation except to appear at a public hearing
10 before a committee of the general court as legislative counsel.

1 SECTION 40. A person employing or agreeing to employ a person
2 to act as counsel or agent to promote or oppose, directly or indirectly,
3 legislation by the general court, or to act as legislative counsel or agent,
4 shall, within one week after such employment or agreement, cause the
5 name of such counsel or agent to be entered upon a docket as provided
6 in the following section; and such counsel or agent shall also enter his
7 name upon such docket. The termination of such employment may be
8 entered opposite to the name of such counsel or agent either by him or
9 by his employer.

1 SECTION 41. The sergeant-at-arms shall keep a docket in which shall
2 be entered the names of all who are employed as legislative counsel
3 and of all counsel who act or advise in relation to legislation. He shall
4 also keep a docket in which shall be entered the names of all who are
5 employed as legislative agents and of all persons employed for other
6 purposes rendering any services as such agents. Such entries shall in-
7 clude the name and business address of the employer, the name, residence
8 and occupation of the employee, the date of the employment or agree-
9 ment therefor, the duration of the employment, if it can be determined,
10 and the special subjects of legislation, if any, to which the employment
11 relates.

1 SECTION 42. A person employing any legislative counsel or agent
2 shall, as subjects of legislation are introduced which such counsel or
3 agent is to promote or oppose, make additional entries under the name of
4 such employer in the appropriate docket, stating such special employment
5 and specifically referring to the petitions, orders, bills or other subjects
6 of legislation to which it relates. Such entries shall also be made opposite
7 the names of such counsel or agent so that the entries opposite the name
8 of an employer shall show all the subjects of legislation relative to which
9 any counsel or agent is employed by him, and so that the entries opposite

1860, 41,
§§ 1, 2
P. S. 16,
§§ 46, 47,
R. L. 3, § 51,
1923, 362, § 4.

Definition of
"legislative
counsel"
and "legisla-
tive agent".
1911, 728.

Names of
legislative
counsel and
agents to be
entered on a
docket, etc.
1890, 456, § 1.
1891, 223, § 1
R. L. 3, § 23.
236 Mass. 121
1 Op. A. G.
311.

[Penalty. § 49.]

Sergeant-at-
arms to keep
dockets, etc.
Form of
entries
1890, 456, § 2.
1891, 223, § 2.
R. L. 3, § 24.
1 Op. A. G.
311.
3 Op. A. G.
469.

Subjects of
legislation to
be specified on
dockets
1890, 456, § 3.
1891, 223, § 2.
R. L. 3, § 25.
3 Op. A. G.
469.

[Penalty. § 49.]

the name of every person employed shall show all the subjects of legislation with reference to which he is employed. No legislative committee shall allow a person to appear as counsel before it in respect to any legislation not described in the docket of legislative counsel against his name.

Members of political committees not to be legislative agents.

SECTION 43. No member of a state or district political committee shall act as legislative agent.

1911, 728, § 1.

[Penalty, § 49.]

Compensation not to be contingent upon action of general court. Legislative counsel not to act as legislative agent, when.

SECTION 44. No person shall be employed as a legislative counsel or agent for a compensation dependent upon the passage or rejection of proposed legislation or upon any other contingency connected with the action of the general court or of either branch or of a committee thereof. A person whose name is entered upon the docket of legislative counsel shall not render service as legislative agent unless his name is also entered upon the docket of legislative agents.

1891, 223, § 2.

R. L. 3, § 26.

[Penalty, § 49.]

Written authority to be filed with sergeant-at-arms.

SECTION 45. Every legislative counsel or agent shall, within ten days after entering his name upon a docket as hereinbefore provided, file with the sergeant-at-arms a written authority to act as such counsel or agent, signed by the person for whom he assumes to act.

R. L. 3, § 27.

[Penalty, § 49.]

Proceedings for disbarment. Effect of disbarment.

SECTION 46. The general court may, upon cause shown therefor, disbar a person from acting as a legislative counsel or agent; but a person against whom proceedings for disbarment are brought shall be allowed a hearing before a committee or otherwise as the general court may determine. No person who has been so disbarred shall be employed as legislative counsel or agent within three years after such disbarment.

Opening, closing and disposition of legislative dockets.

SECTION 47. The dockets of legislative counsel and agents for each year shall be closed upon the prorogation of the general court, and the dockets for the ensuing year shall then be opened. Within thirty days after such prorogation, the sergeant-at-arms shall deposit in the office of the state secretary the dockets which have been so closed.

Employers of legislative counsel and agents to file statements, etc.

SECTION 48. Within thirty days after the prorogation of the general court, every person whose name appears upon the dockets so closed as an employer of any legislative counsel or agent shall render to the state secretary a complete and detailed statement, on oath, of all expenses incurred or paid in connection with the employment of legislative counsel or agents or with promoting or opposing legislation. When such expense is included in an employment by annual salary or retainer, the statement shall specify the amount of the salary or retainer apportioned therefor. In case such employment is without any such apportionment, then the total salary or retainer which includes such services shall be stated. Such statements shall be in such form as the state secretary may prescribe, and shall be open to public inspection.

[Penalty, § 49.]

Penalties.

SECTION 49. Violations of any provision of sections forty, forty-two, forty-three, forty-four and forty-eight shall be punished by a fine of not

3 less than one hundred nor more than one thousand dollars. Any person
 4 acting as legislative counsel or agent contrary to any provision of sec-
 5 tions forty, forty-two, forty-three and forty-four shall, in addition to such
 6 fine, be disqualified from acting as legislative counsel or agent for three
 7 years from the date of conviction of such offence. Violation of section
 8 forty-five shall be punished by a fine of not more than one thousand
 9 dollars or by disqualification from acting as legislative counsel or agent
 10 for three years, or by both such fine and disqualification. The attorney
 11 general shall cause prosecutions to be instituted for violations of any
 12 provision of sections forty, forty-two to forty-five, inclusive, forty-seven
 13 and forty-eight.

R. L. 3,
 § 27, 31,
 1911, 728.

1 SECTION 50. Sections thirty-nine to forty-nine, inclusive, shall not
 2 apply to the employment by a town of its solicitor or an assistant so-
 3 licitor to represent it in any legislative proceeding; provided, that such
 4 solicitor or assistant solicitor receives no compensation for his services
 5 other than the regular salary attaching to his office.

Certain
 sections not
 to apply to
 certain city
 or town
 solicitors or
 assistant
 solicitors

1890, 456, § 8.

R. L. 3, § 32.

1922, 210.

CONTINUOUS CONSOLIDATION OF THE GENERAL STATUTES.

1 SECTION 51. The committees on rules of the senate and house of
 2 representatives shall each appoint a skilled person to act as counsel to
 3 the senate and house of representatives, respectively, at such compen-
 4 sation as the said committees may approve. The persons so appointed
 5 shall serve for the term of two years from the date of appointment, sub-
 6 ject to the pleasure of the said committees. They shall, under the di-
 7 rection of the said committees, annually prepare a table of changes in
 8 the general statutes, an index to the acts and resolves, and shall from
 9 time to time, under the direction of the said committees or of the gen-
 10 eral court, consolidate and incorporate in the General Laws all new gen-
 11 eral statutes. They shall, from time to time, under like direction, make
 12 such additions and revisions in the index of the General Laws as may be
 13 necessary to insure its prompt publication in connection with future
 14 revisions of the statutes. The said committees may direct that copies
 15 of the index containing such additions and revisions be deposited, from
 16 time to time, in the office of the state secretary or elsewhere and made
 17 available for public use.

Counsel for
 senate and
 house. Ap-
 pointment,
 etc. Certain
 duties.
 1920, 640, § 1.
 1922, 197.

1 SECTION 52. The said counsel shall, under like direction, assist
 2 members and committees of the senate and house of representatives in
 3 drafting bills, and shall advise and assist the committees on bills in the
 4 third reading. They shall, so far as possible, draft all bills proposed for
 5 legislation as general statutes in the form of specific amendments of or
 6 additions to the General Laws.

Counsel to
 draft bills,
 etc.
 1920, 640, § 2.

1 SECTION 53. The said counsel may, from time to time, submit to
 2 the general court such proposed changes and corrections in the general
 3 statutes as they deem necessary or advisable, including recommenda-
 4 tions for the repeal of such statutory provisions as have become obsolete
 5 or the reasons for the enactment of which have ceased to exist. If,
 6 in their opinion, the necessity of enacting special bills in relation to any
 7 particular subject of legislation may, without detriment to the public
 8 interest, be avoided in whole or in part by the enactment of general

Counsel to
 propose
 corrections,
 prepare
 revisions, etc.
 1920, 640, § 3.
 1922, 24, § 1.
 1927, 68,
 1930, 6, § 1.

legislation, they shall from time to time submit to the general court 9
 drafts of such changes in or additions to the General Laws as will accom- 10
 plish said purpose. They shall, as early as practicable after prorogation, 11
 file in the office of the state secretary a copy of all amendments of and 12
 additions to the General Laws, which shall be open to public inspection. 13
 They shall advise and assist as to the form of drafts of bills submitted 14
 to them in accordance with section thirty-three of chapter thirty. 15

Assistance and
 expenses
 1920, 640, § 4.

SECTION 54. The said counsel may employ such legal and other 1
 assistance as may be necessary in the discharge of their duties, subject 2
 to the approval of the said committees on rules, and may expend with 3
 like approval such sums as may be necessary for office, printing and 4
 other expenses. 5

Counsel, etc.,
 legislative
 officers.
 Exemption
 from civil
 service.
 1920, 640, § 5.

SECTION 55. The said counsel shall not be deemed to be executive 1
 or administrative officers within the meaning of the constitution, but 2
 shall serve directly under the general court. They and their assistants 3
 shall not be subject to chapter thirty-one. 4

CHAPTER 4.

STATUTES.

SECT.

1. When statutes shall take effect.
2. Resolves to take effect upon passage.
3. Enacting style of proposed laws submitted by initiative.
4. Acceptance of statute by city or town.
5. Return to be made to state secretary of acceptance or rejection, etc., of certain acts and resolves.
6. Rules for construing statutes.
7. Meaning of certain words in construing statutes.
- 7A. [Amended into special act.]

SECT.

8. Construction of special acts authorizing indebtedness.
9. Performance of certain acts on day after Sunday or legal holiday.
- 9A. Unsealed instruments, when given effect of sealed instruments.
- 9B. Impression, etc., of certain seals upon documents without use of wax or wafers.
10. Daylight saving.
11. Marginal references.

When statutes
 shall take
 effect.
 R. S. 2, §§ 4, 5.
 G. S. 3, § 6.
 P. S. 3, § 1.
 R. L. 8, § 1.
 1919, 97
 1931, 426,
 § 126.
 10 Mass. 290.
 3 Gray, 601.
 6 Gray, 316.
 16 Gray, 144.
 108 Mass. 30.
 109 Mass. 355.
 118 Mass. 168,
 502.
 197 Mass. 178.
 212 Mass. 253.
 213 Mass. 222.
 219 Mass. 211.
 255 Mass. 369.
 297 Mass. 439.
 269 Mass. 373.
 3 Op. A. G. 249.
 4 Op. A. G. 298.

SECTION 1. A statute enacted by the general court which may be 1
 made the subject of a referendum petition and which is declared therein 2
 to be an emergency law, unless otherwise expressly provided therein, 3
 shall take effect as soon as it has the force of a law conformably to the 4
 constitution. A statute so enacted which may not be made the subject 5
 of such a petition and for which a different time of taking effect is not 6
 therein expressly provided shall take effect as soon as it has the force of 7
 a law as aforesaid if it is declared therein to be an emergency law, other- 8
 wise on the thirtieth day next after the earliest day on which it has the 9
 force of a law as aforesaid; provided, that a statute so enacted which 10
 may not be made the subject of such a petition and which is to take 11
 effect upon its acceptance by a municipal or other corporation or by 12
 any board or officer thereof, unless otherwise expressly provided therein, 13
 shall, for the purpose of such acceptance only, take effect as soon as it 14
 has the force of a law as aforesaid. 15

1 SECTION 2. A resolve, unless otherwise expressly provided therein,
2 shall take effect as soon as it has the force of a law conformably to the
3 constitution.

P. S. 3, § 2.

R. L. 8, § 2.

1931, 426, § 126.

Resolves to
take effect
upon passage.
1864, 287.

1 SECTION 3. The enacting style of all measures submitted to the
2 people in pursuance of an initiative petition for a law shall be: Be it
3 enacted by the People, and by their authority.

Enacting style
of proposed
laws submitted
by initiative
1920, 388, § 1.

1 SECTION 4. Wherever it is provided that a statute shall take effect
2 upon its acceptance by a city or town, such acceptance shall, except
3 as otherwise provided in such statute, be, in a city, by vote of the city
4 council or, in a town, by vote of the inhabitants thereof at a town
5 meeting.

Acceptance of
statute by
city or town
253 Mass. 400.

1 SECTION 5. If an act or resolve is to take effect upon its acceptance
2 by a municipal or other corporation, a return of the action taken by
3 such corporation shall be made by its clerk to the state secretary within
4 thirty days thereafter. If such act or resolve prescribes a time within
5 which it may be accepted, and within the time limited it is rejected
6 or no action is taken thereon, said clerk shall, within thirty days after
7 the expiration of the time so limited, make a return to the state secretary,
8 stating that such act or resolve was rejected or that no action was taken
9 thereon.

Return to be
made to state
secretary of
acceptance or
rejection, etc.,
of certain acts
and resolves.
1883, 100.
R. L. 8, § 3.
1 Op. A. G.
105.

1 SECTION 6. In construing statutes the following rules shall be ob-
2 served, unless their observance would involve a construction incon-
3 sistent with the manifest intent of the law-making body or repugnant to
4 the context of the same statute:

1919, 301, § 1.

194 Mass. 486.

Rules for
construing
statutes.
G. S. 3, § 7.
P. S. 3, § 3.
R. L. 8, § 4.

5 First, The repeal of a statute shall not revive any previous statute,
6 except in case of the repeal of a statute, after it has become law, by
7 vote of the people upon its submission by referendum petition.

P. S. 3, § 3, cl. 1.
R. L. 8, § 4, cl. 1.

1919, 301, § 1.
232 Mass. 28.

4 Op. A. G. 547.

Repeal not to
revive any
previous
statute.
1869, 410.

8 Second, The repeal of a statute shall not affect any punishment,
9 penalty or forfeiture incurred before the repeal takes effect, or any suit,
10 prosecution or proceeding pending at the time of the repeal for an offence
11 committed, or for the recovery of a penalty or forfeiture incurred, under
12 the statute repealed.

1919, 301, § 1.
108 Mass. 30.

123 Mass. 407.
150 Mass. 315.

184 Mass. 515.
210 Mass. 445.

Repeal not to
affect penalties,
etc., previously
incurred.
1869, 410.
P. S. 3, § 3,
cl. 2.
R. L. 8, § 4,
cl. 2.

13 Third, Words and phrases shall be construed according to the common
14 and approved usage of the language; but technical words and phrases
15 and such others as may have acquired a peculiar and appropriate mean-
16 ing in law shall be construed and understood according to such meaning.

P. S. 3, § 3, cl. 3.
R. L. 8, § 4, cl. 3.
1919, 301, § 1.
7 Allen, 287, 304.
8 Allen, 297.
10 Allen, 155.

204 Mass. 42.
205 Mass. 124.
210 Mass. 588.
213 Mass. 79.
218 Mass. 8, 14.
222 Mass. 563.

225 Mass. 349.
230 Mass. 370.
267 Mass. 496.
4 Op. A. G. 307,
320, 348.

How words and
phrases shall
be construed.
R. S. 2, § 6,
cl. 1.
G. S. 3, § 7,
cl. 1.

17 Fourth, Words importing the singular number may extend and be
18 applied to several persons or things, words importing the plural number

Number and
gender.
R. S. 2, § 6, cl. 2.

G. S. 3, § 7, may include the singular, and words importing the masculine gender may 19
cl 2 include the feminine and neuter. 20
P. S. 3, § 3, cl. 4.

R. L. 8, § 4, cl. 4. 127 Mass. 563. 267 Mass. 496.
1919, 301, § 1. 131 Mass. 376. 3 Op. A. G. 93.
165 Mass. 33. 242 Mass. 277.

Joint authority. Fifth, Words purporting to give a joint authority to, or to direct any 21
R. S. 2, § 6, act by, three or more public officers or other persons shall be construed as 22
cl 3 giving such authority to, or directing such act by, a majority of such 23
G. S. 3, § 7, cl 3 officers or persons. 24
P. S. 3, § 3, cl. 5.

R. L. 8, § 4, cl. 5. 7 Gray, 128. 195 Mass. 72.
1919, 301, § 1. 16 Gray, 341. 201 Mass. 107.
6 Met. 340. 113 Mass. 161. Op. A. G. (1920) 234.
5 Cush. 269. 152 Mass. 500.

Oath or acknowledgment, before whom; dispensed with, when. Sixth, Wherever any writing is required to be sworn to or acknowl- 25
1926, 187, § 2. 26
1931, 394, § 183. 27
writing required to be sworn to contains or is verified by a written decla- 28
ration under the provisions of section one A of chapter two hundred and 29
sixty-eight. 30

Action by city council. Seventh, Wherever action by more than a majority of a city council is 31
required, action by the designated proportion of the members of each 32
branch thereof, present and voting thereon, in a city in which the city 33
council consists of two branches, or action by the designated proportion 34
of the members thereof, present and voting thereon, in a city having a 35
single legislative board, shall be a compliance with such requirement. 36

Publication where no newspaper in city or town, etc. Eighth, Wherever publication is required in a newspaper published 37
1912, 360. 38
228 Mass. 417. 39
270 Mass. 96. 40
in a city or town, it shall be sufficient, when there is no newspaper pub- 41
lished therein, if the publication is made in a newspaper published in 42
the county where the city or town is situated; and for this purpose a 43
newspaper which by its title page purports to be printed or published in 44
such city, town or county and which has a circulation therein, shall 45

Penalty, etc., to be for each offense. Ninth, Wherever a penalty or forfeiture is provided for a violation of 44
law, it shall be for each such violation. 45

SECTION 7. In construing statutes the following words shall have 1
the meanings herein given, unless a contrary intention clearly appears: 2
G. S. 3, § 7. P. S. 3, § 3. R. L. 8, § 5.

"Aldermen", First, "Aldermen", "board of aldermen", "mayor and aldermen", 3
etc. "city council" or "mayor" shall, in a city which has no such body or 4
1913, 835, § 1. officer, mean the board or officer having like powers or duties. 5
182 Mass. 524. 223 Mass. 104.

"Annual meeting". Second, "Annual meeting", when applied to towns, shall mean the 6
R. S. 2, § 6, cl. 1 annual meeting required by law to be held in the month of February, 7
1837, 52. March or April. 8

G. S. 3, § 7, cl. 4. P. S. 3, § 3, cl. 6. R. L. 8, § 5, cl. 1.

"Assessor". Third, "Assessor" shall include any selectman acting as assessor and 9
any person chosen in accordance with law to perform the duties of an 10
assessor. 11

Fourth. [REPEALED, 1921, 486, § 1.] 12

"Charter". Fifth, "Charter", when used with reference to cities or towns, shall 13
include any special act or provision relating thereto. 14

"City solicitor". Sixth, "City solicitor" shall include the head of the legal department 15
of a city or town. 16

"District". Seventh, "District", when applied to courts or the justices or other 17
1931, 394, § 2.08. officials thereof, shall include municipal. 18

- 19 Eighth, "Dukes", "Dukes county" or "county of Dukes" shall mean
20 the county of Dukes county. "Dukes
county", etc.
- 21 Ninth, "Fiscal year", when used with reference to the commonwealth
22 or any of its offices, departments, boards, commissions or institutions,
23 shall mean the year beginning with December first and ending with the
24 following November thirtieth, both inclusive. "Fiscal year"
for the com-
monwealth.
1905, 211, § 1.
1912, 445, § 1.
1918, 257, § 476
- 1919, 5. 1920, 2.
- 25 Tenth, "Gaming", "illegal gaming" or "unlawful gaming" shall
26 include every act punishable under any law relative to lotteries, policy
27 lotteries or policy, the buying and selling of pools or registering of bets. "Gaming",
"illegal
gaming",
"unlawful
gaming".
- 1895, 419, § 1. R. L. 8, § 5, cl. 2. 241 Mass. 319.
- 28 Eleventh, "Grantor" may include every person from or by whom a
29 freehold estate or interest passes in or by any deed; and "grantee" may
30 include every person to whom such estate or interest so passes. "Grantor" and
"grantee".
R. S. 2, § 6,
cl. 5; 60, § 32.
G. S. 3, § 7, cl. 5.
- P. S. 3, § 3, cl. 7. 5 Mass. 438. 165 Mass. 359.
R. L. 8, § 5, cl. 3. 5 Cush. 359.
- 31 Twelfth, "Highway", "townway", "public way" or "way" shall
32 include a bridge which is a part thereof. "Highway",
etc.
R. S. 2, § 6, cl. 6.
- G. S. 3, § 7, cl. 6. P. S. 3, § 3, cl. 8. R. L. 8, § 5, cl. 4.
- 33 Thirteenth, "In books", when used relative to the records of cities and
34 towns, shall not prohibit the making of such records on separate leaves,
35 if such leaves are bound in a permanent book upon the completion of a
36 sufficient number of them to make an ordinary volume. "In books".
1917, 19.
- 37 Fourteenth, "Inhabitant" may mean a resident in any city or town. "Inhabitant".
- Const. pt. 2, c. 1, § 2, art. 2. G. S. 3, § 7, cl. 7. 6 Allen, 423.
(Const. Rev. art. 46.) P. S. 3, § 3, cl. 9. 122 Mass. 594.
R. S. 2, § 6, cl. 7. R. L. 8, § 5, cl. 5. 260 Mass. 562.
- 38 Fifteenth, "Insane person" and "lunatic" shall include every idiot,
39 non compos, lunatic and insane and distracted person. "Insane
person" and
"lunatic".
- R. S. 2, § 6, cl. 8; 79, § 34. G. S. 3, § 7, cl. 8. R. L. 8, § 5, cl. 6.
P. S. 3, § 3, cl. 10. 194 Mass. 486.
- 40 Sixteenth, "Issue", as applied to the descent of estates, shall include
41 all the lawful lineal descendants of the ancestor. "Issue".
R. S. 2, § 6,
cl. 9; 61, § 13.
- G. S. 3, § 7, cl. 9. P. S. 3, § 3, cl. 11. R. L. 8, § 5, cl. 7. 140 Mass. 267.
- 42 Seventeenth, "Land", "lands" and "real estate" shall include lands,
43 tenements and hereditaments, and all rights thereto and interests therein;
44 and "recorded", as applied to plans, deeds or other instruments affecting
45 land, shall, as affecting registered land, mean filed and registered. "Land",
"lands", and
"real estate".
"Recorded".
R. S. 2, § 6,
cl. 10; 60,
§ 32.
- G. S. 3, § 7, cl. 10. 120 Mass. 157. 243 Mass. 129.
P. S. 3, § 3, cl. 12. 138 Mass. 376. 3 Op. A. G. 34.
R. L. 8, § 5, cl. 8. 155 Mass. 505.
- 46 Eighteenth, "Legal holiday" shall include January first, February
47 twenty-second, April nineteenth, May thirtieth, July fourth, the first
48 Monday of September, October twelfth, November eleventh, Thanks-
49 giving day and Christmas day, or the day following when any of the five
50 days first mentioned, October twelfth, November eleventh, or Christmas
51 day occurs on Sunday; and the public offices shall be closed on all of
52 said days. "Legal
holiday".
1856, 113, § 1.
G. S. 2, § 24.
1881, 71.
P. S. 2, § 34.
1882, 49.
1887, 263.
1894, 130, § 4.
1896, 162, § 1.
R. L. 8, § 5,
cl. 9.
- 1910, 473. 1916, 104, § 1. 271 Mass. 323.
1911, 136. 1928, 235. 3 Op. A. G. 467.
- 53 Nineteenth, "Month" shall mean a calendar month, except that,
54 when used in a statute providing for punishment by imprisonment, one
"Month" and
"year".
R. S. 2, § 6,
cl. 11

G. S. 3, § 7, cl. 11. P. S. 3, § 3, cl. 13.	"month" or a multiple thereof shall mean a period of thirty days or the corresponding multiple thereof; and "year", a calendar year.	55 56
	R. L. S. § 5, cl. 11. 19 Pick. 532.	14 Gray, 37. 217 Mass. 520.
	Op. A. G. (1918) 58.	
"Net indebtedness". 1876, 209, § 6, 10 1880, 32. P. S. 29, § 2, 3. 1883, 127.	Twentieth, "Net indebtedness" shall mean the indebtedness of a county, city, town or district, omitting debts created for supplying the inhabitants with water and other debts exempted from the operation of the law limiting their indebtedness, and deducting the amount of sinking funds available for the payment of the indebtedness included.	57 58 59 60 61
	1894, 317, § 21, cl. 2, f; 522, § 34, cl. 4.	1895, 164 R. L. S. § 5, cl. 12.
"Oath". R. S. 2, § 6, cl. 12.	Twenty-first, "Oath" shall include affirmation in cases where by law an affirmation may be substituted for an oath.	62 63
	G. S. 3, § 7, cl. 12.	P. S. 3, § 3, cl. 14.
	R. L. S. § 5, cl. 14.	
"Ordinance". G. S. 3, § 7, cl. 21.	Twenty-second, "Ordinance", as applied to cities, shall be synonymous with by-law.	64 65
	P. S. 3, § 3, cl. 15.	R. L. S. § 5, cl. 15.
"Person" and "whoever". R. S. 2, § 6, cl. 13.	Twenty-third, "Person" or "whoever" shall include corporations, societies, associations and partnerships.	66 67
	G. S. 3, § 7, cl. 13. P. S. 3, § 3, cl. 16. R. L. S. § 5, cl. 16. 3 Cush. 25. 4 Cush. 588. 6 Cush. 477. 12 Cush. 54.	8 Gray, 509. 8 Allen, 207. 118 Mass. 354. 153 Mass. 42. 206 Mass. 417. 209 Mass. 38. 211 Mass. 561. 214 Mass. 79. 220 Mass. 42. 243 Mass. 94. 246 Mass. 235. 4 Op. A. G. 342.
"Place".	Twenty-fourth, "Place" may mean a city or town.	68
	G. S. 3, § 7, cl. 18. P. S. 3, § 3, cl. 17.	R. L. S. § 5, cl. 17. 11 Gray, 81.
	102 Mass. 214.	
"Preceding" and "following". R. S. 2, § 6, cl. 14. G. S. 3, § 7, cl. 14.	Twenty-fifth, "Preceding" or "following", used with reference to any section of the statutes, shall mean the section last preceding or next following, unless some other section is expressly designated in such reference.	69 70 71 72
	P. S. 3, § 3, cl. 18.	R. L. S. § 5, cl. 18.
"Public records". 1897, 439, § 1. R. L. 35, § 5. 1928, 192, § 3. 197 Mass. 218, 256. 214 Mass. 254. 218 Mass. 501. 224 Mass. 6. 253 Mass. 430. 2 Op. A. G. 351. 3 Op. A. G. 122, 136, 351.	Twenty-sixth, "Public records" shall mean any written or printed book or paper, any map or plan of the commonwealth, or of any county, city or town which is the property thereof, and in or on which any entry has been made or is required to be made by law, or which any officer or employee of the commonwealth or of a county, city or town has received or is required to receive for filing, and any book, paper, record or copy mentioned in sections five to eight, inclusive, and sixteen of chapter sixty-six, including public records made by photographic process as provided in section three of said chapter.	73 74 75 76 77 78 79 80 81
	214 Mass. 254. 218 Mass. 501. 224 Mass. 6. 253 Mass. 430. 2 Op. A. G. 351. 3 Op. A. G. 122, 136, 351.	214 Mass. 254. 218 Mass. 501. 224 Mass. 6. 253 Mass. 430. 2 Op. A. G. 351. 3 Op. A. G. 122, 136, 351.
"Salary".	Twenty-seventh, "Salary" shall mean annual salary.	82
"Savings banks".	Twenty-eighth, "Savings banks" shall include institutions for savings.	83
	R. L. 113, § 10.	1908, 590, §§ 1, 69.
	Twenty-ninth. [REPEALED, 1929, 377, § 1.]	84
"Spendthrift". R. S. 79, § 34 G. S. 3, § 7, cl. 8. P. S. 3, § 3, cl. 20.	Thirtieth, "Spendthrift" shall mean a person who is liable to be put under guardianship on account of excessive drinking, gaming, idleness or debauchery.	85 86 87
	R. L. S. § 5, cl. 20.	
"State" and "United States". R. S. 2, § 6, cl. 16. G. S. 3, § 7, cl. 16.	Thirty-first, "State", when applied to the different parts of the United States, shall extend to and include the District of Columbia and the several territories; and the words "United States" shall include said district and territories.	88 89 90 91
	P. S. 3, § 3, cl. 21.	R. L. S. § 5, cl. 21.

92 Thirty-second, "State auditor" and "state secretary" shall mean
 93 respectively the auditor of the commonwealth and the secretary of the
 94 commonwealth. "State treasurer" or "treasurer of the commonwealth"
 95 shall mean the treasurer and receiver general as used in the constitution
 96 of the commonwealth, and shall have the same meaning in all contracts,
 97 instruments, securities and other documents.

"State audi-
 tor", "state
 secretary"
 and "state
 treasurer".
 1920, 164.

98 Thirty-third, "Swear" shall include affirm in cases in which an af-
 99 firmation may be substituted for an oath. When applied to public
 100 officers who are required by the constitution to take oaths therein pre-
 101 scribed, it shall refer to those oaths; and when applied to any other
 102 officer it shall mean sworn to the faithful performance of his official
 103 duties.

"Swear".
 Const. pt. 2,
 c. 6, art. 1.
 Const.
 amend. 6
 (Const. Rev.
 art. 149.)
 G. S. 3, § 7,
 c. 12, 22.
 P. S. 3, § 3,
 c. 22.

R. L. 8, § 5, c. 22.

104 Thirty-fourth, "Town", when applied to towns or officers or em-
 105 ployes thereof, shall include city.

"Town".
 R. S. 2, § 6,
 c. 17.

G. S. 3, § 7, c. 17.
 P. S. 3, § 5, c. 23.
 R. L. 8, § 5, c. 23.
 140 Mass. 381.

148 Mass. 148.
 153 Mass. 40.
 187 Mass. 150.
 191 Mass. 78.

251 Mass. 82.
 270 Mass. 185.
 272 Mass. 547.

106 Thirty-fifth, "Valuation", as applied to a town, shall mean the valua-
 107 tion of such town as determined by the last preceding apportionment
 108 made for the purposes of the state tax.

"Valuation".

109 Thirty-sixth, "Water district" shall include water supply district.

"Water
 district".

110 Thirty-seventh, "Will" shall include codicils.

"Will".

R. S. 2, § 6, c. 18.
 G. S. 3, § 7, c. 19.

P. S. 3, § 3, c. 24.
 R. L. 8, § 5, c. 24.

5 Cush. 245.

111 Thirty-eighth, "Written" and "in writing" shall include printing, en-
 112 graving, lithographing and any other mode of representing words and
 113 letters; but if the written signature of a person is required by law, it
 114 shall always be his own handwriting or, if he is unable to write, his
 115 mark.

"Written" and
 "in writing".
 R. S. 2, § 6,
 c. 19.
 G. S. 3, § 7,
 c. 20.
 P. S. 3, § 3,
 c. 25.

R. L. 8, § 5, c. 25.
 9 Pick. 312.

157 Mass. 439.
 210 Mass. 588.

229 Mass. 435.
 4 Op. A. G. 316.

116 Thirty-ninth, "Annual election", as applied to municipal elections in
 117 cities holding such elections biennially, shall mean biennial election.

"Annual
 election", as
 to cities
 holding muni-
 cipal elections
 biennially.

1924, 360.

118 Fortieth, "Surety" or "Sureties", when used with reference to a
 119 fidelity bond of an officer or employee of a county, city, town or district,
 120 shall mean a surety company authorized to transact business in the
 121 commonwealth.

"Surety" or
 "Sureties",
 with reference
 to certain fi-
 delity bonds.
 1924, 404, § 1.

122 Forty-first, "Population", when used in connection with the number
 123 of inhabitants of a county, city, town or district, shall mean the popu-
 124 lation as determined by the last preceding state or national census.

"Population",
 with reference
 to inhabitants
 of county, etc.
 1931, 426, § 127.

125 Forty-second, "Court", when used in provisions applicable to both
 126 district courts and trial justices, shall include trial justice.

"Court", when
 to include
 trial justice.

1931, 426, § 127.

1 SECTION 7A. [INSERTED, 1922, 151, § 1; AMENDED (into a special act),
 2 1931, 394, § 182.]

[NOTE.—The substance of this section has been inserted, by specific amendments, in
 the various sections of the General Laws to which it was applicable, and it has been trans-
 formed into a special act.]

1 SECTION 8. In construing any special act authorizing a city, town or
 2 district to incur indebtedness for a specified purpose to a limited amount,

Construction
 of special
 acts author-

izing
indebtedness.
1913, 648.
1926, 56

such limitation of amount shall be deemed to apply only to the indebtedness authorized by the special act, and not to affect any other power which the city, town or district may have to incur indebtedness for said purpose under any other provisions of law; and in special acts authorizing loans to be payable by proportionate payments, such provision shall be construed to mean payments as nearly equal in amount as is possible without unreasonable fractions, but no payment of the principal shall be greater than any preceding payment.

Performance
of certain acts
on day after
Sunday or
legal holiday.
1907, 204.
262 Mass. 39.
264 Mass. 475.
271 Mass. 323.

SECTION 9. Except as otherwise provided, when the day or the last day for the performance of any act, including the making of any payment or tender of payment, authorized or required by statute or by contract, falls on Sunday or a legal holiday, the act may, unless it is specifically authorized or required to be performed on Sunday or on a legal holiday, be performed on the next succeeding business day.

Unsealed
instruments,
when given
effect of sealed
instruments.
1929, 377, § 2.
1931, 426, § 128.

SECTION 9A. In any written instrument, a recital that such instrument is sealed by or bears the seal of the person signing the same or is given under the hand and seal of the person signing the same, or that such instrument is intended to take effect as a sealed instrument, shall be sufficient to give such instrument the legal effect of a sealed instrument without the addition of any seal of wax, paper or other substance or any semblance of a seal by scroll, impression or otherwise; but the foregoing shall not apply in any case where the seal of a court, public office or public officer is expressly required by the constitution or by statute to be affixed to a paper, nor shall it apply in the case of certificates of stock of corporations. The word "person" as used in this section shall include a corporation, association, trust or partnership.

Impression,
etc., of certain
seals upon
documents
without use
of wax or
wafers
1931, 426, § 129.

SECTION 9B. The impression or stamping of the established seal of a court, public office, public officer or corporation upon a paper shall be taken and held to be the seal of such court, public office, public officer or corporation, and valid in law to the same extent that an impression of such seal would be if made on wax or wafer attached to such paper.

Daylight
saving.
1920, 280,
§§ 2, 3.
1921, 145.

SECTION 10. At two o'clock ante-meridian of the last Sunday in April of each year, the standard time in this commonwealth shall be advanced one hour, and at two o'clock ante-meridian of the last Sunday in September of each year the standard time in this commonwealth shall, by the retarding of one hour, be made to coincide with the mean astronomical time of the degree of longitude governing the zone wherein the commonwealth is situated, the standard official time of which is described as United States standard eastern time, so that between the last Sunday of April at two o'clock ante-meridian and the last Sunday in September at two o'clock ante-meridian in each year the standard time in this commonwealth shall be one hour in advance of the United States standard eastern time. And in all laws, statutes, orders, decrees, rules and regulations relating to the time of performance of any act by any officer or department of the commonwealth, or of any county, city, town or district thereof, or relating to the time in which any rights shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the commonwealth, and in all

18 the public schools and in all institutions of the commonwealth, or of
 19 any county, city, town or district thereof, and in all contracts or choses
 20 in action made or to be performed in the commonwealth, it shall be
 21 understood and intended that the time shall be United States standard
 22 eastern time as changed by this section.

1 SECTION 11. Marginal references to statutes shall refer to general
 2 acts, unless otherwise expressly noted. Marginal
references.

CHAPTER 5.

PRINTING AND DISTRIBUTION OF LAWS AND PUBLIC DOCUMENTS.

SECT.

PRINTING AND DISTRIBUTION OF LAWS.

1. Supervision of state printing. Distribution. Contracts.
2. Annual publication of the laws.
3. Annual distribution of the laws.
4. Pamphlet edition of the laws.
5. [Repealed.]

PRINTING AND DISTRIBUTION OF DOCUMENTS, ETC.

6. Publication of annual reports as public documents.
7. Distribution of public documents.
8. Official text books, case books and technical reports. Determination; distribution.
9. Preservation, printing and distribution of copies of proceedings of Massachusetts departments of certain war veterans' organizations.

SECT.

10. Printing and distribution of journals of each branch of general court, etc.
11. Manual of the general court. Preparation and distribution.
12. Bulletins of committee hearings.
13. Legislative documents to be mailed to subscribers.
14. Books, etc., to be furnished to towns and cities.
15. Same subject. Insurance.
16. Distribution of laws, etc., to members of the general court.
17. Delivery charges on documents.
18. Purchase and distribution of books containing portraits of members of general court, etc.

PRINTING AND DISTRIBUTION OF LAWS.

1 SECTION 1. The division of personnel and standardization shall
 2 supervise the state printing and all publications by the commonwealth
 3 shall be printed under its direction; provided, that the foregoing pro-
 4 visions shall not apply to legislative printing or to publications required
 5 to be issued by the state secretary under the three following sections, or
 6 under chapter ninety of the resolves of nineteen hundred and twenty or
 7 any other special provision of law. All publications by the common-
 8 wealth shall be distributed under the direction of the state secretary
 9 unless otherwise provided.

10 The commission on administration and finance shall from time to time
 11 make such contract or contracts for the printing and binding for the
 12 several departments of the government of the commonwealth as it
 13 deems advisable, subject to the approval of the governor and council.
 14 It shall take into consideration the circumstances and facilities of the
 15 several bidders for the work as well as the terms offered; it may reject
 16 any bids received, and it shall award contracts to such person or persons
 17 as in its judgment the interests of the commonwealth may require, and it
 18 shall execute the contract or contracts in the name and behalf of the

Supervision of
state printing.
Distribution.
Contracts.
1893, 287.
1894, 393, § 14.
1896, 248.
R. L. 9, § 14.
1923, 362, § 5;
493.

commonwealth. Bonds satisfactory to the said commission shall be given by the parties to whom contracts are awarded, to secure the faithful performance of such contracts.

Annual publication of the laws. Const., pt 2, c 6, art 11. (Const. Rev. arts. 157, 158.) 1811, Res. 76. R. S. 2, § 1. 1839, Res. 83. 1851, 256, § 4. G. S. 3, § 1. 1865, 156. 1866, 65, § 1. 1876, 178. 1877, 248, § 3. 1878, 264, § 3. 1880, 193, § 3. 1881, 293, § 3. P. S. 4, § 1. 1882, 238. 1884, 166, § 1. 1885, 369, § 2. 1889, 440, § 1. 1894, 393, § 1. R. L. 9, § 1. 1910, 483. 1914, 449, §§ 1, 2. 1918, 151, § 1. 1919, 137, § 1. 1924, 462. 215 Mass. 57.

(Const. Rev. arts. 76-107.)

SECTION 2. The state secretary shall, at the close of each regular session of the general court, collate and cause to be printed in a single volume the following:

(1) All acts and resolves passed at such session.

(2) All amendments to the constitution referred at such session to the next general court and all such amendments acted upon at such session and to be submitted to the people at the next state election.

(3) All acts and resolves passed at any special session of the general court, except a general revision of the statutes, and not theretofore published in any preceding annual volume.

(4) In the volume of the year immediately following a state election, all laws and constitutional amendments adopted by the people at said election, with the aggregate vote thereon, both affirmative and negative, arranged in such detail as the secretary may determine.

(5) A statement in bold type at the conclusion of each law as printed, or in a postscript at the end of the volume with a suitable reference to each law, as to which a petition asking for a referendum thereon has been filed prior to the publication of the volume, with a sufficient number of signatures to procure its submission to the people, together with a recital of the pertinent provisions of article forty-eight of the amendments to the constitution.

(6) In the volume of the year immediately following a state election, a statement showing what acts of the general court were submitted to the people at said election, with the total vote, affirmative and negative, on each measure, with a specific reference to such laws of the general court as have been so rejected.

(7) A table of changes in the general statutes and an index, to be prepared as provided in section fifty-one of chapter three.

Annual distribution of the laws. R. S. 2, § 2. G. S. 3, § 2. 1866, 65, § 2. 1872, 329. 1877, 248, § 3. 1878, 264, § 3. 1880, 193, § 4. 1881, 293, § 4. §§ 3, 4. P. S. 4, § 2. 1884, 166, § 1. 1885, 369, § 2. 1889, 440, § 2. 1893, 108. 1894, 393, § 2. 1895, 238; 250. 1899, 336. R. L. 9, § 2. 1904, 269. 1908, 173; 443, 597, § 1. 1909, 50; 147; 504, § 98. 1910, 89. 1911, 181; 667. 1912, 109; 141. 1913, 292. 1917, No. 123. 1919, 350, §§ 52, 54, 99, 100.

SECTION 3. The state secretary shall determine the number of copies, not exceeding eleven thousand five hundred, of said volume required to be printed each year and shall, immediately after their publication, distribute such copies as follows:

To the clerk of the senate, for the use of the senate, twelve;

To the counsel to the senate, four;

To the clerk of the house of representatives, for the use of the house, twenty-four;

To the counsel to the house of representatives, four;

To each member of the general court and to the clerks of each branch thereof, two; and to each assistant clerk thereof, one;

To the state library, twenty-five;

To the governor, the lieutenant governor, the members of the executive council, the private secretary to the governor, the attorney general and his assistants, the adjutant general, every permanent state department, board and commission having an office and clerk and to such divisions thereof as in the opinion of the secretary require a copy for official use, the senators and representatives in congress from the commonwealth, the justices, clerks and registers of courts, such assistant clerks of courts for official use as the state secretary may designate, the reporter of 20

21 decisions, district attorneys, county commissioners, county treasurers, 1922, 198, § 1.
 22 registers of deeds, medical examiners, sheriffs, city and town clerks, city 1924, 492, § 1.
 23 treasurers, city auditors, town treasurers and town auditors of towns
 24 having a population of over twenty-five thousand as determined by the
 25 last preceding state or national census, the warden of the state prison,
 26 the superintendent of the Massachusetts reformatory, the superintendent
 27 of the reformatory for women, keepers of jails and houses of correction,
 28 superintendents of state hospitals, superintendents of the Lyman and
 29 industrial schools, superintendents of the state infirmary and the state
 30 farm, Harvard University and all incorporated colleges within the
 31 commonwealth, the Massachusetts Historical Society, the New England
 32 Historic Genealogical Society, the Boston Athenaeum, the American
 33 Antiquarian Society in Worcester, the state normal schools, such free
 34 public libraries and branches thereof in the commonwealth as the state
 35 secretary may designate, county law libraries, all incorporated law li-
 36 braries and branch libraries maintained by them, veteran organizations
 37 having headquarters in the state house, the justices of the supreme court
 38 of the United States, the judges and clerks of the United States circuit
 39 court of appeals and district court for the district of Massachusetts, one,
 40 each; to the clerks of the supreme judicial court and the superior court,
 41 a number sufficient to supply two copies at each place where regular or
 42 adjourned sessions of said courts are held;

43 To the state secretary for distribution to schools, societies and in
 44 certain important cases not otherwise provided for by law, one hundred;

45 To the secretary of state of the United States, and to the secretary of
 46 state of each of the United States for the use of such states, such number
 47 not exceeding four in each case, as such officials may request;

48 To the library of congress, three;

49 To the justices or clerks of district courts, upon application in writing
 50 therefor, a number sufficient to supply not more than two copies for
 51 each court room where sessions of said courts are held;

52 To associate or special justices, trial justices, masters in chancery,
 53 assistant registers of deeds, assistant registers of probate, assistant
 54 clerks of courts not otherwise provided for, justices of the peace to issue
 55 warrants and take bail, assistant district attorneys, members of state
 56 departments, boards and commissions, associate medical examiners,
 57 town treasurers and town auditors in towns not otherwise provided for,
 58 boards of town officials elected by the voters of their respective towns for
 59 the use of such towns, free public libraries not otherwise provided for,
 60 high schools and common schools in towns having no high school, upon
 61 application in writing therefor prior to February first next following the
 62 printing of said volume, one, each;

63 To each member of the general court ten, and upon application in
 64 writing filed prior to June first next following the printing of said volume,
 65 ten additional copies.

66 To each member of the general court at the session next following the
 67 passage of the acts and resolves in said volume, one copy, to be delivered
 68 at the beginning of such session.

69 After making the foregoing distribution or making provision therefor,
 70 the state secretary may sell copies at such price per copy, not less than
 71 the cost of printing, binding and paper, as shall be fixed by him.

1 SECTION 4. The state secretary shall also, at the close of each regular Pamphlet
 2 session of the general court, publish in pamphlet form such number of edition of
 the laws.

1847, Res. 88.
1850, Res. 89.
G. S. 3, § 3.
1865, 156.
1869, 65, § 3.
1877, 248.
1878, 264.
1880, 193, § 1.
1881, 293, § 3.
P. S. 4, § 3.
1889, 212;
340, § 3.
1891, 393, § 3.
R. L. 9, § 3.
1904, 209.
1908, 474, § 1.
1912, 61, § 1.
1922, 198, § 2.

copies, not exceeding twenty thousand, as he may determine, of the acts and resolves passed and of any proposed amendments to the constitution passed during such session, and shall at his discretion apportion said copies, excepting one thousand which he may reserve in his office for general distribution, among the clerks of the several towns, to be delivered by them to such inhabitants thereof as apply therefor.

He shall also, as soon as any act or resolve is passed, send a copy thereof to the following: each state department, officer, board or commission whose duties are affected by any such act or resolve, the clerks of the several towns, for the use of the inhabitants thereof, the justices, clerks and registers of courts, district attorneys, sheriffs, trial justices, justices of the peace authorized to issue warrants and take bail, county law libraries, and all incorporated law libraries and branch libraries maintained by them. He may also send copies to such persons as apply therefor, charging not less than the cost thereof.

SECTION 5. [REPEALED, 1931, 426, § 130.]

PRINTING AND DISTRIBUTION OF DOCUMENTS, ETC.

Publication of annual reports as public documents.
1857, 40, § 2.
G. S. 4, § 2.
1863, 219.
1876, 178.
1877, 248, §§ 1, 5.
1878, 264, § 1.
1880, 193, § 1.

SECTION 6. All reports required to be made by permanent state departments, officers and commissions shall, except as otherwise provided, be printed annually before the assembling of the general court, or as soon thereafter as possible. They shall be numbered in a series to be called public documents. The division of personnel and standardization shall designate the number of copies of each report to be printed, and none additional shall be printed at the expense of the commonwealth.

1881, 293, § 1.	1902, 228, § 8; 269; 438, § 7.	1913, 132; 295; 329; 358; 595, § 3.
P. S. 4, § 7.	1903, 390.	1914, 91, § 2; 291; 374; 533; 573; 656.
1885, 369.	1904, 388; 410.	1915, 149.
1889, 440, § 7.	1905, 138; 275.	1916, 233, § 2; 296, § 1.
1894, 393, § 7.	1908, 444; 459; 462, §§ 3-5; 523.	1917, 60.
1896, 258.	1909, 67; 371, § 3.	1918, 189; 257, § 9.
1897, 243.	1910, 83; 179; 256; 300; 393;	1919, 6.
1901, 257.	429, § 2; 514; 599.	1920, 2.
R. L. 9, § 7.	1911, 74; 446; 526, § 2.	1923, 362, § 6.

[For statutes prior to the R. L. stating the number of copies of reports to be printed, see R. L. 9, § 7.]

Distribution of public documents.
1857, 40, § 9.
G. S. 4, § 8.
1877, 248, §§ 2, 4.
1878, 264, § 2.
1880, 193, § 2.
1881, 293, § 2.
P. S. 4, § 8.
§ 8, 10.
1889, 440, § 8.
1894, 393, § 8.
R. L. 9, § 8.
1908, 422.
1914, 294, § 2; 339, § 2.
1918, 202.
1919, 350, § 24.

SECTION 7. The state secretary shall furnish to each town of the commonwealth, to be preserved in a public place therein, one copy of each of such reports included in the public document series as the town clerk may apply for. He shall furnish one copy of each of said reports to such public and other libraries as may apply therefor. If the supervisor of public records shall report to the state secretary that such town is unable to make suitable provision for the care and use of the documents, he may discontinue sending them to such town. Each member of the general court and of the executive department, the clerk of each branch of the general court and each reporter assigned to either branch may, upon a written request signed by him and delivered to the state secretary, receive a copy of any such document. Ten copies shall be placed in the state library for the use of the library and for exchange.

Official text books, case books and technical reports.
Determination; distribution.
1916, 296, § 5.
1918, 175.
1923, 362, § 7.
1924, 492, § 2.

SECTION 8. When in the opinion of the director of the division of personnel and standardization, a state publication is not of sufficient public benefit to be distributed free of charge, he may declare such publication to be an official text book, case book or technical report; provided, that the status of such publication has not already been determined by the general court. An appeal from the decision of the

7 rector shall lie to the committee of the executive council appointed to
 8 consider matters of finance, whose decision shall be final. Text books,
 9 case books or technical reports shall be distributed exclusively by the
 10 state secretary. They shall be distributed free of charge, but only upon
 11 written request, to such persons and in such numbers as are mentioned
 12 in the preceding section, or for the purpose of exchange with other
 13 states; provided, that a number of copies, not to exceed one hundred, of
 14 such text books, case books or technical reports, may be retained by the
 15 state secretary for free distribution to state departments, or otherwise
 16 as he may deem necessary. They may be delivered to other persons
 17 only upon receipt of a sum equal at least to the estimated cost thereof,
 18 as determined by the comptroller.

1 SECTION 9. The state secretary shall annually procure copies of the
 2 proceedings of the annual encampments of the departments of Massa-
 3 chusetts, Grand Army of the Republic, United Spanish War Veterans,
 4 The American Legion and Veterans of Foreign Wars of the United
 5 States, held in that year, with the general and special orders, circulars
 6 and other papers forming parts thereof, and shall cause the same to be
 7 kept as parts of the records of the commonwealth. He shall annually
 8 cause copies thereof, including in the case of those relating to the Grand
 9 Army of the Republic the portraits of the department officers and staff
 10 and of the executive committee of the national encampment, to be
 11 printed and bound; and shall cause one printed and bound copy of
 12 each to be sent to each town library in the commonwealth. He shall also
 13 send one copy of each volume relating to the Grand Army of the Re-
 14 public to each Grand Army post, one copy of the volume relating to the
 15 United Spanish War Veterans to each camp of Spanish War Veterans,
 16 one copy of the volume relating to The American Legion to each post of
 17 The American Legion, and one copy of the volume relating to the Vet-
 18 erans of Foreign Wars to each post of the Veterans of Foreign Wars of
 19 the United States, in the commonwealth. He shall cause the other
 20 copies of each to be distributed in the same manner as the annual report
 21 of the state secretary.

Preservation,
 printing and
 distribution of
 copies of
 proceedings of
 Massachusetts
 departments
 of certain war
 veterans'
 organizations.
 1907, 111.
 1915, 175.
 1918, Rp. 157.
 1920, 260.
 1924, 322.

1 SECTION 10. One thousand copies of the journals of the senate and
 2 of the house of representatives shall be printed annually under the di-
 3 rection of the respective clerks thereof; and, unless the general court
 4 shall otherwise order, twelve hundred copies of the lists of members
 5 and committees shall be printed annually under the joint direction of
 6 said clerks.

Printing and
 distribution of
 journals of
 each branch of
 general court,
 etc.
 1877, 248, § 4
 1878, 264, § 4
 1880, 193, § 4
 1881, 293,
 §§ 3, 4.
 P. S. 4,
 §§ 9, 10
 1882, 158,
 1889, 150;
 440, §§ 9, 10.
 1894, 393,
 §§ 9, 10.
 R. L. 9,
 §§ 9, 10.
 1919, 24.

7 The foregoing publications shall, under the direction of said clerks,
 8 be distributed as follows: one copy to each member of the general
 9 court, to each member of the executive department, to the clerk and
 10 assistant clerk of each branch of the general court, and to each reporter
 11 who is entitled to the privileges of the reporters' gallery in either branch;
 12 and ten copies to the state library for use therein and for exchange.
 13 The state secretary shall send to the members of the general court the
 14 journals to which they are entitled under the provision of this section,
 15 and he shall also send one copy of said journals to each free public library
 16 in the commonwealth.

17 The remaining copies of the foregoing publications shall be distributed
 18 at the discretion of the clerks of the two branches, preference being
 19 given to the members of the general court and to state officers.

Two thousand copies of the governor's annual address shall be printed, 20
of which fifteen hundred shall be for the general court and five hundred 21
for the governor. 22

Manual of
the general
court.
Preparation
and distribu-
tion.
1876, 178
1877, 248, § 3.
1878, 264, § 3.
1880, 193,
§§ 3, 4.
1881, 293,
§§ 3, 4.
P. S. 4.
§§ 9, 10.
1883, 55.
1885, 369, § 3.
1888, 85.
1889, 32.
1891, 292.
1894, 393,
§§ 9, 10.
1901, 210.
R. L. 9, § 10.
1910, 121.
1925, 319.
1924, 492, § 3.
1927, 264.

SECTION 11. The clerks of the two branches shall in every odd- 1
numbered year prepare a manual for the general court, of which not more 2
than ten thousand five hundred copies shall be printed under their di- 3
rection. These copies shall be delivered to the state secretary and by 4
him distributed, so far as the edition will permit, as follows: 5

To the clerk of the senate, thirty; 6
To the counsel to the senate, four; 7
To the clerk of the house of representatives, thirty; 8
To the counsel to the house of representatives, four; 9
To each member of the general court, five, and upon written appli- 10
cation an additional number, not exceeding twenty-five; 11
To the assistant clerk of each branch of the general court, thirty; 12
To the state library, sixty; 13
To the governor, the lieutenant governor, the members of the execu- 14
tive council, the private secretary to the governor, the attorney general 15
and his assistants, the senators and representatives in congress from the 16
commonwealth, the justices, clerks and registers of courts, such assistant 17
clerks of courts as the state secretary may designate, the reporter of 18
decisions, district attorneys, county commissioners, county treasurers, 19
registers of deeds, medical examiners, sheriffs, city and town clerks, in- 20
stitutions under the supervision of the state departments of correction, 21
education, mental diseases, public health and public welfare, Harvard 22
University and all incorporated colleges within the commonwealth, the 23
Massachusetts Historical Society, the New England Historic Genealogical 24
Society, the Boston Athenaeum, the American Antiquarian Society in 25
Worcester, such free public libraries and branches thereof in the com- 26
monwealth as the state secretary may designate, and to such other free 27
public libraries in the commonwealth making written application there- 28
for, county law libraries, all incorporated law libraries in the common- 29
wealth and branch libraries maintained by them, and to veteran organ- 30
izations having headquarters in the state house, one, each; 31
To associate and special justices, assistant clerks of courts not other- 32
wise provided for, and to reporters entitled to the privileges of the re- 33
porters' gallery in either branch of the general court, upon written appli- 34
cation, one, each; 35

To each state department, board and commission, one, and upon 36
written application an additional number, not exceeding five, for official 37
use in such department, board or commission; 38

To the state secretary for distribution not otherwise provided for, 39
fifty; 40

Three hundred copies to the sergeant-at-arms to be reserved under 41
the direction of the clerks of both branches for the use of the general 42
court at its next annual session and three hundred copies for the use of 43
the next succeeding general court. 44

After making the foregoing distribution or making provision therefor, 45
the state secretary shall place copies of the manual on sale to the general 46
public at twenty-five cents per copy. After December thirty-first of 47
each even-numbered year copies of the manual remaining on hand may 48
be distributed by the state secretary without charge. 49

1 SECTION 12. The committees on rules of the two branches, acting
 2 concurrently, shall publish during each regular session of the general
 3 court bulletins of committee hearings, and shall appoint the editor
 4 thereof and fix his compensation. The chairman of either of said com-
 5 mittees shall approve bills for editing and printing said bulletins before
 6 they are sent to the comptroller for allowance. On receipt of two dollars
 7 from each applicant therefor the sergeant-at-arms shall mail to him
 8 copies of these bulletins.

Bulletins of
 committee
 hearings.
 1905, Res. 2.
 1909, Res. 5.
 1911, 427.
 1931, 426, § 131

1 SECTION 13. The sergeant-at-arms shall, as soon as they are pub-
 2 lished, mail copies of all printed and numbered bills, resolves and other
 3 documents pending before committees of the general court, to towns and
 4 persons who subscribe therefor and pay in advance the sum of ten
 5 dollars. The money received under this and the preceding section shall
 6 be paid monthly to the commonwealth.

Legislative
 documents to
 be mailed to
 subscribers.
 1905, Res. 2.
 1909, Res. 5.
 1911, 427.
 1918, 59.

1 SECTION 14. The state secretary shall furnish to every town the re-
 2 ports of the decisions of the supreme judicial court from time to time, as
 3 published, and shall furnish to every town hereafter incorporated a full
 4 set of said decisions, the index-digest thereof, a copy of the General
 5 Laws, and copies of all such books and documents in his office as shall
 6 have been previously furnished to towns by the commonwealth; but
 7 the clerk of such town shall first file with the secretary a certificate
 8 that the town has made suitable provision for the preservation and con-
 9 venient use of such books and documents.

Books, etc.,
 to be furnished
 to towns and
 cities.
 1877, 150, § 1.
 P. S. 4, § 12.
 1887, 118.
 1889, 440, § 12.
 1894, 393, § 11.
 R. L. 9, § 11.

1 SECTION 15. A town which has once been furnished with such books
 2 and documents shall not again be supplied with the same at the expense
 3 of the commonwealth. Towns may effect insurance thereon for their
 4 own benefit.

Same subject.
 Insurance.
 1877, 150, § 2.
 P. S. 4, § 13.
 1889, 440, § 13.
 1894, 393, § 12.
 R. L. 9, § 12.

1 SECTION 16. The state secretary shall, in the distribution of laws
 2 and documents to members of the general court, effect such exchanges
 3 among members as they shall direct; and he may employ such additional
 4 clerical or other assistance as may be necessary for the purpose. Copies
 5 of the laws and documents apportioned to members of the general court
 6 which remain undisposed of for three months after the end of the year
 7 in which they were issued shall revert to the commonwealth and be
 8 subject to general distribution.

Distribution of
 laws, etc., to
 members of
 the general
 court.
 1894, 393, § 13.
 R. L. 9, § 13.
 1919, 301, § 10.

1 SECTION 17. Delivery charges on documents forwarded to members
 2 of the general court and to free public libraries shall be prepaid by the
 3 commonwealth.

Delivery
 charges on
 documents.
 1889, 53.

1892, 422.

1895, 93.

R. L. 9, § 15.

1 SECTION 18. The clerks of the two branches of the general court
 2 may, in every odd-numbered year, purchase three hundred and forty
 3 copies of a book containing portraits and biographical sketches of mem-
 4 bers of the general court and other state officers, lists of committees and
 5 such other information as the clerks approve. The clerks shall furnish
 6 one such copy to each such member and shall distribute the other copies
 7 as the committees on rules of the senate and house of representatives
 8 may direct. The clerks may expend therefor a sum not exceeding six-
 9 teen hundred dollars.

Purchase and
 distribution
 of books
 containing
 portraits of
 members of
 general court,
 etc.
 1920, 55.
 1929, 176, § 11.

TITLE II.

EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH.

- CHAPTER 6. The Governor, Lieutenant Governor and Council, Certain Officers under the Governor and Council, and State Library.
- CHAPTER 7. Commission on Administration and Finance.
- CHAPTER 8. Superintendent of Buildings, and State House.
- CHAPTER 9. Department of the State Secretary.
- CHAPTER 10. Department of the State Treasurer.
- CHAPTER 11. Department of the State Auditor.
- CHAPTER 12. Department of the Attorney General, and the District Attorneys.
- CHAPTER 13. Department of Civil Service and Registration.
- CHAPTER 14. Department of Corporations and Taxation.
- CHAPTER 15. Department of Education.
- CHAPTER 16. Department of Public Works.
- CHAPTER 17. Department of Public Health.
- CHAPTER 18. Department of Public Welfare.
- CHAPTER 19. Department of Mental Diseases.
- CHAPTER 20. Department of Agriculture.
- CHAPTER 21. Department of Conservation.
- CHAPTER 22. Department of Public Safety.
- CHAPTER 23. Department of Labor and Industries.
- CHAPTER 24. Department of Industrial Accidents.
- CHAPTER 25. Department of Public Utilities.
- CHAPTER 26. Department of Banking and Insurance.
- CHAPTER 27. Department of Correction.
- CHAPTER 28. Metropolitan District Commission.

CHAPTER 6.

THE GOVERNOR, LIEUTENANT GOVERNOR AND COUNCIL, CERTAIN OFFICERS UNDER THE GOVERNOR AND COUNCIL, AND STATE LIBRARY.

SECT.	SECT.
1. Salary of governor.	10. Delegates to conventions. Travel outside commonwealth by state officers, etc., at public expense.
2. Salary of lieutenant governor.	11. Members of unpaid commissions, etc., reimbursement for expenses.
3. Salaries of councillors.	12. Compensation of commissioners, etc.
4. Traveling expenses of lieutenant governor and council.	12A. Observance of Armistice Day.
5. Governor's private secretary, etc.	13. Observance of the birthday of Abraham Lincoln.
6. Executive secretary, etc.	14. Observance of Flag Day.
7. Stationery for council.	14A. Observance of Spanish War Memorial Day and Maine Memorial Day.
8. Extraordinary expenses of executive.	
9. Governor and council to represent commonwealth in United States government surveys.	

SECT.

- 15. Observance of Arbor and Bird Day.
- 16. State military and naval officers to serve under governor.

CERTAIN OFFICERS UNDER GOVERNOR AND COUNCIL.

- 17. Certain officers to serve under governor and council.

ARMORY COMMISSIONERS.

- 18. Armory commissioners.

ART COMMISSION.

- 19. Art commission.
- 20. Powers and duties.

BOARD OF APPEAL.

- 21. [Repealed.]

COMMISSIONER OF STATE AID AND PENSIONS.

- 22. Commissioner of state aid and pensions.
- 23. Certain expenses of commissioner.
- 24. Deputy commissioner, etc.
- 25. Commissioner may appoint chief clerk, etc.

COMMISSIONERS ON UNIFORM STATE LAWS.

- 26. Board of commissioners on uniform state laws.
- 27. Duties.
- 28. Expenses.

SECT.

PUBLIC REQUEST COMMISSION.

- 28A. Public request commission.
- 28B. Public request fund.
- 28C. Distribution of income.
- 28D. Rules and regulations.

STATE BALLOT LAW COMMISSION.

- 29. State ballot law commission.
- 30. Members not to hold political office, etc.
- 31. Compensation.
- 32. May summon witnesses, administer oaths, etc.

TRUSTEES AND LIBRARIAN OF STATE LIBRARY.

- 33. Trustees of state library.
- 34. Duties of trustees.
- 35. Librarian.
- 36. Expenditures authorized. Approval of accounts.
- 37. Annual report of trustees.
- 37A. Trust funds.

STATE LIBRARY.

- 38. State library.
- 39. Books, etc., belonging to commonwealth to be placed in state library.

BOARD OF TRUSTEES OF THE SOLDIERS' HOME IN MASSACHUSETTS.

- 40. Board of trustees of the Soldiers' Home in Massachusetts.
- 41. Powers and duties.

1 SECTION 1. The governor shall receive a salary of ten thousand dol-
2 lars, and shall not be entitled to any fees or perquisites.

Salary of
governor.
1780, 5.

1788, 57.	1854, 308, § 1.	1879, 35, § 1.	1892, 101
1818, 88.	G. S. 14, § 1.	P. S. 15, § 1.	R. L. 4, § 1.
R. S. 13, §§ 1, 2.	1864, 240.	1884, 328.	1914, 445, § 1.
1843, 9, § 1.			

1 SECTION 2. The lieutenant governor shall receive a salary of four
2 thousand dollars; but if the office of governor shall be vacant for a
3 period of more than thirty days he shall, for the time during which he
4 performs the duties of governor, receive at the rate allowed to the
5 governor.

Salary of
lieutenant
governor.
1818, 97, § 1.
R. S. 13, § 3.
1843, 9, § 1.
1858, 78, § 3.

G. S. 14, § 2.	1879, 35, § 2.	R. L. 4, § 2.
1872, 328, § 3.	P. S. 15, § 2.	1919, 282, § 1.
1876, 214, § 1.	1896, 347.	

1 SECTION 3. Each member of the council shall receive a salary of one
2 thousand dollars.

Salaries of
councillors.

1858, 78, § 1.	1876, 214, § 1.	R. L. 4, § 3.
G. S. 14, § 2.	1879, 35, § 2.	1912, 639, §§ 1, 2.
1872, 328, § 3.	P. S. 15, § 3.	

1 SECTION 4. The lieutenant governor and each member of the council
2 shall be paid for his travel from his abode to the place of sitting of the
3 governor and council, and return, such amounts as he certifies in writing

Traveling
expenses of
lieutenant
governor and
council.

1858, 78.
§ 2, 3.
1859, 7.

that he has actually expended therefor in the performance of his official duties. 4 5

G. S. 14, § 2. 1875, 48, § 2. 1879, 35, § 3. R. L. 4, § 4.
1872, 328, § 3. 1876, 214, § 2. P. S. 15, § 4.

Governor's private secretary, etc.
1861, Res. 1.
1866, 298, § 4.
1876, 214, § 3.
1879, 35, § 4.
P. S. 15, § 3.
1885, 77.

SECTION 5. The governor may appoint a private secretary, an assistant private secretary, and such other assistants as may be necessary, who shall hold office during the pleasure of the governor, and shall receive such salaries as may be approved by the council, not exceeding the sum annually appropriated therefor by the general court. 1 2 3 4 5

1891, 411, § 1. 1908, 507, § 1. 1918, 257, § 2. 1920, § 2.
R. L. 4, § 5. 1914, 158, § 1; 159. 1919, 5; 25, §§ 1, 3.

Executive secretary, etc.
1845, 116.
1847, 237.
G. S. 14, § 63, 64.
1866, 298, § 4.
1867, 167, § 7.
1876, 214, § 3.
1881, 147.
P. S. 15, § 6.
1884, 8; 38.
1887, 83; 221.

SECTION 6. The governor, with the advice and consent of the council, may appoint an executive secretary, a stenographer, a messenger and an assistant messenger, each of whom shall hold office during the pleasure of the governor and council, shall perform the duties required of him by the governor or by the governor and council, and shall receive such salary as may be fixed by the governor and council, not exceeding the sum annually appropriated therefor by the general court. 1 2 3 4 5 6 7

1891, 411, § 2; 429. R. L. 4, §§ 6, 7. 1906, 169. 1918, 257, § 3.
1892, 16. 1902, 523. 1908, 497; 1919, 5; 25, §§ 2, 3.
1897, 188. 1904, 268. 540, §§ 1, 2. 1920, 2.
1888, 104.

Stationery for council
1865, Res. 74.
R. L. 6, § 49.

SECTION 7. The printing, binding and procuring of stationery for the use of the council shall be under the direction of the executive secretary and shall be approved by him. 1 2 3

Extraordinary expenses of executive.
1899, 415.
R. L. 4, § 9.
1908, 549.
1923, 362, § 8.
1931, 426, § 61.

SECTION 8. An amount not exceeding one hundred thousand dollars shall be appropriated each year for carrying out sections twenty-five to thirty-three, inclusive, of chapter thirty-three, for the entertainment of the president of the United States and other distinguished guests while visiting or passing through the commonwealth, for extraordinary expenses not otherwise provided for, which the governor and council may deem necessary, and for transfer, upon the recommendation of the comptroller, with the approval of the governor and council, to such appropriations as have proved insufficient. 1 2 3 4 5 6 7 8 9

Governor and council to represent commonwealth in United States government surveys.

SECTION 9. The governor and council shall co-operate in behalf of the commonwealth in all scientific surveys made by the United States government of harbors, rivers, shores or waters within the commonwealth, and shall represent the commonwealth in relation to such surveys, and protect its interests therein. 1 2 3 4 5

P. S. 15, § 8.

R. L. 4, § 10.

Delegates to conventions
Travel outside commonwealth by state officers, etc., at public expense.
1894, 376.
R. L. 4, § 11.
1920, 253.

SECTION 10. The governor may appoint state officers as delegates to represent the commonwealth at such conventions as may be held in any part of the United States for the purpose of considering questions of charity, reform, statistics, insurance and other matters affecting the welfare of the people. Their necessary expenses may be paid from such appropriations as the general court may make for the traveling and contingent expenses of such officers. No officer or employee of the commonwealth shall travel outside the commonwealth at public expense unless he has previously been authorized by the governor to leave the commonwealth, and in applying for such authorization the officer or 1 2 3 4 5 6 7 8 9 10

11 employee shall specify the places to be visited and the probable duration
12 of his absence.

1 SECTION 11. The governor and council may reimburse members of
2 unpaid commissions, and citizens who may be sent officially to represent
3 the commonwealth at national conventions, for such expenses as they
4 may find reasonably necessary.

Members of unpaid commissions, etc., reimbursement for expenses. 1908, 544, § 1.

1 SECTION 12. The compensation of legal counsel and commissioners
2 appointed by the governor shall, unless otherwise provided, be deter-
3 mined by the governor and council, who shall approve such claims
4 before they are sent to the comptroller.

Compensation of commissioners, etc. 1850, 143, § 1. G. S. 15, § 47. P. S. 16, § 48.

R. L. 6, § 52.

1931, 394, § 203.

1 SECTION 12A. The governor shall annually issue a proclamation
2 calling for a proper observance of November eleventh as Armistice Day,
3 in lasting recognition of the service and sacrifice of those sons and
4 daughters of Massachusetts who served in the naval and military serv-
5 ice of the United States during the World War and in thanksgiving for
6 the termination of hostilities on the first Armistice Day, November
7 eleventh, nineteen hundred and eighteen.

Observance of Armistice Day. 1923, 210.

1 SECTION 13. The governor shall annually issue a proclamation
2 setting apart February twelfth as Lincoln Day, and recommending that
3 it be observed by the people with appropriate exercises in the public
4 schools and otherwise, as he may see fit, to the end that the memory
5 of the public service and private virtues of Abraham Lincoln may be
6 perpetuated.

Observance of the birthday of Abraham Lincoln. 1905, 328.

1 SECTION 14. The governor shall annually set apart June fourteenth
2 as Flag Day, and shall issue his proclamation recommending that the
3 day be observed by the people in the display of the flag and in such
4 other ways as shall be in harmony with the general character of the
5 day.

Observance of Flag Day. 1911, Res. 5.

[NOTE: — The national flag was adopted by the Continental Congress on June 14, 1777.]

1 SECTION 14A. The governor shall annually set apart February fif-
2 teenth, the anniversary of the sinking of the United States battleship
3 "Maine" in the harbor of Havana, Cuba, as Spanish War Memorial
4 Day and Maine Memorial Day, and shall issue his proclamation recom-
5 mending that the day be observed by the people in the display of the
6 flag and by appropriate exercises in the public schools and elsewhere,
7 commemorative of the services and sacrifices of the men who fought in
8 the Spanish-American War.

Observance of Spanish War Memorial Day and Maine Memorial Day. 1927, 58.

1 SECTION 15. The governor shall annually issue a proclamation set-
2 ting apart the last Saturday in April as Arbor and Bird Day, recom-
3 mending its observance by the public in the planting of trees, shrubs and
4 vines, particularly those attractive to birds, in the promotion of forest
5 growth and culture, in the adornment of public and private grounds,
6 places and ways, and in such other efforts and undertakings as shall
7 harmonize with the general character of the day. He shall further rec-

Observance of Arbor and Bird Day. 1886, Res. 32. R. L. 53, § 16. 1917, 74, § 1; 344, VI, § 6, VIII, § 1.

commend that the Friday preceding be observed in rural and suburban schools by exercises appropriate to Arbor and Bird Day.

State military and naval officers to serve under governor. Const. pt. 2, c. 2, § 1, art. 7. Const. amend. 54. (Const. Rev. art. 147.) 1919, 350, § 14.

SECTION 16. The staff of the commander-in-chief and all officers included in the organization of the land and naval forces of the commonwealth, including the adjutant general in his capacity as commissioner of war records under chapter two hundred and eleven of the acts of nineteen hundred and twelve and chapter one hundred and seven of the General Acts of nineteen hundred and nineteen, shall serve under the governor in his capacity as commander-in-chief.

CERTAIN OFFICERS UNDER GOVERNOR AND COUNCIL.

Certain officers to serve under governor and council. 1919, 350, §§ 16, 52, 53. 1928, 383, § 1. 1931, 452, § 2.

SECTION 17. The armory commissioners, the art commission, the commission on administration and finance, the commissioner of state aid and pensions, the commissioners on uniform state laws, the public bequest commission, the state ballot law commission, the board of trustees of the Soldiers' Home in Massachusetts and the trustees of the state library shall serve under the governor and council, and shall be subject to such supervision as the governor and council deem necessary or proper.

[NOTE: — Provision relative to the board of trustees of the Soldiers' Home in Massachusetts effective December 1st, 1934; see 1931, 452, § 5.]

ARMORY COMMISSIONERS.

Armory commissioners. ENNS, 384, § 1. R. L. 16, § 106. 1905, 465, §§ 111, 194. 1906, 504, § 9. 1907, 526, § 6. 1908, 604, §§ 132, 209. 1917, 327, §§ 40, 208. 1919, 350, § 16. 1 Op. A. G. 508. 2 Op. A. G. 563.

SECTION 18. The governor, with the advice and consent of the council, shall appoint a commissioner, who, together with the adjutant general and the chief quartermaster, shall be armory commissioners. The adjutant general shall serve without compensation; the chief quartermaster and the commissioner shall receive such pay for duty performed as the commander-in-chief shall order. In addition to these three persons, the senior officer of the troops to be quartered in any armory shall be a consulting armory commissioner during the period of the construction of the armory, but shall have no vote as such commissioner and shall serve without compensation other than reimbursement for expenses actually incurred in the performance of his duty.

ART COMMISSION.

Art commission. 1910, 422, § 1. 1919, 350, § 16.

SECTION 19. There shall be an art commission for the commonwealth consisting of five members, who shall be citizens of the commonwealth. Upon the expiration of the term of office of any member thereof, his successor shall be appointed by the governor, with the advice and consent of the council, for five years. The commission shall serve without compensation, but shall be allowed such necessary expenses as may be approved by the governor and council, not exceeding one hundred dollars in amount, and shall have power to adopt its own rules and to elect such officers from its own members as may be deemed proper.

Powers and duties. 1910, 422, § 2. 1922, 298. 1924, 242.

SECTION 20. There shall be submitted to the art commission for its approval in an advisory capacity any plan relative to the creation, acquisition, construction, erection or remodeling by the commonwealth of any work of art, accompanied by designs, descriptions, specifications, drawings or models sufficient to enable the commission to determine the

6 artistic character of such work of art. The commission shall file with
 7 the governor, within thirty days after such submission, its opinion of
 8 such proposed work of art together with such suggestions and recom-
 9 mendations as it may deem proper. The term "work of art", as used
 10 in this section, shall include any painting, portrait, mural decoration,
 11 stained glass, statue, bas-relief, ornament, fountain or any other article
 12 or structure of a permanent character intended for decoration or com-
 13 memoration.

14 Upon request of the governor, the commission shall act in an advisory
 15 capacity relative to the artistic character of any building constructed,
 16 erected or remodeled by the commonwealth, or upon land owned by the
 17 commonwealth, and when, upon request of the governor, there shall be
 18 submitted to said commission any plan relating to such construction,
 19 erection or remodeling of any such building, accompanied by designs,
 20 descriptions, specifications, drawings or models sufficient to enable the
 21 commission to determine the artistic character of such building, the
 22 commission shall file with the governor, within thirty days after such
 23 submission, its opinion of such proposed building together with such
 24 suggestions and recommendations as it may deem proper. The term
 25 "building", as used in this section, shall include structures intended for
 26 human occupation and use, and also bridges, arches, gates, walls or other
 27 permanent structures of any character.

28 Said commission shall have the custody and care of all historical relics
 29 in the state house, and of all works of art, as herein defined, erected or
 30 maintained therein.

BOARD OF APPEAL.

1 SECTION 21. [REPEALED, 1930, 416, § 2.]

COMMISSIONER OF STATE AID AND PENSIONS.

1 SECTION 22. There shall be an officer to be known as the commis-
 2 sioner of state aid and pensions, who shall be appointed by the governor,
 3 with the advice and consent of the council, for three years, at such salary,
 4 not exceeding five thousand dollars, as the governor and council shall
 5 determine. He shall devote his whole time to the duties of his office.
 6 He shall be state agent for the settlement of pension, bounty, back pay,
 7 compensation and other claims of citizens of the commonwealth against
 8 the government of the United States, or of any state thereof, on account
 9 of military or naval service, and he shall assist and advise war veterans,
 10 and their dependents, heirs or legal representatives, with respect to the
 11 filing, prosecution and settlement of such claims.

Commissioner
 of state aid
 and pensions.
 1877, 192, § 7.
 1879, 252, § 6.
 P. S. 30, § 1.
 1885, 214.
 1888, 396, § 1.
 1889, 279, § 9.
 1892, 291.
 1894, 279, § 9.
 1899, 372, § 9;
 374, § 6.
 R. L. 79,
 § 1, 2.
 1902, 192,
 § 1, 2.
 1904, 381, § 1.

1909, 468, § 1.	1919, 190; 290,	1923, 368, § 1.
1914, 407, § 1; 587, § 1.	§ 1, 350, § 10.	1931, 324, § 1.
1918, 164, § 1.	1920, 431.	

1 SECTION 23. The commissioner shall be allowed his traveling expenses
 2 when necessary for him to visit the city of Washington, and may expend
 3 for such purpose and for all other expenses necessary for the proper
 4 performance of his duties such sums as are annually appropriated
 5 therefor.

Certain ex-
 penses of
 commissioner.
 1888, 396, § 2.
 1891, 196,
 § 1, 2.
 R. L. 79, § 22.
 1904, 381, § 1.

1909, 468, § 1.	1914, 587, § 1.	1918, 164, § 1.	1919, 190; 290, § 1.
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1 SECTION 24. The governor, with the advice and consent of the
 2 council, shall appoint a deputy and a second deputy commissioner of

Deputy com-
 missioner, etc.
 1902, 192, § 2.

1994, 381, § 1.	state aid and pensions for three years, who shall devote their whole time	3
1909, 468, § 1.	to the duties of their offices. They shall receive such salaries as may	4
1914, 407, § 1.	be fixed by the commissioner of state aid and pensions, subject to the	5
587, § 1.	approval of the governor and council, and shall be subject to the direc-	6
1918, 164, § 1.	tion and control of said commissioner. The deputy commissioner, or	7
1919, 190, § 1.	in case of a vacancy in his office or in his absence or disability the second	8
290, § 1.	deputy commissioner, shall perform the duties of said commissioner	9
1920, 431.	during his absence on account of disability or other cause.	10
1929, 194		
1931, 324, § 2.		

Commissioner may appoint chief clerk, etc.

1902, 192, § 4

SECTION 25. The commissioner, with the approval of the governor and council, may appoint a chief clerk and not more than eight other clerks and stenographers and twelve agents.

1903, 420, § 1.	1909, 468, § 1.	1918, 164, § 1.	1931, 301, § 51.
1904, 381, § 1.	1912, 549	1919, 190; 290, § 1.	Op. A. G. (1920) 305.
1907, 43, § 1.	1914, 587, § 1.	1922, 191.	

COMMISSIONERS ON UNIFORM STATE LAWS.

Board of commissioners on uniform state laws.

1909, 416, § 1.
1914, 381, § 1.
1919, 122,
§§ 1, 6.
1924, 200, § 1.

SECTION 26. There shall be a board of commissioners on uniform state laws, consisting of three suitable persons, who shall be appointed by the governor, with the advice and consent of the council, for five year terms. Within thirty days after the appointment of such commissioners, they shall meet and organize. The governor may remove for cause any or all of said commissioners.

Duties.

1909, 416,
§§ 2, 3.
1914, 381,
§§ 2, 3.
1919, 122,
§§ 2, 3, 6.
1924, 200, § 2.

SECTION 27. The commissioners shall examine subjects upon which uniformity of legislation in the various states of the United States is desirable, but which are outside of the jurisdiction of the congress of the United States; shall confer upon these matters with the commissioners appointed by other states for the same purpose; shall consider and draft uniform laws to be submitted for approval and adoption by the several states; and generally shall devise and recommend such other or further course of action as may tend to accomplish such purposes. They shall keep a record of their doings, and shall make an annual report.

Expenses.

1909, 416, § 4
1910, 73.
1914, 381,
§§ 4, 5.
1919, 122,
§§ 4-6.

SECTION 28. They shall serve without compensation, but each commissioner shall be paid by the commonwealth the amount of his actual traveling and other necessary expenses incurred in the discharge of his official duty, after an account thereof has been audited by the commissioners. They shall keep a full account of their expenditures. They may contribute each year a sum not exceeding one hundred dollars toward the expenses of the conference of commissioners on uniform state laws, the same to be paid from such appropriation for the expense of the commissioners as may be made by the general court.

PUBLIC BEQUEST COMMISSION.

Public bequest commission
1928, 383, § 2.

SECTION 28A. There shall be a public bequest commission, consisting of the state secretary, the state treasurer and the commissioner of state aid and pensions, ex officio. Said officials shall receive no additional compensation for such service, but, with the approval of the governor and council, may employ and remove such assistants and fix their salaries, and may incur such other expenses, as may be necessary to render effective the provisions of this and the three following sections.

1 SECTION 28B. There is hereby established a public bequest fund,
 2 which shall be under the control of said commissioners, and which shall
 3 consist of any bequests, devises, contributions or other gifts to said
 4 fund or to said commission for the use of said fund. So much of the
 5 property provided to constitute said fund as aforesaid as consists of
 6 real property or of tangible personal property shall be sold by said com-
 7 mission, and the proceeds thereof shall become a part of said fund.
 8 The state treasurer shall be the custodian of said fund. The provisions
 9 of this and the two following sections and of all other provisions of law
 10 relative to said fund shall in all respects be subject to amendment,
 11 alteration and repeal by the general court.

Public bequest
 fund.
 1928, 383, § 2.

1 SECTION 28C. When, and so long as, the principal of said fund
 2 amounts to five hundred thousand dollars, said commission, with the
 3 approval of the governor and council, may distribute, in accordance with
 4 its rules and regulations relative thereto, the income from said fund to
 5 such worthy citizens of the commonwealth, as, in its opinion, by reason
 6 of old age and need, are entitled thereto. No man under sixty-five and
 7 no woman under sixty shall be deemed to be entitled to assistance from
 8 such fund.

Distribution
 of income.
 1928, 383, § 2

1 SECTION 28D. Said commission, subject to the approval of the gov-
 2 ernor and council, may make, and from time to time may alter and
 3 amend, rules and regulations governing payments under section twenty-
 4 eight C.

Rules and
 regulations
 1928, 383, § 2

STATE BALLOT LAW COMMISSION.

1 SECTION 29. There shall be a state ballot law commission, consisting
 2 of three persons, one of whom shall annually in June or July be ap-
 3 pointed by the governor, with the advice and consent of the council, for
 4 three years from the succeeding August first. The governor, with the
 5 advice and consent of the council, may remove any member of the
 6 commission. There shall always be on said commission a member of
 7 each of the two leading political parties.

State ballot law
 commission.
 1889, 413, § 7.
 1890, 386, § 6;
 436, § 5.
 1892, 406, § 1
 1893, 417, § 92
 1896, 383, § 1.
 1898, 548, § 153.
 R. L. 11, § 156.
 1907, 560,
 §§ 185, 456.

1913, 835, §§ 211, 503.

1 SECTION 30. No member of said commission shall hold any public
 2 office except that of justice of the peace or notary public, or be a candi-
 3 date for public office, or member or employee of any political committee.
 4 If any member of the commission shall be nominated as a candidate
 5 for public office and shall not in writing decline said nomination within
 6 three days, he shall be deemed to have vacated his office as a member of
 7 said commission.

Members not to
 hold political
 office, etc.
 1896, 383, § 2.
 1898, 548,
 § 174.
 R. L. 11, § 157.
 1907, 560,
 §§ 186, 456
 1912, 641, § 1.
 1913, 835,
 §§ 212, 503.

3 Op. A. G. 507.

1 SECTION 31. The members of said commission shall each be paid
 2 such compensation for their services, not exceeding five hundred dollars
 3 annually, as the governor and council may determine; and the total
 4 expenditures by and on account of said commission shall not exceed the
 5 sum of two thousand dollars in any one year.

Compensation.
 1892, 406, § 1
 1893, 417, § 95.
 1896, 383, § 5.
 1898, 548,
 § 157.
 R. L. 11, § 160.
 1907, 560,
 §§ 189, 456.

1913, 835, §§ 215, 503.

1 SECTION 32. It may summon witnesses, administer oaths, and re-
 2 quire the production of books and papers at a hearing before it upon any
 3 matter within its jurisdiction. Witnesses shall be summoned in the same

May summon
 witnesses,
 administer
 oaths, etc.
 1892, 406, § 1.

1893, 417,
§§ 93, 94
1896, 383,
§§ 3, 4
1898, 548,
§§ 155, 156,
R. L. 11,
§§ 158, 159.

manner, be paid the same fees, and be subject to the same penalties as witnesses in civil cases before the courts. Any member may sign a summons or administer an oath. The decision of the commission upon any matter within its jurisdiction shall be final.

1907, 560, §§ 187, 188, 456.
1913, 835, §§ 213, 214, 503.

1931, 426, § 87.

TRUSTEES AND LIBRARIAN OF STATE LIBRARY.

Trustees of
state library.
1850, 182, § 1.
G. S. 5, § 2.
P. S. 5, § 15.
1893, 86, § 1.
R. L. 10, § 24.
1910, 217, § 1.

SECTION 33. There shall be a board of trustees of the state library, consisting of the president of the senate and the speaker of the house of representatives, who shall be trustees ex officio, and three other persons appointed by the governor, with the advice and consent of the council, of whom one shall be appointed annually for three years from June first of the year in which he is appointed.

Duties of
trustees.
1825, 123, § 3.
R. S. 11, § 11.
G. S. 5, § 3.
1870, 150.
P. S. 5, § 16.
R. L. 10, § 25.
1910, 217, § 2.

SECTION 34. Said trustees shall have the management and control of the state library and of the moneys appropriated therefor. They may sell or otherwise dispose of such books belonging to the library as they consider unsuitable for its purposes, and they may deposit any duplicate volumes for safe keeping and use in any town, city or college library in the commonwealth, upon such terms and conditions as they shall prescribe. They may make and enforce rules for the use of the library, and shall see that its rooms are properly prepared for the accommodation of persons permitted to use them.

Librarian.
1825, 123, § 1.
R. S. 11,
§§ 10, 11.
1849, 153, § 1.
1859, 64.
G. S. 5, § 4
1866, 298, § 5.
P. S. 5, § 17.

SECTION 35. The governor, with the advice and consent of the council, shall appoint a librarian of the state library, who shall hold office during their pleasure and shall receive such salary as may be fixed by the trustees of said library with the approval of the governor and council.

1887, 269,
1892, 287.

1893, 86, § 2.
R. L. 10, § 26.

1910, 421, § 1.
1920, 423.

1929, 277.

Expenditures
authorized.
Approval of
accounts.
1825, 123, § 4.
R. S. 11, § 12.
G. S. 5, §§ 5, 7.
1861, Res. 33.
1866, Res. 28.
1867, Res. 22.
1868, Res. 68.
1873, Res. 28.
P. S. 5, §§ 18,
20.

SECTION 36. The trustees of the state library may expend such sums annually as the general court may appropriate for permanent assistants and clerks, for books, maps, papers, periodicals and other material for the library and for binding the same and for incidental expenses including binding their report. All accounts for the maintenance of the state library shall be approved by the trustees thereof or by such person as may be designated for the purpose in a vote of said trustees who shall, nevertheless, remain responsible for such approval.

1882, 29; 196, §§ 1, 2.
1886, 66, §§ 1, 2.
1888, 24.
1891, 24.
1892, 140, § 1.
1897, 114.

1896, 192,
R. L. 10, §§ 27, 29.
1905, 154, § 1.
1908, 342.
1910, 421, § 2.

1916, 112, §§ 1, 2.
1917, 25, § 1.
1918, 126.
1922, 15.
1925, 185.

Annual report
of trustees.
1849, 155, § 3.
G. S. 5, § 8.
P. S. 5, § 21.
R. L. 10, § 30.
1910, 217, § 2.

SECTION 37. The trustees of the state library shall keep records of their doings, and shall make an annual report thereof, with a list of books, maps and charts lost, missing or acquired during the preceding fiscal year, specifying those obtained by exchange, gift or purchase, and such suggestions for the improvement of the library as they may deem proper.

Trust funds
1923, 376, § 1.

SECTION 37A. The said trustees may receive in trust for the commonwealth any gift or bequest of money or securities for any purpose

3 incident to the uses of the state library, and shall forthwith transfer any
4 money or securities so received to the state treasurer, who shall ad-
5 minister the same as provided by section sixteen of chapter ten.

STATE LIBRARY.

1 SECTION 38. The state library shall be in the state house, and shall
2 be kept open every day except Sundays and legal holidays for the use of
3 the governor, lieutenant governor, council, general court and such of-
4 ficers of the government and other persons as may be permitted to use it.

State library.
1825, 123, § 1.
R. S. 11, § 9.
1849, 155, § 2.
G. S. 5, § 1.
P. S. 5, § 14.
R. L. 10, § 23.

1 SECTION 39. Unless otherwise provided, all books, maps, documents
2 and other publications belonging to the commonwealth for public use,
3 except such as by order of the respective departments of the government
4 are retained in the chambers of the senate and the house of representa-
5 tives or in the department of the state secretary, shall be deposited and
6 suitably arranged in the library.

Books, etc.,
belonging to
commonwealth
to be placed in
state library.
1825, 123, § 1.
R. S. 11, § 10.
1849, 155, § 2.
G. S. 5, § 6.
P. S. 5, § 19.

R. L. 10, § 28.

BOARD OF TRUSTEES OF THE SOLDIERS' HOME IN MASSACHUSETTS.

1 SECTION 40. There shall be a board of trustees of the Soldiers' Home
2 in Massachusetts, consisting of seven persons, at least five of whom
3 shall be war veterans. Upon the expiration of the term of office of a
4 member, his successor shall be appointed by the governor, with the
5 advice and consent of the council, to serve for seven years. The governor
6 shall designate one of the members as chairman. The members shall
7 serve without compensation, but shall receive their necessary expenses
8 incurred in the discharge of their official duties.

Board of
trustees of
the Soldiers'
Home in
Massachusetts.
1931, 452, § 3.

1 SECTION 41. Said board of trustees shall have the management and
2 control of said home and all property, real and personal, belonging to
3 the commonwealth and occupied or used by said home, and shall hold
4 and administer in trust the property included in the "legacy fund" and
5 the "effects accounts", if and when the transfer thereof to the common-
6 wealth is effected pursuant to a decree of a court of competent juris-
7 diction, and in accordance with the terms and conditions imposed by
8 such decree. In the management and control of said home as aforesaid,
9 said board of trustees shall have the same powers and perform the same
10 duties as are vested and imposed in the trustees of state hospitals under
11 the provisions of chapter one hundred and twenty-three, so far as
12 applicable.

Powers and
duties
1931, 452, § 3.

[NOTE TO §§ 40 AND 41: — Effective December 1st, 1934; see 1931, 452, § 5.]

CHAPTER 7.

COMMISSION ON ADMINISTRATION AND FINANCE.

SECT.	SECT.
1. Definitions.	19. Same subject. Verification of accounting statements in departmental reports, etc.
2. Commission on administration and finance.	20. Comptroller's bureau to furnish accounting statements, etc., when.
3. Commissioners, appointment, salaries, etc.	21. Records, etc., of bureau available for preparation of budget, etc.
4. Comptroller, budget commissioner, state purchasing agent. Bureaus.	22. Supplies, equipment, etc., for state departments; rules and regulations governing purchase, etc. Duties of state purchasing agent.
5. Division of personnel and standardization.	23. Removal for non-compliance with rules, etc.
6. Director of personnel and standardization and deputies. Expenditures of commission.	24. State purchasing agent to establish supply office, maintain laboratory, etc.
7. Duties of commission relative to promoting economy and efficiency, etc.	25. To advise with state institutions making products suitable for needs of state departments, etc.
8. Report, etc., as to estimates of state departments, etc., made to budget commissioner.	26. Advisory standardization board.
9. Special examination, etc., of matters affecting management or finances of state departments, etc.	27. State purchasing agent to furnish certain paper to Massachusetts reformatory.
10. Special examination, etc., of management or finances of state departments, etc.	28. Departmental research, etc., by division of personnel and standardization.
11. Same subject. Hearings; attendance, etc., of witnesses, production of books, etc.; enforcement of attendance, etc.; penalties; depositions.	29. Division to approve certain state documents before publication. Appeal. Exceptions.
12. Commissioners, etc., may require production of books, etc., when.	30. Division to prepare and print lists of state officials, etc., with their salaries.
13. Duties of comptroller. Examination and certification of certain accounts, etc., against commonwealth.	31. Commissioners to decide questions as to accounting standards, etc., and to approve contracts by state purchasing agent.
14. Same subject. Bills, vouchers and copies of contracts filed, etc., with comptroller, when.	32. Commissioners to have equal voice. Governor to decide issue in case of tie vote.
15. Same subject. State printing, and bills therefor.	33. Annual report.
16. Same subject. Accounting system for commonwealth.	34. Contents of annual report.
17. Same subject. General books of account; systems of accounting; supervision of collection of revenue due commonwealth.	35. Annual report to show funded debt, etc.; may be published in parts.
18. Same subject. Account of public receipts and expenditures, public property, etc.	

Definitions
1923, 362, § 1.

SECTION 1. Unless a contrary intention clearly appears, the following words shall have the following meanings:

“Commission”, the commission on administration and finance. 1
2
3
“Finance committee”, the committee of the executive council appointed to consider matters of finance. 4
5

Commission
on administration
and
finance.

SECTION 2. There shall be a commission on administration and finance, which shall serve directly under the governor and council 1
2

3 within the meaning of Article LXVI of the amendments to the constitu- 1922, 545, § 2.
4 tion of the commonwealth. 1923, 362, § 1.

1 SECTION 3. The commission shall consist of four commissioners, one
2 of whom shall annually be appointed for a term of four years by the
3 governor, with the advice and consent of the council. The governor
4 shall designate one of said commissioners as chairman. The chairman
5 shall receive such salary not exceeding seven thousand dollars, and each
6 of the other commissioners, such salary not exceeding sixty-five hundred
7 dollars, as the governor and council may determine. Each commissioner
8 shall devote his entire time to the duties of his office.

Commissioners, ap-
pointment, salar-
ies, etc.
1922, 545, § 2.
1923, 362, § 1.

1 SECTION 4. Said commission shall be organized in three bureaus,
2 namely: a comptroller's bureau, a budget bureau and a purchasing
3 bureau. Each bureau shall be in charge of a commissioner of the com-
4 mission to be designated by the governor, with the advice and consent
5 of the council, and to be known, respectively, as the comptroller, budget
6 commissioner and state purchasing agent. Said purchasing agent shall
7 give bond to the state treasurer in a sum to be fixed by the governor and
8 council for the faithful performance of his duties and for the rendering
9 of a proper account of all money entrusted to him for the use of the
10 commonwealth. Any commissioner designated as aforesaid shall be a
11 person of ability and extended experience in the line of work required
12 in his bureau.

Comptroller,
budget
commissioner,
state purchas-
ing agent.
Bureaus.
1922, 545, § 3.
1923, 362, § 1.

1 SECTION 5. There shall be directly under the commission a division
2 of personnel and standardization, in charge of a director of personnel
3 and standardization.

1922, 545, § 4.

1923, 362, § 1.

Division of
personnel and
standardiza-
tion.

1 SECTION 6. The commission shall, with the approval of the governor
2 and council, appoint, and fix the salary of, the director of personnel and
3 standardization and may, with like approval, remove him. The com-
4 mission may, subject to the approval of the governor and council, ap-
5 point and fix the salaries of such number of deputies as the governor and
6 council shall approve; and it may, with like approval, remove them. It
7 may also employ such other persons as the work of the commission may
8 require and remove them. The commission may expend such sums of
9 money for expenses, including traveling expenses of its officers and em-
10 ployees, as the general court may appropriate.

Director of
personnel and
standardiza-
tion and
deputies.
Expenditures
of commis-
sion.
1922, 545, § 4.
1923, 362, § 1.
1931, 301, § 52.

1 SECTION 7. The commission shall inquire into the business affairs
2 of the commonwealth and the laws governing them, and shall consider
3 the possibility of promoting economy and efficiency and avoiding useless
4 labor and expense therein. It shall recommend to the governor and
5 council and to the general court, if in session, such measures as in its
6 judgment will tend to accomplish this result. It shall consider and
7 report upon the following questions among others: changes in the laws
8 relating to matters of finance, reorganization, consolidation or co-ordi-
9 nation of departments and institutions, changes in methods of adminis-
10 tration, classification of employees, fixing maximum and minimum
11 salaries and standardizing vacations.

Duties of
commission
relative to
promoting
economy and
efficiency, etc.
1922, 545, § 5.
1923, 362, § 1.

Report, etc.,
as to estimates
of state
departments,
etc., made to
budget com-
missioner.
1922, 545, § 5.
1923, 362, § 1.

SECTION 8. On the request of either branch of the general court or of the ways and means committee of either branch, or of the governor, or of the council, or of the finance committee, the commission shall make a report of such of the estimates of departments, officers and commissions made to the budget commissioner under sections three and four of chapter twenty-nine as may be required, and it may make recommendations relative thereto.

Special
examination,
etc., of
matters affect-
ing manage-
ment or
finances
of state
departments,
etc.
1922, 545, § 5.
1923, 362, § 1.

SECTION 9. On request of either branch of the general court or of the ways and means committee of either branch, or of the governor, or of the finance committee, the commission shall make a special examination of, and give to them any information in its possession relative to, any matter affecting the management or finances of any department, officer, commission or undertaking which receives an annual appropriation of money from the commonwealth, including annual appropriations to be met by assessments.

Special
examination,
etc., of
management
or finances of
state depart-
ments, etc.
1922, 545, § 5.
1923, 362, § 1.

SECTION 10. The commission may make a special examination of the management or finances of any department, officer, commission or undertaking which receives annual appropriations of money from the commonwealth, including annual appropriations to be met by assessments, and may report thereon from time to time to the governor and council and to the general court, if in session.

Same subject.
Hearings;
attendance,
etc., of wit-
nesses, pro-
duction of
books, etc.;
enforcement of
attendance,
etc.; penalties;
depositions.
1923, 362, § 1.

SECTION 11. Whenever requested to make a special examination under section nine, or after first obtaining the approval of the governor or of the finance committee in making a special examination under the preceding section, any commissioner or the director of personnel and standardization may require the attendance and testimony of witnesses and the production of all books, papers, contracts and documents relating thereto. Witnesses shall be summoned in the same manner and shall be paid the same fees as witnesses before the superior court. The commission may prescribe rules and regulations for the conduct of hearings, and any commissioner or said director may administer oaths to witnesses or take their affirmation. If any person summoned and paid as a witness refuses to attend, or to be sworn or to affirm, or to answer any question, or to produce any book, contract, document or paper pertinent to the matter before any commissioner or said director, a justice of the supreme judicial or the superior court, upon application by said commissioner or director, may issue an order requiring such person to appear before said commissioner or director, and to produce his books, contracts, documents and papers and to give evidence touching the matter in question. Failure to obey such an order of the court may be punished by the court as a contempt thereof. Any person summoned and paid who refuses to attend, or to be sworn or to affirm, or to answer any proper question, or to produce any book, contract, document or paper, pertinent to the matter before any commissioner or said director, and any person who wilfully interrupts or disturbs any hearing, or who is disorderly thereat, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than one month, or both. Upon application by any commissioner or said director, commissions to take depositions of persons without the commonwealth may be issued by a justice of the supreme judicial or the superior court, to

30 be used in hearings before any commissioner or said director, and all laws
31 and rules relating to such commissions in civil actions shall apply to
32 commissions issued hereunder. This section shall not be construed to
33 compel any person to give any testimony or to produce any evidence,
34 documentary or otherwise, which may tend to incriminate him.

1 SECTION 12. In making any examination or investigation author-
2 ized under this chapter, any commissioner or the director of personnel
3 and standardization may require the production of books, papers, con-
4 tracts and documents relating to any matter within the scope of such
5 examination or investigation.

Commis-
sioners, etc.,
may require
production of
books, etc.,
when.
1923, 362, § 1.

1 SECTION 13. The comptroller shall examine all accounts and de-
2 mands against the commonwealth, excepting those for the salaries of
3 the governor and of the justices of the supreme judicial court, for the
4 pay rolls of the executive council and members of the general court, and
5 those due on account of the principal or interest of a public debt. He
6 may require affidavits that articles have been furnished, services ren-
7 dered and expenses incurred, as claimed. Such affidavit for any in-
8 stitution shall be made by the disbursing officer thereof. The comp-
9 troller shall make a certificate specifying the amount due and allowed on
10 each account or demand so examined, the name of the person to whom
11 such amount is payable, the law authorizing the same and the head of
12 expenditure to which it is chargeable. If the general court, by express
13 statute, authorizes a department or public officer to approve accounts or
14 demands against the commonwealth, and an appropriation therefor has
15 been made, the comptroller shall, when such accounts or demands have
16 been properly approved, promptly audit and certify such an amount,
17 not exceeding the appropriation therefor, as he may deem correct; and
18 if it appears to him that there are improper charges in said accounts or
19 demands he shall report the same to the governor and council, with a
20 separate certificate therefor. But he shall not certify any bill for print-
21 ing incurred in violation of section six of chapter five. He shall keep
22 copies of all such certificates and transmit the originals to the governor,
23 who, with the advice and consent of the council, may issue his warrant
24 to the state treasurer for the amount therein specified as due.

Duties of
comptroller.
Examination
and certifi-
cation of certain
accounts, etc.,
against
commonwealth
1922, 545, § 5
1923, 362, § 1.

1 SECTION 14. All original bills and vouchers on which money has
2 been or may be paid from the treasury upon the certificate of the comp-
3 troller or the warrant of the governor shall be kept in the comptroller's
4 office; and all departments, officers or commissions authorized to make
5 contracts under which money may be payable from the treasury shall
6 file with the comptroller certified copies thereof.

Same subject.
Bills, vouchers
and copies of
contracts filed,
etc., with
comptroller,
when.
1923, 362, § 1.

1 SECTION 15. The comptroller shall cause all the printing under the
2 state printing contract to be examined and measured, and no bill for
3 printing shall be allowed unless it is in strict conformity with such con-
4 tract. He may employ an expert in printing to examine the bills for
5 printing under such contract and perform such other clerical assistance
6 as the comptroller may require.

Same subject.
State printing,
and bills
therefor.
1923, 362, § 1.

1 SECTION 16. He shall design and instal a new accounting system
2 for the commonwealth as provided by chapter five hundred and forty-
3 five of the acts of nineteen hundred and twenty-two and prescribe the

Same subject.
Accounting
system for
common-
wealth.

1922, 545, § 5.
1923, 362, § 1.

requisite forms and books of account to be used by each department, office, commission and institution of the commonwealth. After such installation, no form or book of account other than that prescribed as aforesaid shall be used without the approval of the comptroller. He may revise such forms, books or system from time to time. He shall prepare and distribute a book of instructions covering the use and application of said new accounting system for the guidance of the accounting personnel in the various departments, offices, commissions and institutions of the commonwealth.

Same subject.
General books of account; systems of accounting; supervision of collection of revenue due commonwealth.
1922, 545, § 5.
1923, 362, § 1.

SECTION 17. He shall keep all general books of account and determine the extent and character of subsidiary accounts to be kept by all departments, offices, commissions and institutions of the commonwealth. He shall have full authority to prescribe, regulate and make changes in the methods of keeping and rendering accounts. He shall establish in each such department, office, commission and institution a proper system of accounts, which shall be uniform so far as is practicable, and a proper system of accounting for stores, supplies, materials and products, and may provide, where he deems it necessary, for a continuing inventory thereof. He shall provide such safeguards and systems of checking as will ensure, so far as possible, the proper collection of all revenue due the commonwealth; and, where he deems it necessary, shall provide that forms and receipts shall be numbered consecutively, making each such department, officer, commission or institution responsible for their use or cancellation.

Same subject.
Account of public receipts and expenditures, public property, etc.
1923, 362, § 1.

SECTION 18. The comptroller shall keep a distinct account, under appropriate heads, of all public receipts and expenditures. He shall keep a like account of the school fund and of other public property and of all debts and obligations due to and from the commonwealth; and for such purpose he shall have free access to the books and papers of the several departments, offices, commissions and institutions.

Same subject.
Verification of accounting statements in departmental reports, etc.
1922, 545, § 5.
1923, 362, § 1.

SECTION 19. He shall verify all accounting statements included in reports of departments, offices and commissions, other than the commission on administration and finance, before the publication of such reports. No such report shall be published by any such department, office or commission until such statements are so verified and approved.

Comptroller's bureau to furnish accounting statements, etc., when.
1922, 545, § 5.
1923, 362, § 1.

SECTION 20. The comptroller's bureau shall be properly equipped and shall furnish, when required, all accounting statements relating to the financial status, funds, reserves, appropriation control and cost of operation of the commonwealth at the end of the state fiscal year and at intermediate monthly periods when such information is needed in effecting economies before appropriations have been exhausted, or for other purposes.

Records, etc., of bureau available for preparation of budget, etc.

SECTION 21. In the exercise of the budget commissioner's functions relative to the preparation of the budget, the records, resources and full co-operation of the comptroller's bureau shall be available.

1922, 545, § 6.

1923, 362, § 1.

Supplies, equipment, etc., for state

SECTION 22. The commissioners of the commission, sitting as a board, shall, subject to the approval of the governor and council, make

3 rules, regulations and orders which shall regulate and govern the manner
 4 and method of the purchasing, delivering and handling of, and the con-
 5 tracting for, supplies, equipment and other property for the various
 6 state departments, offices and commissions, except when they are for
 7 legislative or military purposes. Such rules, regulations and orders
 8 shall be of general or limited application, and shall, so far as practicable,
 9 be uniform, shall be in conformity with existing laws relative to the pur-
 10 chase of articles and materials made by inmates of penal institutions
 11 and articles and supplies made by the blind except that such purchase
 12 shall be made by or under the direction of the state purchasing agent
 13 subject, however, to such approval by the board as would be required
 14 if the purchase were made from some other source, and shall include
 15 provision for the following:

16 (1) The advertisement for and the receipt of bids for supplies and
 17 other property and the stimulation of competition with regard thereto;

18 (2) The purchase of supplies and other property without advertise-
 19 ment or the receipt of bids, where the amount involved will not exceed
 20 five hundred dollars, when, in the judgment of the state purchasing agent,
 21 it is expedient;

22 (3) The purchase of supplies and other property without competition,
 23 in cases of emergency requiring immediate action;

24 (4) The purchasing of or contracting for certain supplies, equipment
 25 and other property by long or short term contracts, or by purchases or
 26 contracts made at certain seasons of the year, or by blanket contracts
 27 or orders covering the requirements of one or more departments, offices
 28 and commissions;

29 (5) Prescribing the times for submitting estimates for various supplies,
 30 equipment and other property;

31 (6) Regulations to secure the prompt delivery of commissary and other
 32 necessary supplies;

33 (7) Standardization of forms for estimates, orders and contracts;

34 (8) Standardization of specifications for purchasing supplies, equip-
 35 ment and other property;

36 (9) Standardization of quality, grades and brands to eliminate un-
 37 necessary number of commodities or of grades or brands of the same
 38 commodity;

39 (10) The purchase of supplies and other property locally, upon per-
 40 mission, specific or otherwise, of the state purchasing agent;

41 (11) The use and disposal of the products of state institutions;

42 (12) Disposal of obsolete, excess and unsuitable supplies, salvage and
 43 waste material and other property and the transfer of same to other
 44 departments, offices and commissions;

45 (13) Storage of surplus supplies, equipment and other property not
 46 needed for immediate use;

47 (14) The testing of commodities or supplies or samples thereof;

48 (15) Hearings on complaints in respect to the quality, grade or brand
 49 of commodities or supplies;

50 (16) The waiver of rules in special cases.

51 (17) A preference in the purchase of supplies and materials, other
 52 considerations being equal, in favor of supplies and materials manu-
 53 factured and sold within the commonwealth.

54 Rules, regulations and orders made under this section shall not re-
 55 strict otherwise than as provided in this section the several state de-
 56 partments, offices and commissions as to the quantity of supplies, equip-

departments;
 rules and
 regulations
 governing pur-
 chases, etc.
 Duties of
 state purchas-
 ing agent
 1921, 298
 1922, 545, § 12
 1923, 362, § 1.
 1924, 446
 1931, 228.

ment or other property which may be purchased or contracted for, for 57
them, or as to the nature thereof. 58

A copy of the rules, regulations and orders issued under this section 59
and at the time being in force shall be delivered or mailed to any person 60
on request, and the commission shall annually give public notice by 61
advertisement inviting such requests and inviting all persons who desire 62
to bid on state supplies, materials or contracts so to signify in writing 63
by sending their names and addresses to the office of the commission 64
with a statement of the class or classes of supplies, materials or con- 65
tracts on which they desire opportunity to bid. The state purchasing 66
agent, under the direction of the commission, shall maintain a classified 67
list of all persons so signifying such desire and shall make such use of 68
the same for the stimulation of competition as shall be provided by said 69
rules and regulations, having in view the time of delivery, the quantity 70
required, the locality in which delivery is to be made, and any other 71
special circumstances of the case. 72

For the information of the public and of prospective bidders, the state 73
purchasing agent shall keep and maintain a public list or bulletin enu- 74
merating the supplies and materials to be purchased or contracted for 75
and the dates on which bids for the same will be received. 76

Bids shall be opened in public. 77

Removal for
non-com-
pliance with
rules, etc.
1922, 545, § 13.
1923, 362, § 1.

SECTION 23. Any appointed officer failing to comply with any rule, 1
regulation or order made under the preceding section may, after a hear- 2
ing before the governor and council given to the official concerned, be 3
removed by them. 4

State purchas-
ing agent
to establish
supply office,
maintain
laboratory, etc.
1922, 545, § 14.
1923, 362, § 1.

SECTION 24. The state purchasing agent shall be provided with 1
quarters in the state house and shall establish a supply office therein. 2
He shall keep on hand a reasonable quantity of office stationery and 3
supplies for the use of executive and administrative departments and 4
offices. He may maintain a proper laboratory for the purpose of testing 5
commodities or samples thereof, or may make use of existing facilities 6
suitable for such purpose. 7

To advise with
state institu-
tions making
products suit-
able for needs
of state de-
partments, etc.
1922, 545, § 15.
1923, 362, § 1.

SECTION 25. The state purchasing agent shall advise with the several 1
state institutions that make or are able to make products suitable for 2
the needs of state departments, offices and commissions, and with the 3
heads of such departments, offices and commissions, with a view to as- 4
certaining how best to improve or change such products or the quality 5
or price thereof so as to meet the needs of such state departments, offices 6
and commissions, and may make to such institutions such recommen- 7
dations relating thereto as seem best. 8

Advisory
standardization
board.
1922, 545, § 16.
1923, 362, § 1.

SECTION 26. In order best to carry out the provisions of the four 1
preceding sections, and sections fifty-one and fifty-two of chapter thirty, 2
there shall be established an advisory standardization board, consisting 3
of the state purchasing agent as its head and such representatives of the 4
several departments, offices and commissions most affected by said 5
provisions as shall be designated by the heads thereof. Said board shall 6
consider and advise as to the needs of the various state activities, how 7
far they can be reasonably harmonized and covered by standard speci- 8

9 fications, and what, if any, materials are so lacking in importance or
10 uniformity as to warrant blanket authorization for their local purchase.

1 SECTION 27. The state purchasing agent shall furnish to the super-
2 intendent of the Massachusetts reformatory such of the paper used in
3 the execution of the contract for state printing as he may need to fill
4 any order for printing received from any department of the common-
5 wealth for printing not included in said contract.

State purch-
asing agent
to furnish cer-
tain paper to
Massachusetts
reformatory
1923, 362, § 1.

1 SECTION 28. The division of personnel and standardization may carry
2 on, under the direction of the commission, departmental research, tend-
3 ing to greater co-ordination and standardization of administration, in-
4 cluding the making of examinations and investigations, and recommen-
5 dations based thereon.

Departmental
research, etc.,
by division of
personnel and
standardiza-
tion
1922, 545, § 17.
1923, 362, § 1.

6 It may provide technical advisers to undertake engineering investi-
7 gations in behalf of such departments, offices and commissions as are
8 not organized to do such work.

1 SECTION 29. All departments, officers and commissions before en-
2 tering upon the preparation of any annual or special report, document or
3 other publication issued by or on behalf of the commonwealth shall
4 submit careful statements of the scope, and estimates of the size, of
5 such publication to the division of personnel and standardization which
6 shall examine them and define the form and extent of such publication,
7 determining the number of pages to which it may extend and whether
8 it shall include maps, plans, photogravures, woodcuts or other illustra-
9 tions; and no such publication shall be printed unless it bears the cer-
10 tified approval of said division. An appeal may be taken from any
11 decision of said division hereunder to the finance committee, whose de-
12 cision shall be final. This section shall not apply to publications issued
13 by the officers of either branch of the general court, or issued under
14 special authority given by the general court, or to the regular annual
15 reports of the attorney general, state treasurer, state auditor or state
16 secretary, or to reports of capital trials prepared by the attorney general
17 under section eleven of chapter twelve, or to publications prepared by
18 the state secretary in conformity with sections two and four of chapter
19 five.

Division to
approve certain
state docu-
ments before
publication.
Appeal.
Exceptions.
1923, 362, § 1.

1 SECTION 30. The division shall collect at least once in every fiscal
2 year such information relative to certain officials and employees of the
3 commonwealth as shall be furnished to it under section thirty-eight of
4 chapter thirty, which shall cover the fiscal year preceding. From the
5 information so collected it shall keep a record, open to public inspection,
6 showing the name, residence, designation, rate of compensation and date
7 of appointment or qualification of every such official and employee, and
8 any increase in the rate of salary or compensation paid him during the
9 preceding fiscal year. The record shall also contain such other infor-
10 mation concerning such officials and employees as, in the opinion of the
11 division, may be desirable. The comptroller shall, upon request of the
12 division, verify a list of such officials and employees, the amounts and
13 rates of compensation and other information concerning payments to
14 officials and employees about whom information is furnished. The divi-
15 sion shall, on or before April fifteenth in each even numbered year,

Division to
prepare and
print lists
of state
officials, etc.,
with their
salaries.
1923, 362, § 1.

publish a document containing such information concerning said officials and employees in the employ of the commonwealth on the preceding November thirtieth as, in its opinion, may be of public interest. Said document shall contain such summary and comparative tables as will best show the numbers of officials and employees in the service of the commonwealth during the two years preceding said November thirtieth, and during a further period of two years prior thereto, to be arranged in such manner as will make them of the greatest practical utility. The document may be revised or rearranged at the discretion of the division.

Commissioners to decide questions as to accounting standards, etc., and to approve contracts by state purchasing agent.
1922, 545, § 18.
1923, 362, § 1.

SECTION 31. The commissioners, acting as a board, shall decide questions, not involving legislation, which arise on matters relating to accounting standards and practices other than those relating to the establishment of the new accounting system provided for by chapter five hundred and forty-five of the acts of nineteen hundred and twenty-two. Said board shall from time to time authorize such additions to or deductions from the balance sheet account representing state owned property in the said new accounting system as it finds consistent with established accounting standards, and no such additions or deductions shall be made without a majority vote of the whole board and a written certification to that effect. Said board shall pass upon all contracts intended by the state purchasing agent, and no such contract shall be made without the approval of such board.

Commissioners to have equal voice.
Governor to decide issue in case of tie vote.
1922, 545, § 19.
1923, 362, § 1.

SECTION 32. In any case in which the commissioners act as a board, each commissioner shall have equal voice; and if there is a tie vote upon any matter, except such as relates to authorizing additions to or deductions from the balance sheet account representing state owned property, the board shall call upon the governor or the person acting in his place to decide the issue.

Annual report.
1922, 545, § 20.
1923, 362, § 1.

SECTION 33. The commission shall annually on the second Wednesday in January submit to the general court a printed abstract of its report, exhibiting a full and accurate statement of the financial condition and transactions of the commonwealth for the preceding fiscal year, and as soon as may be thereafter it shall submit its printed report in detail.

Contents of annual report.
1922, 545, § 20.
1923, 362, § 1.

SECTION 34. Such report shall contain a summary statement of the receipts into, and payments from, the treasury of the commonwealth for the preceding fiscal year; a detailed statement of such receipts and expenditures, including the expense incurred for the support of all permanent departments, offices, commissions, services and institutions; and all exceptional and special charges incurred for articles purchased. The account shall be so constructed as to show the expenses which have been actually incurred within the fiscal year, whether paid or unpaid at the end of such year. It shall include all items of accounts of expenditure of interest to the public, and, as far as may be, shall show the different departments, officers or commissions under whose direction the expenditure was made and the different officers who have received salaries or other general charges; and no expenditure exceeding five hundred dollars, including separate items, shall be classified under an indefinite head.

1 SECTION 35. The report shall show the aggregate amount of funded
 2 debt and of all temporary loans at the beginning and end of the fiscal
 3 year respectively and the balance of increase or decrease in each case,
 4 and state the cause of such increase or decrease. It shall state whether
 5 or not the ordinary expenses of the fiscal year have exceeded the income,
 6 and show the amount of the balance. It shall contain a particular
 7 statement of all transactions affecting the funds belonging to or held in
 8 trust by the commonwealth, including new investments of any portion
 9 of the same made during the preceding fiscal year, and also of the man-
 10 ner in which the income of the school fund has been disbursed. In
 11 making such report the commission shall estimate the value of securities
 12 at their market value at the time of making its report. The report
 13 shall also include a statement of the transactions of the commission in
 14 the performance of its duties not directly connected with state finances.
 15 Said report may be published in such parts, or separate volumes, as the
 16 commission may determine.

Annual report
 to show funded
 debt, etc., may
 be published
 in parts.
 1922, 545, § 20.
 1923, 362, § 1.

CHAPTER 8.

SUPERINTENDENT OF BUILDINGS, AND STATE HOUSE.

SECT.

1. Superintendent of buildings.
2. Appointment and term.
3. [Repealed.]
4. Appointment of employees.
5. Compensation of employees. Vacations for scrub women.
6. Superintendent to direct repairs, improvements, etc. Exceptions.
7. Superintendent may repair state house.
8. [Repealed.]
9. Care of state house, etc.
10. Assignment of rooms in state house, etc.
- 10A. Leasing by state departments, etc., of premises outside of buildings owned by commonwealth, approval.
11. Annual report.

SECT.

12. Prevention of trespasses at state house, etc. Watchmen, etc., to be armed, etc.
13. Fees forbidden.
14. Military museum.
15. [Repealed.]
16. Land around state house to remain open.
17. Rooms in state house for the several departments of war veterans.
18. Records, etc., of such departments, accessibility, etc.
19. Portraits of certain former governors.
- 19A. Memorials of certain former governors.
20. Care and maintenance of the old provincial state house.
21. Establishment of permanent memorials in state house regulated.

1 SECTION 1. There shall be an officer to be known as the superin-
 2 tendent of buildings, in this chapter called the superintendent.

Superintendent
 of buildings.
 1919, 350, § 17.

1 SECTION 2. Upon the expiration of the term of office of a superin-
 2 tendent, his successor shall be appointed by the governor, with the
 3 advice and consent of the council, for three years. The superintendent
 4 shall receive such salary as shall be fixed by the governor, with like
 5 advice and consent.

Appointment
 and term.
 1919, 350, § 17.

1 SECTION 3. [REPEALED, 1923, 362, § 9.]

1 SECTION 4. He may appoint such clerks, engineers, electricians, fire-
 2 men, oilers, mechanics, watchmen, elevator operators, porters, cleaners

Appointment
 of employees.
 1868, 341.

1881, 275, § 5. and other persons as may be necessary to enable him to perform his 3
 P. S. 5, § 9. duties. He shall be responsible for the fitness and good conduct of 4
 1887, 128. all such employees and may remove them at his discretion. Appoint- 5
 1895, Res. 68. ments under this section shall not be subject to chapter thirty-one. 6
 R. L. 10, § 9.
 1911, 723.
 1915, 224.

1919, 350, §§ 17, 18.

Compensation of employees
 Vacations for scrub women.
 1903, 455.
 1905, 218, § 2.
 1906, 232.
 1907, 359, § 1;
 384.
 1910, 152; 634.
 1914, 667; 684.
 1916, 254; 255;
 267.
 1917, 323.
 1918, 242.
 1919, 243; 350,
 § 18.
 1920, 221.
 1922, 234.
 1928, 175.
 1931, 301.
 § 53; 372.

SECTION 5. The pay of scrub women employed by the commonwealth 1
 shall be based upon a regular weekly rate of eighteen dollars for thirty- 2
 three hours' work. When time is lost or a greater number of hours are 3
 worked by them than the aforesaid thirty-three hours, the resulting 4
 reductions or additions shall be based upon an hourly rate of fifty-five 5
 cents, and they shall be allowed for time off on legal holidays at the 6
 regular weekly rate. Scrub women or cleaners regularly employed by 7
 the superintendent of buildings shall be paid weekly, and when so em- 8
 ployed for a period of at least six months shall be entitled to a vacation 9
 each year of two weeks' duration with pay. Such pay shall be based 10
 upon the average weekly compensation received by them for the pre- 11
 ceding six months' period of employment. 12

Superintendent to direct repairs, improvements, etc.
 Exceptions.
 R. S. 13, § 60.
 1856, Res. 74.
 1857, 65, § 2.
 G. S. 14,
 §§ 51, 52, 62.
 P. S. 5, §§ 4, 12.
 1887, 128, § 1.
 1895, 284, § 1.
 R. L. 10,
 §§ 4, 17.

SECTION 6. He shall direct the making of all repairs and improve- 1
 ments in the state house and on the state house grounds. All executive 2
 and administrative departments and officers shall make requisition 3
 upon him for any repairs or improvements necessary in the state house 4
 or in other buildings or parts thereof owned by or leased to the common- 5
 wealth and occupied by said departments or officers. Such repairs or 6
 improvements shall be made only upon such requisition signed by the 7
 head of the department or office. This section shall not apply to state 8
 institutions or officers thereof. 9

1915, 224. 1923, 362, § 10.
 1919, 350, §§ 19, 20. 1 Op. A. G. 231.

Op. A. G. (1920) 35.

Superintendent may repair state house.
 1857, 65, § 2.
 G. S. 14, § 62.
 P. S. 5, § 12.
 1887, 128.

SECTION 7. If the state house is damaged by fire or other casualty, 1
 during the recess of the general court, the superintendent may make all 2
 repairs necessary for the protection and preservation of the building 3
 without an appropriation therefor. 4

R. L. 10, § 17.

1919, 350, § 17.

SECTION 8. [REPEALED, 1923, 362, § 9.] 1

Care of state house, etc.
 R. S. 13, § 60.
 G. S. 14,
 §§ 51, 52.
 P. S. 5, § 4.
 1887, 128, § 1.
 1895, 284, § 1.
 R. L. 10, § 4.
 1913, 830, § 3.
 1915, 224.
 1919, 350,
 §§ 17, 18.
 1920, 510.
 1 Op. A. G.
 231.

SECTION 9. The superintendent shall, under the supervision of the 1
 governor and council, have charge of the care and operation of the state 2
 house and its appurtenances and shall have general charge and over- 3
 sight of any other buildings or parts thereof in Boston owned by or 4
 leased to the commonwealth for the use of public officers, and shall see 5
 that the chambers and lobbies of the general court and of its committees 6
 are kept clean and in good order; shall superintend all ordinary repairs 7
 thereof and shall have charge of the current expenses for the care and 8
 preservation of the state house and its appurtenances, and for the ordi- 9
 nary repairs of the furniture and fixtures therein. He shall take proper 10
 precautions against damage thereto, or to the furniture, fixtures or other 11
 public property therein. There shall be maintained an adequate passage- 12
 way for foot passengers from north to south through the east wing or 13
 extension of the state house, to be kept open during such hours as the 14
 superintendent shall fix. 15

1 SECTION 10. He may, under the supervision of the governor and
 2 council, assign the rooms in the state house and rooms elsewhere used
 3 by the commonwealth, and may determine the occupancy thereof in
 4 such manner as the public service may require; provided, that the
 5 executive and administrative departments of the commonwealth shall
 6 be provided with suitable quarters which shall, so far as is expedient,
 7 be in the state house; and provided further, that this section shall not
 8 apply to rooms assigned to or used by either branch of the general court
 9 or any committees or officers thereof, except with the written consent of
 10 the presiding officer of the branch using such rooms, or to rooms assigned
 11 to or used by joint committees of the general court, except with the
 12 written consent of the presiding officers of both branches of the general
 13 court, nor shall it apply to the rooms used by the Grand Army of the
 14 Republic of the department of Massachusetts under section seventeen,
 15 except with the consent of the commander thereof. He shall during the
 16 sessions of the general court, upon application of the sergeant-at-arms,
 17 assign such rooms as may be required for the use of committees and
 18 other purposes.

Assignment of
 rooms in state
 house, etc.
 1910, § 26.
 1915, § 23.
 1919, § 350,
 §§ 12, 18.

1 SECTION 10A. When a state department, commission or board is
 2 authorized to procure quarters or to occupy premises outside of the
 3 state house or other building owned by the commonwealth, the execu-
 4 tive and administrative head of such department, commission or board
 5 shall, in the name and behalf of the commonwealth, execute the lease,
 6 but no such lease shall be valid until approved by the superintendent
 7 of buildings and the governor and council.

Leasing by
 state depart-
 ments, etc., of
 premises out-
 side of build-
 ings owned by
 commonwealth,
 approval.
 1924, § 355.

1 SECTION 11. The superintendent shall submit an annual report to
 2 the governor and such other reports as the governor may require.

Annual report.
 1919, § 350, § 21.
 1923, § 362, § 11.

1931, § 426, § 132.

1 SECTION 12. The superintendent shall take proper care to prevent
 2 any trespass on, or injury to, the state house or its appurtenances, or
 3 any other building or part thereof in Boston owned by or leased to the
 4 commonwealth for public offices; and if any such trespass or injury is
 5 committed, he shall cause the offender to be prosecuted therefor. For
 6 any criminal offence committed in any part of the state house or the
 7 grounds appurtenant thereto, or in any other building in Boston owned
 8 by or leased to the commonwealth, the superintendent and his watch-
 9 men shall have the same power to make arrests as the police officers of
 10 Boston. The superintendent may arm his watchmen and assistant
 11 watchmen and, in case of an emergency, may arm and detail as watch-
 12 men for extra duty such employees in his department as, in his judgment,
 13 the emergency requires for the proper protection of state property under
 14 his jurisdiction.

Prevention of
 trespasses at
 state house,
 etc.
 Watchmen,
 etc., to be
 armed, etc.
 1881, § 273, § 2.
 P. S. 5, § 8.
 1887, § 128.
 1895, § 284, § 4.
 R. L. 10, § 8.
 1919, § 350, § 17.
 1921, § 256.

1 SECTION 13. No fee or reward shall be taken by the superintendent,
 2 the sergeant-at-arms or by any person under the authority of either of
 3 them for opening the public rooms in the state house for the view and
 4 inspection of visitors.

Fees forbidden.
 1835, § 154.
 R. S. 13, § 65.
 G. S. 14, § 61.
 P. S. 5, § 11.
 R. L. 10, § 16.

1919, § 350, § 18.

1 SECTION 14. The superintendent may expend not more than fifteen
 2 hundred dollars annually for the maintenance of the museum estab-

Military
 museum.
 1897, § 204.

R. L. 10, § 18.
1919, 350, § 17.

lished in the state house for the preservation and exhibition of the reg- 3
imental flags and other military relics in the possession of the common- 4
wealth and of other objects connected with the military history of the 5
United States and especially of the New England states. 6

SECTION 15. [REPEALED, 1924, 361.] 1

Land around
state house to
remain open
1894, 532, § 6.
R. L. 10, § 20.

SECTION 16. The land now taken by the commonwealth about the 1
state house shall remain an open space, and no railroad or railway shall 2
be constructed or operated in, upon or over the same. A grant made to 3
a railroad or railway corporation shall not be construed to include any 4
portion of said land. 5

Rooms in
state house for
the several
departments
of war
veterans.
1893, 411, § 1.
R. L. 10, § 21.
1919, Sp. 246,
§ 1.
1920, 511, § 1.
1921, 459, § 1.
1923, 225, § 1.
Op. A. G. (1920)
116.

SECTION 17. There shall be set apart and suitably furnished a room 1
or rooms in the state house for the use of the Grand Army of the Republic 2
of the department of Massachusetts, the Massachusetts department of 3
The American Legion, of the United Spanish War Veterans and of the 4
Veterans of Foreign Wars of the United States, respectively, such room 5
or rooms to be under the charge of the state commanders of the respective 6
departments, subject to this chapter. The headquarters thus estab- 7
lished for the first named department shall be used for storing its supplies 8
and property, relics and mementos of the war of the rebellion and for 9
arranging and preserving a history of persons, who served in the army, 10
navy or marine corps during such war in organizations of the common- 11
wealth, or of citizens of the commonwealth who served in the regular 12
army, navy or marine corps of the United States, which said depart- 13
ment may collect or desire to preserve. The headquarters thus estab- 14
lished for each of the other departments shall be used for storing and 15
preserving the records and other property of the department and relics 16
and mementos of the World war and Spanish war. 17

Records, etc.,
of such
departments,
accessibility,
etc.

1893, 411,
§§ 1, 2
R. L. 10, § 21.
1919, Sp. 246,
§§ 1, 2
1920, 511,
§§ 1, 2
1921, 459, § 2.
1923, 225, § 2.

SECTION 18. The histories, relics and mementos of the Grand Army 1
of the Republic of the department of Massachusetts and the records of 2
the Massachusetts department of the United Spanish War Veterans, of 3
The American Legion and of the Veterans of Foreign Wars of the United 4
States shall be accessible at all times, under suitable rules and regulations, 5
to members of the respective departments and to others engaged in 6
collecting historical information. Whenever any such department 7
ceases to exist, its records, papers, relics and other effects shall become 8
the property of the commonwealth. 9

Portraits
of certain
former
governors.
1891, Res. 58.
1895, Res. 54.
1900, 297,
§§ 1, 3.
R. L. 10, § 22.
1920, 354.

SECTION 19. The governor, with the advice and consent of the coun- 1
cil, may expend, for the purpose of procuring portraits of the governors 2
of the commonwealth who shall have held office subsequent to May 3
fourth, nineteen hundred, not more than three thousand dollars for each 4
such portrait, and such portrait shall be hung in the state house under 5
the direction of the art commission. 6

Memorials of
certain former
governors.
1922, 320.

SECTION 19A. The governor, with the advice and consent of the 1
council, may, on behalf of the commonwealth, accept or otherwise pro- 2
cure suitable portraits or other memorials of the governors of the com- 3
monwealth and also of the governors of the province and colony of 4

5 Massachusetts Bay and the colony of New Plymouth. Portraits or
6 other memorials procured under this section shall be submitted to the
7 art commission for approval prior to their installation in the state house
8 which shall be under the direction of said commission.

1 SECTION 20. There shall be allowed and paid annually by the com-
2 monwealth the sum of fifteen hundred dollars, to be expended under
3 the direction of the governor and council, for the care and maintenance
4 of the old provincial state house in Boston.

Care and
maintenance
of the old
provincial
state house.
1910, 298, § 1.

1918, Sp. 160, § 1.

1 SECTION 21. No tablet, statue or other memorial of a permanent
2 character shall be placed in the state house without the approval of the
3 general court.

Establishment
of permanent
memorials in
state house
regulated.

1922, 146.

CHAPTER 9.

DEPARTMENT OF THE STATE SECRETARY.

SECT.

1. State secretary.
2. Deputies, cashier, clerks, etc.
3. Deputies may act, when.
4. Supervisor of public records.
5. Expenditures for certain clerical and other services.
6. Decennial certification of number of registered voters. Verification. Special enumeration of legal voters.
7. Decennial census. Verification; compilation.
8. Information for authorities taking federal census.

SECT.

9. State census director and assistants. Duties. Director, etc., may require attendance, etc., of witnesses.
10. State registrar of vital statistics.
11. Custody of great seal.
12. Custody of books relating to Maine lands.
13. Custody of stereotype plates.
14. [Repealed.]
15. Notice of expiration of commissions.
16. Annual list of designated justices.
17. Annual report.
18. [Repealed.]
19. Documents, etc., may be destroyed.

1 SECTION 1. There shall be a department of the state secretary under
2 his supervision and control, organized as provided in this chapter. The
3 state secretary shall receive a salary of seven thousand dollars. He shall
4 make a quarterly return on oath to the governor and council of all fees
5 of office received by him, and give to the state treasurer a bond, in a
6 penal sum and with sureties approved by the governor and council,
7 conditioned satisfactorily to account for all money received by him in
8 his official capacity.

State secretary.
1818, 97
R. S. 13,
§§ 9, 11.
1843, 9, § 1.
1859, 131.
1859, 221
G. S. 14, § 3.
1864, 300
1865, 247, § 4.
1866, 298, § 3.
P. S. 15, § 9.
1870, 380

1876, 218, § 1.
1879, 79, § 1.
1884, 79.

1888, 385.
1892, 262, § 1.
R. L. 5, § 1.

1907, 276.
1914, 589.

1919, 350, § 27.
1929, 318, § 1.

1 SECTION 2. He may appoint a first deputy, a second deputy, a
2 cashier for whose conduct he shall be responsible and from whom he
3 may require a bond, and a chief of the archives division. He may also
4 appoint clerks, messengers and other assistants necessary for the prompt
5 despatch of public business. He may also employ such clerical assist-
6 ance as he may deem necessary to carry out the laws relative to pri-

Deputies,
cashier, clerks,
etc.
1820, 74.
R. S. 13,
§§ 12, 13.
1857, 167.
1843, 9.
1845, 113.
1846, 217.

1853, 275.
1854, 131, § 2.
1855, 440.

maries and elections, and such employment and the appointment of 7
such deputies shall not be subject to chapter thirty-one. 8

1857, 269.	1881, 23, § 1; 224.	1891, 410.	1911, 550, § 19
1859, 133; 221.	P. S. 15, § 10.	1892, 262, § 1	1912, 362; 522.
G. S. 14, § 4.	1883, 48.	1893, 103; 112.	1913, 718; 721;
1865, 247, § 5.	1884, 15, § 1.	1895, 402.	835, §§ 127, 503.
1866, 298, § 5.	1885, 87.	1897, 351.	1918, 293, § 34
1873, 377, § 8.	1886, 238.	1900, 383.	1920, 630.
1876, 218, § 2.	1887, 26.	R. L. 5, § 2.	1922, 370, § 1.
1877, 27.	1889, 101.	1902, 364.	1928, 232, § 1.
1879, 79, § 2.	1890, 239.	1908, 561.	1931, 301, § 54.

Deputies may act, when.
1813, 49.
R. S. 13, § 8.
G. S. 14, § 5.
P. S. 15, § 11.
R. L. 5, § 3.
1911, 294.

SECTION 3. If the secretary is disabled from performing his official 1
duties, his deputies shall perform the same during such disability. In 2
the event of a vacancy in the office of secretary, the first deputy shall be 3
continued in office, and shall perform all statutory duties of the secretary 4
until a secretary is duly qualified. 5

Supervisor of public records
1889, Res. 103.
1892, 553,
§ 1, 2.
R. L. 35,
§ 1, 2.
1913, 485, § 1.
1919, 350, § 24.

SECTION 4. The secretary shall, with the approval of the governor 1
and council, appoint, and may, with like approval, remove, a competent 2
person to be known as supervisor of public records. Said supervisor, 3
under the supervision of the secretary, shall perform the duties required 4
of him by law, and such other duties as the secretary determines. 5

1928, 232, § 2. 1931, 301, § 55.

Expenditures for certain clerical and other services.
1892, 553, § 2.
R. L. 35, § 2.
1913, 485, § 1.

SECTION 5. The secretary may expend not more than three thousand 1
dollars annually for such traveling, clerical and other necessary expenses 2
in connection with the duties required of the supervisor of public records 3
under chapter sixty-six as the governor and council may approve. 4

1919, 350, § 24.

Decennial certification of number of registered voters.
Verification.
Special enumeration of legal voters.
1924, 453, § 1.

SECTION 6. In nineteen hundred and twenty-five and every tenth 1
year thereafter, the registrars of voters, election commissioners or other 2
officials having charge of the registers of voters in each city and town 3
shall certify under oath to the secretary on or before June thirtieth the 4
number of registered voters in their respective cities and towns on the 5
preceding March thirty-first, specifying in the case of cities the number 6
of registered voters in each ward. The secretary may in his discretion 7
verify any such information in such manner as he deems advisable, and 8
for this purpose may inspect the records of said officials and call upon 9
them for such further information as he desires. From the returns so 10
made, with such amendments as the secretary finds necessary to correct 11
any errors or omissions therein, he shall compile the special enumeration 12
of legal voters required by Articles XXI and XXII of the amendments 13
to the constitution, and shall submit the result thereof to the general 14
court by filing the same with the clerk of the house of representatives 15
as soon as possible thereafter. 16

Decennial census.
Verification;
compilation.
1855, 439, § 3.
1857, 60,
§ 1, 2.
G. S. 20,
§ 1, 2.
1863, 69,
§ 1, 3, 7.
1874, 386,
§ 1, 2, 8.
P. S. 31, § 1.
1884, 181,
§ 1, 18.
1894, 224,
§ 1, 18.

SECTION 7. In nineteen hundred and twenty-five and every tenth 1
year thereafter, the mayor of every city and the selectmen of every town 2
shall cause a census to be made of the inhabitants of their respective 3
cities and towns residing therein on March thirty-first, on forms pro- 4
vided by the secretary, and in accordance with his instructions, and shall 5
return the same under oath to the office of the secretary on or before 6
June thirtieth following, together with a sworn statement of the total 7
of such census. In making such census the services and facilities of 8
the assessors and police of a city or town shall be available to the mayor 9
of such city or the selectmen of such town. The secretary may in his 10

11 discretion verify any such census in such manner as he deems advisable,
 12 and for this purpose may inspect the records of any city or town and
 13 call upon the mayor or selectmen for such further information as he
 14 desires. From the returns so made, with such amendments as the
 15 secretary may find necessary to correct any errors or omissions therein,
 16 he shall compile the census of inhabitants of each city and town required
 17 by Articles XXI and XXII of the amendments to the constitution, and
 18 may publish the results thereof in such form as he may determine.

1904, 423,
 §§ 1, 5, 27
 1909, 371, § 7;
 Res. 41
 1914, 692,
 §§ 1, 11
 1919, 350,
 §§ 25, 26,
 1920, 157.
 G. L. (ed. of
 1920) 9, § 8
 1924, 453, § 1.
 1925, 85.

1 SECTION 8. The secretary shall make available for inspection and
 2 copying by the federal authorities charged with the taking of the United
 3 States census such information in his possession as said authorities may
 4 desire.

Information
 for authorities
 taking federal
 census.
 1924, 453, § 1.

1 SECTION 9. The secretary shall, with the approval of the governor
 2 and council, appoint, and may, with like approval, remove, a competent
 3 person to be known as the state census director. Said director, under
 4 the supervision of the secretary, shall have charge of compiling infor-
 5 mation in connection with said decennial census and enumeration and
 6 of the enumeration of summer residents under section fourteen of chapter
 7 one hundred and thirty-eight. He shall perform such other duties as
 8 the secretary determines. The secretary may appoint and remove such
 9 temporary officers, clerks and other assistants as are necessary to assist
 10 him in performing the duties required in connection with said enumera-
 11 tion and census. Appointments under this section shall not be subject
 12 to chapter thirty-one. For the purposes of such enumeration and
 13 census, the secretary or the state census director may require the at-
 14 tendance and testimony of witnesses and the production of books and
 15 documents, and may examine witnesses on oath; and such witnesses
 16 shall be examined in the same manner and be paid the same fees as
 17 witnesses in civil actions before the courts.

State census
 director and
 assistants.
 Duties.
 Director, etc.,
 may require at-
 tendance, etc.,
 of witnesses.
 1855, 439, § 3.
 1857, 60, § 2.
 G. S. 20, § 2.
 1865, 69,
 §§ 3, 7.
 1869, Res. 102.
 1874, 386,
 §§ 1, 2
 1876, 151, § 1.
 P. S. 31.
 § 2, 13-15.
 1884, 181,
 §§ 1, 15, 18.
 1888, 340.
 1892, 280.
 1894, 224,
 §§ 1, 4, 18.
 1896, 440
 1897, 430, § 2.
 1899, 341; 462
 R. L. 100, § 13;
 107, §§ 1, 2.

1904, 423, § 1.
 1909, 371, §§ 2, 7, 8, 10.
 1910, 476.
 1912, 560, § 1.
 1914, 692, §§ 1, 11.

1915, 67; 265, §§ 1, 2.
 1919, 350, §§ 23, 26.
 1920, 157.
 G. L. (ed. of 1920) 9,
 §§ 6, 9.

1924, 453, § 1.
 1928, 232, § 3.
 1931, 426, § 133.
 220 Mass. 609.

1 SECTION 10. The state secretary may, with the approval of the
 2 governor and council, appoint and remove a state registrar of vital sta-
 3 tistics, who shall be a competent statistician. The said registrar may,
 4 under the direction of the secretary, enforce all laws relative to the
 5 registry and return of births, marriages and deaths, and may prosecute
 6 in the name of the commonwealth any violations thereof.

State registrar
 of vital
 statistics.
 1918, 136.
 1922, 375.
 1928, 232, § 4
 1931, 301, § 56.

1 SECTION 11. The state secretary shall have the custody of the great
 2 seal of the commonwealth; and copies of records and papers in his de-
 3 partment, certified by him and authenticated by said seal, shall be
 4 evidence like the originals.

Custody of
 great seal.
 R. S. 13, § 5.
 G. S. 14, § 6.
 P. S. 15, § 12.
 R. L. 5, § 4.

1 SECTION 12. He shall have the custody of the books of records of
 2 grants and conveyances of land formerly held by the commonwealth
 3 situated in the state of Maine, and of all other books and records relative
 4 thereto.

Custody of
 books relating
 to Maine lands.
 1883, 99.
 R. L. 5, § 5.

1 SECTION 13. He shall, except as otherwise provided by section four
 2 of chapter sixty-four, have the custody of all stereotype, electrotype,

Custody of
 stereotype
 plates.

1879, Res. 5. steel and copper plates and woodcuts, owned by the commonwealth, 3
 P. S. 15, § 13. and may dispose of them as in his judgment the best interests of the 4
 R. L. 5, § 6. commonwealth require. 5

SECTION 14. [REPEALED, 1923, 362, § 12.] 1

Notice of expiration of commissions 1865, 231, § 1. SECTION 15. The secretary shall send by registered mail to every 1
 P. S. 15, § 14. justice of the peace or notary public a notice of the time of expiration 2
 R. L. 5, § 8. of his commission, not more than thirty nor less than fourteen days 3
 before such expiration. 4

1917, 42, § 3.

1931, 394, § 184.

Annual list of designated justices 1899, 387, § 4. SECTION 16. He shall annually in January send to the town clerks 1
 R. L. 5, § 9. and registrars a list of all justices of the peace designated under section 2
 thirty-nine of chapter two hundred and seven, with the dates of expira- 3
 tion of their commissions and notice of any revocation of a designation. 4

Annual report. 1892, 262, § 2; SECTION 17. He shall, in addition to the special reports required by 1
 333, § 4. law, make an annual report showing the transactions of his department 2
 1893, 148, § 1. and for the preceding fiscal year. He shall include therein a report showing 3
 1896, 443, § 6. the aggregate vote, both affirmative and negative, on every act or part 4
 R. L. 5, § 10; the aggregate vote, both affirmative and negative, on every act or part 4
 35, § 4. of an act which shall have been referred by the general court for accept- 5
 1905, 321, § 2. ance or rejection to the voters of any political subdivision of the com- 6
 1910, 483. monwealth or to the city council of any city during the year; the returns 7
 1914, 447. of the number of licenses for the sale of certain non-intoxicating bever- 8
 1919, 350, § 24. ages, as defined in section one of chapter one hundred and thirty-eight, 9
 granted by the several towns, the amounts received for the same, and 10
 the votes of the towns on the question of granting the same; the returns 11
 by the sheriffs of the several counties of money received by them and the 12
 number of days they have attended upon a court of record and upon the 13
 county commissioners, and the abstracts and tabular statements of facts 14
 and statistics relative to the trial of cases in the superior court for the 15
 several counties prepared from the returns furnished to him as required 16
 by section twenty-four of chapter two hundred and twenty-one. He 17
 shall also include in such report a record of the work of his department in 18
 respect to public records under chapter sixty-six, with recommendations 19
 and suggestions relative thereto. 20

SECTION 18. [REPEALED, 1923, 146, § 1.] 1

Documents, etc., may be destroyed. 1887, 43. SECTION 19. The state secretary, having first obtained authority 1
 R. L. 107, § 4. from the governor and council, may destroy or sell such documents, 2
 1909, 371, § 9. records and papers as in his judgment are of no value; and if sold, the 3
 1912, Res. 22. proceeds thereof shall be paid to the commonwealth. 4

1919, 350, § 25.

CHAPTER 10.

DEPARTMENT OF THE STATE TREASURER.

- SECT.
1. State treasurer.
 2. Treasurer's bond.
 3. Same subject.
 4. Removal of treasurer.
 5. Deputies and certain other employees.
 6. Certification of certain deposits.
 7. To receive money from the United States for soldiers' home.
 8. To receive money from the United States for highways.
 - 8A. To receive money from United States for forest fire prevention, etc. Federal Forestry Fund.
 9. Transmission to attorney general of account of overdue money and bonds.
 10. Annual report.
 11. Publication of certain statements relative to metropolitan districts.
 12. Care of funds on death of treasurer, etc.
 13. Inventory of money, etc., to be taken.

- SECT.
14. Duplicate receipts by new treasurer where no vacancy.
 15. To receive, etc., trust funds of Massachusetts training schools, establish certain trust funds, make certain payments, etc.
 16. To receive, etc., trust funds from department of education, commissioner of conservation and trustees of state library.
 17. To receive and invest trust funds for institutions under supervision of department of mental diseases.

BOARD OF RETIREMENT.

18. Board of retirement.
19. Reimbursement of members.
20. Clerical assistants, etc.

COMMISSIONERS ON FIREMEN'S RELIEF.

21. Commissioners on firemen's relief.

1 SECTION 1. There shall be a department of the state treasurer, under
 2 his supervision and control, organized as provided in this chapter. The
 3 state treasurer shall receive a salary of six thousand dollars.

State treasurer
 1818, 97, § 1
 R. S. 13, § 20.
 1843, 9.
 1854, 131, § 1.

G. S. 15, § 12.	1872, 204, § 1.	R. L. 6, § 4.
1864, 300.	1879, 80, § 1.	1907, 276.
1865, 247, § 1.	P. S. 16, § 17.	1919, 308, § 1; 350, §§ 28-31.
1866, 298, § 1.	1885, 263.	1 Op. A. G. 24.

1 SECTION 2. The state treasurer shall give bond in the sum of one
 2 hundred thousand dollars, with at least three sureties approved by the
 3 governor and council, or with a surety company as sole surety as pro-
 4 vided in section one hundred and five of chapter one hundred and seventy-
 5 five, payable to the commonwealth, conditioned that he and all persons
 6 employed in his department shall faithfully discharge their duties and
 7 trusts; that he shall use all necessary and reasonable diligence and
 8 care in the safe keeping and lawful disposition of all money, bonds, notes,
 9 papers, books and other things pertaining to his department which shall
 10 come to his hands or to the hands of the persons employed by him; that
 11 he shall, upon reasonable notice, render true accounts of his doings when
 12 thereto required by law or by the senate or house of representatives;
 13 that he shall deliver over to his successor in office or to such other person
 14 as may be authorized to receive the same all money, bonds, notes, papers,
 15 books and other things belonging to said department; and that all
 16 balances and defalcations which shall appear against him shall forthwith
 17 be paid by him to the commonwealth.

Treasurer's
 bond
 1789, 15.
 1791, 59, § 1
 R. S. 13, § 14
 G. S. 15, § 9
 P. S. 16, § 14
 R. L. 6, § 1
 1907, 576, § 61.
 1909, 256
 1911, 314
 1912, 350.

1 SECTION 3. The bond shall be deposited in the office of the state
 2 secretary; and upon the order of the governor, with the advice and con-
 3 sent of the council, or upon the order of the general court, the attorney

Same subject.
 1791, 59, § 4
 R. S. 13, § 15.
 G. S. 15, § 10.
 P. S. 16, § 15.
 R. L. 6, § 2.

general or any other person by them authorized therefor shall commence an action thereon and prosecute it to final judgment, execution and satisfaction.

Removal of
treasurer.
Const. amend.
17.
(Const. Rev.
art. 138.)
1791, 59, § 2.
R. S. 13, § 16.
G. S. 15, § 11.
P. S. 16, § 16.
R. L. 6, § 3.
1913, 336,
§ 1, 3.
1919, 169, § 1

SECTION 4. If any person represents on oath that the treasurer is insane or manifestly insolvent, or has absconded or concealed himself, or is absent from the commonwealth or from the duties of his office to the hazard of the public treasury, the governor, with the advice and consent of the council, if upon examination such representation appears to be true, may designate the first deputy treasurer, upon his giving bond to the commonwealth for the faithful performance of his duties in a sum and with sureties approved by them, to perform the duties of the office until the governor, with the advice and consent of the council, otherwise orders.

Deputies and
certain other
employees.
1820, 74.
R. S. 13,
§ 21, 22.
1843, 9.
1845, 105.
1847, 209.
1854, 131.
1855, 440, § 1.
1857, 269.
G. S. 15, § 12.
1864, 300.
1865, 247, § 5.
1866, 298, § 5.
1869, 454.
1879, 80, § 2.
P. S. 16, § 17.
1882, 111.
1883, 164.
1885, 15.
1886, 38; 334.
1885, 276; 392.
1896, 326.
1897, 256.
1901, 211.
R. L. 6, § 4.
1903, 398.
1905, 272.
1909, 94.
1910, 126; 151;
230; 265.
1912, 7; 632.
1913, 336.
1917, 2; 231.
1919, 169;
350, § 29.
1931, 301, § 57.

SECTION 5. The state treasurer may, with the consent of the governor and council, appoint, and may for cause with such consent remove, a first and a second deputy treasurer, shall prescribe their respective duties, and, with the approval of the governor and council, shall determine their salaries. During the illness, absence or other disability of the treasurer, his official duties shall be performed by the said deputies in the order of seniority. The treasurer may employ in his department to assist him in the performance of his duties, other than those in connection with the board of retirement, an accountant, a junior accountant, a paying teller, a warrant teller, an assistant warrant teller, a receiving teller, an assistant receiving teller, a bond clerk, a fund clerk, a warrant clerk, a record clerk, a messenger and two stenographers and expend for additional clerical and other assistance such sum as may be appropriated therefor. He may employ a suitable person whom, upon his written recommendation, the governor may appoint as a special state police officer for a term of three years unless sooner removed; in employing said person preference shall be given to persons who have served in the military or naval forces of the United States in time of war and have been honorably discharged from such service or released from active duty therein. All said employees shall give bond to the commonwealth, with sureties to be approved by the treasurer, for the faithful performance of their duties.

Certification
of certain
deposits.
1891, 235, § 2.
1901, 281.
R. L. 6, § 6.

SECTION 6. The state treasurer shall annually certify to the commissioner of corporations and taxation the average deposits of every corporation or organization required to make deposits in trust with the state treasurer.

To receive
money from
the United
States for
soldiers' home.
1890, 373.
R. L. 6, § 7.

SECTION 7. He shall receive from the United States all sums of money paid for the benefit of the Massachusetts soldiers' home under authority of any act of congress, and pay them over to the treasurer of said soldiers' home, or to any persons authorized to receive the same, without specific appropriation.

To receive
money from
the United
States for
highways.
1918, 18, § 2.
1919, 350,
§ 113.

SECTION 8. He shall receive from the United States all sums of money payable to the commonwealth under any act of congress for the construction of any highways therein. The sums so received shall be expended upon the order or approval of the division of highways of the department of public works without specific appropriation.

1 SECTION 8A. He shall receive from the United States all sums of
 2 money payable to the commonwealth under any act of congress, pro-
 3 viding for co-operation in the prevention of forest fires, by way of reim-
 4 bursement for sums expended by the commonwealth on account of
 5 such prevention, or otherwise, and any sums allotted to the common-
 6 wealth for the purpose of protecting, preserving or developing its wood-
 7 lands. The sums so received shall be held as the Federal Forestry
 8 Fund and be expended upon the order or approval of the division of
 9 forestry of the department of conservation without specific appropriation.

To receive
 money from
 United States
 for forest fire
 prevention,
 etc. Federal
 Forestry Fund.
 1924, 73.

1 SECTION 9. He shall annually, on the first Monday of May, transmit
 2 to the attorney general an account of bonds, notes and securities in the
 3 treasury in which the commonwealth is interested and on which the
 4 principal or interest remains due and unpaid or of which the conditions
 5 have not been performed, classifying them under distinct heads.

Transmission
 to attorney
 general of ac-
 count of over-
 due money
 and bonds.
 1834, 199
 R. S. 13, § 25.

G. S. 15, § 17.

P. S. 16, § 21.

R. L. 6, § 8.

1 SECTION 10. He shall annually, on the first Wednesday in January,
 2 report to the general court a statement of the transactions of his depart-
 3 ment for the preceding fiscal year, including a specific statement of all
 4 warrants remaining unpaid and of the names of the persons in whose
 5 favor they are drawn.

Annual report.
 1858, 1, § 4.
 G. S. 15, § 19.
 P. S. 16, § 22.
 R. L. 6, § 9.
 1905, 211, § 2.

1 SECTION 11. He shall annually, as soon after the prorogation of the
 2 general court as is practicable, publish a statement showing the assess-
 3 ments for interest, sinking fund and maintenance requirements due
 4 from towns in the metropolitan sewerage systems, north and south, met-
 5 ropolitan parks and water districts; a statement showing the several
 6 classes of debts incurred for metropolitan district purposes, and the
 7 share of the towns in the several districts as measured by the basis used
 8 in computing the assessments mentioned in the first statement; and such
 9 other statements, if any, as he may deem advisable. The expense of
 10 printing shall be apportioned and paid in equal parts from the main-
 11 tenance funds of the sewerage systems, north and south, the parks system
 12 and water system.

Publication
 of certain
 statements
 relative to
 metropolitan
 districts.
 1910, 517.
 1911, 526.
 1918, 189, § 2.

1 SECTION 12. Upon a vacancy in the office of state treasurer, the
 2 state secretary, with two suitable persons appointed by warrant of the
 3 governor, shall, after notice to the former treasurer, or, if he is deceased,
 4 to his heirs, executors or administrators, and to his sureties or one of
 5 them, or to such of them as are within the commonwealth, seal up and
 6 secure, in their presence if they attend, all money, papers and other things
 7 supposed to be the property of the commonwealth; and they shall give
 8 such representatives or sureties, if required by them, a true list of all
 9 packages so sealed up and of the places where they are deposited.

Care of funds
 on death of
 treasurer, etc.
 1791, 59, § 3.
 R. S. 13, § 17.
 G. S. 15, § 20.
 P. S. 16, § 23.
 R. L. 6, § 10.

1 SECTION 13. As soon thereafter as may be, and after like notice, the
 2 state secretary and the two persons so appointed shall cause the packages
 3 to be examined, and a true inventory to be taken of the money and of
 4 all bonds, notes, securities, books and such other things pertaining to said
 5 office as shall be required by the former treasurer or by his representa-
 6 tives or sureties. A copy of such inventory shall be deposited in the
 7 state secretary's office, and copies shall be given on request to any of
 8 said persons. The state secretary and said two persons shall safely keep

Inventory of
 money, etc.,
 to be taken.
 1791, 59, § 3.
 R. S. 13, § 18.
 G. S. 15, § 21.
 P. S. 16, § 24.
 R. L. 6, § 11.

all property so inventoried until a treasurer is duly qualified, to whom they shall deliver the same, taking duplicate receipts from him therefor, one of which shall be deposited with the state secretary and the other with the former treasurer or his legal representatives or sureties.

Duplicate receipts by new treasurer where no vacancy. Const. amend. 17. (Const. Rev. art. 138.) 1791, 59, § 3. R. S. 13, § 19.

SECTION 14. The new state treasurer shall, upon his election or appointment and qualification, give duplicate receipts for all property of the commonwealth transmitted to him, one of which shall be deposited with the state secretary; and such receipts shall be sufficient evidence for his predecessor of the delivery of said property, and shall be his sufficient discharge therefor.

G. S. 15, § 22.

P. S. 16, § 25.

R. L. 6, § 12.

To receive, etc., trust funds of Massachusetts training schools, establish certain trust funds, make certain payments, etc. 1906, 407, §§ 1, 2. 1927, 241, § 2.

SECTION 15. The state treasurer may receive from the trustees of Massachusetts training schools the principal of the various trust funds conveyed or bequeathed to the said trustees for the use of any institution of which they are trustees; and upon the request of said trustees he shall pay out the income of all such funds, and such part of the principal as may be subject to the control of said trustees, in such manner as the trustees may direct, subject to any condition affecting the administration thereof. The state treasurer may also receive from said trustees the unclaimed money paid over under section twenty-three A of chapter one hundred and twenty which shall be held by him as two separate funds, one to consist of money belonging to former male wards of said trustees the income of which shall be expended as directed by the said trustees for the purpose of securing special training or education for or otherwise aiding and assisting their meritorious male wards, and the other to consist of money belonging to former female wards of said trustees the income of which shall be expended for their female wards in the same manner and for the same purposes as above provided for their male wards. Upon certificate of the comptroller that a claim thereto satisfactory to him shall have been established and approved in writing by the attorney general, the state treasurer shall pay to any former ward, or to his legal representatives in case of his death, the amount of money held for his benefit and paid over to the state treasurer under said section twenty-three A without any accumulations accruing thereto after such payment over, out of the principal of the fund in which the money so claimed was held as aforesaid. The said funds, if in cash, shall be invested safely by the state treasurer, or, if in securities, he may hold them in their original form or, upon the approval of the governor and council, sell them and reinvest the proceeds in securities which are legal investments for the commonwealth sinking funds. He shall be held responsible for the faithful management of said trust funds in the same manner as for other funds held by him in his official capacity.

To receive, etc., trust funds from department of education, commissioner of conservation and trustees of state library. 1850, 88. G. S. 34, § 2. P. S. 41, § 2. R. L. 39, § 5. 1923, 304, § 2; 376, § 2.

SECTION 16. He shall invest, reinvest and hold in the name of the commonwealth any money or securities, or the proceeds thereof, received from the department of education under section three of chapter sixty-nine, or from the commissioner of conservation under section one hundred and fifteen of chapter one hundred and thirty-one, under section two of chapter one hundred and thirty-two or under section one of chapter one hundred and thirty-two A, or from the trustees of the state library under section thirty-seven A of chapter six, and shall disburse the income or principal thereof on the order of the commissioner of the

10 department having charge of the work in aid of which the gift or bequest
11 was made, or on the order of the trustees of the state library in case of
12 gifts or bequests for the use of the state library; provided, that no dis-
13 position of either income or principal shall be made which is inconsistent
14 with the terms of the trust on which the property is held. He shall be
15 responsible on his bond for the faithful management of all such property.

1 SECTION 17. The state treasurer may receive the principal of any
2 fund given or bequeathed to the commonwealth or to the department of
3 mental diseases for the use of insane, feeble minded or epileptic persons
4 or those addicted to the intemperate use of narcotics or stimulants in
5 any institution or placed under the supervision of said department; and
6 upon its request he shall expend the income of all such funds, and such
7 part of the principal as may be subject to the control of said department,
8 in such manner as it may direct, subject to any condition affecting the
9 administration thereof. Said funds shall be invested safely by the state
10 treasurer, and he shall be held responsible for the faithful management
11 of the same in the same manner as for other funds held by him.

BOARD OF RETIREMENT.

1 SECTION 18. There shall be a state board of retirement serving in
2 the department, consisting of three members, one of whom shall be the
3 state treasurer, ex officio, who shall be chairman, a second member
4 elected by the state retirement association established under section two
5 of chapter thirty-two from among their number in such manner as the
6 commissioner of insurance may determine, and a third member chosen
7 by the other two. If the third member is not so chosen within thirty
8 days after the election of the second, the governor shall appoint the
9 third member for a term of three years. Upon the expiration of the
10 term of office of an elected, chosen or appointed member or in case of a
11 vacancy in either of said offices, his successor shall be elected, chosen
12 or appointed as aforesaid for three years.

1 SECTION 19. The members of the board shall serve without compen-
2 sation, but they shall be reimbursed out of the contingent fund provided
3 in section four of chapter thirty-two for any expense or loss of salary or
4 wages which they may incur through service on the board. All claims
5 for reimbursement on this account shall be subject to the approval of
6 the governor and council.

1 SECTION 20. The state treasurer may appoint and remove such cleri-
2 cal and other assistants as may be required to carry on the work of the
3 state board of retirement.

1919, 350, § 29.

1931, 301, § 58.

COMMISSIONERS ON FIREMEN'S RELIEF.

1 SECTION 21. There shall be a board to be known as the commis-
2 sioners on firemen's relief serving in the department and consisting of
3 the state treasurer, ex officio, two members appointed by the governor,
4 with the advice and consent of the council, and two members appointed
5 by the Massachusetts state firemen's association. Upon the expiration
6 of the term of office of an appointive member, his successor shall be
7 appointed as aforesaid for two years. Any vacancy existing shall be
8 filled for the unexpired term in the manner of the original appointment.

CHAPTER 11.

DEPARTMENT OF THE STATE AUDITOR.

SECT.

1. State auditor.
2. First deputy auditor.
3. [Repealed.]
4. [Repealed.]
5. Deputy.
6. Divisions of receipts and of disbursements.
7. [Repealed.]
8. [Repealed.]

SECT.

9. [Repealed.]
10. [Repealed.]
11. [Repealed.]
12. Auditing of accounts of certain departments, etc.
13. [Repealed.]
14. [Repealed.]
15. [Repealed.]

State auditor.
1849, 56,
§§ 1, 6.
1854, 131, § 1.
G. S. 15,
§§ 1, 2.
1864, 300.
1865, 247, § 2.
1866, 298, § 3.
1867, 178,
§§ 1, 2.

SECTION 1. There shall be a department to be known as the department of the state auditor under his supervision and control, organized as provided in this chapter. The state auditor shall receive a salary of six thousand dollars and shall give to the state treasurer a bond for the faithful performance of his official duties in a penal sum and with sureties approved by the governor and council.

1870, 380.	1885, 195, § 1.	1905, 149, § 1.
1876, 156, § 1.	1889, 70.	1907, 139, § 2; 276.
1879, 81, § 1.	R. L. C., §§ 13, 14.	1908, 597, § 1.
P. S. 16, §§ 1, 2.	1902, 177, § 1.	1919, 309, § 1; 350, § 32.

First deputy
auditor
1901, 157.
R. L. C., § 14.
1902, 177, § 1.
1905, 149, § 1.
1907, 139, § 2.
1908, 597, § 2.
1911, 294, § 1.
1920, 546, § 3.

SECTION 2. He shall, with the consent of the governor and council, appoint a first deputy auditor, at a salary to be fixed by the auditor, with the approval of the governor and council, who shall perform such duties as may be assigned to him by the auditor and who may be removed by him for cause at any time, with the consent of the governor and council. If, by reason of sickness, absence or other cause, the auditor is temporarily unable to perform the duties of his office, the first deputy shall perform the same until such disability ceases. In the event of a vacancy in the office of auditor, the first deputy shall be continued in office and shall perform all statutory duties of the auditor until an auditor shall be duly qualified. The first deputy shall give bond to the commonwealth for the faithful discharge of his duties, in a sum not exceeding five thousand dollars.

SECTION 3. [REPEALED, 1923, 362, § 13.]

SECTION 4. [REPEALED, 1923, 362, § 13.]

Deputy.
1918, 244, § 4.
1919, 52; 69.
1920, 546, § 3.
1923, 362, § 14.

SECTION 5. He may, subject to confirmation by the governor and council, appoint a deputy in his department at a salary not exceeding thirty-five hundred dollars. The requirements of section two as to the bonding of the first deputy shall apply to the deputy appointed hereunder.

Divisions of
receipts and of
disbursements.
1923, 362, § 15.
1931, 301, § 59.

SECTION 6. The state auditor may appoint and remove such employees as the work of the department may require. Said employees shall be organized in two divisions, namely, the division of receipts and the division of disbursements. The employees in the division of receipts shall be qualified to check actual receipts.

SECTION 7. [REPEALED, 1923, 362, § 13.]

1 SECTION 8. [REPEALED, 1923, 362, § 13.]

1 SECTION 9. [REPEALED, 1923, 362, § 13.]

1 SECTION 10. [REPEALED, 1923, 362, § 13.]

1 SECTION 11. [REPEALED, 1923, 362, § 13.]

1 SECTION 12. The department of the state auditor shall annually
 2 make a careful audit of the accounts of all departments, offices, com-
 3 missions, institutions and activities of the commonwealth, including
 4 those of the income tax division of the department of corporations and
 5 taxation, and for said purpose the authorized officers and employees of
 6 said department of the state auditor shall have access to such accounts
 7 at reasonable times and said department may require the production of
 8 books, documents and vouchers, except tax returns, relating to any
 9 matter within the scope of such audit. The accounts of the last named
 10 department shall be subject at any time to such examination as the gover-
 11 nor and council or the general court may order. Said department shall
 12 comply with any written regulations, consistent with law, relative to
 13 its duties made by the governor and council. This section shall not
 14 apply to the accounts of state officers which the director of accounts of
 15 the department of corporations and taxation is required by law to
 16 examine. The department of the state auditor shall keep no books or
 17 records except records of audits made by it, and its annual report shall
 18 relate only to such audits.

Auditing of
 accounts of
 certain
 departments,
 etc.
 1819, 56, §§ 4,
 5, 7;
 1818, 15,
 §§ 7, 8
 1867, 178, § 6.
 P. S. 16, § 6.
 R. L. 6, § 21.
 1905, 211, § 3.
 1907, 139, § 1.
 1908, 638, § 1.
 1919, 350, § 54.
 1923, 362, § 16.

1 SECTION 13. [REPEALED, 1923, 362, § 13.]

1 SECTION 14. [REPEALED, 1923, 362, § 13.]

1 SECTION 15. [REPEALED, 1923, 362, § 13.]

CHAPTER 12.

DEPARTMENT OF THE ATTORNEY GENERAL, AND THE DISTRICT ATTORNEYS.

SECT.

DEPARTMENT OF THE ATTORNEY GENERAL.

1. Department of attorney general.
Salary, etc.
2. Assistants.
3. Attorney general to appear for commonwealth, when.
- 3A. Investigation of certain claims against commonwealth. Payment of small claims.
- 3B. Indemnification or protection of state officers, etc., in connection with actions for personal injuries arising out of the operation of state-owned motor vehicles.

SECT.

4. Collection of claims of commonwealth.
5. Actions, how brought.
6. Attorney general to advise district attorneys, etc.
7. May prosecute informations.
8. Shall enforce application of charity funds.
9. Shall aid and advise general court and committees thereof.
10. Powers and duties relative to unlawful combinations, etc., in restraint of trade, etc.
11. Annual report and reports of capital trials.

- SECT.
 DISTRICT ATTORNEYS.
 12. District attorneys.
 13. Districts for administration of criminal law.
 14. Assistant district attorneys, etc.
 15. Salaries of district attorneys.
 16. Salaries of assistant district attorneys, etc.
 17. [Repealed.]
 18. Clerk or temporary assistant in certain cases.
 19. Messenger, stenographers, etc., in Suffolk.
 20. Additional legal assistants in Suffolk.
 20A. Special assistant district attorney in Suffolk.
 21. Detail for police and detective service in Suffolk.

- SECT.
 22. Clerks and stenographers in northern and southeastern districts.
 23. Traveling expenses.
 24. Certain expenses to be paid by the county.
 25. Counties may advance certain expenses.
 25A. County treasurers to advance money to district attorneys when necessary in performance of their duty. Accounting.
 26. Court may appoint substitute.
 27. General duties of district attorneys.
 28. Suits on recognizances, etc.
 29. Attorney general and district attorneys to account for fees.
 30. Prosecuting officers not to receive certain fees, etc.

DEPARTMENT OF THE ATTORNEY GENERAL.

Department of attorney general. Salary, etc. 1786, 84. 1789, 25; 45. 1813, 151, § 1.

SECTION 1. There shall be a department of the attorney general, under his supervision and control, organized as provided in this chapter. The attorney general shall receive a salary of eight thousand dollars. He shall be a member of the bar of the commonwealth.

1832, 130, § 10.	1866, 298, § 2.	1880, 402, § 1.	1919, 350, § 33.
R. S. 13, § 43.	1873, 254.	R. L. 7, § 9.	1920, 422.
1849, 186, § 12.	1879, 123, § 1.	1907, 276.	1923, 117.
G. S. 14, § 16.	P. S. 17, § 1.	1912, 575, § 1.	

Assistants. 1855, Res. 25. 1856, Res. 69. G. S. 14, § 16. 1868, 93. 1874, 132. 1879, 123, § 2. P. S. 17, § 2. 1886, 216. 1888, 425. 1880, 402, § 2. 1896, 490, § 3. R. L. 7, § 9. 1903, 357, § 1, 2.

SECTION 2. He may appoint such assistants as the duties of the department require and a chief clerk and, with the approval of the governor and council, shall fix their compensation. He may appoint a cashier and, subject to the approval of the governor and council, fix his salary. Such cashier shall give bond to the commonwealth in such sum as is determined by the attorney general. He may, with the approval of the governor and council, employ additional legal assistance. Appointments under this section shall be exempt from chapter thirty-one.

1920, 310.	1930, 102.	238 Mass. 379.	255 Mass. 369.
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Attorney general to appear for commonwealth, when. 1807, 18, § 1. 1809, 31. 1811, 10. 1832, 130, § 8. R. S. 15, §§ 29, 30. 1839, 28, § 2. 1843, 99. 1849, 186, §§ 2, 3, 7. G. S. 14, §§ 17, 22. 1879, 8. P. S. 17, §§ 3, 8. 1892, 159. 1894, 127. 1895, 373. 1896, 490, § 1, 2. R. L. 7, § 1. 3 Cush. 25.

SECTION 3. The attorney general shall appear for the commonwealth and for state departments, officers and commissions in all suits and other civil proceedings in which the commonwealth is a party or interested, or in which the official acts and doings of said departments, officers and commissions are called in question, in all the courts of the commonwealth, except upon criminal recognizances and bail bonds, and in such suits and proceedings before any other tribunal when requested by the governor or by the general court or either branch thereof. All such suits and proceedings shall be prosecuted or defended by him or under his direction. Writs, summonses or other processes served upon such officers shall be forthwith transmitted by them to him. All legal services required by such departments, officers, commissions and commissioners of pilots for the harbor of Boston in matters relating to their official duties shall, except as otherwise provided, be rendered by the attorney general or under his direction.

5 Cush. 336.	1 Op. A. G. 36, 54, 80, 81.	3 Op. A. G. 425, 596.
187 Mass. 185.	88, 134, 502, 505, 603.	4 Op. A. G. 451.
261 Mass. 523.	2 Op. A. G. 50, 95, 100, 434.	Op. A. G. (1917) 60

1 SECTION 3A. The attorney general shall investigate all claims against
2 the commonwealth which may be presented to him, provided there is
3 not any statutory authority whereby the claimant may prosecute his
4 claim by suit, at law or in equity, against the commonwealth, or any
5 other mode of redress provided by law. To carry out the provisions of
6 this section he may hold hearings, take evidence, administer oaths and
7 issue subpoenas. If after investigation the attorney general finds that
8 any claimant is justly entitled to damages, there shall be paid from the
9 state treasury for settlement in full of such claim from such appropri-
10 ation as may be made by the general court for the purposes of this
11 section such sum, not exceeding one thousand dollars on any one claim,
12 as the attorney general shall determine to be just and reasonable and
13 as the governor and council shall approve. Should the attorney general
14 find any claimant to be justly entitled to damages in excess of one thou-
15 sand dollars, he shall report to the general court the facts as found by
16 him and his recommendations relative thereto.

Investigation
of certain
claims against
commonwealth
Payment of
small claims.
1921, 395

1 SECTION 3B. Upon the filing with the attorney general of a written
2 request of any officer or employee of the commonwealth or of the met-
3 ropolitan district commission that the attorney general defend him
4 against an action for damages for bodily injuries, including death at any
5 time resulting therefrom, arising out of the operation of a motor vehicle
6 owned by the commonwealth, including one under the control of said
7 commission, wherein such officer or employee consents to be bound by
8 any decision that the attorney general may make in connection with the
9 trial or settlement of such action, the attorney general shall, if after
10 investigation it appears to him that such officer or employee was at the
11 time the cause of action arose acting within the scope of his official
12 duties or employment, take over the management and defence of such
13 action. The attorney general may adjust or settle any such action, at
14 any time before, during or after trial, if he finds after investigation that
15 the plaintiff is entitled to damages from such officer or employee, and in
16 such case there shall be paid from the state treasury for settlement in
17 full of such action from such appropriation as may be made by the
18 general court for the purposes of this section such sum, not exceeding
19 five thousand dollars, as the attorney general shall determine to be just
20 and reasonable and as the governor and council shall approve.

Indemnification
or protection
of state
officers, etc.,
in connection
with actions
for personal
injuries arising
out of the
operation of
state-owned
motor
vehicles.
1931, 458, § 1.

21 If an execution issued on a final judgment in such an action is pre-
22 sented to the state treasurer by an officer qualified to serve civil process
23 and if there is also presented to or on file with said state treasurer a
24 certificate of the attorney general certifying that said execution was
25 issued on a judgment in an action in which he appeared for and defended
26 the defendant in accordance with the provisions of this section, there
27 shall be paid from the state treasury from the appropriation above
28 referred to, the amount of the execution, including costs and interest,
29 up to but not in excess of five thousand dollars.

1 SECTION 4. He shall enforce the collection of such money due on
2 the bonds, notes and securities listed in the accounts transmitted to
3 him under section nine of chapter ten, and the performance of such
4 conditions therein referred to as, with due regard to the situation of
5 the debtors, he may consider that the interests of the commonwealth
6 require.

Collection of
claims of
commonwealth.
1874, 199.
R. S. 13, § 25.
G. S. 15, § 17.
P. S. 16, § 21.
R. L. 7, § 2.

Actions, how brought. 1806, 253, § 2. P. S. 16, § 33. R. L. 7, § 3.

SECTION 5. All civil actions to recover money for the commonwealth may be brought in the name of the commonwealth by the attorney general or by a district attorney.

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Attorney general to advise district attorneys, etc. 1832, 130, § 8. R. S. 13, § 18. §§ 29, 31. 1843, 99, § 2. 1849, 186, §§ 2, 4.

SECTION 6. He shall consult with and advise district attorneys in matters relating to their duties; and, if in his judgment the public interest so requires, he shall assist them by attending the grand jury in the examination of a case in which the accused is charged with a capital crime, and appear for the commonwealth in the trial of indictments for capital crimes.

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1850, 46. G. S. 14, §§ 17, 19. P. S. 17, § 5.

1891, 379, § 10. 1893, 324. R. L. 7, § 4.

238 Mass. 379. Op. A. G. (1917) 60.

May prosecute informations. 1849, 186, § 9. G. S. 14, § 18. P. S. 17, § 4. R. L. 7, § 5. 123 Mass. 479.

SECTION 7. He may, if in his judgment the public interest so requires, prosecute informations or other processes against persons who intrude on the land, rights or property of the commonwealth, or commit or erect a nuisance thereon.

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1 Op. A. G. 609, 617. 634, 629, 633, 638, 642, 646, 647, 650, 654, 655.

2 Op. A. G. 631, 632. 635, 640, 642, 646, 649. 3 Op. A. G. 588, 593.

Shall enforce application of charity funds. 1847, 263.

SECTION 8. He shall enforce the due application of funds given or appropriated to public charities within the commonwealth, and prevent breaches of trust in the administration thereof.

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1849, 186, § 8. G. S. 14, § 20. P. S. 17, § 6.

R. L. 7, § 6. 5 Cusb. 336. 126 Mass. 216.

218 Mass. 378. 256 Mass. 568. 3 Op. A. G. 588, 596.

Shall aid and advise general court and committees thereof. 1832, 130, § 8. R. S. 13, § 33. 1843, 99, § 3. 1849, 186, § 6. G. S. 14, § 21. P. S. 17, § 7. 1900, 373, § 1. R. L. 7, § 7. 269 Mass. 503.

SECTION 9. He shall, when required by either branch of the general court, attend during its sessions and give his aid and advice in the arrangement and preparation of legislative documents and business, and shall give his opinion upon questions of law submitted to him by the governor and council or by either branch of the general court. He, or some person designated by him, shall, when requested by a vote of a legislative committee, appear before such committee and advise it upon the legal effect of proposed legislation pending before it.

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1 Op. A. G. 36. 2 Op. A. G. 125, 405, 570.

3 Op. A. G. 111, 424, 471. 4 Op. A. G. 557.

Powers and duties relative to unlawful combinations, etc., in restraint of trade, etc. 1913, 709, §§ 1, 2. 1914, 728, § 1. 238 Mass. 379.

SECTION 10. He shall take cognizance of all violations of law or of orders of courts, tribunals or commissions affecting the general welfare of the people, including combinations, agreements and unlawful practices in restraint of trade or for the suppression of competition, or for the undue enhancement of the price of articles or commodities in common use, and shall institute or cause to be instituted such criminal or civil proceedings before the appropriate state and federal courts, tribunals and commissions as he may deem to be for the public interest, and shall investigate all matters in which he has reason to believe that there have been such violations. To carry out this section, he may appoint necessary assistants, with such compensation as, with the approval of the governor and council, he may fix, and may expend such sums as may be approved by the governor and council. In criminal proceedings hereunder he may require district attorneys to assist him and under his direction to act for him in their respective districts.

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1 SECTION 11. He shall make an annual report showing the number
 2 of cases tried, argued or conducted by him during the preceding fiscal
 3 year, with suggestions and recommendations as to the amendment
 4 and the proper and economical administration of the laws. He shall
 5 include therein a statement of his acts under section nine, with sug-
 6 gestions and recommendations relative thereto. He may, with the
 7 approval of the governor and council, prepare and publish such reports
 8 of capital trials as he deems expedient for public use. One copy shall
 9 be sent to each public and law library in the commonwealth, and the
 10 balance may be sold, or otherwise disposed of, at the discretion of the
 11 state secretary.

Annual report
 and reports
 of capital
 trials.
 1832, 130, § 8.
 R. S. 13,
 §§ 31, 32.
 1839, 157, § 4.
 1849, 186, § 4.
 G. S. 14, § 23.
 P. S. 17, § 9.
 1900, 373, § 2.
 R. L. 7, § 8.
 1908, 586, § 1.
 1916, 248, § 1.

DISTRICT ATTORNEYS.

1 SECTION 12. There shall be a district attorney for each district set
 2 forth in the following section, who shall be a resident therein and a
 3 member of the bar of the commonwealth and shall be elected as pro-
 4 vided by section one hundred and fifty-four of chapter fifty-four. He
 5 shall serve for four years beginning with the first Wednesday of Jan-
 6 uary after his election and until his successor is qualified.

District
 attorneys.
 Const. amend.
 19
 (Const. Rev.
 art. 62.)
 1807, 18.
 1842, 130, § 9.
 R. S. 13,
 §§ 36, 37.

1848, 16, § 2.	1890, 423, § 189.	1913, 835, §§ 391.
1852, 196, § 3.	1893, 417, §§ 250, 258.	392, 503.
1855, 275, § 2.	1898, 548, §§ 314, 322, 323.	1917, 255, § 1.
1856, 173, §§ 1, 5.	R. L. 7, §§ 11; 11.	1918, 114, § 2.
G. S. 10, § 2; 14, § 28.	§§ 325, 326.	1919, 269, § 26.
P. S. 10, § 2; 17, § 12.	1907, 560, §§ 353, 354, 456.	1922, 459.

1 SECTION 13. For the administration of the criminal law, Suffolk
 2 county shall constitute the Suffolk district; Middlesex county, the
 3 northern district; Essex county, the eastern district; Norfolk and
 4 Plymouth counties, the southeastern district; Bristol, Barnstable,
 5 Nantucket and Dukes counties, the southern district; Worcester county,
 6 the middle district; Berkshire and Hampden counties, the western
 7 district; and Franklin and Hampshire counties, the northwestern
 8 district.

Districts for
 administration
 of criminal
 law.
 1832, 130, § 9.
 R. S. 13,
 §§ 34, 35.
 1848, 16, § 1.
 1852, 196,
 §§ 1, 2.
 1855, 275, § 1.
 G. S. 14, § 28.
 P. S. 17, § 12.
 R. L. 7, § 11.

255 Mass. 369.

1 SECTION 14. District attorneys of the following districts may appoint
 2 the following officers, as herein specified, and may at their pleasure
 3 remove them:

Assistant dis-
 trict attorneys,
 etc.
 1856, 67, § 1.
 G. S. 14, § 32.

1870, 361, § 2.	1906, 460, § 1.	1916, 287.	1923, 211, § 1.
1874, 164.	1909, 276.	1918, 281.	1924, 265, § 1.
P. S. 17, § 13.	1910, 439, §§ 2, 3.	1920, 451.	1925, 285, § 1.
R. L. 7, § 12.	1915, 602.	1922, 304, § 1.	1926, 384, § 1.

4 For the Suffolk district, ten assistant district attorneys. 1925, 285, § 1.
 1926, 384, § 1.

5 For the northern district, an assistant district attorney and three
 6 second assistant district attorneys.
 1910, 310, § 1. 1914, 573, § 1. 1919, 220, §§ 1, 4. 1920, 395.

1881, 157.
 P. S. 17, § 14.
 R. L. 7, § 12.

7 For the eastern district, an assistant district attorney, a second
 8 assistant district attorney and a third assistant district attorney.

1882, 157.
 R. L. 7, § 12.
 1917, 229.

9 For the middle district, an assistant district attorney, a second assist-
 10 ant district attorney and a third assistant district attorney.

1888, 157.
 R. L. 7, § 12.
 1920, 320.

11 For the southeastern district, an assistant district attorney and a
 12 second assistant district attorney, and, if in the opinion of the district
 13 attorney the interests of the commonwealth require, with the approval
 14 of the chief justice of the superior court, a deputy district attorney.

1891, 113.
 R. L. 7, § 12.
 1915, 88.
 1919, 313, § 1.

1897, 306. For the southern district, an assistant district attorney and a second 15
 R. L. 7, § 12. assistant district attorney. 16
 1917, 284. For the western district, an assistant district attorney and a second 17
 1919, 220, § 2. assistant district attorney, of whom one shall reside in Berkshire county 18
 and the other in Hampden county. 19

Salaries of SECTION 15. District attorneys shall receive from the common- 1
 district attorneys. wealth salaries as follows: 2

	1832, 130, § 10.	1867, 349, § 1.	P. S. 17, § 15.	1918, 272, §§ 1, 5.
	R. S. 13, § 43.	1868, 4.	R. L. 7, § 13.	1923, 308, § 1.
	1843, 9.	1872, 332.	1905, 157, §§ 1, 5.	225 Mass. 309.
	1859, 216.	1879, 238, § 1.	1911, 485, § 1.	
	G. S. 14, § 29.	1881, 286.		
1870, 361, § 1.	For the Suffolk district, nine thousand dollars. 3			
1887, 160.	1912, 576.	1918, 281.	1920, 451.	
1845, 36	For the northern district, seven thousand dollars. 4			
1857, 226.	1858, 118.	1903, 395.	1910, 369, § 1.	
1848, 16, § 3.	For the eastern district, six thousand dollars. 5			
1857, 226.	1858, 118.		1882, 156.	
1852, 196, § 4.	For the middle district, six thousand dollars. 6			
1856, 249.	1858, 111.	1885, 168.	1889, 250.	1917, 242.
1845, 14	For the southeastern district, six thousand dollars. 7			
1857, 226.	1858, 118.		1892, 319.	
1846, 264	For the southern district, five thousand dollars. 8			
1852, 196, § 4.	1856, 277.	1888, 267.	1899, 470.	1914, 326, § 1.
1846, 264.	For the western district, four thousand dollars. 9			
1849, 142.	1855, 275, § 3.		1887, 97.	
1855, 275, § 3.	For the northwestern district, three thousand dollars. 10			

Salaries of SECTION 16. Assistant, second assistant and third assistant district 1
 assistant dis- attorneys and deputy district attorneys shall receive from the common- 2
 trict attorneys, etc. wealth salaries as follows: 3

1868, 4.	P. S. 17, § 15.	1905, 157, § 2.	1923, 211, § 2; 398, § 2.	1926, 377, § 1.
	1895, 424.	1918, 272, §§ 2, 5.	1924, 265, § 2.	1928, 367, § 1.
	R. L. 7, § 13.	1922, 304, § 2.	1925, 337.	225 Mass. 309.
1856, 67, § 2.	For the Suffolk district, two assistants, sixty-five hundred dollars; 4			
C. S. 14, § 32.	four assistants, five thousand dollars; two assistants, four thousand 5			
1867, 349, § 1	dollars; and two assistants, three thousand dollars. 6			
1870, 361, § 2.	1874, 164.	1898, 235.	1910, 439, §§ 2, 3.	1920, 451.
1873, 89.	1879, 238, § 2.	1902, 471.	1913, 602.	1925, 385, § 2.
	1882, 245, § 2.	1905, 157, § 3.	1916, 287.	1926, 384, § 2.
	1887, 160.	1906, 460, § 2.	1918, 272, § 3; 281.	1927, 365, § 1.
	1892, 233.			
1881, 157.	For the northern district, assistant, five thousand dollars; second 7			
1903, 395.	assistants, four thousand dollars. 8			
1910, 310, § 2.	1917, 304.	1919, 220, §§ 1, 3.	1920, 395.	
1882, 157.	For the eastern district, assistant, thirty-six hundred dollars; second 9			
1888, 289.	assistant, three thousand dollars; third assistant, twenty-four hundred 10			
1902, 530.	dollars. 11			
1917, 229.	For the middle district, assistant, thirty-six hundred dollars; second 12			
1888, 157.	assistant, three thousand dollars; third assistant, twenty-four hundred 13			
1893, 138.	dollars. 14			
1917, 212.				
1920, 320.				

15 For the southeastern district, assistant, thirty-six hundred dollars; 1888, 267.
 16 second assistant, three thousand dollars; deputy district attorney, 1891, 113.
 17 such compensation as shall be fixed by the district attorney, with the 1894, 297
 18 approval of the chief justice of the superior court. 1901, 580
 1914, 226, § 2.
 1915, 88.

1917, 222. 1919, 313, § 1.

19 For the southern district, assistant, three thousand dollars; second 1893, 457.
 20 assistant, twenty-four hundred dollars. 1897, 306
 1917, 284.
 21 For the western district, assistant, twenty-four hundred dollars; 1919, 220,
 22 second assistant, two thousand dollars. §§ 2, 3.

1 SECTION 17. [REPEALED, 1923, 398, § 3.]

1 SECTION 18. If there is no assistant district attorney, the district Clerk or
 2 attorney may, with the approval of the superior court, employ a clerk temporary
 3 to aid him; and in the northern, eastern, middle, southeastern, western assistant in
 4 and northwestern districts, the court may appoint, for the sitting at certain cases.
 5 which the appointment is made, a competent person to act as an assist- 1873, 278.
 6 ant to the district attorney. The compensation of any person employed 1875, 12
 7 or appointed hereunder shall be paid from the county treasury, or, if P. S. 17, § 16
 8 two or more counties constitute the district, equally from the treasury 1888, 267, § 2.
 9 of each. R. L. 7, § 14.
 1922, 334.
 1924, 466.
 1930, 400,
 §§ 5, 7-9.
 1931, 301, § 1.
 255 Mass. 369.

1 SECTION 19. The district attorney for the Suffolk district may ap- Messenger,
 2 point a messenger and, with the approval of the chief justice of the stenographers,
 3 superior court, such stenographers, telephone operators and other office etc. in Suffolk.
 4 assistants as in his opinion the interests of the commonwealth require. 1869, 373.
 5 The compensation of any person appointed hereunder shall be paid 1879, 248, § 2.
 6 by Suffolk county, and any such person may be removed by said dis- P. S. 17,
 7 trict attorney at his pleasure. §§ 13, 15.
 1906, 460, §§ 1, 2, 4. 1887, 169.
 1910, 439, §§ 4-6. 1889, 238,
 1918, 281. R. L. 7, §§ 12, 13.
 1919, 245. 1921, 235, § 1.
 1924, 346, § 1. 1930, 400, §§ 5, 7-9.
 1931, 301, § 2.

1 SECTION 20. The district attorney for the Suffolk district may Additional
 2 employ additional legal assistants, with the approval of the chief justice legal assistants
 3 of the superior court. The length of time of such employment, which in Suffolk.
 4 shall in no instance exceed three months, and the amount of compen- 1906, 460, § 3.
 5 sation, which shall in no instance exceed two thousand dollars, shall be 1925, 71.
 6 determined by said district attorney, with the approval of said chief 253 Mass. 516.
 7 justice. Such compensation shall be paid by the treasurer of Suffolk
 8 county upon presentation of bills approved by said district attorney, by
 9 said chief justice and by the auditor of said county. In matters con-
 10 nected with the work for which he is so employed, an attorney shall
 11 have all the powers and authority of an assistant district attorney.

1 SECTION 20A. The district attorney for the Suffolk district may Special as-
 2 appoint an attorney-at-law as a special assistant district attorney, whose sistant district
 3 duties shall be the listing and assignment of cases, under the supervision attorney in
 4 of the district attorney, and may remove him at pleasure. Such special Suffolk
 5 assistant shall have all the powers of an assistant district attorney and 1927, 244, § 1.
 6 shall receive from the commonwealth such salary not exceeding four
 7 thousand dollars as the district attorney may determine.

1 SECTION 21. The superintendent of police of Boston shall, upon the Detail for
 2 written request of the district attorney for the Suffolk district, detail for police and
 detective

service in
Suffolk.
1906, 460, § 5.

police and detective service under his direction inspectors or police officers, not exceeding two in number. Such inspectors or officers shall receive no extra compensation for services thus rendered, and shall be subject to the rules and regulations of the police department, unless relieved therefrom temporarily by said superintendent or by the police commissioner of Boston.

Clerks and
stenographers
in northern
and south-
eastern
districts
1914, 373, § 2.
1919, 313, § 2.
1930, 300,
§§ 5, 7-9
1931, 301, § 3.

SECTION 22. The district attorney for the northern or southeastern district may employ such persons for clerical or stenographic work as may be approved by any justice of the superior court, and may remove them at his pleasure. Their compensation shall be paid, if they were employed by the district attorney for the northern district, by Middlesex county; or if employed by the district attorney for the southeastern district, by Norfolk and Plymouth counties, one half from each.

Traveling ex-
penses
1905, 157, § 4.
1930, 210, § 1.

SECTION 23. Except in the Suffolk district, and except as otherwise provided in section twenty-four of this chapter and in section fifteen of chapter two hundred and seventy-six, district attorneys and assistant district attorneys shall receive for traveling expenses necessarily incurred in the performance of their official duties such sums as shall be approved by a justice of the superior court, to be paid by the commonwealth.

Certain ex-
penses to be
paid by the
county.
1906, 494.
1907, 170.
1930, 210, § 2.
2 Op. A. G. 112.

SECTION 24. A district attorney, in the name of any county in his district, may contract such bills for stationery, experts, travel outside of the commonwealth by witnesses required by the commonwealth in the prosecution of cases, for necessary expenses incurred by himself or by officers and others under his direction in going outside of the commonwealth for the purpose of searching for or bringing back for trial persons under indictment in said county, and for such other expenses as may in his opinion be necessary for the proper conduct of his office in the investigation of or preparation and trial of criminal causes; and all such bills shall be paid by the county for the benefit of which they were contracted upon a certificate by the district attorney that they were necessarily incurred in the proper performance of his duty, and upon approval of the auditor of Suffolk county if the bills were incurred for said county, otherwise upon the approval of the county commissioners or of a justice of the superior court.

Counties may
advance cer-
tain expenses.
1910, 439, § 1.
1914, 542.

SECTION 25. Money to be used for the necessary expenses to be incurred by officers, under the direction of a district attorney, in going outside of the commonwealth for the purpose of searching for, or bringing back for trial, persons under indictment in any county in the district of said district attorney shall be advanced by the treasurer of that county, upon the presentation of a certificate signed by the district attorney and approved in the manner provided in the preceding section for approving bills incurred by district attorneys. After their return, such officers shall account for such money by filing with the county treasurer itemized vouchers duly sworn to, approved by the district attorney and also approved in the manner provided in the preceding section for approving bills incurred by district attorneys. Such vouchers shall show the necessary expenses so incurred, and any unexpended balance of such money shall be paid to the county treasurer.

1 SECTION 25A. Money to be used for necessary expenses to be incurred
 2 in the performance of the duties of a district attorney in relation to any
 3 investigation or proceeding in any county in his district, to an amount
 4 not exceeding two thousand dollars in any one month, shall be advanced
 5 to him by the treasurer of said county, or placed to his credit for ad-
 6 vance under his direction to persons designated by him, upon the pres-
 7 entation of a certificate signed by him certifying that such amount is
 8 necessary for use as aforesaid. Every sum so advanced shall be ac-
 9 counted for by the said district attorney within two months after such
 10 advance and said accounts shall be approved in the manner provided in
 11 section twenty-four for approving bills incurred by district attorneys;
 12 provided, that all sums so advanced by the treasurer of any county
 13 during any financial year shall be accounted for, and any unexpended
 14 balances thereof be repaid to said treasurer, prior to January tenth next
 15 following the close of said financial year.

County treasurers to advance money to district attorneys when necessary in performance of their duty. Accounting. 1929, 143.

1 SECTION 26. The supreme judicial or superior court may at any
 2 sitting, in the absence of the attorney general and district attorney,
 3 appoint some suitable person to perform their duties.

Court may appoint substitute. 1832, 130, § 9.

R. S. 13, § 49.
 G. S. 14, § 25.

P. S. 17, § 22.
 R. L. 7, § 15.

4 Gray, 146
 8 Gray, 501.

1 SECTION 27. District attorneys within their respective districts shall
 2 appear for the commonwealth in the superior court in all cases, criminal
 3 or civil, in which the commonwealth is a party or interested, and in the
 4 hearing, in the supreme judicial court, of all questions of law arising in
 5 the cases of which they respectively have charge, shall aid the attorney
 6 general in the duties required of him, and perform such of his duties as
 7 are not required of him personally; but the attorney general, when
 8 present, shall have the control of such cases. They may interchange
 9 official duties.

General duties of district attorneys. 1807, 18, § 1
 1832, 130, § 9.
 R. S. 13,
 § 38, 39.
 G. S. 14,
 §§ 31, 33.
 P. S. 17,
 §§ 19, 21.
 1893, 245.
 R. L. 7, § 17.
 3 Cush. 25
 8 Gray, 497.
 15 Gray, 447.

123 Mass. 223.
 238 Mass. 379.

1 Op. A. G. 73.
 2 Op. A. G. 112.

Op. A. G. (1917) 60.
 Op. A. G. (1918) 77.

1 SECTION 28. District attorneys shall commence suits upon recog-
 2 nitions in criminal cases within their respective districts within sixty
 3 days after default has been entered of record, or after they have satis-
 4 factory evidence of an act which would cause a forfeiture thereof, and
 5 shall prosecute them without delay. Such suits shall not be discon-
 6 tinued except with consent of the court or upon a certificate, signed by
 7 the sheriff or his deputy and filed in court, that the amount of the recog-
 8 nition and the costs of suit have been paid to him. They may, how-
 9 ever, be begun after the expiration of said sixty days.

Suits on recognizances, etc. 1874, 394, § 2.
 P. S. 17, § 20.
 R. L. 7, § 18.

1 SECTION 29. The attorney general and the district attorneys shall
 2 account to the state treasurer for all fees, bills of costs and money
 3 received by them by virtue of their offices.

Attorney general and district attorneys to account for fees.

1786, 84.
 1789, 25; 45.
 1813, 131, § 2.
 1832, 130, § 10.

R. S. 13, § 45.
 G. S. 14, § 27.
 P. S. 17, § 24.
 R. L. 7, § 20.

239 Mass. 458.
 253 Mass. 516.
 1 Op. A. G. 522.

1 SECTION 30. No prosecuting officer shall receive any fee or reward
 2 from or in behalf of a prosecutor for services in any prosecution or busi-
 3 ness to which it is his official duty to attend, nor shall he be concerned
 4 as counsel or attorney for either party in a civil action depending upon
 5 the same facts involved in such prosecution or business.

Prosecuting officers not to receive certain fees, etc. 1807, 18, § 2.
 1832, 130, § 10.
 R. S. 13, § 46.
 G. S. 14, § 26.

P. S. 17, § 25.

R. L. 7, § 21.

239 Mass. 458.

253 Mass. 516.

CHAPTER 13.

DEPARTMENT OF CIVIL SERVICE AND REGISTRATION.

SECT.

1. Organization of department.

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2. Commissioner and associate commissioners.
3. Employees.
4. Organization and meetings of the board. Deputy commissioner.
5. Certain powers of the associate commissioners.
6. Examiners.
7. Certain persons ineligible as representatives of the division.

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8. Director.
9. Certain boards serving in the division. Offices.

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10. Board of registration in medicine. Appointment, etc.
11. Meetings, organization, etc.
12. Examination of chiropodists. Expert assistance. Compensation, etc.

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13. Board of registration of nurses. Appointment, etc.
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15. Compensation and expenses.

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16. Board of registration in optometry. Appointment, etc.
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BOARD OF DENTAL EXAMINERS.

19. Board of dental examiners. Appointment, etc.
20. Meetings, organization.
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SECT.

BOARD OF REGISTRATION IN PHARMACY.

22. Board of registration in pharmacy. Appointment, etc.
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26. Board of registration in veterinary medicine. Appointment, etc.
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29. Board of registration in embalming. Appointment, etc.
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32. State examiners of electricians.

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33. Board of registration of certified public accountants. Appointment, qualifications.
34. Meetings. Chairman and secretary.
35. Salaries and expenses.

BOARD OF STATE EXAMINERS OF PLUMBERS.

36. State examiners of plumbers. Appointment, etc. Executive secretary.
37. Meetings.
38. Salaries and traveling expenses. Clerical assistance.

BOARD OF REGISTRATION OF BARBERS.

39. Board of registration of barbers. Appointment, etc.
40. Meetings, organization, bond of secretary, etc.
41. Compensation, etc.

Organization of department. 1884, 320, § 1. R. L. 19, § 1. 1906, 159. 1907, 344. 1910, 608. 1916, 297, § 1. 1919, 350. §§ 63, 64.

SECTION 1. There shall be a department of civil service and registration, which shall consist of a division of civil service and a division of registration. The commissioner of civil service and the director of registration shall act as a board in all matters affecting the department as a whole.

DIVISION OF CIVIL SERVICE.

1 SECTION 2. The division of civil service shall be under the super-
 2 vision and control of a commissioner of civil service, who shall be the
 3 executive and administrative head of the division, and two associate
 4 commissioners. Upon the expiration of the term of office of a com-
 5 missioner or an associate commissioner, his successor shall be appointed
 6 by the governor, with the advice and consent of the council, for three
 7 years. The commissioner shall receive such salary, not exceeding five
 8 thousand dollars, and the associate commissioners such salary, not
 9 exceeding two thousand dollars, as the governor and council may deter-
 10 mine. The associate commissioners shall not be of the same political
 11 party.

Commissioner
and associate
commissioners.
1884, 320, § 1
R. L. 19, § 1.
1906, 159
1907, 344.
1910, 608.
1916, 297, § 1.
1919, 350,
§§ 65, 66.

1 SECTION 3. The commissioner may appoint and remove such officers
 2 and employees as the work of the division of civil service may require.
 3 He may expend for such compensation, and for necessary traveling and
 4 other expenses for himself, the associate commissioners and employees
 5 of the division whose duties require them to travel, such amounts as are
 6 annually appropriated therefor.

Employees.
1884, 320,
§ 1.
1888, 41
1889, 177; 351.
1895, 376.
R. L. 19,
§ 1, 2.
1906, 159; 463.
1907, 344, 454.

1910, 181; 204; 608. 1919, 350, § 66. I Op. A. G. 382.
 1916, 297, §§ 1, 2. 1881, 301, § 60.

1 SECTION 4. The commissioner and associate commissioners shall
 2 constitute a board which may appoint and remove a deputy commis-
 3 sioner of the division, determine his powers and duties, and, subject to
 4 the approval of the governor and council, fix his compensation. The
 5 board may authorize the commissioner to organize the division into sub-
 6 divisions and to assign officers and employees of the division thereto.
 7 Meetings of the board shall be held at least once a month at such times
 8 as it may by rule determine, and when requested by any member thereof.

Organization
and meetings
of the board.
Deputy commis-
sioner
1919, 350, § 66

1 SECTION 5. The associate commissioners or either of them may
 2 require the commissioner or any official or employee of the division
 3 to give full information, and produce all papers and records, relating
 4 to any official act performed by him.

Certain
powers of the
associate
commissioners.
1919, 350, § 66

1 SECTION 6. The board may designate persons in the official service
 2 of the commonwealth or of any city, or of any town where chapter thirty-
 3 one is in force, who shall, with the consent of the head of the department
 4 or office in which any such person serves, act as examiners of applicants
 5 for any public employment, but no person shall serve as such examiner
 6 when any relative or connection by marriage, within the degree of first
 7 cousin, is an applicant.

Examiners.
1884, 320, § 20.
R. L. 19, § 4.
1919, 350,
§§ 64, 66.

1 SECTION 7. A person holding an office or position to which he has
 2 been elected by the people, or by the aldermen or city council of a city
 3 or the selectmen of a town, shall not be eligible for appointment to the
 4 office of representative of the division of civil service.

Certain
persons
ineligible as
representatives
of the division.
1916, 297, § 5.

DIVISION OF REGISTRATION.

1 SECTION 8. The division of registration shall be under the supervision
 2 of a director, to be known as the director of registration, at such salary,
 3 not exceeding two thousand dollars, as the governor and council may

Director.
1919, 350, § 67.
1926, 185.

determine. Upon the expiration of the term of office of a director, his successor shall be appointed by the governor, with the advice and consent of the council, for not exceeding two years.

Certain boards serving in the division. Offices 1919, 350, §§ 63, 64 1921, 426.

SECTION 9. The various boards of registration and examination hereafter mentioned in this chapter shall serve in the division of registration and shall establish their offices in the state house within the spaces already or hereafter assigned to the director of registration.

BOARD OF REGISTRATION IN MEDICINE.

Board of registration in medicine. Appointment, etc. 1894, 458, § 1. R. L. 76, § 1.

SECTION 10. There shall be a board of registration in medicine, in the two following sections called the board, consisting of seven persons, residents of the commonwealth, who shall be graduates of a legally chartered medical college or university having the power to confer degrees in medicine, and who shall have been for ten years actively engaged in the practice of their profession. No member of said board shall belong to the faculty of any medical college or university, and no more than three members thereof shall at one time be members of any one chartered state medical society. One member thereof shall annually in June be appointed by the governor, with the advice and consent of the council, for seven years from July first following.

Meetings, organization, etc. 1894, 458, §§ 2, 5 R. L. 76, §§ 2, 4 1902, 505, §§ 1, 4, 6.

SECTION 11. Said board shall hold regular meetings on the second Tuesdays of March, July and November in each year, and additional meetings at such times and places as it may determine. At the regular meeting in July, it shall organize by the choice of a chairman and secretary, who shall hold their offices for one year. The secretary shall give bond to the state treasurer in the sum of five thousand dollars, with sufficient sureties to be approved by the governor and council, for the faithful performance of his official duties. There shall be paid by the commonwealth to the secretary of the board a salary of twenty-five hundred dollars, to each of the other members thereof a salary of three hundred dollars, and to each member thereof his necessary traveling expenses actually incurred in attending the meetings of the board.

Examination of chiropodists. Expert assistance. Compensation, etc. 1917, 202, § 3.

SECTION 12. The board, in the examination of applicants for registration as chiropodists, shall have the assistance of two chiropodists, who shall each have practiced chiropody in the commonwealth for not less than five years. They shall be appointed, and may be removed, by the board, and shall act under its direction, and shall each receive in full compensation for his services one hundred and fifty dollars a year. The members of the board who shall be designated by the board to act in the examination of such applicants shall each receive for such services one hundred dollars a year; and such members and the two chiropodists assisting them shall be allowed for their traveling expenses necessarily incurred such sums as may be approved by the governor and council.

BOARD OF REGISTRATION OF NURSES.

Board of registration of nurses. Appointment, etc. 1910, 449, § 1.

SECTION 13. There shall be a board of registration of nurses, in the two following sections called the board, consisting of five members, one of whom shall be the secretary of the board of registration in medicine, ex officio. Three members shall be nurses holding diplomas, each from a different training school for nurses giving a course of two years at

6 least in the theory and practice of nursing in a hospital, and each of
7 them shall have had eight years' experience in nursing the sick. The
8 fifth member shall be a physician who is a superintendent of a hospital
9 having a training school for nurses. Of the four appointive members,
10 one qualified as aforesaid shall annually before October first be ap-
11 pointed by the governor, with the advice and consent of the council,
12 to hold office for four years from said October first.

1 SECTION 14. The board shall hold regular meetings on the second
2 Tuesdays of January, April and October in each year at the office of
3 the board of registration in medicine, and it may hold additional meet-
4 ings at such times and places as it may determine. At the regular
5 meeting in October, it shall organize by electing a chairman, who shall
6 hold office for one year. The secretary of the board of registration in
7 medicine shall be secretary of the board, and shall receive as compensa-
8 tion therefor such sums as may be fixed by the governor and council.

Meetings,
organization,
etc.
1910, 449, § 2.

1 SECTION 15. Each member of the board, except the secretary, shall
2 receive five dollars for every day actually spent in the performance of
3 his duties; provided, that the total sum paid to any member thereof
4 shall not in any one year exceed one hundred and fifty dollars, and the
5 necessary traveling expenses actually incurred in attending the meet-
6 ings of the board. Said compensation and traveling expenses, and any
7 incidental expenses necessarily incurred by the board or any member
8 thereof, shall be paid by the commonwealth; provided, that such com-
9 pensation and expenses shall not be in excess of the receipts for regis-
10 tration paid to the commonwealth by the board.

Compensation
and expenses.
1910, 449, § 7.
1916, 395, § 2.
1929, 174.

BOARD OF REGISTRATION IN OPTOMETRY.

1 SECTION 16. There shall be a board of registration in optometry, in
2 the two following sections called the board, consisting of five members,
3 citizens of the commonwealth, all of whom shall have been actually
4 engaged in the practice of optometry as defined in section sixty-six of
5 chapter one hundred and twelve for the five years next preceding their
6 appointment. One member shall annually, in September, be appointed
7 by the governor, with the advice and consent of the council, for five years.
8 No member thereof shall be a stockholder of any school of optometry,
9 a member of the faculty or on the board of trustees thereof, or financially
10 interested in a manufacturing or wholesale optical business.

Board of
registration in
optometry.
Appointment,
etc.
1912, 700, § 2.
1920, 512,
§§ 1, 8
1931, 426, § 51.

1 SECTION 17. The board shall meet on the second Tuesday of October
2 in each year, at such time and place as it shall determine, and shall
3 organize by electing a chairman and secretary, who shall be members of
4 the board, and who shall hold their respective offices for one year. The
5 secretary shall give to the state treasurer a bond, with sufficient sureties
6 to be approved by the governor and council, for the faithful perform-
7 ance of his duties. The board shall annually hold regular meetings on
8 the second Tuesdays of February, June and November, and additional
9 meetings at such times and places as it shall determine.

Meetings,
organization,
etc.
1912, 700, § 3.

1 SECTION 18. There shall be paid by the commonwealth to the secre-
2 tary of the board a salary of five hundred dollars, to each other member
3 thereof a salary of three hundred and fifty dollars and to each member

Compensation
and expenses.
1912, 700, § 7.
1916, 395, § 2.
1929, 163.

thereof his necessary traveling expenses actually incurred in attending the meetings of the board, not exceeding four cents a mile each way, and such other expenses of the board as are incurred under the two preceding sections or under sections sixty-six to seventy-three, inclusive, of chapter one hundred and twelve.

BOARD OF DENTAL EXAMINERS.

Board of dental examiners. Appointment, etc. 1887, 137, § 1. R. L. 76, § 24. 1915, 301, §§ 1, 14.

SECTION 19. There shall be a board of dental examiners, in the two following sections called the board, consisting of five persons, each of whom shall be a legal resident of the commonwealth, a graduate of a reputable dental college, and a reputable dentist with an actual practice in dentistry in the commonwealth for the ten years next preceding his appointment. No member shall be a member of the faculty or a trustee of any institution engaged in educating dentists or having power to confer degrees in dentistry. One member thereof shall annually in April be appointed by the governor, with the advice and consent of the council, for five years. No member shall serve more than two full terms.

Meetings, organization. 1887, 137, § 2. R. L. 76, § 25. 1915, 301, §§ 2, 14.

SECTION 20. The board shall hold at least two regular meetings in each year in Boston, and shall annually choose from its own number a chairman and a secretary.

Salaries and expenses. 1887, 137, § 7. R. L. 76, § 27. 1902, 505, §§ 3, 4, 6. 1903, 228, 1915, 301, §§ 3, 14. 1920, 424, § 1. 1924, 483, § 1.

SECTION 21. There shall be paid by the commonwealth to the chairman of the board a salary of eight hundred dollars, to the secretary thereof twelve hundred dollars and to the other members thereof six hundred dollars each, and to each member thereof his necessary traveling expenses actually incurred in attending meetings of the board. The board shall keep a record of all money received and expenses incurred by it, and a duplicate thereof shall be open to public inspection in the office of the comptroller.

BOARD OF REGISTRATION IN PHARMACY.

Board of registration in pharmacy. Appointment, etc. 1885, 313, § 1. 1896, 397, § 1. 1899, 422, § 1. R. L. 76, § 10. 1909, 261, § 3. 1927, 81.

SECTION 22. There shall be a board of registration in pharmacy, in the three following sections called the board, consisting of five persons, residents of the commonwealth, who shall be skilled pharmacists, and shall have had ten consecutive years of practical experience in the compounding and dispensing of physicians' prescriptions, and shall actually be engaged in the drug business. Not more than one member shall have any financial interest in the sale of drugs, medicines and chemicals and the compounding and dispensing of physicians' prescriptions in the same councillor district. One member shall annually in November be appointed by the governor, with the advice and consent of the council, for five years from December first following.

Meetings, organization. 1885, 313, § 2. 1896, 397, § 2. R. L. 76, § 11. 1909, 261, § 4.

SECTION 23. The board shall meet on the first Tuesday of December in each year at such time and place as it may determine, and shall organize by electing a president and secretary, who shall be members of the board, and shall hold their offices for one year. The secretary shall give to the state treasurer a bond, with sufficient sureties to be approved by the governor and council, for the faithful performance of his official

7 duties. The board shall annually hold regular meetings on the first
8 Tuesdays of January, May and October, and additional meetings at
9 such times and places as it shall determine.

1 SECTION 24. There shall be paid by the commonwealth to the sec- Salaries and
2 retary of the board a salary of fifteen hundred dollars, to each of the expenses
3 other members thereof a salary of seven hundred dollars, and to each 1885, 313, § 5.
4 member thereof his necessary traveling expenses actually incurred in 1896, 397, § 3.
5 attending the meetings of the board. R. L. 76, § 12.
1902, 505,
§§ 2, 4, 6,
1907, 389.
1914, 384. 1928, 296, § 1.

1 SECTION 25. The board shall appoint and fix the compensation, with Agent.
2 the approval of the governor and council, of an agent who shall be allowed 1914, 315.
3 his necessary traveling expenses. He shall inspect drug stores and make 1922, 441.
4 a daily report of his doings pertaining thereto, and report all violations
5 of the laws relating to pharmacy.

BOARD OF REGISTRATION IN VETERINARY MEDICINE.

1 SECTION 26. There shall be a board of registration in veterinary Board of
2 medicine, in the two following sections called the board, consisting registration in
3 of five veterinarians, residents of the commonwealth and graduates of veterinary
4 schools of veterinary medicine recognized by the American Veterinary medicine.
5 Medical Association. One member thereof shall annually before De- Appointment,
6 cember first be appointed by the governor, with the advice and consent 1903, 249, § 1.
7 of the council, for five years from January first following. 1906, 503, § 1.

1 SECTION 27. The members of the board shall meet on the second Organization,
2 Tuesday of January in each year, at such time and place as they shall 1903, 249, § 2.
3 determine, and shall immediately organize by electing a chairman and
4 a secretary, who shall hold their respective offices for one year. The
5 board shall hold regular meetings on the first Tuesdays of March, July
6 and November of each year, and such additional meetings at such times
7 and places as it may determine.

1 SECTION 28. There shall be paid by the commonwealth to the Salaries and
2 secretary a salary of four hundred dollars and his necessary traveling expenses
3 and contingent expenses, not exceeding three hundred dollars, actually 1903, 249, § 1.
4 incurred in attending to the necessary work of the board, and to each 1906, 503, § 1.
5 of the other members of the board a salary of fifty dollars and his neces-
6 sary traveling and contingent expenses actually incurred in attending
7 the meetings thereof.

BOARD OF REGISTRATION IN EMBALMING.

1 SECTION 29. There shall be a board of registration in embalming, Board of regis-
2 in the two following sections called the board, consisting of three men- tration in
3 bers, who shall be skilled embalmers, resident in the commonwealth, who embalming.
4 have had five years of practical experience in the embalming of human Appointment,
5 dead bodies. One member shall before October first in each year be 1905, 473, § 1.
6 appointed by the governor, with the advice and consent of the council, 1925, 348, § 1.
7 for three years from said October first next ensuing. Not more than one
8 member of the board shall be engaged in embalming in the same town.
9 No member shall serve more than two full terms.

Meetings,
organization,
bond of
secretary.
1905, 473, § 2.
1920, 546, § 4.

SECTION 30. The board shall hold regular meetings on the first Tuesdays of January, May and October in each year, and such additional meetings at such times and places as it may determine. At the regular meeting in October, it shall organize by the choice of a chairman and secretary, who shall be members thereof, and shall hold their offices for one year. The secretary shall give to the state treasurer a bond, with such sureties as shall be approved by the governor and council, for the faithful discharge of his duties.

Salaries and
expenses.
1905, 473, § 5.
1910, 290.
1916, 305, § 2.

SECTION 31. There shall be paid by the commonwealth to each member of the board a salary of one hundred dollars, and his necessary traveling expenses actually expended in attending meetings thereof, and the incidental expenses of the board, including any sum not exceeding five hundred dollars annually, expended for purposes of instruction, and for dissemination of new and useful knowledge among and for the benefit of licensed embalmers; provided that such salaries and expenses shall not be in excess of the receipts for registration received by the state treasurer from the board.

STATE EXAMINERS OF ELECTRICIANS.

State
examiners of
electricians.
1915, 296, § 2.
1919, 350,
§§ 57, 65, 101.
1931, 301, § 61.

SECTION 32. The commissioner of civil service, the state fire marshal and the commissioner of education shall constitute the state examiners of electricians. They shall appoint an executive secretary who is a wage earner, a citizen of the commonwealth and a practical electrician of at least ten years' experience in the installation of wires and appliances for carrying electricity for light, heat or power purposes. The three examiners shall receive no compensation for their services under chapter one hundred and forty-one. They may expend for the salary of the secretary, and for necessary traveling and other expenses for themselves and their employees such sums as are annually appropriated therefor.

BOARD OF REGISTRATION OF CERTIFIED PUBLIC ACCOUNTANTS.

Board of regis-
tration of cer-
tified public
accountants.
Appointment,
qualifications.
1923, 470, § 1.

SECTION 33. There shall be a board of registration of certified public accountants, in the two following sections called the board, consisting of five persons, residents of the commonwealth, four of whom shall be registered certified public accountants and shall have been for seven years actively engaged in the practice of public accountancy, and one an attorney at law who has been for seven years actively engaged in the practice of law.

No member of said board shall belong to the faculty of any school of accountancy or be financially interested in the management of any such school or similar institution. Upon the expiration of the term of a member thereof, his successor, qualified as aforesaid, shall be appointed by the governor, with the advice and consent of the council, for a term of five years.

Meetings.
Chairman and
secretary.
1923, 470, § 1.

SECTION 34. The members of the board shall hold meetings at such time as they shall determine and shall annually choose from their own number a chairman and a secretary.

Salaries and
expenses.
1923, 470, § 1.

SECTION 35. There shall be paid by the commonwealth to the chairman and secretary a salary of one hundred and fifty dollars each and

3 to each of the other members of the board a salary of one hundred and
4 twenty-five dollars. Said compensation and any other expenses neces-
5 sarily incurred by the board or any member thereof shall be paid by the
6 commonwealth; provided, that such compensation and expenses shall
7 not be in excess of the annual receipts for examination and registration
8 paid to the commonwealth by the board.

BOARD OF STATE EXAMINERS OF PLUMBERS.

1 SECTION 36. There shall be a board of state examiners of plumbers, State
2 in the two following sections called the examiners, consisting of three examiners of
3 members, citizens of the commonwealth, of whom one shall have had plumbers
4 at least ten years' continuous practical experience as a plumber, one Appointment,
5 shall be an engineer and one a builder. As the term of office of a mem- etc. Executive
6 ber expires, his successor shall be appointed by the governor, with the secretary.
7 advice and consent of the council, to serve for three years. The governor 1909, 536,
8 shall designate the chairman of the board and may at any time change §§ 1, 3.
9 such designation. 1910, 597, § 1.
10 Said board shall appoint an executive secretary who is a citizen of 1919, 350, § 96.
11 the commonwealth and has had at least ten years continuous practical G. L. (ed. of
12 experience as a plumber. He shall receive such salary as shall be deter- 1920) 17, § 10.
13 mined by said board, with the approval of the governor and council, 1922, 481.
14 and his necessary traveling expenses incurred in the performance of 1925, 348,
15 his duties. §§ 2, 5.
16 No member of said board shall be eligible for appointment as execu- 1926, 319.

1 SECTION 37. The examiners shall hold regular meetings at the state Meetings.
2 house on the Tuesday next following the first Monday of January, 1925, 348, § 2.
3 April and October in each year, and such additional meetings at such
4 times and places as they may determine.

1 SECTION 38. There shall be paid by the commonwealth to the chair- Salaries and
2 man of the examiners a salary of five hundred dollars and to each other traveling
3 member thereof a salary of three hundred dollars, and to each member expenses.
4 thereof his necessary traveling expenses actually incurred in attending Clerical
5 meetings of the examiners. The division of registration shall furnish assistance.
6 the examiners with such clerical assistance as may be necessary. 1925, 348, § 2.

BOARD OF REGISTRATION OF BARBERS.

1 SECTION 39. There shall be a board of registration of barbers, in Board of
2 this and the following two sections called the board, to be appointed by registration
3 the governor, with the advice and consent of the council, and to consist of barbers
4 of three members, citizens of the commonwealth, each of whom shall be Appointment,
5 a practical barber and shall have had five years of practical experience etc.
6 as a barber in this commonwealth prior to his appointment, and at least 1931, 418,
7 one of whom shall be a journeyman barber. No two members of the §§ 1, 7.
8 board shall, while in office, be engaged in practising the occupation of
9 barbering in the same town. As the term of office of a member expires,
10 his successor shall be appointed by the governor, with like advice and
11 consent, to serve for three years. The governor may also, with like
12 advice and consent, fill any vacancy in the board for the unexpired
13 portion of the term.

Meetings,
organization,
bond of
secretary, etc.
1931, 418,
§§ 1, 7.

SECTION 40. The board shall hold regular meetings at the state house on the first Tuesdays of January, May and October in each year, and such additional meetings at such times and places as it may determine. At the regular meeting in January it shall annually organize by the choice of a chairman and a secretary, who shall be members of the board. Before entering upon the discharge of the duties of his office, the secretary shall give to the state treasurer a bond, with such sureties as shall be approved by the governor and council, conditioned upon the faithful discharge of his duties, and the premium therefor shall be paid from the funds in the state treasury to the use of the board. Such bond, with the approval of the board and with the oath of office endorsed thereon, shall be filed in the office of the state secretary. The board shall have a common seal, and the members thereof may administer oaths.

Compensation,
etc.
1931, 418,
§§ 1, 7.

SECTION 41. The members of the board shall devote their full time to the duties of their offices and they shall receive from the commonwealth the following salaries:— the secretary, three thousand dollars and his necessary expenses incurred in the discharge of his official duties, and each of the other two members twenty-five hundred dollars and his necessary expenses so incurred; provided, that the salaries and expenses of the members of the board, and the expenses of the board, shall not be in excess of the receipts for registration and from other sources received by the state treasurer from the board.

CHAPTER 14.

DEPARTMENT OF CORPORATIONS AND TAXATION.

<p>SECT.</p> <p>1. Department of corporations and taxation.</p> <p>2. Commissioner. Appointment, term and salary. Bond.</p> <p>3. Powers and duties of commissioner.</p> <p>4. Deputy commissioners and other subordinates.</p> <p>5. Expenses.</p>	<p>SECT.</p> <p>6. Duties of deputy commissioners.</p> <p>7. Certain functions of directors of divisions.</p> <p>8. Duties and powers of income tax officers.</p> <p>9. Income tax districts, etc.</p> <p>10. Bonds of income tax assessors.</p>
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1 SECTION 1. There shall be a department of corporations and tax-
 2 tion, under the supervision and control of a commissioner of corporations
 3 and taxation, and consisting of an income tax division, a division of cor-
 4 porations, a division of inheritance taxes, a division of local taxation, a
 5 division of accounts and such other divisions as the commissioner deter-
 6 mines, each division to be in charge of a director.

1907, 564, § 1. 1909, 490, III, § 1. 1919, 350, §§ 52, 53.

Department
of corporations
and taxation
1865, 283, § 12
1870, 224, § 61
1876, 155
P. S. 13, § 1.
1890, 160, § 1.
R. L. 14, § 1.

1 SECTION 2. Upon the expiration of the term of office of a commis-
 2 sioner, his successor shall be appointed for three years by the governor,
 3 with the advice and consent of the council. The commissioner shall
 4 receive such salary, not exceeding seventy-five hundred dollars, as the
 5 governor and council determine and shall give to the state treasurer a
 6 bond for the faithful performance of his official duties in a penal sum and
 7 with sureties approved by the governor and council.

R. L. 14, § 1. 1909, 490, III, § 1 1922, 520, § 1.
 1907, 564, § 1. 1919, 350, §§ 52, 53.

Commissioner.
Appointment,
term and salary.
Bond.
1870, 224, § 61
1876, 155
1879, 288, § 1.
P. S. 13, § 1.
1887, 342, § 1.
1890, 160, § 1.

1 SECTION 3. The commissioner shall administer and enforce all laws
 2 which the department is required to administer and enforce, shall assign
 3 to all officials, agents, clerks and other employees of the department
 4 their respective duties, and may transfer them.

Powers and
duties of
commissioner.
1919, 350, § 55

1 SECTION 4. The commissioner may, with the advice and consent of
 2 the governor and council, appoint and remove the following officers and
 3 subordinates in his department:

4 A deputy commissioner and a second deputy, each at such salary as
 5 may be fixed by the commissioner, with the approval of the governor
 6 and council;

7 Directors of divisions, at such salary as may be fixed by the commis-
 8 sioner, with the approval of the governor and council;

9 Such supervisors of assessors, assistants and examiners as the com-
 10 missioner may deem necessary, subject to the approval of the governor
 11 and council, one income tax assessor for each district established by the
 12 commissioner for the assessment and collection of the income tax, and
 13 such deputy income tax assessors, who may be members of local boards
 14 of assessors as the governor and council may deem necessary;

Deputy commis-
sioners and
other subordi-
nates.
1870, 224, § 61.
1876, 155
1879, 288, § 2.
1881, 175
P. S. 11, § 97;
13, § 2.
1887, 342;
438, § 1, 2.
1890, 305.
1891, 342.
1895, 175.
1898, 477;
507, § 3
1900, 137.
1901, 449
R. L. 14, § 2;
21, §§ 45, 46.
1904, 99
1906, 296, § 3;
322
1907, 79;
564, § 2.

1908, 481;
550, § 1.
1909, 371, §§ 2,
10; 430; 490,
111, § 2
1910, 598, § 4;
607, § 2
1911, 478, § 1.
1912, 406, § 1;
504, § 1
1913, 706, § 3;
792, § 1
1914, 546, § 1;
648, § 1;
770, § 12
1915, 238, § 6.
1916, 269, § 17.
1917, 159, § 2.
1918, 46, 103.
1919, 350,
§§ 52, 53, 55.
1920, 245, § 5.
1921, 486, § 2.
1922, 330,
1927, 129,
1928, 302,
1931, 301, § 62.

A principal appraiser, at such salary as may be fixed by the commis- 15
sioner, with the approval of the governor and council; 16

Such assistants to the director of accounts as may from time to time 17
be necessary to carry out sections forty-four to forty-seven, inclusive, 18
of chapter thirty-five and sections thirty-five to forty-three, inclusive, 19
of chapter forty-four. 20

He may appoint two permanent clerks, and may appoint such assist- 21
ants to the director of the income tax division, and such assistants and 22
clerks to the income tax assessors, as the governor and council may deem 23
necessary. 24

He may appoint from time to time such appraisers as may be neces- 25
sary to appraise property subject to the inheritance tax or to assist 26
him in determining land values under section thirteen of chapter fifty- 27
eight. 28

He may appoint such additional officials, agents, clerks and other 29
employees as the work of the department requires and may remove 30
them. 31

Expenses.
1887, 438, § 2.
1890, 306,
1898, 477;
507, § 3.
R. L. 14, § 5;
21, § 46.
1908, 433, § 1;
550, § 1.
1909, 490, III,
§§ 2, 5.
1910, 607, § 2.

SECTION 5. The commissioner, his deputies, directors of divisions, 1
assistants, appraisers, examiners and clerks, the supervisors of assessors, 2
the assistants to the director of the income tax division, and the income 3
tax assessors and their deputies, assistants and clerks shall be allowed 4
such reasonable and necessary traveling and other expenses, subject to 5
section twenty-five of chapter thirty, as are approved by the commis- 6
sioner. 7

1911, 478, § 1.	1915, 238, § 6.	1919, 5; 349, § 1;
1912, 406, § 1.	1916, 173; 269, § 17.	350, § 53.
1914, 546, § 1; 648, § 1;	1918, 46, § 1; 103, § 1;	1920, 2.
770, § 12.	257, § 32.	1922, 21.

Duties of
deputy
commissioners.
1900, 261.
R. L. 110, § 1.
1903, 437, § 3.
1907, 564, § 2.
1909, 490,
111, § 2.
1913, 792, § 1.

SECTION 6. The deputy commissioner and the second deputy com- 1
missioner shall perform such duties as may be assigned to them by the 2
commissioner. The deputy commissioner, or in case of a vacancy in 3
his office or in his absence or disability the second deputy commissioner, 4
shall, in case of a vacancy or in the absence or disability of the commis- 5
sioner, perform the duties of the commissioner. 6

1918, 103; 257, § 345.	1919, 5; 350, § 53.	1920, 2.
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Certain
functions of
directors of
divisions.
1887, 438, § 1.
R. L. 21, § 45.
1909, 371, § 2.
1911, 59
1912, 560,
1919, 350,
§§ 52-54.

SECTION 7. The commissioner shall assign to the several divisions in 1
the department their appropriate functions. The directors of divisions 2
shall, under the supervision and control of the commissioner, exercise 3
the functions assigned to them, and shall also perform such other inci- 4
dental duties as the commissioner may prescribe. The director of the 5
division of accounts, who shall be known as the director of accounts, 6
shall perform the duties required of the department by law in relation to 7
the compilation of municipal statistics, the auditing of municipal accounts 8
and the certification of notes of towns and districts. The commissioner 9
may designate a competent employee in the division of accounts to 10
perform the duties of the director of accounts in case of his absence, 11
death or disability; and notes of towns and districts, when certified by 12
such employee, shall have the same validity as if certified by the 13
director. 14

1 SECTION 8. The director of the income tax division, income tax
2 assessors, and deputy income tax assessors shall have such duties and
3 powers consistent with chapter sixty-two as the commissioner shall
4 prescribe.

1919, 350, § 54

1 SECTION 9. For the purposes of chapter sixty-two, the commissioner
2 shall divide the commonwealth into income tax districts, the limits of
3 which he may change. An income tax assessor need not be a resident
4 of his district, but in making appointments preference shall be given to
5 residents of the district, so far as may be practicable. The commissioner
6 may transfer any income tax assessor from one district to another, and
7 may assign any such assessor to temporary or extraordinary service in
8 any district.

Income tax
districts, etc.
1916, 269, § 17.

1 SECTION 10. The commissioner shall require the income tax assessors
2 to give bond with such sureties as may be approved by the governor and
3 council.

1916, 269, § 17.

1920, 546, § 4.

Bonds of
income tax
assessors.

CHAPTER 15.

DEPARTMENT OF EDUCATION.

<p>SECT.</p> <ol style="list-style-type: none"> 1. Department of education. 2. Commissioner of education. 3. Advisory board. 4. Certain duties of commissioner. Divisions in the department. Ex-ception. 5. Directors and clerical assistants. 6. Advisory council, etc., for university extension and correspondence courses. 6A. State board for vocational education. <p>DIVISION FOR THE TRAINING OF DISABLED SOLDIERS AND SAILORS.</p> <ol style="list-style-type: none"> 7. [Repealed.] <p>DIVISION OF PUBLIC LIBRARIES.</p> <ol style="list-style-type: none"> 8. Division of public libraries. 9. Board of free public library commis-sioners. 10. Commissioners to serve without com-pensation. Expenses. 11. Agents of the board. <p>DIVISION OF IMMIGRATION AND AMERICAN-IZATION.</p> <ol style="list-style-type: none"> 12. Division of immigration and Ameri-canization. 	<p>SECT.</p> <p>DIVISION OF THE BLIND.</p> <ol style="list-style-type: none"> 13. Division of the blind. 14. [Repealed.] 15. Agents, teachers, etc. <p>TEACHERS' RETIREMENT BOARD.</p> <ol style="list-style-type: none"> 16. Teachers' retirement board. 17. Members to serve without com-pensation. Expenses. 18. Clerical assistance. <p>CERTAIN TRUSTEES AND COMMISSIONERS SERVING IN THE DEPARTMENT.</p> <ol style="list-style-type: none"> 19. Certain trustees, etc., serving in the department. <p>MASSACHUSETTS STATE COLLEGE.</p> <ol style="list-style-type: none"> 20. Board of trustees. <p>TENTILE SCHOOLS.</p> <ol style="list-style-type: none"> 21. Boards of trustees. <p>MASSACHUSETTS NAUTICAL SCHOOL.</p> <ol style="list-style-type: none"> 22. Commissioners of Massachusetts nau-tical school. 23. Commissioners to serve without com-pensation. Expenses. <p>LOWELL TENTILE INSTITUTE.</p> <ol style="list-style-type: none"> 24. Board of trustees.
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Department of
education.
1837, 241, § 1.
G. S. 34, § 1.
P. S. 41, § 1.
R. L. 39, § 1.
1909, 457,
§§ 1, 6.
1919, 350,
§§ 56, 57.

SECTION 1. There shall be a department of education, in this chapter 1
called the department, which shall be under the supervision and control 2
of a commissioner of education, in this chapter called the commissioner, 3
and an advisory board of education of six members, in sections one to 4
six, inclusive, called the board, of whom at least two shall be women and 5
one shall be a school teacher of the commonwealth. 6

1 Op. A. G. 233, 587.

Commissioner
of education.
1837, 241,
§§ 1, 2.
1838, 159, § 2.
1849, 215, § 2.
1853, 49,
G. S. 34,
§§ 1, 4, 8.

SECTION 2. Upon the expiration of the term of office of a commis- 1
sioner, his successor shall be appointed by the governor, with the advice 2
and consent of the council, for five years. The commissioner shall receive 3
such salary, not exceeding nine thousand dollars, as the governor and 4
council may determine. 5

1862, 212.
1864, 99.
1865, 246.
1867, 276.
1876, 110.
P. S. 41, §§ 1, 4, 8.
1885, 227.

1894, 176.
R. L. 39, §§ 1-3.
1904, 234, §§ 1, 3.
1906, 505, § 1.
1909, 457, §§ 1, 3, 6.
1910, 282, § 1.
1911, 466, § 1.

1912, 80, § 1
1913, 421, § 1
1918, 257, § 168
1919, 5; 350, §§ 57, 58.
1920, 2
1921, 442.

1 SECTION 3. The governor, with the advice and consent of the coun-
 2 cil, shall annually appoint two members of the board for three years
 3 each. The board shall meet at least once a month, and at such other
 4 times as it may determine by rule and when requested by the commis-
 5 sioner or by any three members. The members of the board shall serve
 6 without compensation, but shall be reimbursed for their actual neces-
 7 sary expenses incurred in the performance of their duties.

Advisory
 board.
 1857, 241, § 1.
 1858, 55.
 G. S. 34,
 §§ 1, 10.
 P. S. 41,
 §§ 1, 10.
 R. L. 39,
 §§ 1, 4.
 1904, 234, § 2.

1906, 505, § 1. 1911, 406, § 1. 1918, 257, § 168.
 1909, 457, §§ 1, 6. 1912, 80, § 1. 1919, 5, 350, §§ 57, 58.
 1910, 282, § 1, 491. 1913, 421, § 1. 1920, 2.

1 SECTION 4. The commissioner shall be the executive and adminis-
 2 trative head of the department. He shall have charge of the adminis-
 3 tration and enforcement of all laws, rules and regulations which it is
 4 the duty of the department to administer and enforce, and shall be chair-
 5 man of the board. He shall organize in the department a division of
 6 public libraries, a division of immigration and Americanization, a divi-
 7 sion of the blind and such other divisions as he may determine. Each
 8 division shall be in charge of a director and shall be under the general
 9 supervision of the commissioner. Nothing in this chapter shall be con-
 10 strued as affecting the powers and duties of the trustees of the Massa-
 11 chusetts state college as set forth in chapter seventy-five.

Certain
 duties of
 commissioner.
 Divisions in
 the depart-
 ment.
 Exception.
 1909, 457, § 3.
 1910, 282, § 1.
 1911, 406, § 1.
 1912, 80, § 1.
 1913, 421, § 1.
 1918, 257,
 § 168.
 1919, 5, 350,
 §§ 58, 59.
 1920, 2, 72.
 1926, 322.
 1931, 144, § 3.

1 SECTION 5. Except as otherwise provided in this chapter, directors
 2 of divisions of the department shall be appointed and may be removed
 3 by the commissioner, with the approval of the board. The commissioner
 4 shall fix the compensation of such directors, subject to the approval of
 5 the governor and council. Except in the case of the teachers' retirement
 6 board, the division of public libraries, the division of the blind and in-
 7 stitutions under the department, the commissioner may appoint such
 8 agents, clerks and other assistants as the work of the department may
 9 require, may assign them to divisions, transfer and remove them, but
 10 none of such employees shall have any direct or indirect pecuniary
 11 interest in the publication or sale of any text or school book, or article
 12 of school supply used in the public schools of the commonwealth. For
 13 the compensation of such agents, clerks and other assistants as it may
 14 employ, for conferences and conventions of teachers held under the
 15 direction of the department, and for traveling and other necessary
 16 expenses incurred by the members and subordinates, the department
 17 may be allowed such sums as may annually be appropriated.

Directors and
 clerical
 assistants.
 1857, 241,
 1858, 55, § 2.
 1849, 215, § 3.
 1857, Res. 22.
 G. S. 34,
 §§ 8-10.
 1855, 227.
 1894, 176.
 1895, 132.
 1896, 429.
 1901, 262.
 R. L. 39,
 §§ 3, 4, 9.
 1904, 234.
 1906, 505, § 1.
 1909, 457, § 3.
 1910, 282, § 1.
 1911, 406, § 1.
 1912, 80, § 1.
 1913, 421, § 1.

1915, 294, §§ 1, 2, 7. 1918, 257, § 168. 1920, 2.
 1917, 321, § 1. 1919, 5, 350, § 60. 1931, 301, § 63.

1 SECTION 6. The commissioner, with the approval of the board, may
 2 appoint and define the functions of a state advisory council and local
 3 advisory councils in connection with university extension and corre-
 4 spondence courses, and, subject to section ten A of chapter eight, may
 5 rent suitable offices.

1919, 350, §§ 56, 58. 1931, 426, § 134.

1 SECTION 6A. The commissioner and the advisory board of education
 2 are hereby constituted and designated as the state board for vocational
 3 education to co-operate with the federal board for vocational education
 4 in the administration of the act of congress approved June second, nine-

Advisory
 council, etc.,
 for university
 extension and
 correspondence
 courses.
 1915, 294,
 §§ 2, 4.

State board for
 vocational
 education.
 1921, 462, § 2.

teen hundred and twenty, entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry and otherwise and their return to civil employment" and to secure for the commonwealth the benefits thereof. For the purpose of carrying out the provisions of section twenty-two A of chapter seventy-four the said state board for vocational education shall be furnished with suitable quarters in the state house and may expend for salaries and other necessary expenses such amount as shall annually be appropriated therefor by the general court, together with any funds received by the state treasurer from the federal government under the provisions of said act.

DIVISION FOR THE TRAINING OF DISABLED SOLDIERS AND SAILORS.

SECTION 7. [REPEALED, 1931, 426, § 1.] 1

DIVISION OF PUBLIC LIBRARIES.

Division of public libraries. 1919, 350, § 59. SECTION 8. The division of public libraries shall consist of the board of free public library commissioners, the chairman of which shall be the director of said division. 1 2 3

Board of free public library commissioners. 1890, 347, § 1. 1897, 134. R. L. 38, § 11. SECTION 9. The board of free public library commissioners, in sections nine to eleven, inclusive, called the library board, shall consist of five persons, residents of the commonwealth, one of whom shall annually be appointed by the governor, with the advice and consent of the council, for five years. The governor shall designate the chairman of the library board. 1 2 3 4 5 6

Commissioners to serve without compensation. Expenses. SECTION 10. No member of the library board shall receive any compensation, but it may annually expend not more than the amount appropriated for clerical assistance and for other necessary expenses. 1 2 3
1890, 347, § 6. 1910, 396, § 2. 1918, 127.
R. L. 38, § 12. 1914, 373, § 2.

Agents of the board. 1910, 396, § 1. 1915, 468, § 1. 1914, 522. 1922, 121. 1931, 301, § 64. SECTION 11. The library board, with the consent of the governor and council, may appoint a general secretary and adviser for not exceeding three years, whose salary shall be paid from the appropriation authorized by the preceding section. The library board, with the consent of the governor and council, may also appoint an agent for a term not exceeding five years and an agent or secretary who shall also direct work in libraries for the benefit of the alien population of the commonwealth. The library board, by a majority vote of its members, may remove from office any person appointed under this section. 1 2 3 4 5 6 7 8 9

DIVISION OF IMMIGRATION AND AMERICANIZATION.

Division of immigration and Americanization. 1917, 321, § 1. 1919, 350, § 59. 1920, 72. 1921, 449, § 1. 1927, 7. SECTION 12. The division of immigration and Americanization shall consist of a director and an advisory board of six persons. Upon the expiration of the term of office of a director of the division, his successor shall be appointed for five years by the governor, with the advice and consent of the council. Two members of the advisory board shall be appointed annually for three years each, by the governor, with like advice and consent. Said board shall meet quarterly and at such times as may be determined by the director; provided, that a special meeting 1 2 3 4 5 6 7 8

9 shall be called by the director on the written request of any three mem-
 10 bers. The director and members of said board shall receive no com-
 11 pensation for their services, but shall be reimbursed for their actual
 12 necessary expenses incurred in the performance of their duties.

DIVISION OF THE BLIND.

1 SECTION 13. The division of the blind shall consist of a director, at
 2 such salary as the governor and council may determine, and an advisory
 3 board of five members who shall serve without compensation. Upon
 4 the expiration of the term of office of a director, or of a member of the
 5 advisory board, his successor shall be appointed for five years by the
 6 governor, with the advice and consent of the council. Said director
 7 and members of the advisory board shall be reimbursed for expenses
 8 necessarily incurred in the performance of their duties.

Division of the
 blind
 1906, 385,
 § 1, 7.
 1918, 266,
 § 1, 2.
 1919, 350, § 59.
 1925, 286, § 1.

1 SECTION 14. [REPEALED, 1925, 286, § 1.]

1 SECTION 15. The director, with the advice of the advisory board,
 2 shall appoint or employ such subordinate officers, agents, teachers and
 3 clerks as may be necessary, and may remove them; but no person
 4 appointed or employed by him shall be a member of the advisory board.

Agents,
 teachers, etc.
 1906, 385, § 7.
 1918, 266, § 3.
 1925, 286, § 2.
 1931, 301, § 65.

TEACHERS' RETIREMENT BOARD.

1 SECTION 16. The teachers' retirement board shall consist of the com-
 2 missioner of education, ex officio, a second member elected by the
 3 teachers' retirement association established under section seven of
 4 chapter thirty-two from among their number, in a manner approved by
 5 said board, and a third chosen by the other two. Upon the expiration
 6 of the term of office of an elected member or in case of a vacancy in said
 7 office, his successor shall be elected for three years as aforesaid. Upon the
 8 expiration of the term of office of a third member or in case of a vacancy
 9 in said office, his successor shall be chosen by the other two and shall
 10 serve for one year.

Teachers'
 retirement
 board.
 1913, 832, § 4.
 1919, 350, § 61.

1 SECTION 17. The members of the retirement board shall serve with-
 2 out compensation, but they shall be reimbursed from the expense fund
 3 of the retirement association for any expenditures or loss of salary or
 4 wages which they may incur through serving on said board. All claims
 5 for reimbursement on this account shall be subject to the approval of
 6 the governor and council.

Members to
 serve without
 compensation.
 Expenses.
 1913, 832, § 4.
 1919, 350, § 61.

1 SECTION 18. The retirement board may employ a secretary, who
 2 shall give bond, and also necessary clerical and other assistance.

Clerical
 assistance.

1913, 832, § 4.

1919, 350, § 61.

1920, 546, § 4.

1931, 301, § 66.

CERTAIN TRUSTEES AND COMMISSIONERS SERVING IN THE DEPARTMENT.

1 SECTION 19. The trustees of the Massachusetts state college, the
 2 board of commissioners of the Massachusetts nautical school, the trust-
 3 tees of the Bradford Durfee textile school of Fall River, the trustees of
 4 the Lowell textile institute and the trustees of the New Bedford textile
 5 school shall serve in the department.

Certain trust-
 tees, etc.,
 serving in the
 department.
 1919, 350, § 56.
 1928, 135, § 1.
 1931, 144, § 4.

MASSACHUSETTS STATE COLLEGE.

Board of

trustees
 1865, 220, § 1.
 1864, 223, § 1.
 1871, 378, § 1.
 1884, Res. 50.
 1889, 45, § 1.
 1918, 292, § 2.
 1919, 350, § 62.
 1931, 144, § 5.

SECTION 20. There shall be a board of trustees of the Massachusetts state college, consisting of the governor, the commissioner of education, the commissioner of agriculture and the president of the college, ex officio, and not more than fourteen appointive members. Upon the expiration of the term of office of any appointive member, his successor shall be appointed for seven years by the governor, with the advice and consent of the council. The appointive members shall serve without compensation, but their personal and incidental expenses shall be paid as are those of trustees of other public institutions.

TEXTILE SCHOOLS.

Boards of

trustees
 1895, 475,
 §§ 1-3.
 1899, 299,
 §§ 1-3.
 1901, 175, § 1.
 R. L. 125,
 §§ 20-22.
 1918, 246, § 2;
 248, § 2.
 1919, 350,
 §§ 56, 62.
 1928, 135, § 2.
 165 Mass. 419.

SECTION 21. There shall be boards of trustees for the Bradford Durfee textile school of Fall River and for the New Bedford textile school, each consisting of fifteen appointive members and the commissioner of education or a member of the advisory board of education designated by him, as an ex officio member, and the mayor and superintendent of schools of Fall River and of New Bedford shall be additional members ex officio of said boards, respectively. Upon the expiration of the term of office of an appointive member, his successor shall be appointed for three years by the governor, with the advice and consent of the council.

MASSACHUSETTS NAUTICAL SCHOOL.

Commissioners of Massachusetts nautical school.

1891, 402, § 1.
 R. L. 45, § 1.
 1913, 224, § 1.
 1919, 350, § 56.

SECTION 22. There shall be a board of commissioners of the Massachusetts nautical school serving in the department and consisting of three citizens of the commonwealth, one of whom shall annually before July first be appointed by the governor, with the advice and consent of the council, for three years from said day.

Commissioners to serve without compensation. Expenses.

SECTION 23. The commissioners shall serve without compensation, but shall be reimbursed for expenses actually incurred in the performance of their official duties.

1891, 402, § 2.

R. L. 45, § 2.

LOWELL TEXTILE INSTITUTE.

Board of

trustees
 1895, 475,
 §§ 1-3.
 1899, 299,
 §§ 1-3.
 R. L. 125,
 §§ 20-22.
 1905, 219.
 1906, 275.
 1918, 274, § 2.
 1919, 350,
 §§ 56, 62.

SECTION 24. There shall be a board of trustees for the Lowell textile institute consisting of fifteen appointive members and the commissioner of education or a member of the advisory board of education designated by him and the mayor of Lowell, as ex officio members. Upon the expiration of the term of office of an appointive member, his successor shall be appointed for three years by the governor, with the advice and consent of the council.

G. L. (ed. of 1929) 15, § 21.

1928, 135, § 3.

Rules and regulations
 1876, 122, § 1.
 P. S. 55, § 28.
 R. L. 52, § 26.
 1906, 355,
 §§ 1, 2.
 1909, 534,
 §§ 27, 31.
 1917, 344, V.
 § 33, VIII, § 1.
 1919, 350,
 § 116.
 1922, 534, § 2.
 1927, 297, § 4.

SECTION 6. Except as otherwise provided by sections thirty-one and fifty-eight of chapter ninety and section sixty of chapter one hundred and forty, all rules and regulations within the jurisdiction of the department shall be drafted by the commissioner and associate commissioners and shall take effect when approved by them, and at such time as they shall designate. Said commissioner and associate commissioners shall also have power to make all needful rules and regulations for carrying out the provisions of law relating to the department.

4 Op. A. G. 592.

Annual report.
 1866, 149, § 8.
 1879, 263, § 3.
 1893, 476,
 §§ 3, 5.
 P. S. 19, § 2.
 R. L. 47, § 3;
 96, § 2.
 1911, 748, § 13.
 1916, 288, § 4.
 1917, 344, I.
 § 3, VIII, § 1.
 1919, 350,
 §§ 8, 111, 113.
 1931, 394, § 5.

SECTION 7. The commissioner shall make an annual report containing, in addition to other matters required by law the following:

A list of the expenditures in relation to highways, with such statements relative to the construction and maintenance of public ways and such recommendations as to the general policy of the commonwealth relative thereto as the department considers appropriate.

He shall also make an annual report containing, in addition to other matters required by law, a statement of the acts of the department in relation to waterways and public lands.

CHAPTER 17.

DEPARTMENT OF PUBLIC HEALTH.

Sect.

1. Department of public health.
2. Commissioner.
3. Public health council.
4. Directors of divisions.
5. Deputy commissioner.

Sect.

6. Assistant directors and other employees.
7. District health officers.
8. Institutions under division of sanatoria.
9. Employees of the division of sanatoria.
10. [Repealed.]

1 SECTION 1. There shall be a department of public health, consist- Department of
2 ing of a commissioner of public health and a public health council. public health.

1879, 291, § 2. R L 75, § 1. 1919, 350, §§ 96, 97.
P. S. 79, § 1. 1907, 474, §§ 1, 15. 136 Mass. 578.
1886, 101, § 1. 1914, 792, §§ 1, 8. 4 Op. A. G. 298, 403.

1 SECTION 2. The commissioner shall be a physician skilled in sani- Commissioner.
2 tary science and experienced in public health administration. Upon 1869, 420, § 5
3 the expiration of the term of office of a commissioner, his successor 2886, 101, § 3;
4 shall be appointed by the governor, with the advice and consent of 274, §§ 1, 2.
5 the council, for five years. The commissioner shall receive a salary of 1888, 375,
6 seventy-five hundred dollars. He shall be the executive and adminis- §§ 1, 2,
7 trative head of the department. 1897, 510, § 2.
R. L. 75, § 3.
1906, 425
1907, 394; 474.
§§ 1, 2.
1914, 792,
§§ 2, 8.

1919, 350, § 96.

4 Op. A. G. 298, 403.

1 SECTION 3. The public health council shall consist of the commis- Public health
2 sioner, ex officio, and six appointive members, at least three of whom council
3 shall be physicians. Upon the expiration of the term of office of an 1869, 420,
4 appointive member, his successor shall be appointed by the governor, §§ 1, 3,
5 with the advice and consent of the council, for three years. The council 1879, 291,
6 shall meet at least once a month, and at such other times as it shall §§ 2, 7,
7 determine by its rules, or when requested by the commissioner or any P. S. 79,
8 four members. The appointive members shall receive ten dollars a §§ 1, 3,
9 day while in conference, and their necessary traveling expenses while in 1886, 101,
10 the performance of their official duties. §§ 1, 2,
R. L. 75,
§§ 1-3
1914, 792,
§§ 3, 8
1919, 350, § 96.
4 Op. A. G. 403.

1 SECTION 4. There shall be in the department a division of sanatoria Directors
2 and such other divisions as the commissioner may, with the approval of divisions.
3 of the public health council, from time to time determine. The com- 1907, 474,
4 missioner may, subject to the approval of the governor and council, §§ 1, 15,
5 appoint and remove a director of the division of sanatoria, and, subject 1914, 792,
6 to the approval of the public health council, shall appoint and may §§ 2, 4,
7 remove a director to take charge of every other division, and shall 1919, 350, § 98
8 prescribe the duties of such other divisions. The compensation of directors
9 of all divisions shall be fixed by the commissioner, subject to the ap-
10 proval of the governor and council.

1 SECTION 5. The commissioner may, with the approval of the public Deputy
2 health council, designate a director of a division as a deputy commis- commissioner
3 sioner, who shall perform the duties of the commissioner during his 1919, 350, § 97.
4 absence or disability and such other duties as may be prescribed by the
5 commissioner.

Assistant directors and other employees. 1886, 274, §§ 1, 2. 1888, 375, §§ 1, 2.

SECTION 6. The commissioner may, with the approval of the public health council, appoint and remove assistant directors of divisions and epidemiologists, who shall be exempt from chapter thirty-one, inspectors and other necessary employees.

1897, 510, § 2. 1912, 652, § 3. 1919, 28; 350, § 97.
R. L. 75, § 116. 1914, 792, § 2. 1931, 301, § 68.
1907, 537, § 8.

District health officers. 1907, 537, §§ 2, 4, 6. 1910, 523, §§ 2, 3. 1914, 792, §§ 2, 5. 1920, 435. 1931, 301, § 69.

SECTION 7. The commissioner, with the approval of the public health council, shall appoint and may remove a district health officer, who shall be exempt from chapter thirty-one, for each health district provided in section four of chapter one hundred and eleven. Such officers shall be graduates of incorporated medical schools, admitted to practice in the commonwealth, or shall have had at least five years' experience in public health duties and sanitary science, and shall give their entire time to the performance of their duties.

Institutions under division of sanatoria.

SECTION 8. The division of sanatoria shall include the state sanatoria at Rutland, North Reading, Lakeville and Westfield.

1907, 474, §§ 1, 15. 1910, 198, § 1; 491. 1919, 350, §§ 96, 98. 1924, 477, § 2.

Employees of the division of sanatoria. 1832, 163, § 1. 1834, 150, § 1. R. S. 48, § 3. G. S. 73, § 4. F. S. 87, § 7. 1895, 503, §§ 5, 8. R. L. 87, § 27; 88, §§ 4, 6.

SECTION 9. In addition to the persons employed under section six, the commissioner, with the approval of the public health council, may appoint a treasurer for each sanatorium, who shall give bond for the faithful performance of his duties, and physicians, assistants and employees necessary for the proper administration of the affairs of the institutions under the charge of the division and may incur all expenses necessary for the maintenance of the institutions.

1907, 474, §§ 6, 9, 15. 1913, 762, § 1. 1931, 301, § 70.
1910, 491. 1919, 350, § 96.

SECTION 10. [REPEALED, 1925, 348, § 5.]

[See G. L. 13, §§ 30-38.]

CHAPTER 18.

DEPARTMENT OF PUBLIC WELFARE

SECT.

1. Department of public welfare.
2. Organization. Commissioner.
3. Advisory board.
4. Clerical and other assistants.
5. Divisions in the department.
6. Expenses of trustees of institutions.

DIVISION OF AID AND RELIEF.

7. Director.
8. Trustees of state infirmary.

SECT.

DIVISION OF CHILD GUARDIANSHIP.

9. Director.
10. Massachusetts hospital school.

DIVISION OF JUVENILE TRAINING.

11. Director.
12. Board of trustees.
13. Appointment.
14. Secretary. Temporary secretary.
15. Secretary to be the executive officer, etc.
16. Clerical assistance.

Department of public welfare. 1863, 210, § 1. 1879, 291, § 2.

SECTION 1. There shall be a department of public welfare, in this chapter called the department.

P. S. 79, § 1. R. L. 84, § 1. 1919, 350, § 87.
1886, 101, § 4. 1911, 617. 136 Mass. 578.
1898, 433, § 24. 1915, 129.

1 SECTION 2. The department shall be under the supervision and con-
2 trol of a commissioner of public welfare, who shall be its executive and
3 administrative head, and an advisory board consisting of the commis-
4 sioner, ex officio, and six appointive members, of whom two shall be
5 women. The commissioner shall receive such salary, not exceeding
6 seven thousand dollars, as the governor and council determine. Upon
7 the expiration of his term of office, his successor shall be appointed for
8 five years by the governor, with the advice and consent of the council.

Organization
Commissioner
1919, 350,
§ 88, 89,
1930, 374, § 1.

1 SECTION 3. Two members of the advisory board shall annually be
2 appointed by the governor, with the advice and consent of the council,
3 for three years each. The members shall receive no compensation, but
4 shall be reimbursed for their actual necessary expenses incurred in the
5 performance of their official duties.

Advisory board
1863, 240,
§§ 1, 4
1879, 291,
§§ 2, 7
P. S. 79,
§§ 1, 3.

R. L. 84, §§ 1, 3. 1913, 595, § 2. 1919, 350, §§ 88, 90.
1911, 607. 1915, 129.

1 SECTION 4. Except as otherwise provided, the commissioner of pub-
2 lic welfare may appoint such officials, agents, clerks and other employees
3 as the work of the department may require, designate their duties,
4 except so far as they are otherwise defined by law, assign them to di-
5 visions, transfer and remove them. The appointments in the divisions
6 of aid and relief and of child guardianship shall be made with the advice
7 of the directors thereof.

Clerical and
other assistants.
1870, 339, § 1.
1879, 291, § 7.
P. S. 79, § 3.
R. L. 84, § 3.
1919, 350, § 95.
1931, 301, § 71.

1 SECTION 5. The commissioner shall organize in the department a
2 division of aid and relief, a division of child guardianship, and a divi-
3 sion of juvenile training, each in charge of a director.

Divisions in
the depart-
ment
1908, 598.

1919, 350, §§ 89, 91.

1 SECTION 6. The members of the boards of trustees of the state insti-
2 tutions under the supervision of the department shall receive no compen-
3 sation for their services, but their traveling and other necessary expenses
4 shall be allowed and paid.

Expenses of
trustees of
institutions.
1879, 291, § 7
P. S. 79, § 3.
R. L. 84, § 3.

1904, 446, § 7.

1908, 639, § 2.

DIVISION OF AID AND RELIEF.

1 SECTION 7. The commissioner, with the approval of the governor and
2 council, shall appoint, fix the compensation of, and may with like approval
3 remove, the director of the division of aid and relief, who shall, under the
4 supervision and control of the commissioner, perform the duties required
5 of him by law relative to the state adult poor.

Director.
1908, 598,
1919, 350,
§§ 91, 92.

1 SECTION 8. There shall be a board of trustees of the state infirmary
2 serving in the division and consisting of five men and two women, three
3 of whom shall annually in June be appointed by the governor, with the
4 advice and consent of the council, for three years each, except that in the
5 year nineteen hundred and twenty-one and every third year thereafter
6 only one such trustee shall be so appointed.

Trustees of
state infirmary.
1852, 275, § 6
1854, 437, § 3.
1859, 177, § 3
G. S. 71, § 32.
1879, 291, § 9.
P. S. 80, § 13
1881, 297, § 2.
1900, 333.

R. L. 85, § 1.

1911, 104.

1919, 199; 350, §§ 87, 91.

DIVISION OF CHILD GUARDIANSHIP.

1 SECTION 9. The commissioner, with the approval of the governor and
2 council, shall appoint, fix the compensation of, and may with like approval

Director.
1908, 598,
1919, 350,
§§ 91, 92.

remove, a director of the division of child guardianship, who shall, under the supervision and control of the commissioner, perform the duties required of him by law relative to children.

Massachusetts hospital school.
1893, 446, § 1.
1907, 226, § 1.
1919, 350, §§ 87, 91.

SECTION 10. There shall be a board of trustees, to be known as the board of trustees of the Massachusetts hospital school, serving in the division and consisting of five persons. The governor, with the advice and consent of the council, shall annually appoint a member of the board, who shall serve for five years beginning on the first Monday in December in the year of his appointment, and until his successor is qualified.

DIVISION OF JUVENILE TRAINING.

Director.
1919, 350, § 92.

SECTION 11. The director of the division of juvenile training shall be a member of the board of trustees of the Massachusetts training schools designated by the governor. He shall receive no compensation as such, and his term of office shall be that of his appointment as such trustee.

Board of trustees.
1847, 165, § 1.
1855, 442, § 1.
G. S. 75, § 1;
76, § 1.
1868, 153, § 1.

SECTION 12. The board of trustees of the Massachusetts training schools shall consist of nine persons, two of whom shall be women, and shall constitute the division of juvenile training. No person employed by the board for compensation shall be a member thereof.

1873, 166.	1895, 428, § 2.	1911, 566, § 1.
1877, 195, § 1.	R. L. 86, § 1.	1919, 350, §§ 87, 91.
1879, 291, § 8.	1908, 639, § 1.	136 Mass. 581.
P. S. 89, § 1.		

Appointment.
1847, 165, § 14.
1855, 442, § 24.
G. S. 75, § 1;
76, § 1.
1868, 153, § 1.
1873, 166.
1877, 195, § 1.
1879, 291, § 8.

SECTION 13. The governor, with the advice and consent of the council, shall in June of each year appoint two members, except that in ninety hundred and twenty-one and every fifth year thereafter one only shall be appointed. The members shall hold office for five years from July first following their appointment.

P. S. 89, § 1.	R. L. 86, § 1.	1908, 639, § 1.	1911, 566, § 1.
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Secretary.
Temporary secretary.
1911, 566, § 2.
1931, 391, § 72.

SECTION 14. The trustees shall appoint, and may remove, a secretary not a member of the board. They may appoint a temporary secretary, who may be a member of the board, who shall perform the duties of the secretary in his absence.

Secretary to be the executive officer, etc.
1911, 566, § 2.

SECTION 15. The secretary shall be the executive officer of the trustees. He shall be paid the necessary expenses incurred in the performance of his duties.

Clerical assistance.
1911, 566, § 2.

SECTION 16. The trustees may expend such sums for clerical assistance and office expenses as may be appropriated by the general court.

CHAPTER 19.

DEPARTMENT OF MENTAL DISEASES.

SECT.

1. Department of mental diseases.
2. Commissioner.
3. Associate commissioners.
4. Certain duties of commissioner. Assistant commissioner, etc.

SECT.

- 4A. Division of mental hygiene.
5. Public institutions in the department.
6. Boards of trustees of public institutions.

1 SECTION 1. There shall be a department of mental diseases, consisting of the commissioner of mental diseases and four associate commissioners. The commissioner and at least two associate commissioners shall be physicians and experts in the care and treatment of the insane.

1914, 762, §§ 1, 9.

1916, 285, §§ 1, 2.

1919, 350, § 79.

Department of mental diseases.
1898, 433, § 1.
R. L. 87, § 1.
1909, 504, §§ 2, 3, 107.
1914, 762, §§ 2, 107.

1 SECTION 2. Upon the expiration of the term of office of a commissioner, his successor shall be appointed for five years by the governor, with the advice and consent of the council. The commissioner shall receive such salary, not exceeding ten thousand dollars, as the governor and council determine, and shall be reimbursed for expenses necessarily incurred in the performance of his duties.

1919, 350, § 79.

1921, 443.

1930, 376, § 1.

Commissioner.
1898, 433, §§ 1, 2.
R. L. 87, §§ 1, 2.
1909, 504, §§ 2, 3, 107.
1914, 762, §§ 1, 9.
1916, 285, §§ 1, 2.

1 SECTION 3. Upon the expiration of the term of office of an associate commissioner, his successor shall be appointed for four years by the governor, with the advice and consent of the council. The associate commissioners shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

1916, 285, §§ 1, 2.

1919, 350, § 79.

Associate commissioners.
1898, 433, § 1.
R. L. 87, § 1.
1909, 504, §§ 2, 107.
1914, 762, §§ 1, 9.

1 SECTION 4. The commissioner shall be the executive and administrative head of the department and may organize therein such divisions as he may determine. He may, with the approval of the governor and council, appoint and fix the compensation of an assistant commissioner, who shall discharge the duties of the commissioner during his absence or disability and perform such other duties as the commissioner may prescribe, except that the commissioner, with like approval, may designate another person or persons in the department to perform, during such absence or disability, such specific duties as the commissioner may prescribe, and may revoke such designation. The commissioner shall appoint and may remove such agents and subordinate officers as the department may deem necessary. Physicians, pathologists and psychiatrists shall be exempt from chapter thirty-one.

Certain duties of commissioner.
Assistant commissioner, etc.
1879, 291, §§ 3, 7.
1898, 433, §§ 2, 3.
R. L. 87, §§ 2, 3.
1909, 504, §§ 1, 107.
1914, 762, §§ 1, 3, 9.
1916, 285, §§ 4, 8.
1917, 133, § 1.
301, § 73.

1 SECTION 4A. There shall be in the department a division of mental hygiene, under the supervision of a director. The commissioner, with the approval of the governor and council, may employ such expert assistance to serve in said division as may be necessary.

Division of mental hygiene.
1922, 519, § 1.

1 SECTION 5. The boards of trustees of the following public institutions shall serve in the department: Belchertown state school, Boston

Public institutions in the department.

1862, 223, § 1.
 1877, 252, § 1.
 P. S. 87, § 2.
 1884, 322, § 1.
 1892, 425, § 1.
 1895, 483, § 1.
 1900, 451, § 5.
 R. L. 87,
 §§ 13, 16.
 1905, 400.

psychopathic hospital, Boston state hospital, Danvers state hospital, 3
 Foxborough state hospital, Gardner state colony, Grafton state hospi- 4
 tal, Walter E. Fernald state school, Medfield state hospital, Metropoli- 5
 tan state hospital, Monson state hospital, Northampton state hospital, 6
 Taunton state hospital, Westborough state hospital, Worcester state 7
 hospital and Wrentham state school. 8

1906, 313, § 508 1909, 504, §§ 14, 107. 1919, 350, § 81. 1925, 293, § 1.
 1907, 421. 1914, 358; 442, §§ 1-3. 1920, 537. 1930, 403, § 2.
 1908, 613, § 2. 1915, 79, §§ 1-3. 1922, 410, § 2.

[NOTE:—Provisions relative to board of trustees of the Metropolitan state hospital effective upon qualification of trustees to be appointed in January, 1933; see 1930, 403, §§ 5-7.]

Boards of trustees of public institutions.
 1832, 163, § 1, 8.
 1834, 150, §§ 1, 4.
 1835, 4.
 R. S. 48,
 §§ 1, 2, 17.
 1851, Res. 44.
 1853, 318, § 1.
 1856, 247, § 1, 3.
 1859, 177, § 3.
 G. S. 73,
 §§ 1, 3.
 1877, 252, § 1.
 1878, 126, § 2.
 1879, 291, § 7.
 P. S. 79, §§ 3, 87,
 §§ 4, 6, 55, 56.
 1883, 239, § 1.
 1884, 149; 322,
 §§ 3, 5.

SECTION 6. The board of trustees for each of the institutions men- 1
 tioned in the preceding section, except the Walter E. Fernald state 2
 school, shall consist of seven members; provided, that at least two of 3
 such members shall be women. One member of each board, except as 4
 aforesaid, shall annually in January be appointed for seven years from 5
 the first Wednesday of the following February by the governor, with 6
 the advice and consent of the council. The board of trustees of the 7
 Walter E. Fernald state school shall consist of six members on the part 8
 of the commonwealth, one of whom shall annually be appointed for six 9
 years by the governor, with the advice and consent of the council, and 10
 of six members to be elected by the school, subject to the approval of 11
 the governor and council. All the above trustees shall serve without 12
 compensation, but shall be reimbursed for all expenses incurred in the 13
 performance of their duties. 14

1889, 414, §§ 1, 15. 1902, 542. 1918, Sp. 119.
 1892, 425, §§ 1, 4. 1906, 508, §§ 1, 2. 1919, 350, § 81.
 1893, 256. 1908, 613, § 2. 1920, 537, § 2.
 1895, 483, §§ 2, 7. 1909, 504, §§ 15, 17, 1921, 449, § 2.
 1900, 451, §§ 4, 6. 59, 60, 107. 1922, 410, § 3.
 R. L. 87, §§ 14, 18-22, 1914, 358. 1925, 293, § 2.
 26, 113, 114. 1915, 79, § 4. 1931, 426, § 52.

[NOTE:—See note to § 5.]

CHAPTER 20.

DEPARTMENT OF AGRICULTURE.

SECT.
 1. Department of agriculture.
 2. Commissioner and members of advisory board.
 3. Certain powers and duties of the department.

SECT.
 4. Organization. Directors and other employees.
 5. Expenses.

Department of agriculture.
 1832, 142, § 1.
 G. S. 16, § 1.
 1866, 263, § 3.
 P. S. 29, § 1.
 1894, 114.

SECTION 1. There shall be a department of agriculture under the 1
 supervision and control of a commissioner, and an advisory board of 2
 six members the principal vocation of at least three of whom shall be 3
 agriculture. 4

R. L. 89, § 1 1916, 99, § 1 1919, 350, §§ 34, 35.
 1902, 116, § 4. 1918, 268, §§ 1, 2. 1 Op. A. G. 406.

Commissioner and members of advisory board

SECTION 2. Upon the expiration of the term of office of a commis- 1
 sioner or a member of the advisory board, his successor shall be ap- 2

CHAPTER 21.

DEPARTMENT OF CONSERVATION.

SECT.

1. Department of conservation.
2. Commissioner.
3. Duties of commissioner.
- 3A. Same subject.
- 3B. State Reservation Trust Fund.

DIVISION OF FORESTRY.

4. Director of division of forestry.
5. Experts, clerical assistants, etc.

DIVISION OF FISHERIES AND GAME.

6. Director of division of fisheries and game.

SECT.

7. Experts, fish and game wardens, and other assistants.
8. State inspector of fish and deputies.
- 8A. State supervisor of marine fisheries.

DIVISION OF ANIMAL INDUSTRY.

9. Director of animal industry.
10. Experts, clerical assistants, etc.

DIVISION OF PARKS.

11. Director of division of parks.
12. Experts, clerical assistants, etc. Traveling expenses.

Department of conservation
1860, 192, § 1;
221, § 1.
1862, 28, § 1.
1865, 238, § 1.
1869, 384, § 2.
1872, 302.
P. S. 90, § 12;
91, § 2.
1885, 378.

SECTION 1. There shall be a department of conservation, consisting of a division of forestry, a division of fisheries and game, a division of animal industry and a division of parks, each under the charge of a director. The department shall be under the supervision and control of a commissioner of conservation. The directors shall act as an advisory council to the commissioner.

1886, 275, § 7.	1904, 409, § 1.	1914, 490, § 1; 720, § 1.
1894, 491, § 36.	1905, 381, § 2.	1917, 65.
1895, 56.	1907, 473, § 1.	1919, 350, §§ 39-41.
1899, 408, § 1.	1909, 265, §§ 1, 2.	1931, 391, § 1.
R. L. 90, § 1, 91, § 2.	1912, 608, §§ 1-3.	261 Mass. 510.
1902, 116, §§ 1-3.		

Commissioner
1919, 350, § 41.
1923, 369, § 1.

SECTION 2. Upon the expiration of the term of office of a commissioner, his successor shall be appointed for three years by the governor, with the advice and consent of the council. The commissioner shall receive such salary, not exceeding six thousand dollars, as the governor and council determine.

Duties of commissioner
1919, 350, § 41
Op. A. G. (1920)
233.

SECTION 3. The commissioner shall be the executive and administrative head of the department. He shall be designated by the governor as a director of one of the divisions, but shall receive no salary as such director. He shall supervise the work of the divisions, and shall have charge of the administration and enforcement of all laws which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations.

Same subject.
1931, 442, § 1.

SECTION 3A. The commissioner shall have the same powers of management and control relative to all open spaces for exercise and recreation or reservations acquired by the department outside the metropolitan parks district as are conferred by law upon the metropolitan district commission relative to reservations under its control.

State Reservation Trust Fund
1931, 442, § 1.

SECTION 3B. The state treasurer may, with the approval of the governor and council, receive and hold in trust for the commonwealth, exempt from taxation, any grant or devise of lands or rights in land, and any gift or bequest of money or other personal property, made for the purposes of establishing and maintaining reservations outside the met-

6 ropolitan parks district, and shall preserve and invest the proceeds thereof
7 in notes or bonds secured by good and sufficient mortgage or other se-
8 curities. Said trust property shall be known as the State Reservation
9 Trust Fund, and shall be used and expended under the direction of the
10 commissioner and subject to his orders. Subject to the terms of any
11 such grant, gift, devise or bequest, the commissioner may expend such
12 funds, whether principal or income.

DIVISION OF FORESTRY.

1 SECTION 4. Upon the expiration of the term of office of a director of
2 the division of forestry, his successor shall, except as provided by the
3 preceding section, be appointed for three years by the governor, with the
4 advice and consent of the council. The director shall be known as the
5 state forester. He shall be qualified by training and experience to per-
6 form the duties of his office, and shall, except as provided by the pre-
7 ceding section, receive such salary, not exceeding five thousand dollars,
8 as the governor and council determine.

Director of
division of
forestry.
1901, 409, § 1.
1905, 381, § 2.
1907, 473, § 1.
1909, 263,
§ 1, 2.
1914, 720, § 1.
1917, 63.
1919, 350, § 42.

1 SECTION 5. The director may, subject to the approval of the com-
2 missioner, appoint and remove a state fire warden and such experts,
3 clerical and other assistants as the work of the division may require.
4 The director shall be allowed necessary traveling expenses for himself
5 and his employees incurred in the discharge of duty.

Experts, clerical
assistants,
etc.
1904, 409, § 4.
1905, 381, § 3.
1906, 268, § 1.
1908, 391, § 1.
1911, 722, § 1.

1917, 63.

1919, 350, § 42.

1931, 301, § 75.

DIVISION OF FISHERIES AND GAME.

1 SECTION 6. Upon the expiration of the term of office of a director of
2 the division of fisheries and game, his successor shall, except as provided
3 by section three, be appointed for three years by the governor, with the
4 advice and consent of the council. The director shall be qualified by
5 training and experience to perform the duties of his office, and shall,
6 except as provided by section three, receive such salary, not exceeding
7 five thousand dollars, as the governor and council determine. The
8 director shall be allowed necessary traveling expenses for himself and
9 his employees incurred in the discharge of duty.

Director of
division of
fisheries and
game.
1866, 238, § 1.
1869, 384, § 2.
1872, 302.
P. S. 91, § 2.
1880, 270, § 7.
1895, 56.
R. L. 91, § 2.
1919, 350, § 43.
1930, 344.

1 SECTION 7. Except as provided in the following section, the director
2 may, subject to the approval of the commissioner, appoint and remove
3 such experts, fish and game wardens, clerical and other assistants as the
4 work of the division may require, and their compensation shall be paid
5 by the commonwealth. On written application of the city council of a
6 city or the selectmen of a town, he may, subject to like approval, appoint
7 in such city or town, from a list of names to be submitted to him by such
8 city council or selectmen, a fish and game warden, who shall act under
9 his authority and instructions and have the same powers and duties as
10 a fish and game warden appointed as above provided; the annual com-
11 pensation of every such warden, not exceeding two hundred dollars,
12 shall be determined and paid by the city or town in which he is appointed.
13 The director may also, subject to like approval, appoint deputy fish
14 and game wardens who shall serve without compensation.

Experts, fish
and game
wardens, and
other as-
sistants.
1905, 407.
1910, 575, § 1.
1912, 465,
§ 1, 2.
1913, 250.
1919, 350, § 43.
1923, 144.
1928, 170.
1931, 301, § 76.

1 SECTION 8. There shall be a state inspector of fish serving in the
2 division. Upon the expiration of the term of office of a state inspector
3 of fish, his successor shall be appointed for three years by the governor,

State inspector
of fish and
deputies.
1919, 351, § 11.

with the advice and consent of the council. The state inspector may appoint from time to time such permanent and temporary deputy inspectors as may be authorized by the governor and council. The state inspector and deputy inspectors shall receive such compensation as may be fixed by the governor and council.

State
supervisor
of marine
fisheries
1929, 372, § 1.

SECTION 8A. There shall be a state supervisor of marine fisheries serving in the division, who shall be appointed for terms of three years by the governor with the advice and consent of the council. The salary of said supervisor shall be fixed by the commissioner, subject to the approval of the governor and council. The supervisor shall have charge of the enforcement of the provisions of chapter one hundred and thirty, and all other provisions of law, relative to marine fish and fisheries, including shellfish, except those contained in sections seventy-four to eighty-eight, inclusive, of chapter ninety-four, and shall have general direction of the wardens appointed under section seven engaged in the enforcement of said provisions; provided, however, that in carrying out all powers and duties conferred upon him the supervisor shall act with the approval of the director.

DIVISION OF ANIMAL INDUSTRY.

Director of
animal
industry.
1860, 192, § 1;
221, § 1
1862, 28, § 1.
P. S. 90, § 12.
1885, 378.
1894, 491, § 36.
1899, 408, § 1.
R. L. 90, § 1.
1902, 116,
§§ 1-3.
1912, 608,
§§ 1-3.
1914, 490, § 1.

SECTION 9. Upon the expiration of the term of office of a director of animal industry, his successor shall, except as provided by section three, be appointed for three years by the governor, with the advice and consent of the council. The director shall be qualified by training and experience to perform the duties of his office, and shall, except as provided by section three, receive such salary, not exceeding four thousand dollars, as the governor and council determine, and shall be allowed his necessary expenses paid or incurred in the performance of his official duties.

1919, 350, § 44.

1929, 253, § 1.

1 Op. A. G. 556.

Experts, clerical
assistants,
etc.
1893, 306, § 7.
1894, 491,
§§ 43, 52.

SECTION 10. The director may, subject to the approval of the commissioner, appoint and remove such experts, clerical and other assistants as the work of the division may require.

1899, 408, §§ 2, 7.
R. L. 90, § 2.
1902, 116, § 3.

1912, 608, § 3.
1914, 490, § 1.

1919, 350, § 44.
1931, 304, § 77.

DIVISION OF PARKS.

Director of
division of
parks.
1931, 391, § 2.

SECTION 11. Upon the expiration of the term of office of a director of the division of parks, in this and the following section called the director, his successor shall, except as provided by section three, be appointed for three years by the governor, with the advice and consent of the council. The director shall be qualified by training and experience to perform the duties of his office and shall, except as provided by section three, receive such salary, not exceeding five thousand dollars, as may be fixed by the commissioner, subject to the approval of the governor and council. Except as otherwise provided, the director shall act for the commonwealth in the care and management of parks and reservations owned by the commonwealth outside of the metropolitan parks district for purposes of recreation or conservation, and shall perform such other similar duties as may be imposed upon him by the commissioner.

1 SECTION 12. The director may, subject to the approval of the com- Experts, clerical assistants, etc. Traveling expenses 1931, 391, § 2.
 2 missioner, appoint and remove such experts and clerical and other
 3 assistants as the work of the division may require. The director shall
 4 be allowed necessary traveling expenses for himself and his employees
 5 incurred in the discharge of duty.

CHAPTER 22.

DEPARTMENT OF PUBLIC SAFETY.

- SECT.
 1. Department of public safety.
 2. Commissioner.
 3. Certain duties of commissioner.
 Divisions.
 4. Directors.
 5. Secretary.
 6. Officers and other assistants.
 7. Expenses of officers, etc.
 7A. Payment of hospital, etc., expenses of officers and inspectors injured, etc.
 8. Officers, etc., to be sworn.
 9. Appointment of additional state police officers.

- SECT.
 9A. Division of state police (state constabulary), additional appointments. Training, etc., of persons eligible for appointment, etc. Annual expenditure.
 9B. Apportionment to Highway Fund of proportion of appropriations for division.
 10. Board of boiler rules.
 11. Board of elevator regulations.
 12. State boxing commission.

1 SECTION 1. There shall be a department of public safety under the Department of public safety. 1865, 249, § 1.
 2 supervision and control of a commissioner of public safety.

1871, 394, § 1. 1879, 305, §§ 1, 3, 12. 1904, 318, § 1.
 1874, 405. P. S. 103, §§ 1, 3. 1919, 350, §§ 99, 100.
 1875, 15, §§ 1, 5. R. L. 108, § 1. 267 Mass. 501.

1 SECTION 2. Upon the expiration of the term of office of a commis- Commissioner. 1865, 249, § 1, 3.
 2 sioner, his successor shall be appointed by the governor, with the advice 1867, 349, § 2.
 3 and consent of the council, for five years. The commissioner shall re- 1871, 394, § 1, 3.
 4 ceive such salary, not exceeding six thousand dollars, as the governor 1872, 355.
 5 and council determine. 1874, 405.

1875, 15, §§ 1, 6. 1892, 128. 1913, 834.
 1879, 305, §§ 1, 3, 5. R. L. 108, §§ 1, 2, 5. 1918, 275, § 1.
 P. S. 103, §§ 1, 3, 5. 1904, 318, § 1. 1919, 350, § 100.
 1887, 127. 1906, 480. 1923, 330.

1 SECTION 3. The commissioner shall be the executive and adminis- Certain duties of commis- sioner. Divisions. 1865, 249, § 1.
 2 trative head of the department. There shall be in the department a 1871, 394, § 3.
 3 division of state police under his own immediate charge, a division 1874, 405.
 4 of inspection under the charge of a director to be known as chief of 1875, 15, § 1.
 5 inspections, and a division of fire prevention under the charge of a di- 1879, 305, § 3.
 6 rector to be known as the state fire marshal. P. S. 103, § 3.

1886, 354, § 1. 1903, 365, § 1. 1913, 610, §§ 1, 6.
 1888, 113. 1904, 318, § 1; 1914, 795, § 2.
 1894, 444, § 1; 481, § 1. 433, §§ 1, 3. 1919, 350, §§ 101, 102.
 R. L. 32, § 1; 108, § 1. 1906, 521, § 1. 267 Mass. 501.
 1902, 142, §§ 1, 2. 1911, 619, § 1.

1 SECTION 4. Upon the expiration of the term of office of a state fire Directors. 1886, 354, § 1, 4.
 2 marshal or a chief of inspections, his successor shall be appointed by the 1894, 444, § 1, 7.
 3 governor, with the advice and consent of the council, for three years.

1898, 160.
R. L. 32,
§§ 1, 7.

They shall each receive such salary, not exceeding four thousand dollars, 4
as the governor and council determine. 5

1902, 142, §§ 1, 2.	1911, 619, § 1.	1919, 350, §§ 101,
1903, 365, §§ 1, 2.	1913, 610, §§ 1, 6.	103, 104
1904, 433.	1914, 795, § 2.	1 Op. A. G. 171.
1906, 521, § 1.	1918, 275, § 1.	3 Op. A. G. 492.

Secretary.
1920, 619, § 2.
1930, 256

SECTION 5. The commissioner may appoint a secretary, who shall 1
be exempt from chapter thirty-one, and may remove him for such cause, 2
to be stated in the order of removal, as he deems sufficient. The sec- 3
retary, in addition to his duties under section twelve, shall perform such 4
other duties as the commissioner prescribes. 5

Officers and
other assist-
ants.
1865, 249,
§§ 1, 3.
1866, 261, § 1.
1871, 394,
§§ 2, 5.
1872, 355.
1875, 15,
§§ 1, 6.
1877, 214, § 6.
1878, 242, § 1.
1879, 305,
§§ 1, 2, 5, 12.
1880, 178.
P. S. 103,
§§ 1, 2, 5, 9.
1885, 131.
1887, 127, 256.

SECTION 6. The commissioner may appoint, transfer and remove 1
officers, inspectors, experts, clerks and other assistants. Except as pro- 2
vided in section nine or nine A or in section two of chapter one hundred 3
and forty-seven, the number of officers and inspectors heretofore au- 4
thorized by law may be increased only with the approval of the gov- 5
ernor and council. Boiler inspectors in the division of inspection shall 6
not be over forty-five years of age when first appointed, and shall not 7
be subject to any civil service rules like those requiring members of the 8
state police to be of a certain height and weight. Inspectors assigned 9
to the division of inspection shall be designated as building inspectors or 10
as boiler inspectors according as their duties relate to buildings or boilers. 11

1888, 113; 426, § 13.	1902, 142, §§ 1, 2.	1911, 561; 616, § 1; 619;
1890, 137.	1903, 365, §§ 1, 4.	620, § 1
1901, 302; 357, § 6.	1904, 318; 382; 430;	1912, 614, § 1; 726, § 12.
1892, 249.	433, §§ 1, 3.	1913, 424, § 1; 480;
1893, 387.	1905, 247; 365; 461.	610, §§ 1, 5, 6; 816, § 1; 834.
1894, 281; 444, §§ 1, 7;	1906, 322, § 1	1914, 377, § 2; 622, § 1;
481, §§ 1, 3, 5, 6.	1907, 451, § 1; 465, §§ 4, 25;	795, § 2.
1895, 396; 418, § 8; 452, § 1.	482, § 1	1918, 275.
1896, 546, § 4.	1908, 185, § 1; 375, § 1;	1919, 350, §§ 101, 103, 108.
1898, 160; 219; 261.	479, § 1.	1925, 322, § 1.
R. L. 32, §§ 1, 7; 105, § 1;	1909, 410, § 1; 413, § 1;	1931, 301, § 78.
108, §§ 1, 3, 5.	432, § 1.	1 Op. A. G. 404.

Expenses of
officers, etc
1865, 249, § 3.
1871, 394,
§§ 3, 5.
1875, 15, § 6.
1878, 242, § 3
1879, 305, § 5
P. S. 103, § 5.

SECTION 7. Each officer and inspector in the department shall re- 1
ceive his actual traveling and necessary expenses when on duty, which 2
shall be verified by oath and approved by the commissioner. No salary 3
shall be paid to any such officer or inspector until he has made oath 4
that he has paid to the commonwealth all fees received by him. 5

1886, 354, § 4.	1898, 160; 261.	1906, 521, § 1.
1887, 127.	R. L. 32, § 7; 108, § 5.	1911, 619.
1894, 444, § 7.	1902, 142, § 1.	1914, 795, § 25.
1895, 418, § 8.	1904, 382.	1919, 350, § 99.
1896, 546, § 4.		

Payment of
hospital, etc.,
expenses of
officers and
inspectors
injured, etc.
1924, 504, § 1.

SECTION 7A. The commissioner may authorize the payment, out of 1
any appropriation made for traveling or other expenses of the depart- 2
ment, of the reasonable hospital, medical and surgical expenses incurred 3
by any officer or inspector of the department when temporarily or per- 4
manently disabled by reason of injuries sustained through no fault of 5
his own while actually performing police service. 6

Officers, etc.,
to be sworn.
1875, 15,
§§ 2, 3.
1879, 305, § 4
P. S. 103, § 4
R. L. 108, § 4.

SECTION 8. Each officer or inspector shall, before entering upon the 1
performance of his duties, be sworn to the faithful performance thereof, 2
and unless his oath of office is taken within ten days after the date of 3
his appointment, the appointment shall be void. 4

1 SECTION 9. Whenever the governor shall deem it necessary to pro-
 2 vide more effectively for the protection of persons and property and
 3 for the maintenance of law and order in the commonwealth, he may
 4 authorize the commissioner to make additional appointments, not ex-
 5 ceeding one hundred in number, to the division of state police, together
 6 with such other employees as the governor may deem necessary for
 7 the proper administration thereof. The appointment of the additional
 8 officers shall be temporary until the general court has authorized their
 9 permanent addition to the department. The commissioner may, sub-
 10 ject to the approval of the governor, make rules and regulations for the
 11 said additional force, including matters pertaining to their discipline,
 12 organization and government, compensation and equipment, and means
 13 of swift transportation.

Appointment
of additional
state police
officers.
1917, 43.
1918, 37.
1919, 350,
§ 110.

1 SECTION 9A. Whenever the governor shall deem it necessary to
 2 provide more effectively for the protection of persons and property and
 3 for the maintenance of law and order in the commonwealth, he may
 4 authorize the commissioner to make additional appointments to the
 5 division of state police, together with such other employees as the gov-
 6 ernor may deem necessary for the proper administration thereof. The
 7 appointment of the additional officers herein provided for shall be by
 8 enlistment for terms not exceeding three years, and such appointees
 9 shall be exempt from the requirements of civil service law and rules.
 10 Said additional officers shall have and exercise within the commonwealth
 11 all the powers of constables, except the service of civil process, and of
 12 police officers and watchmen. The commissioner may, subject to the
 13 approval of the governor, make rules and regulations for said additional
 14 force, including matters pertaining to their discipline, organization and
 15 government, compensation and equipment, and means of swift trans-
 16 portation; provided, that said force shall not be used or called upon for
 17 service in any industrial dispute, unless actual violence has occurred
 18 therein, and then only by order of the governor or the person acting in
 19 his place. Any member of said force violating any of the rules or regu-
 20 lations for said force shall be subject to discipline or discharge in accord-
 21 ance with said rules and regulations. The commissioner, subject to
 22 like approval, may select and maintain for the purpose of training in
 23 preparation for service on said force, a group of persons, not exceeding
 24 fifty in number, who, when so trained, shall be eligible either to appoint-
 25 ment to fill vacancies therein or, upon order of the governor, to be called
 26 for service in cases of emergency as temporary members thereof. The
 27 commissioner may expend annually for the expenses of administration,
 28 organization, government, training, compensation, equipment and main-
 29 tenance such amount as the general court may appropriate.

Division of
state police
(state
constabulary),
additional
appointments.
Training,
etc., of
persons
eligible for
appointment,
etc.
Annual
expenditure.
1921, 461.
1922, 331, § 1.
1927, 238, § 1.
1928, 303.
1929, 343, § 1.

1 SECTION 9B. The department of public safety shall annually for-
 2 ward to the budget commissioner with its estimates of expenses for the
 3 division of state police, as required under section three of chapter twenty-
 4 nine, a statement of the approximate proportion of the time of the
 5 division devoted to the service of patrolling the highways of the com-
 6 monwealth for the purpose of controlling and supervising traffic. Said
 7 statement shall be the basis for a recommendation by the governor as
 8 to the proportion of the appropriations made for expenses of said di-
 9 vision which it appears may fairly be charged to the Highway Fund.

Apportion-
ment to
Highway Fund
of proportion
of appro-
priations for
division.
1929, 343, § 3.

Board of
boiler rules.
1907, 465,
§§ 24, 25,
1919, 350,
§ 105,
1930, 408.

SECTION 10. The commissioner shall appoint a board of boiler rules, consisting of the chief of inspections, or a boiler inspector of the division of inspection designated by the commissioner, as chairman and four associate members, one of whom shall be an operating engineer and three shall represent users, manufacturers and insurers of boilers, respectively. Upon the expiration of the term of office of an associate member, his successor shall be appointed for three years by the commissioner. The associate members shall receive as compensation for service and reimbursement for expenses such sums as the governor and council shall determine, not exceeding in all one thousand dollars a year. Such clerical and other assistants as may be required by the board shall be assigned to it by the commissioner.

Board of
elevator
regulations.
1913, 806,
§§ 6-8,
1919, 350,
§ 106,
1925, 221.

SECTION 11. The commissioner shall, as occasion requires, appoint a board of elevator regulations, consisting of the chief of inspections as chairman, a consulting engineer, the building commissioner of Boston, an inspector of buildings of some city other than Boston, a representative of a liability insurance company licensed to write elevator insurance in the commonwealth, a representative of elevator manufacturers, an experienced elevator constructor and a representative of owners of buildings. The members of said board shall serve without compensation, but their necessary expenses shall be paid by the department. Such clerical and other assistants as may be required by the board shall be assigned to it by the commissioner.

State boxing
commission.
1920, 619,
§§ 1, 2,
Op. A. G.
(1920) 282.

SECTION 12. The state boxing commission shall serve in the department and shall consist of the commissioner, ex officio, who shall be chairman, and two appointive members. Upon the expiration of the term of office of an appointive member, his successor shall be appointed by the governor, with the advice and consent of the council, for three years. The appointive members shall receive such salaries, not exceeding thirty-five hundred dollars each, as the governor and council may fix. The members shall receive their traveling expenses necessarily incurred in the performance of their duties, and the commission shall be allowed such sums for clerical assistance as the governor and council may approve. The secretary of the department shall act as the secretary of the commission and shall keep full and true records of all its proceedings. The commissioner may deputize one or more persons to represent the commission and to be present at any match or exhibition authorized to be held under sections thirty-two to fifty-one of chapter one hundred and forty-seven. Such persons may receive such compensation for actual services as shall be fixed by rule or regulation of the commission, together with their traveling expenses necessarily incurred in the discharge of their duties.

CHAPTER 23.

DEPARTMENT OF LABOR AND INDUSTRIES.

SECT.

DEPARTMENT OF LABOR AND INDUSTRIES.

1. Department of labor and industries.
2. Commissioner.
3. Certain duties of commissioner.
4. Directors. Other appointees.
5. Certain requirements as to officers and employees.
6. Duties of assistant commissioner.
7. Board of conciliation and arbitration.

DIVISION OF STANDARDS.

8. Duties of the director of standards.
9. Inspectors of standards. Bonds.

THE MASSACHUSETTS INDUSTRIAL COMMISSION.

- 9A. The Massachusetts industrial commission.
- 9B. Secretary, experts and clerical assistance.
- 9C. Commission may conduct researches for the promotion, etc., of the industrial, etc., resources of the commonwealth, etc.

SECT.

DIVISION ON THE NECESSARIES OF LIFE.

- 9D. Director. Certain duties.
- 9E. Division to study, etc., circumstances affecting cost of certain necessities of life.
- 9F. To give hearings, summons witnesses, etc. Compulsory attendance of witnesses, etc.
- 9G. To investigate complaints, etc.
- 9H. Director to act as emergency fuel administrator, etc.

COMMISSION ON FOREIGN AND DOMESTIC COMMERCE.

10. [Repealed.]
11. [Repealed.]

GENERAL PROVISIONS.

12. Department to be furnished offices, etc.
13. Expenses.

DEPARTMENT OF LABOR AND INDUSTRIES.

1 SECTION 1. There shall be a department of labor and industries, Department
 2 under the supervision and control of a commissioner of labor and indus- of labor and
 3 tries, in this chapter called the commissioner, an assistant commissioner, industries.
 4 who shall be a woman, and three associate commissioners, one of whom 1912, 726, § 1.
 5 shall be a representative of labor and one a representative of employers 1919, 350,
 6 of labor. §§ 69, 70
 1921, 306, § 1

1 SECTION 2. Upon the expiration of the term of office of a commis- Commis-
 2 sioner, an assistant commissioner or an associate commissioner, his sioner.
 3 successor shall be appointed for three years by the governor, with the 1906, 425,
 4 advice and consent of the council. The commissioner shall receive 1912, 726,
 5 such salary not exceeding seventy-five hundred dollars, and the as- §§ 1-3,
 6 sistant commissioner and associate commissioners such salaries, not 1919, 350, § 70
 7 exceeding four thousand dollars each, as the governor and council § 1.
 8 determine.

1 SECTION 3. The commissioner shall be the executive and adminis- Certain duties
 2 trative head of the department. He shall have charge of the adminis- of commis-
 3 tration and enforcement of all laws, rules and regulations which it is sioner.
 4 the duty of the department to administer and enforce, and shall direct 1912, 726,
 5 all inspections and investigations except as otherwise provided. He §§ 4, 5, 9,
 6 shall organize in the department a division of standards, a division on 1919, 350,
 7 the necessities of life and such other divisions as he may from time to §§ 71, 77,
 1921, 306, § 2,
 1930, 410, § 1.
 Op. A. G.
 (1918) 57.

time determine, and may assign the officers and employees of the department thereto. He shall prepare for the consideration of the assistant commissioner and the associate commissioners rules and regulations for the conduct of the department and all other rules and regulations which the department is authorized by law to make, and they shall, except as otherwise provided, take effect when approved by the associate commissioners and the assistant commissioner, or upon such date as they determine. The commissioner may designate the assistant commissioner or an associate commissioner to discharge the duties of the commissioner during his absence or disability.

Directors.
Other appointees
R. S. 30, § 4
1859, 224, § 2.
G. S. 49.
§ 127, 51, § 3.
P. S. 63, § 2.
65, § 3
1887, 269, § 1.
1888, 261
1890, 159, § 2;
385; 426,
§ 9-11
1892, 382.
1901, 211.
R. L. 60,
§ 1, 2;
62, § 5; 106,
§ 1, 5
1902, 457.
1904, 313,
§ 4; 399.
1906, 455, § 8.
1907, 534,
§ 1-3.
1909, 514,
§ 1, 7, 14.
1910, 465, § 1
1911, 652, § 1
1912, 256, § 1,
726, § 4, 7, 8
1913, 813, § 8.
1915, 74, § 1.
1917, 243; 341.
1918, 218,
§ 1, 2.

SECTION 4. The commissioner, assistant commissioner and associate commissioners may, with the approval of the governor and council, appoint, and fix the salaries of, not more than six directors, and may, with like approval, remove them. One of them, to be known as the director of standards, shall have charge of the division of standards, and one of them, to be known as the director of the division on the necessities of life, shall have charge of said division, and each of the others shall be assigned to take charge of a division. The commissioner may employ, for periods not exceeding ninety days, such experts as may be necessary to assist the department in the performance of any duty imposed upon it by law, and such employment shall be exempt from chapter thirty-one. Except as otherwise provided in section nine B, the commissioner may employ and remove such inspectors, investigators, clerks and other assistants as the work of the department may require. Such number of inspectors as the commissioner may deem necessary shall be men who, before their employment as such, have had at least three years' experience as building construction workmen. The commissioner may require that certain inspectors in the department, not more than seven in number, shall be persons qualified by training and experience in matters relating to health and sanitation.

1919, 224, § 1; 244; 341.
§ 1; 350, §§ 74, 77; 365.
1920, 551, § 1; 628, § 1.
1921, 306, § 3; 325, §§ 1, 7.
1922, 196, 343, § 1.
1923, 320, § 1.
1924, 258, § 1; 320, § 1.
1925, 273, § 1.
1927, 263, § 1; 275.
1929, 269, § 1.
1930, 410, § 2.
1931, 426, § 135.

Certain requirements as to officers and employees.
1859, 224, § 2.
G. S. 49, § 127
P. S. 63, §§ 2, 3.
1890, 159, § 2.
R. L. 60, § 2.
1912, 726, § 8
1919, 224, § 1;
350, § 75.
1921, 306, § 4.

SECTION 5. All directors, inspectors and other permanent employees of the department shall devote their whole time to the affairs of the department; and all directors and inspectors and such other employees as may be designated by the commissioner shall, before entering upon their duties, be sworn to the faithful performance thereof. The number of inspectors heretofore authorized by law may be increased only with the approval of the governor and council. The commissioner, assistant commissioner and associate commissioners shall determine from time to time how many of the inspectors employed shall be women.

Duties of assistant commissioner.
1919, 350, § 73.

SECTION 6. In all matters relating specifically to women and minors the assistant commissioner shall have and exercise such duties and authority as may be prescribed by the commissioner, with the approval of the associate commissioners.

Board of conciliation and arbitration
1886, 263, § 1.
1887, 269, § 1.
R. L. 106, § 1
1909, 514, § 10.

SECTION 7. The associate commissioners shall constitute the board of conciliation and arbitration, and shall have the powers and perform the duties given them by chapter one hundred and fifty relative to conciliation and arbitration of industrial disputes, and chapter one hundred

5 and fifty-one relative to the minimum wage. The board shall have
6 assigned to it such assistants from the officers and employes of the
7 department as the commissioner and the board from time to time de-
8 termine.

1912, 706, § 1.
1914, 681, § 1.
1916, 303, § 1.
1918, 225.
1919, 350, § 2.

DIVISION OF STANDARDS.

1 SECTION 8. The director of standards shall, in addition to the
2 powers and duties conferred and imposed upon him by law, perform
3 such other duties as may be assigned to him by the commissioner.

Duties of the
director of
standards.
1919, 350, § 77.

1 SECTION 9. Inspectors of standards appointed under section four
2 shall give bond for the faithful performance of their duties.

Inspectors of
standards.
Bonds.

1859, 224, §§ 2, 3.	R. L. 60, § 2.	1912, 256, § 1.	1919, 244.
G. S. 49, § 127.	1907, 534, § 2.	1917, 243	1920, 551, § 1.
P. S. 63, § 2.	1910, 465, § 1.	1918, 218, § 2.	1924, 258, § 2.
1890, 159, § 2.	1911, 632, § 1.		

THE MASSACHUSETTS INDUSTRIAL COMMISSION.

1 SECTION 9A. There shall be in the department a commission for the
2 promotion and development of the industries and industrial, agricultural
3 and recreational resources of the commonwealth, to be known as the
4 Massachusetts industrial commission, in this and the two following
5 sections called the commission. The commission shall consist of the
6 commissioner and the commissioner of agriculture, ex officio, and five
7 unpaid members appointed by the governor, with the advice and con-
8 sent of the council, who shall be designated in their initial appointments
9 to serve respectively for one, two, three, four and five years. The com-
10 mission shall annually choose one of its members as chairman. One of
11 the members appointed by the governor as aforesaid shall always be a
12 representative of labor. Upon the expiration of the term of office of
13 an appointive member, a successor shall be appointed in the manner
14 aforesaid for five years. The commission shall meet at least once a
15 month and at such other times as it shall determine by its rules. The
16 members shall receive their necessary traveling expenses while in the
17 performance of their official duties.

The Massa-
chusetts
industrial
commission.
1929, 357, § 1.

1 SECTION 9B. Subject to the approval of the governor and council,
2 the commission may appoint and fix the compensation of a secretary
3 and such experts as it may require and may remove them with like
4 approval. It may also employ such other necessary clerks and em-
5 ployees as it may require. Authorized representatives of the commis-
6 sion may travel outside the commonwealth for the purpose of carrying
7 out the provisions of section nine C.

Secretary,
experts and
clerical
assistance.
1929, 357, § 1.
1931, 301, § 79.

1 SECTION 9C. The commission may conduct researches into indus-
2 trial and agricultural conditions within the commonwealth, and shall
3 seek to co-ordinate the activities of unofficial bodies organized for the
4 promotion of the industrial, agricultural and recreational interests in
5 the commonwealth, and may prepare, print and distribute books, maps,
6 charts and pamphlets which in its judgment will further the purpose
7 for which it is created, and, on behalf of the commonwealth, may accept
8 contributions and, subject to the approval of the governor and council,
9 may expend the same and also may expend such sums as may be ap-
10 propriated by the general court to carry out the purpose of this and the
11 two preceding sections.

Commission
may conduct
researches for
the promotion,
etc., of the
industrial, etc.,
resources of the
commonwealth,
etc.
1929, 357, § 1.

DIVISION ON THE NECESSARIES OF LIFE.

Director.
Certain duties.
1930, 410, § 3.

SECTION 9D. The director of the division on the necessities of life shall, in addition to the powers and duties conferred and imposed upon him by law, perform such other duties as may be assigned to him by the commissioner.

Division to study, etc., circumstances affecting cost of certain necessities of life.
1919, 341, § 1; 365.
1920, 628, § 1.
1921, 325, §§ 2, 7.
1922, 343, § 1.
1923, 320, § 1.
1924, 320, § 1.
1925, 273, § 1.
1927, 263, § 1.
1929, 269, § 1.
1930, 410, § 3.

SECTION 9E. The division shall study and investigate the circumstances affecting the prices of fuel, gasoline and refined petroleum products and other commodities which are necessities of life. It may inquire into all matters relating to the production, transportation, distribution and sale of the said commodities, and into all facts and circumstances relating to the cost of production, wholesale and retail prices and the method pursued in the conduct of the business of any persons, firms or corporations engaged in the production, transportation, or sale of the said commodities, or of any business which relates to or affects the same. It shall also study and investigate the circumstances affecting the charges for rent of property used for living quarters, and in such investigation may inquire into all matters relating to charges for rent.

To give hearings, summons witnesses, etc.
Compulsory attendance of witnesses, etc.
1919, 341, § 2.
1920, 628, § 1.
1921, 325, §§ 3, 7.
1922, 343, § 1.
1923, 320, § 1.
1924, 320, § 1.
1925, 273, § 1.
1927, 263, § 1.
1929, 269, § 1.
1930, 410, § 3.

SECTION 9F. The division shall have authority to give hearings, to administer oaths, to require the attendance and testimony of witnesses and the production of books and documents and other papers, and to employ counsel. Witness summonses may be issued by the director or by any assistant by him designated and shall be served in the same manner as summonses for witnesses in criminal cases issued on behalf of the commonwealth, and all provisions of law relative to summonses issued in such cases shall apply to summonses issued hereunder, so far as they are applicable. Any justice of the supreme judicial court or of the superior court may, upon application of the director, compel the attendance of witnesses and the giving of testimony before the division in the same manner and to the same extent as before the said courts.

To investigate complaints, etc.
1920, 628, § 2.
1921, 325, §§ 4, 7.
1922, 343, § 1.
1923, 320, § 1.
1924, 320, § 1.
1925, 273, § 1.

SECTION 9G. The division shall investigate all complaints made to it, and may publish its findings. It shall keep in touch with the work of federal and municipal and other agencies dealing with the necessities of life, and give them such assistance as it deems advisable; and may invoke the aid of said agencies and of civic and other organizations.

1927, 263, § 1.

1929, 269, § 1.

1930, 410, § 3.

Director to act as emergency fuel-administrator, etc.
1917, 342.
1920, 610.
1921, 325, § 6.
1924, 320, § 3.
1925, 273, § 3.
1927, 263, § 3.
1929, 269, § 3.
1930, 410, § 3.

SECTION 9H. Whenever the governor shall determine that a fuel emergency exists, he may, with the approval of the council, by a writing signed by him, designate the director of the division on the necessities of life to act as an emergency fuel administrator, and thereupon the director shall have, with respect to fuel, all the powers and authority granted by the Commonwealth Defence Act of nineteen hundred and seventeen, being chapter three hundred and forty-two of the General Acts of nineteen hundred and seventeen, to persons designated or appointed by the governor under section twelve of said chapter three hundred and forty-two; and the governor may revoke such written authority at any time. The provisions of said chapter three hundred and forty-two are hereby made operative to such extent as the provisions of this section may from time to time require.

COMMISSION ON FOREIGN AND DOMESTIC COMMERCE.

1 SECTION 10. [REPEALED, 1929, 357, § 2.]

1 SECTION 11. [REPEALED, 1929, 357, § 2.]

GENERAL PROVISIONS.

1 SECTION 12. The department, in addition to offices in the state
 2 house, shall be provided with offices elsewhere in the commonwealth if
 3 approved by the governor and council.

Department
to be furnished
offices, etc.

1912, 706, § 2; 726, § 3. 1916, 44. 1919, 350, § 12.

1 SECTION 13. The department may expend for the traveling expenses
 2 of its members and employees incurred in the performance of their duties
 3 and for other necessary expenses of the department such sums as are
 4 annually appropriated therefor.

Expenses,
1886, 263, § 8.
1887, 269, § 5.
1890, 159, § 6;
426, § 9.

R. L. 60, § 15; 62, § 8; 106, § 1. 1910, 465, § 1. 1917, 243.
 1904, 399, § 1. 1911, 632, § 1. 1918, 95, § 1;
 1907, 534, § 2. 1912, 236, § 1; 706, § 2; 218, § 1.
 1909, 514, § 10. 726, § 3.

CHAPTER 24.

DEPARTMENT OF INDUSTRIAL ACCIDENTS.

<p>Sect. 1. Department of industrial accidents. 2. Industrial accident board. 3. Reviewing boards. 3A. Reviewing board to hold hearings in Springfield. 4. Secretary, expenses, etc.</p>	<p>SECT. 5. Inspectors. 6. Branch offices. 7. Medical adviser. 8. [Repealed.] 9. [Repealed.]</p>
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1 SECTION 1. There shall be a department to be known as the depart-
 2 ment of industrial accidents, consisting of the industrial accident board
 3 hereinafter provided for.

Department
of industrial
accidents.
1919, 350, § 68.

1 SECTION 2. The industrial accident board shall consist of seven
 2 members, one of whom shall be a woman, at such salaries, not exceeding
 3 six thousand dollars each, as the governor and council determine, except
 4 that the chairman, who shall be designated by the governor, shall receive
 5 such salary, not exceeding sixty-five hundred dollars, as the governor
 6 and council determine. Upon the expiration of the term of office of a
 7 member, his successor shall be appointed for five years by the governor,
 8 with the advice and consent of the council. The members shall devote
 9 their whole time in business hours to the work of the board.

Industrial
accident
board.
1911, 751.
111, §§ 1, 2.
1912, 571.
§§ 6, 7.
1913, 48, § 1
1917, 297, § 1.
1919, 299,
§§ 1, 3
1922, 537, § 1.
1923, 477, § 1.
1930, 373, § 1.

1 SECTION 3. The chairman shall from time to time appoint one or
 2 more reviewing boards, each reviewing board to consist of not less than
 3 three members, to decide matters required to be heard by such a board.

Reviewing
boards.
1917, 297, § 1.
1923, 151.

1 SECTION 3A. A reviewing board appointed under authority of sec-
 2 tion three shall hold hearings in the city of Springfield at least six times
 3 each year to decide matters required to be heard by such board and

Reviewing
board to
hold hearings
in Springfield.
1930, 224.

relating to industrial accidents occurring, or to employees living, in Berkshire, Franklin, Hampden and Hampshire counties. 4
5

Secretary,
expenses, etc.
1911, 751,
711, § 2
1912, 571, § 7
1913, 48, § 1
1918, 231, § 2
1919, 299,
§ 1; 350, § 68.

SECTION 4. The salaries and expenses of the department shall be paid by the commonwealth. The department may appoint and remove a secretary. It shall also be allowed such sums as may annually be appropriated by the general court for clerical service and traveling and other necessary expenses. Its records shall be kept in its office. 1
2
3
4
5

1923, 477, § 2.

1930, 257.

229 Mass. 435.

Inspectors
1913, 815, § 9
1931, 301, § 80.

SECTION 5. The department may appoint and remove not more than six inspectors. They shall be required to pass examinations of a comprehensive and practical character based upon the particular requirements of the work to be done by them. 1
2
3
4

Branch offices.
1914, 708, § 15.

SECTION 6. There may be established and maintained under the control of the department not more than four branch offices in cities selected by it, from time to time, after proper investigation, for the better adjustment of disputed cases and for the better information of all parties as to their rights under chapter one hundred and fifty-two. Said department may provide such offices with rooms, furniture and equipment, and appoint such officers, agents, clerks and assistants as are necessary for the discharge of its duties in connection with such offices. 1
2
3
4
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8

Medical
adviser.
1914, 708, § 15.

SECTION 7. The department may appoint a duly qualified physician as medical adviser and shall prescribe his duties. 1
2

1919, 299, § 1.

1930, 255.

SECTION 8. [REPEALED, 1921, 462, § 8.] 1

SECTION 9. [REPEALED, 1921, 462, § 8.] 1

CHAPTER 25.

DEPARTMENT OF PUBLIC UTILITIES.

SECT.

1. Department of public utilities. Seal.
2. Commissioners.
3. Commissioners not to be interested in certain companies, etc.
4. Certain powers and duties of the chairman and commissioners.
5. Rulings of commission. Review. Enforcement of orders, etc.
- 5A. Department may summon witnesses, etc. Fees.
6. [Repealed.]
7. Employees and counsel for the performance of department's duties relative to common carriers.
8. Expenses for the performance of department's duties relative to common carriers.
9. Expenses and employees for the performance of department's duties relative to water, gas and electric companies.
10. Control over officers and employees.

SECT.

11. Assessment of appropriations upon companies and municipalities.
12. Balance to be carried to next year.

SECURITIES DIVISION.

- 12A. Securities division. Director and assistants.
- 12B. Director deemed commissioner, etc., for certain purposes.

DIVISION OF SMOKE INSPECTION.

- 12C. Division of smoke inspection. Director.
- 12D. Functions of division. Inspectors, assistants, etc.
- 12E. Salaries and expenses to be apportioned among certain cities and towns.
- 12F. Advisory council.
13. [Repealed.]
14. [Repealed.]
15. [Repealed.]
16. [Repealed.]

1 SECTION 1. There shall be a department of public utilities, in this
 2 chapter called the department. It shall have an official seal, which
 3 shall be judicially noticed.

Department of public utilities. Seal.

1861, 168, § 1.	1885, 314, § 1	1907, 316.
1864, 152, § 1.	1889, 169, 373.	1913, 784, §§ 1, 7.
1869, 408, § 1.	R. L. 58, § 1, 111, § 8; 121, § 1.	1914, 742, §§ 133, 199.
1874, 372, § 6	1902, 228, §§ 1, 8, 432, § 1.	1919, 350, § 117.
P. S. 61, § 1; 112, § 9.	1906, 465, 1, §§ 1, 68, 11, § 258.	216 Mass. 432.

1 SECTION 2. The department shall be under the supervision and con-
 2 trol of a commission of five members, in this chapter called the commis-
 3 sion. The governor shall, with the advice and consent of the council,
 4 annually appoint one commissioner for five years. The governor shall
 5 designate one of said commissioners as chairman. The chairman shall
 6 receive such salary, not exceeding eight thousand dollars, and each of the
 7 other commissioners such salary, not exceeding seven thousand dollars,
 8 as the governor and council determine.

Commissioners.
 1864, 152, §§ 1, 8
 1869, 408, §§ 1, 8
 1874, 372, §§ 6, 17
 1879, 287, P. S. 112, §§ 9, 10
 1885, 314, §§ 1, 2, 4.

1808, 499.	1906, 417, § 1; 463, 1, §§ 1, 2,	1913, 784, § 1.
1900, 496.	68, 11, § 258.	1914, 742, §§ 133, 199.
R. L. 111, §§ 8, 9, 121, § 1.	1907, 316.	1918, 283, § 1.
1902, 402; 432, § 1.	1910, 401; 539.	1919, 350, § 118.

1 SECTION 3. The commissioners shall be sworn to the faithful per-
 2 formance of their official duties. They shall not be in the employ of, or
 3 own any stock in, any gas or electric company, water company, railroad
 4 corporation or street railway company, or company engaged in the trans-
 5 mission of intelligence by electricity in the commonwealth, or be in any
 6 way, directly or indirectly, pecuniarily interested in the sale of water
 7 or the manufacture or sale of gas or electricity or of any article or com-
 8 modity used by gas or electric companies or companies engaged in the

Commissioners not to be interested in certain companies, etc.
 1864, 152, § 1
 1869, 408, § 13
 1874, 372, § 6
 1879, 286, § 1.
 P. S. 112, § 9.
 1885, 314, §§ 1, 4
 1894, 503
 1895, 313.

1898, 499;
R. L. 111, § 8;
121, § 1.
1902, 432, § 1.
1906, 433;
463, 1.
§ 1, 68; 11,
§ 258.
1907, 316.
1913, 784,
§ 1, 3.
1914, 742,
§ 133, 199;
787, § 1.
1918, 54.

transmission of intelligence by electricity or used for any purpose connected with the sale or distribution of water, the manufacture or sale of gas or electricity or the transmission of intelligence by electricity nor shall they be connected with or in the employ of any person financing any company engaged in the transmission of intelligence by electricity. They shall not personally or through a partner or agent render any professional service or make or perform any business contract with or for a railroad corporation or street railway company chartered under the laws of the commonwealth, except contracts made with them as common carriers, nor shall they, directly or indirectly, receive a commission, bonus, discount, present or reward from any such corporation or company.

Certain powers and duties of the chairman and commissioners.

SECTION 4. The chairman shall have and exercise supervision and control over all the affairs of the commission. He shall preside at all hearings at which he is present, and shall designate a commissioner to act as chairman in his absence. He shall not, except as is otherwise provided herein, be charged with any administrative functions. In order to promote efficiency in administration he shall from time to time make such division or redivision of the work of the department among the commissioners as he deems expedient. All the commissioners shall, if so directed by the chairman, participate in the hearing and decision of any matter coming before the commission. In the hearing of all matters other than those of formal or administrative character coming before the commission, at least two commissioners shall participate and in the decision of all such matters at least three commissioners shall participate. In every case the concurrence of a majority of the commissioners participating therein shall be necessary for a decision. With the consent of all parties concerned in a matter coming before the commission, the hearing may be held by a single commissioner.

Rulings of commission. Review. Enforcement of orders, etc.

SECTION 5. When so requested by any party interested, the commission, or any member or members acting for the commission, shall rule upon any question of substantive law properly arising in the course of any proceedings before the commission or any member or members thereof, and any party in interest aggrieved by such ruling may object thereto, and may secure a review thereof as hereinafter provided. Any failure or refusal of the commission, or of any member or members thereof acting for the commission, to rule upon such a question at the request of any party in interest as aforesaid within ten days after such request, shall be taken and recorded as a ruling adverse to the party requesting the ruling.

The supreme judicial court shall have jurisdiction in equity to review, modify, amend or annul any ruling or order of the commission, or of any member or members representing the commission, but only to the extent of the unlawfulness of such ruling or order. The procedure before said court shall be that prescribed by its rules, which shall state upon what terms the enforcement of the order shall be stayed. The attorney for any party petitioning the supreme judicial court hereunder shall file with the clerk of the court a certificate that he is of opinion that there is such probable ground for the appeal as to make it a fit subject for judicial inquiry, and that it is not intended for delay; and double costs shall be assessed by the court upon any such party whose petition shall appear to the court not to be a fit subject for judicial inquiry or shall appear to be intended for delay. The burden of proof shall be

25 upon the party adverse to the commission to show that its order is
 26 invalid. Any proceeding in any court of the commonwealth directly
 27 affecting an order of the commission or to which it is a party shall have
 28 preference over all other civil proceedings pending in such court, except
 29 election cases.

30 The supreme judicial court shall also have jurisdiction, upon applica-
 31 tion of the commission, to enforce all valid orders of the commission and
 32 the provisions of this chapter and of chapter one hundred and fifty-nine.

1 SECTION 5A. In all investigations and inquiries authorized by law
 2 to be made by the department and in all proceedings before it, any com-
 3 missioner of the department may summon witnesses, administer oaths
 4 and take testimony. The fees of such witnesses for attendance and
 5 travel shall be the same as for witnesses before the superior court and
 6 shall be paid by the commonwealth upon the certificate of the depart-
 7 ment filed with the comptroller. The fees of such witnesses need not
 8 be paid or tendered to them prior to their attendance and testimony.

Department
 may summon
 witnesses, etc.
 Fees.
 1922, 259, § 1.
 1923, 362, § 18

1 SECTION 6. [REPEALED, 1923, 227.]

1 SECTION 7. For the performance of the department's duties relative
 2 to common carriers the commission may appoint or employ and remove
 3 such engineers, accountants, statisticians, bureau chiefs and division
 4 heads, assistants, inspectors, clerks and other subordinates as are re-
 5 quired therefor, and may appoint on such terms as it deems advisable
 6 a counsel and attorneys who, in the conduct of litigation and court pro-
 7 ceedings, shall act under the direction of the attorney general. Account-
 8 ants shall be skilled in the methods of railroad accounting and under
 9 the direction of the commission shall supervise the method by which the
 10 accounts of corporations operating railroads or street railways are kept.
 11 The commission shall appoint one or more competent experts to examine
 12 the reports required by section eighty-three of chapter one hundred and
 13 fifty-nine, and may, whenever in its opinion public interest requires, in
 14 connection with any proposed issue of stock or bonds by a railroad
 15 corporation or street railway company, employ competent experts to
 16 investigate the character, cost and value for railroad or railway purposes
 17 of the property of such corporation or company.

Employees and
 counsel for the
 performance of
 department's
 duties relative
 to common
 carriers.
 1876, 185, § 3.
 1879, 287.
 P. S. 112, § 11.
 1885, 164.
 1887, 334, § 2.
 1894, 535,
 §§ 1, 2, 7.
 R. L. 111,
 §§ 8, 9.
 1902, 402, § 1;
 452, § 1.
 1906, 463, I,
 § 1, 2, 68;
 II, § 258.
 1907, 245.
 1910, 401.
 1911, 214; 681;
 755, § 4.
 1913, 784,
 §§ 5, 9.
 1914, 527, § 1.
 1931, 301, § 81.

1 SECTION 8. For the performance of the department's duties relative
 2 to common carriers the commission may expend annually such sums to
 3 procure opinions, advice, plans, surveys, appraisals, audits, examinations,
 4 statistics, information, apparatus, instruments, books, tables, maps,
 5 drawings, supplies, sundries, and for travel within or without the com-
 6 monwealth and expense incidental thereto, as it may from time to time
 7 deem requisite in the performance of its duties. It may from time to
 8 time cause to be made a compilation with annotations of the statutes of
 9 this commonwealth relating to common carriers.

Expenses for
 the performance
 of depart-
 ment's duties
 relative to
 common
 carriers.
 1869, 408, § 7.
 1874, 372, § 17.
 P. S. 112, § 10.
 1890, 200, § 1.
 1901, 54, § 1.
 R. L. 111, § 9.
 1902, 402, § 1.

1906, 433, § 2; 463, I, §§ 2, 68; II, § 258.
 1910, 401.

1913, 784, §§ 3, 9.
 1918, 54.

1 SECTION 9. For the performance of the department's duties relative
 2 to water, gas and electric companies the commission may expend annu-
 3 ally for necessary statistics, books, stationery and contingent expenses,
 4 and for clerical and other assistance, such sums as the general court

Expenses and
 employees for
 the perform-
 ance of depart-
 ment's duties
 relative to
 water, gas and

electric com-
panies.
1885, 314, § 5.
1891, 351.
1895, 463, § 1.
1899, 365.
1901, 499, § 1.
R. L. 121, § 3.
1907, 54,
§§ 1, 3.

shall annually appropriate, and may appoint or employ, subject to the approval of the governor and council, such expert assistance as it may deem advisable, on such terms of office or employment as it may deem proper, and may expend therefor and for the performance of the duties imposed upon it by law such sums as the general court shall annually appropriate.

1908, 536, §§ 1, 3.
1913, 317, §§ 1, 3.

1914, 631, § 1; 742, § 135; 787, § 2.
1931, 301, § 82.

Control over
officers and
employees.
1913, 784, § 9.
1914, 631, § 2
1931, 301,
§ 100.

SECTION 10. The commission may assign to all officers and employees appointed or employed under the three preceding sections such duties as it shall from time to time deem advisable, but all acts of such officers and employees shall be done under the supervision and control of, and subject to revision by, the commission.

Assessment of
appropriations
upon com-
panies and
municipalities.
1885, 314, § 6.
1887, 382, § 4.
1891, 351.
1895, 463, § 1.
1899, 365.
R. L. 121, § 4.
1904, 435,
§§ 1, 3.
1909, 490,
III, § 9.
1914, 742,
§§ 136, 199;
787, § 3.
1917, 205, § 3.
1919, 550,
§ 122.

SECTION 11. The general court, in making annual appropriations for the department, shall designate what portions thereof shall be used for salaries of employees and expenses incurred in the performance of its functions relative to gas, electric and water companies and municipal lighting plants. Except as otherwise provided, the portions thus designated, including one half the sum annually appropriated for the salaries of the commissioners, shall be apportioned by the commissioner of corporations and taxation among the several gas and electric companies, water companies and cities and towns which have acquired municipal lighting plants, and, on or before July first in each year, he shall assess upon each of said companies, cities and towns its share of said sums, in proportion to gross earnings in the case of companies, and in proportion to expenses as defined in section fifty-seven of chapter one hundred and sixty-four, in the case of cities and towns, for the year last preceding the year in which the assessment is made; and such assessments in the case of companies shall be collected in the manner in which taxes upon corporations are collected, and in the case of cities and towns, in the manner in which the state tax is collected.

Balance to be
carried to next
year.
1904, 435, § 2.
1911, 742,
§§ 137, 147,
177, 191, 199;
787, § 5.
1920, 295.
1928, 139, § 2.

SECTION 12. Of the amount so assessed and collected any balance remaining on November thirtieth in any year, and all forfeitures collected during the preceding fiscal year from such companies and from municipalities owning lighting plants for failure to make returns and all fees collected during said year from such companies and municipalities and from consumers of electricity, gas and water for testing meters, shall be carried forward to the next year and shall be taken into account in making an appropriation for that year.

SECURITIES DIVISION.

Securities
division
Director and
assistants.
1929, 287, § 1.

SECTION 12A. There shall be in the department, and under its general supervision and control, a securities division which shall be under the charge of a director. The commission, with the approval of the governor and council, shall appoint said director for a term of five years, and fix his compensation. The commission, with like approval, or the governor, may remove said director at any time for cause. Said division shall perform such of the functions in relation to the administration and enforcement of chapter one hundred and ten A imposed upon the commission by said chapter as the commission may from time

10 to time determine by order duly recorded in the office of the commission
11 and open to public inspection. The commission may employ such as-
12 sistants and employees to serve in said division as may be necessary.

1 SECTION 12B. For the purposes of section five A, the said director
2 shall be deemed a commissioner of the department; for the purposes of
3 section seven of chapter one hundred and ten A, an order or finding by
4 said director, or his failure or refusal to make an order or finding, shall
5 be deemed an order, finding, failure or refusal by the commission; and
6 for purposes of service of process under section eight of said chapter and
7 of signing the certificate under paragraph (c) of section eleven thereof,
8 said director shall be deemed the secretary of the commission. Section
9 fourteen of said chapter shall apply to witnesses before the said director.

Director
deemed com-
missioner, etc.,
for certain
purposes
1929, 287, § 1.

DIVISION OF SMOKE INSPECTION.

1 SECTION 12C. There shall be in the department, and under its
2 supervision and control, a division of smoke inspection consisting of a
3 director, who shall have charge of said division, and an advisory council
4 hereinafter provided for. The commission, with the approval of the
5 governor and council, shall appoint said director for a term of five years,
6 and fix his compensation. The commission, with like approval, or the
7 governor, may remove said director at any time for cause. Said di-
8 rector shall not engage in any other business, and he shall be an experi-
9 enced engineer.

Division of
smoke inspec-
tion.
Director
1930, 380, § 1.

1 SECTION 12D. Said division shall perform such of the functions in
2 relation to the administration and enforcement of chapter six hundred
3 and fifty-one of the acts of nineteen hundred and ten, and acts in amend-
4 ment thereof or in addition thereto, as have been vested in the com-
5 mission by said chapter and acts as the commission may from time to
6 time determine by order duly recorded in the office of the commission
7 and open to public inspection. The commission may employ such
8 inspectors, assistants and other employees to serve in said division as
9 may be necessary.

Functions of
division.
Inspectors,
assistants, etc.
1930, 380, § 1.

1 SECTION 12E. The salaries of the director and all employees of the
2 division and the expenses incurred in the performance of its functions
3 shall be apportioned annually by the state treasurer among the cities
4 and towns comprising the district defined by said chapter six hundred
5 and fifty-one, and acts in amendment thereof and in addition thereto,
6 in proportion to their last annual taxable valuation, and the amount so
7 apportioned shall be added to their proportion of the state tax.

Salaries and
expenses to be
apportioned
among certain
cities and
towns.
1930, 380, § 1.

1 SECTION 12F. Said advisory council shall consist of five members
2 appointed by the governor, with the advice and consent of the council,
3 who shall be designated in their initial appointments to serve as follows:
4 — two for three years, two for two years and one for one year. Upon
5 the expiration of the term of office of a member, his successor shall be
6 appointed in the manner aforesaid for three years. Said council shall
7 meet at least once a month, and when requested by the director or by
8 any three members thereof, for the consideration of problems and mat-
9 ters relating to the abatement of smoke. The members shall receive no

Advisory
council.
1930, 380, § 1.

compensation, but shall be reimbursed for their necessary expenses actually incurred in the performance of their official duties. 11

SECTION 13. [REPEALED, 1928, 139, § 1.] 1

SECTION 14. [REPEALED, 1928, 139, § 1.] 1

SECTION 15. [REPEALED, 1928, 139, § 1.] 1

SECTION 16. [REPEALED, 1928, 139, § 1.] 1

CHAPTER 26.

DEPARTMENT OF BANKING AND INSURANCE.

SECT.

1. Divisions of the department.

DIVISION OF BANKS AND LOAN AGENCIES.

2. Commissioner of banks.
3. Appointment, etc., of deputy commissioner and employees. Expenses. Bonds.
4. Supervisor of loan agencies.
5. Board of bank incorporation.

DIVISION OF INSURANCE.

6. Commissioner of insurance.
7. First deputy and other assistants, appointment, duties. Appeals to commissioner.

SECT.

8. Board of appeal on fire insurance rates.
- 8A. Board of appeal on motor vehicle liability policies and bonds.

DIVISION OF SAVINGS BANK LIFE INSURANCE.

9. Division. Commissioner of savings bank life insurance.
10. Trustees of the General Insurance Guaranty Fund. Deputy.
11. State actuary.
12. State medical director.

Divisions of the department.
1906, 204, § 5.
1919, 350,
§§ 45, 46.

SECTION 1. There shall be a department of banking and insurance, consisting of a division of banks and loan agencies, a division of insurance, and a division of savings bank life insurance. Each division shall be in charge of a commissioner, who shall be known, respectively, as the commissioner of banks, the commissioner of insurance and the commissioner of savings bank life insurance. The commissioners shall act as a board in all matters concerning the department as a whole. 1
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DIVISION OF BANKS AND LOAN AGENCIES.

Commissioner of banks.
1838, 14,
§§ 1, 9
1843, 43,
1844, 45,
1851, 127,
§§ 1, 9
G S 57,
§§ 1, 11,
1862, 212, § 1.
1866, 192,
§§ 1, 9.
1870, 244,
1876, 231,
1879, 124,
285, § 3.
P. S. 116,
§§ 1, 2.

SECTION 2. Upon the expiration of the term of office of a commissioner of banks, his successor shall be appointed for three years by the governor, with the advice and consent of the council. The commissioner shall receive such salary, not exceeding six thousand dollars, as the governor and council determine. He shall not be an officer of or directly or indirectly interested in any national bank or in any bank, trust company, corporation, business or occupation that requires his official supervision, and he shall not engage in any other business. He shall give bond with sureties in the sum of twenty thousand dollars, to be approved by the state treasurer, for the faithful performance of his duties. 1
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1886, 252, § 1.
1889, 321.
1894, 317, §§ 1, 2.

R. L. 113, §§ 1, 2.
1902, 490, § 1.
1906, 204, § 1.

1908, 590, §§ 2, 69.
1919, 350, §§ 45, 49.
1920, 596, § 1.

1 SECTION 3. Subject to the approval of the governor and council,
 2 the commissioner may appoint, remove, and fix the salary of, a deputy
 3 commissioner. The commissioner may appoint and remove such clerical
 4 and other assistants as the work of the division may require. He shall
 5 be allowed necessary expenses, including those for the investigation of,
 6 and prosecution for, violation of any provision of sections ninety-six to
 7 one hundred and fourteen, inclusive, of chapter one hundred and forty,
 8 and the actual expenses incurred by him and his subordinates in travel-
 9 ing in the performance of official duties. The clerical and other assistants
 10 shall give bonds, with sureties to be approved by the commissioner, for
 11 the faithful performance of their duties.

Appointment,
 of deputy com-
 missioner and
 employees.
 Expenses.
 Bonds.
 1878, 14,
 §§ 5, 9.
 1851, 127,
 §§ 5, 9.
 G. S. 57,
 §§ 2, 11.
 1862, 212, § 2.
 1866, 192, § 9.
 1870, 244.
 1876, 231, § 4.
 1879, 124,
 293, § 3.

1880, 161, § 5.	1897, 262.	1913, 294.
P. S. 116, § 2.	R. L. 113, § 2.	1916, 194
1882, 148.	1902, 490, § 1.	1919, 350, § 49.
1886, 252, §§ 2, 3.	1906, 204, §§ 2, 5.	1920, 546, § 4.
1889, 77.	1908, 590, §§ 3, 69.	1922, 513.
1894, 317, § 2.	1911, 727, § 1.	1931, 301, § 83.
1895, 66.	1912, 516, § 1; 675, § 1.	

1 SECTION 4. The commissioner of banks may, with the approval of
 2 the governor and council, appoint and remove a deputy as supervisor of
 3 loan agencies, who shall give bond in the sum of five thousand dollars,
 4 with sufficient sureties, payable to and approved by the state treasurer,
 5 and, subject to the approval of the governor and council, may fix his
 6 compensation.

Supervisor of
 loan agencies.
 1911, 727, § 1.
 1912, 675, § 1.
 1913, 638, § 1.
 1919, 350, § 49.

1 SECTION 5. There shall be a board of bank incorporation serving in
 2 the division, consisting of the state treasurer, the commissioner of banks
 3 and the commissioner of corporations and taxation.

Board of
 bank incor-
 poration.

1906, 204, §§ 4, 5.	1908, 590, §§ 4, 69.	1909, 491, § 2.	1919, 350, §§ 47, 49.
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DIVISION OF INSURANCE.

1 SECTION 6. Upon the expiration of the term of office of a commis-
 2 sioner of insurance, his successor shall be appointed for three years by
 3 the governor, with the advice and consent of the council. The commis-
 4 sioner shall receive such salary, not exceeding six thousand dollars, as
 5 the governor and council determine. He shall give bond with sureties
 6 in the sum of ten thousand dollars, to be approved by the state treas-
 7 urer, for the faithful performance of his duties.

Commissioner
 of insurance.
 1852, 231, § 5;
 311, § 14.
 1854, 453, § 42.
 1855, 124,
 §§ 1, 2, 4.
 1858, 177, § 1.
 G. S. 58,
 §§ 1, 11.

1866, 255.	1879, 109, § 1.	1890, 247.	1907, 576, §§ 4, 122.
1867, 267, §§ 8, 9.	P. S. 119, § 2.	1894, 522, § 4.	1919, 350, § 50.
1876, 210, § 1.	1887, 214, § 4.	R. L. 118, § 4.	1920, 181; 596, § 2.

1 SECTION 7. The commissioner of insurance may appoint and remove,
 2 with the approval of the governor and council, a first deputy, an actuary
 3 and a chief examiner and such additional deputies, examiners, assistant
 4 actuaries and inspectors as the service may require. In case of a va-
 5 cancy in the office of commissioner, and during his absence or disability,
 6 the first deputy shall perform the duties of the office, or in case of the
 7 absence or disability of such first deputy, the deputy who has been
 8 longest in the service of the division. The commissioner may appoint
 9 and remove such clerical and other assistants as the work of the division
 10 may require. Such deputies, examiners, actuaries, inspectors, clerks
 11 and other assistants shall perform such duties as the commissioner may
 12 prescribe; provided, that any person aggrieved by any finding, ruling
 13 or decision rendered upon a hearing authorized by law held before a
 14 person other than the commissioner, may, within three days, or such
 15 further period in any particular case as the commissioner may allow,

First deputy
 and other
 assistants,
 appoint-
 ment, duties.
 Appeals to
 commissioner.
 1860, 178.
 1866, 255, § 2.
 1867, 167, § 3;
 287, § 8
 1869, 434
 1871, 297, § 6.
 1872, 374
 1876, 210.
 1877, 203.
 1879, 109.
 P. S. 119,
 §§ 2-4.
 1886, 187.
 1887, 214, § 5.
 1888, 84.
 1894, 522, § 5.
 1895, 81.
 1896, 335.
 R. L. 118, § 5.
 1907, 576,
 §§ 5, 122.

1911, 292, § 1. after the filing of such finding, ruling or decision in the office of the 16
 1912, 149; commissioner, appeal therefrom to the commissioner who shall review 17
 407; 684. the case and may modify, affirm or reverse such ruling, finding or 18
 1916, 40. decision. 19
 1918, 254.
 1919, 350, § 50

1920, 181.

1924, 261.

1931, 301, § 84.

Board of
 appeal on
 fire insurance
 rates
 1911, 493,
 §§ 1, 3
 1919, 350,
 §§ 48, 50.
 1920, 181.

SECTION 8. There shall be a board of appeal on fire insurance rates 1
 serving in the division of insurance and consisting of two appointive 2
 members, who shall be citizens of the commonwealth, and the commis- 3
 sioner of insurance or a deputy designated by him, ex officio. The 4
 commissioner or such deputy shall be chairman of the board. Upon 5
 the expiration of the term of office of an appointive member, his successor 6
 shall be appointed for three years by the governor, with the advice and 7
 consent of the council. An office and a room for hearings shall be pro- 8
 vided by the commonwealth, when deemed necessary by the governor 9
 and council, and the board may employ a stenographer, and shall have 10
 power to compel the attendance of witnesses and the production of 11
 books and documents. The compensation of each appointive member 12
 shall be ten dollars a day for each day or fraction thereof while engaged 13
 in the performance of his duties. 14

Board of
 appeal
 on motor
 vehicle li-
 ability policies
 and bonds
 1925, 346, § 3.
 1926, 272.
 1928, 381, § 1.

SECTION 8A. There shall be a board of appeal on motor vehicle 1
 liability policies and bonds serving in the division of insurance and 2
 consisting of the commissioner of insurance or his representative, the 3
 registrar of motor vehicles or a representative, and an assistant attorney 4
 general to be designated from time to time by the attorney general. The 5
 commissioner of insurance may by a writing, in such form as he may 6
 prescribe, filed in his office, designate from time to time a representative 7
 to act in his place and the commissioner of public works may in like 8
 manner designate from time to time a representative to act in the place 9
 of said registrar. Any such designation may be revoked at any time and 10
 may run for such period as the designating officer may prescribe. The 11
 compensation of such a representative, if not an employee of the com- 12
 monwealth, shall be fixed by the board, subject to the approval of the 13
 governor and council. The commissioner of insurance or his repre- 14
 sentative shall be the chairman of the board. With the approval of 15
 the governor and council, the board may appoint and remove a secretary 16
 and such clerical and other assistants as its work may require, and fix 17
 their compensation. All expenditures incurred under this section shall 18
 be paid from the highway fund. The secretary shall keep a record of 19
 all proceedings before the board, and he and such clerical and other 20
 assistants shall perform such duties as the board may direct. Any mem- 21
 ber of the board shall have power to summon and compel the attend- 22
 ance and testimony of witnesses and the production of books, records 23
 and documents and may administer oaths. Sections nine and eleven 24
 of chapter two hundred and thirty-three shall apply to the board and 25
 witnesses summoned before it. The fees of witnesses before the board 26
 for attendance and travel shall be the same as for witnesses before the 27
 superior court in civil cases and need not be paid nor tendered to them 28
 prior to their attendance, and shall be paid by the commonwealth upon 29
 the certificate of the board or a member thereof filed with the comp- 30
 troller. An office and a room for hearings shall be provided by the 31
 commonwealth, to be assigned by the governor and council. The board, 32

33 with the approval of the governor and council, may make and amend
 34 reasonable rules and regulations to expedite and regulate hearings and
 35 the procedure before it.

DIVISION OF SAVINGS BANK LIFE INSURANCE.

1 SECTION 9. The division of savings bank life insurance shall consist
 2 of the body corporate known as the General Insurance Guaranty Fund.
 3 The commissioner of savings bank life insurance shall be one of the
 4 board of trustees of the corporation, designated by the governor as
 5 such commissioner. His term shall be that of his appointment as
 6 trustee. He shall act as president of the board of trustees of said corpo-
 7 ration, and shall have general supervision and control of the work of
 8 the division.

Division.
 Commissioner
 of savings bank
 life insurance.
 1907, 561, § 14.
 1919, 350,
 § 46, 51
 1920, 564.

1 SECTION 10. The governor, with the advice and consent of the
 2 council, shall annually appoint a trustee of the General Insurance
 3 Guaranty Fund for seven years from July first in the year of his appoint-
 4 ment. Such trustee shall serve without compensation and shall be
 5 selected from persons who are trustees of savings banks or of savings
 6 and insurance banks. The trustees may elect from their own number a
 7 vice president to act as president of the board of trustees in the absence
 8 or disability of the president, and shall elect a treasurer and a clerk, all
 9 of whom shall hold office for one year and until their successors are
 10 appointed. The trustees may, with the approval of and subject to
 11 confirmation by the governor and council, appoint, and with their con-
 12 sent remove, a deputy who shall discharge the duties of the commissioner
 13 during his absence or disability.

Trustees of
 the General
 Insurance
 Guaranty
 Fund.
 Deputy.
 1907, 561, § 14.
 1919, 350,
 § 46, 51
 1920, 564

1 SECTION 11. The trustees shall, with the approval of the governor
 2 and council, appoint, and may with their consent remove, an insurance
 3 actuary to be called the state actuary, and his salary or compensation
 4 shall be paid by the commonwealth. The trustees may also appoint
 5 such clerks and assistants to the state actuary as the public business in
 6 his charge may require.

State actuary.
 1907, 561, § 15.
 1914, 246, § 1.
 1919, 350, § 46
 § 46, 51
 1931, 301, § 85.

1 SECTION 12. The trustees shall, with the approval of the governor
 2 and council, appoint, and may with their consent remove, a physician
 3 to be known as the state medical director, and his salary or compensation
 4 shall be paid by the commonwealth. The state medical director may
 5 appoint such assistants, if any, as the public business in his charge
 6 requires.

State medical
 director.
 1907, 561, § 16
 1919, 350, § 46
 1931, 301, § 86.

CHAPTER 27.

DEPARTMENT OF CORRECTION.

SECT.

1. Department of correction. Commissioner.
2. Deputies.
3. Clerical assistants, etc.

SECT.

4. Agents.
5. Board of parole.
6. No officer to be interested in contracts, etc.

Department of correction. Commissioner.
1827, 118, § § 1, 2.
R. S. 144, § § 2, 3.
1850, 37.
G. S. 179, § 8.
1870, 370, § § 1, 10.
1879, 294, § § 1, 35.

SECTION 1. There shall be a department of correction, under the supervision and control of a commissioner of correction. The commissioner shall be the executive and administrative head of the department, and shall receive such salary, not exceeding six thousand dollars, as the governor and council may determine. Upon the expiration of the term of office of a commissioner, his successor shall be appointed for three years by the governor, with the advice and consent of the council.

P. S. 219, § § 1, 2.
1893, 453.
1901, 364, § § 1, 2.

R. L. 222, § 1.
1913, 829, § 8.
1916, 241, § § 1-4.

1919, 350, § § 82-84.
1 Op. A. G. 487.

Deputies.
1913, 829, § 5.
1916, 241, § 3.
1919, 350, § 84.

SECTION 2. The commissioner may, with the approval of the governor and council, appoint and remove two deputy commissioners, and, with like approval, fix their compensation. The deputy commissioners shall perform such duties as the commissioner shall prescribe, and he may designate one of them to discharge the duties of the commissioner during his absence or disability.

Clerical assistants, etc.

SECTION 3. The commissioner may appoint a director of physical training and employ such clerical assistants as may be necessary.

1870, 370, § 11.
1877, 120, § 1.
1879, 294, § § 2, 31.
P. S. 219, § § 3, 39.

1885, 52.
1888, 328.
1895, 431.
R. L. 222, § 2.

1916, 241, § § 1, 7, 9.
1919, 350, § § 82, 84.
1920, 421.
1931, 301, § 87.

Agents.
1845, 176, § § 1, 2.
1848, 82, § 2.
1852, 213, § 1.
G. S. 180, § § 64, 68.
1861, 78, § 2.
1871, 302, § 1.
1879, 294, § 27.
1881, 179, § 1.
P. S. 219, § § 26, 27.
1887, 315, § 2.
1888, 330, § § 1, 3.
1895, 383.
1897, 350.
R. L. 225, § § 136, 137.

SECTION 4. The commissioner may employ such number of male and female agents as may be approved by the governor and council to enable him and the board of parole to carry out the laws relative to the parole of prisoners from state penal institutions, their supervision while on parole and the procuring of employment for them, and may remove them. One or more of said agents may be designated by the commissioner as agents for aiding discharged prisoners. The agents shall give their entire time during business hours to their duties, and shall be reimbursed for the necessary expenses actually incurred in the performance of their duties, after the bills therefor have been approved by the commissioner.

1903, 212, § 1.
1905, 235.

1913, 829, § 5.
1916, 249.

1919, 266, § 1.
1920, 342.

1923, 231, § 1.
1931, 301, § 88; 350, § 3.

Board of parole.
1880, 218, § 1.
P. S. 222, § 20.
1894, 258.
R. L. 225, § 113.
1913, 829, § § 1-3, 7.
1915, 206.
1916, 241, § § 1, 2, 5.

SECTION 5. There shall be in the department a board of parole, consisting of a deputy commissioner designated by the commissioner and two appointive members. Upon the expiration of the term of office of an appointive member, his successor shall be appointed by the governor, with the advice and consent of the council, for three years. The governor shall designate the chairman of the board. The deputy com-

7 missioner shall receive no additional compensation for his services on
 8 said board. The two appointive members shall receive such salary, not
 9 exceeding twenty-five hundred dollars each, as the governor and council
 10 may determine; but if one of said members is designated as chairman,
 11 he shall receive a salary not exceeding five thousand dollars. The
 12 appointive members of the board shall be reimbursed by the common-
 13 wealth for actual expenses incurred by them in the performance of their
 14 official duties. With the approval of the commissioner, said board
 15 may expend annually from the appropriation for contingent and other
 16 expenses of the department a sum not exceeding two hundred dollars
 17 for examinations by physicians of prisoners whose cases come before
 18 said board for action.

1919, 350, § 85.
 1921, 312
 1924, 439
 1929, 384
 4 Op A G. 228.

1 SECTION 6. No officer of the department shall be concerned or inter-
 2 ested directly or indirectly in a contract, purchase or sale made on
 3 account of any prison.

No officer to
 be interested in
 contracts, etc.

1827, 118, § 16.
 R. S. 144, § 23.

G. S. 179, § 26.
 1879, 294, § 1.

P. S. 219, § 2.
 R. L. 222, § 1.

CHAPTER 28.

METROPOLITAN DISTRICT COMMISSION.

SECT.

1. Metropolitan district commission.
2. Salaries of commissioners, etc.
3. Commissioner to be head of commission. Divisions. Directors.
4. Employees.

SECT.

5. Division of metropolitan planning; commissioners.
6. Same subject; powers and duties, estimates, annual report.

1 SECTION 1. There shall be a metropolitan district commission, con-
 2 sisting of a commissioner and four associate commissioners, who shall at
 3 the time of their appointment be resident within the district of which
 4 the commission has jurisdiction, and at least one shall be a resident of
 5 Boston. Upon the expiration of the term of office of a commissioner or
 6 an associate commissioner, his successor shall be appointed for five years
 7 by the governor, with the advice and consent of the council.

Metropolitan
 district com-
 mission.
 1889, 439, § 1.
 1893, 407, § 1.
 1895, 488, § 1.
 1899, 400.
 1900, 393
 1901, 146; 168,
 §§ 1, 2, 3
 1919, 350,
 §§ 123, 124.

1 SECTION 2. The commissioner shall receive such salary, not exceeding
 2 six thousand dollars, and each associate commissioner such salary, not
 3 exceeding twenty-five hundred dollars, as the governor and council
 4 determine.

Salaries of
 commissioners,
 etc.
 1889, 439, § 1.
 1893, 407, § 1.

1895, 488, § 1.
 1899, 400.

1900, 393.
 1901, 146; 168, § 3.

1902, 77.
 1919, 350, § 125.

1923, 427.

1 SECTION 3. The commissioner shall be the executive and adminis-
 2 trative head of the commission and shall organize it in such divisions as
 3 he may from time to time determine. He may, with the approval of
 4 the governor and council, appoint a director of each division to have
 5 charge of its work, and may, with like approval, remove him. The
 6 compensation of directors shall be fixed by the commissioners, with the
 7 approval of the governor and council.

Commissioner
 to be head of
 commission.
 Divisions.
 Directors.
 1889, 439, § 2.
 1893, 407, § 2.
 1895, 488, § 2.
 1901, 168, § 2.
 1919, 350,
 §§ 125, 126.

Employees.
1889, 439, § 2.
1893, 407,
§§ 2, 4.
1894, 288, § 3.
1895, 272; 488,
§ 2.
1901, 168, § 5.
1919, 350,
§ 126.
1920, 567
1931, 301, § 89.

SECTION 4. The commissioners may appoint a secretary, engineering chiefs, a purchasing agent, engineers, inspectors, officers and members of the police force, one or more women as special police officers, clerks and such other officers and employes as the work of the commission may require, may assign them to divisions, transfer and remove them. The secretary and engineering chiefs shall be exempt from chapter thirty-one.

Division of metropolitan planning; commissioners.
1923, 399, § 1
1925, 129.

SECTION 5. There shall be organized within the metropolitan district commission a division of metropolitan planning. Said division shall be in charge of seven commissioners, three of whom shall be appointed by the governor, with the advice and consent of the council, for terms of five years from the date of their respective appointments and without compensation; the commissioner or an associate commissioner of public works, to be designated from time to time by the commissioner of public works; a commissioner of the department of public utilities, to be designated from time to time by the chairman of said department; the commissioner or an associate commissioner of the metropolitan district commission, to be designated from time to time by the commissioner of said commission; and an officer of the transit department of the city of Boston, to be designated from time to time by the chairman thereof. The chairman of said division shall be designated by the governor.

Same subject; powers and duties, estimates, annual report.
1923, 399, § 1.
1924, 354.

SECTION 6. Said division shall investigate and make recommendations as to transportation service and facilities within the district consisting of all the cities and towns in the metropolitan sewer districts, and the metropolitan parks district, and the co-ordination thereof upon highways, roads, bridges, waterways, railroads, street railways and other arteries of traffic; the manner of effecting such co-relationship and what improvements and new facilities should be provided for a comprehensive and co-ordinated development of transportation for said district. It shall confer with the local planning agencies in the district with regard to such projects as are not of an exclusively local character. It shall recommend the method of carrying into effect and financing the projects recommended by it, and shall make such maps, plans and estimates of cost as may be needed for its investigations and reports, and may employ such assistants therefor as it deems necessary. It may sell such maps or other maps prepared by it from time to time in connection with the work under its charge at such prices and on such conditions as it may determine. The various other departments, boards and divisions of the commonwealth, the public trustees, respectively, of the Boston Elevated Railway Company and of the Eastern Massachusetts Street Railway Company, the street commissioners, planning boards and other officials of cities and towns comprising said district, and the various public utilities operating therein may consult with it and furnish all facts and information requested within their knowledge or control.

The division shall annually submit to the budget commissioner the estimates required by sections three and four of chapter twenty-nine, and shall prepare and file an annual report as required by sections thirty-two and thirty-three of chapter thirty.

TITLE III.

LAWS RELATING TO STATE OFFICERS.

CHAPTER 29. State Finance.

CHAPTER 30. General Provisions relative to State Departments, Commissions, Officers and Employees.

CHAPTER 29.

STATE FINANCE.

SECT.

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50. Amount to be included in state tax.	61. Requirement of oath of claimant.
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Definition of "departments".
1923, 362, § 19.

SECTION 1. The word "departments", as used in this chapter, shall, unless the context otherwise requires, mean all the departments of the commonwealth, except the departments of banking and insurance and of civil service and registration but including in lieu thereof the divisions of banks and loan agencies, of insurance, of savings bank life insurance and of civil service and the several boards serving in the division of registration of the department of civil service and registration, and also including the metropolitan district commission and the commission on administration and finance.

Disposition of state revenues.
1917, 277, § 1.
1931, 426,
§ 136.

SECTION 2. All revenue payable to the commonwealth and available for meeting any costs or expenses of state offices, departments or undertakings, or for meeting any other cost or expense of the state government, shall be paid into the general fund or ordinary revenue, except revenue from or on account of the metropolitan district commission and its activities, revenue for meeting the principal of or interest on contingent debt, revenue from investments of sinking funds, revenue now placed by law in the highway fund, revenue now placed by law in the land registration assurance fund, and all revenue for trust funds, including the Massachusetts school fund, the contributions of state employees to their retirement fund, and the contributions of public school teachers to their retirement fund, which funds shall be maintained and the income applied in accordance with existing laws.

Estimates of amounts required for ordinary maintenance, etc., to be filed.
1858, 158, § 1.
G. S. 15, § 28.
1872, 349
1880, 160, § 1.
P. S. 16, § 26.
1885, 41.
R. L. 6, § 26
1905, 211, § 6.
1910, 220,
§§ 1, 6
1912, 719,
§§ 3, 11
1917, 278, § 1.
1918, 244,
§§ 1, 5.
1923, 300.

SECTION 3. Every officer having charge of any office, department or undertaking which receives an annual appropriation of money from the commonwealth, including annual appropriations to be met by assessments, shall annually, on or before October fifteenth, submit to the budget commissioner statements showing in detail the amounts appropriated for the current fiscal year, and estimates of the amounts required for ordinary maintenance for the ensuing fiscal year, with an explanation of any increased appropriations recommended, and with citations of the statutes relating thereto, and statements showing in detail the revenue and estimated revenue of the office, department or undertaking in his charge for the current fiscal year and his estimate of the revenue

12 from the same or any additional sources for the ensuing fiscal year,
 13 with his recommendations as to any changes in the management, prac-
 14 tices, rules, regulations or laws governing the office, department or
 15 undertaking in his charge which would effect an increase or cause a
 16 decrease in revenue from operations, fees, taxes or other sources or
 17 which would facilitate its collection, together with any other informa-
 18 tion required at any time by the budget commissioner. The said esti-
 19 mates shall not include any estimate for any new or special purposes
 20 or objects not authorized by statute.

1 SECTION 4. Officers and heads of departments who, in their annual
 2 reports or otherwise, recommend or petition for the expenditure of
 3 money by the commonwealth from any source of revenue, including
 4 expenditures to be met by assessments or the issue of notes or bonds,
 5 for any purpose not covered by the estimates required to be submitted
 6 under the preceding section shall annually, on or before October fif-
 7 teenth, submit detailed estimates thereof to the budget commissioner,
 8 together with any other information required by him.

Estimates for
 other purposes
 to be filed
 1910, 220, § 2.
 1912, 719,
 § 4, 11
 1917, 278, § 2.
 1918, 244,
 § 2, 5
 1923, 362, § 20.

1 SECTION 5. The comptroller shall annually, on or before December
 2 twenty-sixth, submit to the budget commissioner statements setting
 3 forth:—

4 (a) The expenditures for all state purposes for the preceding fiscal
 5 year, itemized separately so as to show expenditures made from grants
 6 from the United States, trust funds and sources other than state revenue.

7 (b) The appropriations for the preceding fiscal year.

8 (c) Estimates of all claims and other expenditures authorized by
 9 law and not required to be filed under section three.

10 (d) The actual revenue for the three preceding fiscal years, itemized
 11 so as to show the sources from which received.

12 (e) The condition of the cash on hand, itemized separately so as to
 13 show cash derived from special revenue not available for general state
 14 purposes, cash held to meet authorizations and obligations previously
 15 made and incurred, and cash which is unencumbered and available for
 16 appropriation.

17 (f) The condition of the state debt.

Annual
 statements to
 be filed with
 budget
 commissioner
 by comptroller.
 1849, 56, § 4
 1856, Res 74.
 1858, 158, § 1.
 G. S. 15, § 6.
 1867, 178, § 12.
 1872, 349.
 P. S. 16, § 26.
 1885, 41.
 R. L. 6,
 § 12, 26.
 1905, 211,
 § 5, 6.
 1908, 597, § 5
 1910, 220,
 1912, 719,
 § 3, 4.
 1917, 278, § 1
 1918, 244, § 3
 1923, 362, § 21.
 1925, 156.

1 SECTION 5A. Each department, office and commission responsible
 2 for any great amount of physical property shall annually submit with
 3 its budget estimates forecasts of probable annual construction expendi-
 4 tures for such period of years as shall be appropriate for such depart-
 5 ment, office or commission. Such forecasts shall be itemized, and items
 6 shall be classified for each year under one of three following classes:
 7 "necessary", "desirable" or "contingent". The first class shall include
 8 work that is a part of a fixed and continuing program or is unavoidably
 9 necessary. The second class shall include items of work advantageously
 10 provided for at that time, but which might be postponed or possibly
 11 advanced. The third class shall include work dependent upon some
 12 other developments which cannot be definitely predetermined. Such
 13 forecasts may be modified from year to year to conform to changing
 14 conditions. The budget commissioner may from time to time fix or
 15 change the form of the forecasts, the classification of the items contained
 16 therein or the period of years to be covered thereby.

Annual fore-
 casts of prob-
 able annual
 construction
 expenditures.
 1923, 362, § 22.

Budget.
Const. amend.
63, § 2.
(Const. Rev.
art. 108.)
1910, 220,
§§ 4, 5.
1912, 719,
§§ 5, 11.
1916, 296, § 9.
1918, 214, § 1.
1919, 52.
1923, 302, § 23.

SECTION 6. The budget commissioner shall study and review all estimates and requests for appropriations and other authorizations for expenditures of state funds filed with him as provided by sections three and four, and shall make such investigations as will enable him to prepare a budget for the governor, setting forth such recommendations as the governor shall determine upon. The governor may call upon the comptroller for information relative to finances and for assistance in the preparation of the budget. The budget shall be submitted by the governor to the general court annually within three weeks after the general court convenes, and it shall embody all estimates, requests and recommendations for appropriations or other authorizations for expenditures by the commonwealth. The budget shall be classified and designated so as to show separately estimates and recommendations for: (a) expenses of administration, operation and maintenance; (b) deficiencies or overdrafts in appropriations of former years; (c) new construction, additions, improvements and other capital outlay; (d) interest on the public debt and sinking fund and serial bond requirements; and (e) all requests and proposals, for expenditures for new projects and other undertakings; and shall include in detail definite recommendations of the governor relative to the amounts which should be appropriated therefor. The budget shall also include definite recommendations of the governor for financing the expenditures recommended, and the relative amounts to be raised from ordinary revenue, direct taxes or loans. All appropriations based upon the budget to be paid from taxes or revenue shall be incorporated in a single bill to be designated the general appropriation bill. With the budget the governor shall submit to the general court such messages, statements or supplemental data relative thereto as he deems expedient, and from time to time during the session of the general court he may submit supplemental messages on recommendations relative to appropriations, revenues and loans.

Estimates for building construction, etc., to be accompanied by preliminary studies, etc.
1859, 177, § 1.
G. S. 15, § 43.
P. S. 16, § 39.
R. L. 6, § 42.
1907, 520,
§§ 1-4.
1910, 220, § 3.
1912, 719, § 3.
1914, 762, § 4.
1918, 290,
§§ 1-3, 5.

SECTION 7. Estimates for building construction and institutional development filed under section four shall be accompanied by preliminary studies and general specifications sufficient for a careful estimate by a competent contractor, and at least one such estimate of the cost of any new construction, including heating, plumbing, lighting, ventilation and equipment, for alteration or repair of existing construction when such estimate exceeds five thousand dollars. Copies of such preliminary studies and estimates shall be filed in his office by the officer having in charge such construction, alteration, repair or development. Preliminary studies so submitted shall not be changed or amended thereafter in any respect, except with the written approval of such officer, and such changes shall be kept on file distinct from the original studies authorized.

Procedure when general court authorizes construction, etc.
1907, 520,
§§ 2, 3.
1914, 762, § 4.
1918, 290,
§§ 3, 5.

SECTION 8. The officer in direct charge of such construction, alteration, repair or development, shall obtain working plans and specifications, when so authorized by the general court, shall advertise in a reasonable number of newspapers for proposals for the performance of such work, and shall award the contract to the lowest responsible and eligible bidder; but no contract shall be awarded for a sum in excess of the appropriation available therefor.

1 SECTION 9. To meet the expenses incurred under section seven in
 2 any case where the general court fails to make an appropriation to
 3 carry out the construction, alteration, repair or development asked
 4 for, reasonable amounts in compensation for such preliminary studies,
 5 specifications and estimates not exceeding one per cent of the estimated
 6 cost of the work may be expended; provided the general court makes
 7 an appropriation therefor.

Payment for estimates when general court fails to make appropriation to carry out construction, etc.
 1907, 520, § 5.
 1914, 162;
 762, § 4
 1918, 290, § 4.

1 SECTION 9A. The metropolitan district commission shall include in
 2 its budget estimates for each of the functions under its control for each
 3 fiscal year after that ending November thirtieth, nineteen hundred and
 4 twenty-eight, an item covering the amounts contributed by the com-
 5 monwealth as pensions under sections one to five, inclusive, of chapter
 6 thirty-two during the preceding fiscal year on account of the death or
 7 retirement of employees, officers and officials formerly employed in the
 8 performance of such function, including, in the case of those whose
 9 services cannot be entirely allocated to any one function, those parts of
 10 such amounts properly allocable to such function and also including as
 11 employed in the performance of its water function those employed by
 12 the metropolitan district water supply commission, and the amount of
 13 such item shall be assessed upon the proper district as a part of the
 14 cost of the maintenance of such function; provided, that, in the case of
 15 employees, officers and officials formerly employed in the performance
 16 of its boulevard functions, only one half the amounts contributed by
 17 the commonwealth as pensions as aforesaid shall be so included and
 18 assessed. After an appropriation has been made covering each such
 19 item, the amount thereof shall be approved for payment by the metro-
 20 politan district commission as a part of the cost of maintenance of the
 21 function for which the estimates were made and shall be credited to the
 22 general revenue of the commonwealth.

Metropolitan district commission to include in its budget estimates certain contributions by commonwealth as pensions, etc.
 1928, 251, § 1.

1 SECTION 10. Officers or departments having charge or supervision of
 2 expenditures in behalf of the commonwealth may continue expendi-
 3 tures in each year at the rate authorized by appropriations for the
 4 preceding fiscal year, until the general court makes an appropriation
 5 therefor or provides otherwise.

Officers, etc., may continue expenditures at rate of preceding fiscal year.
 1858, 158, § 13.
 G. S. 15, § 41.

P. S. 16, § 37.
 R. L. 6, § 40.

1905, 211, § 10.
 1918, 257, § 7.

1919, 5, 20.
 1920, 2.

1 SECTION 11. The state treasurer shall make advances to members of
 2 the senate and house of representatives on account of compensation
 3 due for services and traveling expenses in accordance with existing
 4 laws at the rate authorized by appropriations for the preceding fiscal
 5 year, until the general court makes an appropriation therefor or provides
 6 otherwise.

Advances to members of general court.
 1918, 1.

1 SECTION 12. Unless otherwise specifically provided therein, appro-
 2 priations by the general court for ordinary maintenance shall be made
 3 for the fiscal year established for the commonwealth.

Appropriations to be made for fiscal year.
 1905, 211, § 12.

1 SECTION 13. An unexpended balance of an appropriation for ordinary
 2 maintenance of any fiscal year may be applied in the succeeding fiscal
 3 year to the payment of expenses incurred during the fiscal year for which

Unexpended appropriations for ordinary maintenance.
 1858, 1, § 3;
 158, § 15.

G. S. 15,
§ 31, 40.
P. S. 16, § 30.

the appropriation was made; but any balance then remaining shall revert to the commonwealth.

R. L. 6, § 31,
1905, 211, § 7.

1918, 257, § 6,
1919, 5.

1920, 2.

Application of
appropriations
for other than
ordinary
maintenance.

SECTION 14. An appropriation for any purpose other than ordinary maintenance shall not be available for more than two years after the date of the appropriation act, except that payments may be made thereafter to fulfil contracts and other obligations entered into within the said two years.

Successive
appropriations.
1858, 11, § 6.

SECTION 15. An appropriation shall supersede an earlier one made for the same object.

1859, 272, § 6.

G. S. 15, § 39.

P. S. 16, § 35.

R. L. 6, § 33.

Payments
from ordinary
revenue, etc.
1858, 11, § 8;
158, § 10.
G. S. 15, § 33.
P. S. 16, § 33.
R. L. 6, § 38.
1905, 211, § 9.

SECTION 16. Payments authorized by appropriation acts shall be made from the ordinary revenue, if no other provision is expressly made therefor. Cash from the ordinary revenue on hand at the beginning of each fiscal year shall be carried to the account of the ordinary revenue of that year.

8 Allen, 247.

Payment
withheld from
person having
unadjusted
account.
1858, 11, § 2;
158, § 13.
G. S. 15, § 32.
P. S. 16, § 31.
R. L. 6, § 34.
8 Allen, 247.

SECTION 17. An appropriation act shall not be construed to require a payment to a person with whom the commonwealth has an unadjusted account. The governor, upon receiving satisfactory information that money is illegally withheld from the commonwealth by any person, shall instruct the state treasurer to withhold all payments to him until he pays such account.

Payments
from the treas-
ury regulated.
Const. pt. 2,
c. 2, § 1,
art. 11.
(Const. Rev.
art. 125.)
1849, 56, § 2.
1856, Res. 74.
1858, 1, § 1.
G. S. 15, § 30.
1867, 178, § 4.
P. S. 16, § 28.
R. L. 6, § 28.
1910, 342.
1923, 362, § 24.
1927, 222, § 4.
1931, 426,
§ 137.
13 Allen, 593.

SECTION 18. Except as otherwise provided, no money shall be paid by the commonwealth without a warrant from the governor drawn in accordance with an appropriation then in effect, and after the demand or account to be paid has been certified by the comptroller; provided, that the principal and interest on all public debts shall be paid when due without any warrant and that no appropriation shall be required for the payment of principal or income of funds held in trust by the commonwealth, or of sinking funds to meet maturing bonds, or of treasury notes issued for duly authorized temporary loans, or of corporation and other taxes collected by the commonwealth for distribution to towns, or for the investment of such funds as the state treasurer is duly authorized to invest, or for payments authorized by law out of the several prison industries funds, or for refunds of taxes or penalties or for refunds or payments of interest or costs lawfully made pursuant to the provisions of chapters fifty-eight to sixty-five A, inclusive; and, provided, further, that the governor may, without an appropriation, draw his warrant for the payment of his own salary and the salaries of the justices of the supreme judicial court. No certificate shall be required from the comptroller for payment of the pay rolls of the members of the council and general court.

Itemized bills.
1852, 33, § 1.
1856, Res. 74.
G. S. 15, § 49.
P. S. 16, § 32.
R. L. 6, § 29.

SECTION 19. No account against the commonwealth shall be allowed or paid unless authority to contract the same was given by the general court or by either branch thereof nor unless the items thereof are specified.

1 SECTION 20. No account or demand requiring the certificate of the
2 comptroller or warrant of the governor shall be paid from an appropri-
3 ation unless it has been authorized and approved by the head of the
4 department or office for which it was contracted; nor shall any appro-
5 priation be used for expenses, except gratuities and special allowances
6 by the general court, unless full and properly approved vouchers there-
7 for have been filed with the comptroller.

Payments from appropriations, how authorized.
1856, Res. 74.
1862, 51, § 2.
1867, 178, § 4.
P. S. 16, § 29.
R. L. 6, § 30.
1923, 362, § 25.

1 SECTION 21. When the law provides that expenses of a state officer,
2 department or division thereof shall be subject to the approval of the
3 governor and council, specific approval of the governor and council
4 shall not be required for the office expenses thereof.

Specific approval of office expenses by governor and council not required.

1818, 257, § 4. 1919, 5. 1920, 2.

1 SECTION 22. Except as otherwise expressly provided, no greater sum
2 from an appropriation shall be drawn from the treasury at any one time
3 than is necessary to meet expenses then incurred.

Payments limited to expense incurred.

1874, 360, § 2. P. S. 16, § 36. R. L. 6, § 39.

1 SECTION 23. Any officer authorized to expend money in behalf of
2 the commonwealth may have money advanced to him from the treasury
3 for such purposes, in such sums and subject to such rules and regulations
4 as the comptroller may determine.

Advances from the treasury.
1884, 179.
§ 3, 1, 4.

1888, 322, § 1.	1907, 466, § 1.	1914, 45, § 1; 370.
1890, 58, § 2.	1908, 178.	1916, 241, § 1.
1894, 314.	1909, 218, 514, §§ 15, 145.	1917, 344, 1, § 14.
1895, 10.	1910, 488.	1919, 350, §§ 17, 82.
R. L. 6, § 35; 106, § 6.	1912, 71, § 1; 145; 352.	1921, 342.
1905, 369, § 1.	1913, 444, § 1.	1923, 362, § 26.

1 SECTION 24. Such officers shall certify that the amount is needed
2 for immediate use, and, as specifically as may be, the purposes for which
3 the expenditure is required. The certificate shall bear the approval
4 of the officer or department having the supervision of such expenditure
5 and, when filed with the comptroller, his certificate and the warrant and
6 payment shall follow as in case of claims against the commonwealth.

Officers to certify immediate need.
1884, 179, § 2.
R. L. 6, § 36.
1923, 362, § 27.

1 SECTION 25. Such officers shall, within thirty days after receipt of
2 an advance, file with the comptroller a detailed statement of the amounts
3 expended subsequent to the previous accounting, approved by the officer
4 or department authorized to supervise such expenditure, with vouchers
5 therefor if they can be obtained. All advances so made shall be ac-
6 counted for and vouchers therefor filed with the comptroller before
7 December first in each year.

Statement in detail to comptroller.
1884, 179, § 3.
1890, 58, § 1, 3.
R. L. 6, § 37.
1905, 211, § 8.
1923, 362, § 28.

1 SECTION 26. Expenses of offices and departments for compensation
2 of officers, members and employees and for other purposes shall not ex-
3 ceed the appropriations made therefor by the general court. No obli-
4 gation incurred by any officer or servant of the commonwealth in excess
5 of the appropriation for the office, department or institution which he
6 represents shall impose any liability upon the commonwealth. If ex-
7 penditures are made in excess of appropriations, the officers having
8 charge of such expenditures shall annually, on or before December
9 fifteenth, report to the comptroller the details thereof with the reasons
10 therefor, and he shall make a special report of the same to the general
11 court early in its session.

Expenses not to exceed appropriations; obligation incurred in excess thereof not to impose liability on commonwealth.
1858, 11, § 7;
158, § 13.
G. S. 15, § 41.
1878, 187, § 2.
P. S. 16, § 37.
R. L. 6, § 40.
1905, 211, § 10.
1918, 257, § 7.
1919, 5; 350, § 13.

1920, 2. 1923, 362, § 29.

Expenses and increases regulated.
Exception as to certain contracts by department of public works
1858, 158, § 14.
G. S. 15, § 42.
P. S. 16, § 38.
1897, 128, § 2.
1923, 387.
1930, 5.

SECTION 27. No public officer or board shall incur a new or unusual expense, make a permanent contract, increase a salary or employ a new clerk, assistant or other subordinate unless a sufficient appropriation to cover the expense thereof has been made by the general court, except that prior to the effective date of the general appropriation act the department of public works, in anticipation of appropriations therefor, may, in any fiscal year, with the approval of the governor and council, make contracts for the construction and reconstruction of state highways binding the commonwealth to an amount not in excess of twenty-five per cent of the amount appropriated during the preceding fiscal year for the same purposes, such contracts to provide for the completion of the work thereunder within the fiscal year in which they are made.

Payment for publishing state publications.
1902, 438, § 5.

SECTION 28. The cost of printing and publishing any publication issued by or on behalf of the commonwealth by any office or department shall be paid from the appropriation for such office or department.

Transfer of funds with approval of comptroller.
1918, 58.
1923, 362, § 30.

SECTION 29. No transfer of funds from one item of account to another on the books of any officer or board having charge of any office, department, institution or undertaking receiving an annual appropriation from the commonwealth, upon which items of account such annual appropriation is based, shall be made without the written approval of the comptroller.

Insurance.
1879, 296.
P. S. 16, § 39.

SECTION 30. No officer or board shall insure any property of the commonwealth without special authority of law.

R. L. 6, § 42.

Salaries, when payable.
Advances.
1858, 11.
§§ 3, 4.
1859, 272, § 4.
G. S. 15, § 36.
1867, 263.
1868, 4.
P. S. 16, § 54.
1895, 34.
R. L. 6, § 58.
1928, 183, § 1.
98 Mass. 484.
Op. A. G. (1920)
282, 283.

SECTION 31. Salaries payable by the commonwealth shall, unless otherwise provided, be paid on the first day of each month, and shall be in full for all services rendered to the commonwealth by the persons to whom they are paid. Advances on account of salaries may be made under such regulations as the state treasurer may prescribe, not exceeding the proportion of salary then due, nor oftener than once in seven days nor after the twenty-fifth day of the month. No salary shall be paid to any person for a longer period than that during which he has been actually employed in the duties of his office. If a salary shall be diminished, no greater rate shall be paid because of any previous appropriation therefor. Notwithstanding the foregoing provisions of this section, the annual salary of each teacher and each supervisor employed in any school within the department of education, whose regular service is rendered from September first to June thirtieth, shall be for his service for the number of weeks established by the department for such school to be in session during said period, payable, however, in equal instalments on the first day of each month, and the amount earned and unpaid at the time of his resignation, retirement, death or entry on leave of absence shall be paid forthwith to the persons entitled thereto.

Disposal of unpaid checks.
1900, 117, § 1.
R. L. 6, § 59.
1906, 187.

SECTION 32. All checks given by the state treasurer and not paid within one year after issue shall be payable only at the office of the said treasurer.

SECTION 33. [REPEALED, 1934, 426, § 2.]

1 SECTION 34. The state treasurer may deposit any portion of the
 2 public moneys in his possession in such national banks, or trust com-
 3 panies, lawfully doing business in the commonwealth, as shall be ap-
 4 proved at least once in three months by the governor and council; but
 5 the amount deposited in any one bank or trust company shall not at
 6 any one time exceed forty per cent of its paid up capital. For the pur-
 7 pose of paying the principal or interest due on any bond, note or other
 8 obligation of the commonwealth, which is payable in the city of New
 9 York, he may keep on deposit in any national bank or trust company in
 10 said city, approved for the purpose by the governor and council, a sum
 11 not exceeding in the aggregate twenty-five thousand dollars, provided
 12 that for a period of two weeks prior to the date of any such payment or
 13 payments, said amount may be increased by a sum or sums sufficient
 14 to cover the same. A state treasurer making any deposit in violation of
 15 the foregoing provision shall be deemed guilty of misconduct and mal-
 16 administration in his office within the meaning of the constitution; and
 17 any bank or trust company receiving any deposit in violation thereof shall
 18 be disqualified from receiving said moneys for the period of three years
 19 from the date of said deposit. All interest received on any deposits
 20 under this section shall be paid to the commonwealth.

Deposit of
public moneys.
1867, 21.
P. S. 16, § 55.
1891, 310.
R. L. 6, § 61.
1922, 10.

1 SECTION 35. No bond or security belonging to the commonwealth
 2 shall be transferred except with the written approval of the governor.
 3 A note, bond, mortgage or other security which has been made to the
 4 state treasurer by name may be assigned, transferred or discharged by
 5 him or by any successor in office.

Assignment
of bonds,
mortgages, etc.
1856, 68, § 2.
G. S. 15, § 16.
P. S. 16, § 56.
R. L. 6, § 62.

1 SECTION 36. If the state treasurer is authorized to discharge a
 2 mortgage held by the commonwealth, he may instead thereof assign
 3 it; but such assignment shall not impose upon the commonwealth any
 4 liability, express or implied.

State treasurer
may assign
instead of
discharge
mortgage.

1847, 195. G. S. 15, § 13. P. S. 16, § 57. R. L. 6, § 63.

1 SECTION 37. Real estate acquired by the commonwealth by foreclosure
 2 may, with the approval of the governor and council, be conveyed by
 3 the state treasurer upon payment of the amount of the mortgage debt
 4 with the interest and expenses accrued thereon.

State treasurer
may sell real
estate held by
foreclosure.
1804, 103, § 1.

1856, 68, § 1. G. S. 15, § 14. P. S. 16, § 58. R. L. 6, § 64.

1 SECTION 38. Funds over which the commonwealth has exclusive
 2 control shall be invested by the state treasurer, with the approval of
 3 the governor and council, as follows:

Investment
of funds of the
commonwealth.
1862, 187, § 1.
P. S. 16, § 60.
1882, 130.
R. L. 6, § 65.
1916, 192.
1926, 197, § 1.

4 (a) In the public funds of the United States or of the District of
 5 Columbia or of this commonwealth, or in the legally authorized bonds
 6 of any other New England state, or of any other state of the United
 7 States, other than a territory or dependency thereof, which has not less
 8 than seven hundred and fifty thousand inhabitants as established by
 9 the last national census, and which has not within the twenty years
 10 prior to the making of such investment defaulted in the payment of
 11 any part of either principal or interest of any legal debt.

12 (b) In the bonds or notes of a county, city or town of this common-
 13 wealth.

14 (c) In the bonds or notes of an incorporated district in this common-
 15 wealth whose net indebtedness does not exceed five per cent of the last
 16 preceding valuation of the property therein for the assessment of taxes.

(d) In the bonds or notes of any city of Maine, New Hampshire, Vermont, Rhode Island or Connecticut, whose net indebtedness does not exceed five per cent of the last preceding valuation of the property therein for the assessment of taxes; or of any county or town of said states whose net indebtedness does not exceed three per cent of such valuation; or of any incorporated water district of said states which has within its limits more than ten thousand inhabitants, and whose bonds or notes are a direct obligation on all the taxable property of such district, and whose net indebtedness does not exceed three per cent of such valuation; provided, that there is not included within the limits of such water district, either wholly or in part, any city or town the bonds or notes of which are not a legal investment.

(e) In the legally authorized bonds for municipal purposes of any city of any state of the United States, other than one of the New England states, whose bonds are eligible under subdivision (a) of this section; provided, that such city was incorporated as such at least twenty-five years prior to the date of such investment, and has at such date not less than thirty thousand nor more than one hundred thousand inhabitants, as established by the last national census preceding such date, and that its net indebtedness does not exceed five per cent of the valuation of the taxable property therein, to be ascertained by the last preceding valuation of property therein for the assessment of taxes.

(f) In the legally authorized bonds for municipal purposes of any city of any state of the United States, other than one of the New England states, whose bonds are eligible under subdivision (a) of this section; provided, that such city was incorporated as such at least twenty-five years prior to the date of such investment, and has at such date more than one hundred thousand inhabitants, established in the same manner as is provided in subdivision (e) of this section, and that its net indebtedness does not exceed seven per cent of the valuation of the taxable property therein, to be ascertained as provided in said subdivision (e).

(g) In subdivisions (d), (e) and (f) of this section the words "net indebtedness" mean the indebtedness of a county, city, town or district, omitting debts created for supplying the inhabitants with water and debts created in anticipation of taxes to be paid within one year, and deducting the amount of sinking funds available for the payment of the indebtedness included.

Registration
of bonds, etc.,
held by the
commonwealth.
1909, 136.
1916, 152.
1917, 116.

SECTION 39. When the commonwealth holds any bond, note or certificate of indebtedness payable to bearer and issued by a county, city, town or district or any domestic corporation, such county, city, town, district or corporation shall, at the request of the state treasurer, issue in exchange therefor a bond, note or certificate of the same effect, payable to the commonwealth by name. The commonwealth shall pay the expense involved in making such exchange. Any county, city, town, district or corporation neglecting or refusing to comply with this section shall be punished by a fine of not more than fifty dollars.

Trust deposits
with state
treasurer
regulated.
1893, 224
R. L. 6, § 66.

SECTION 40. No deposit required to be made by any corporation in trust with the state treasurer, or any part thereof, shall consist of a mortgage upon real estate or of a loan upon personal notes or of notes secured by collateral. He may receive, as a part of such deposit, money or certificates of deposit, or certified checks on any approved state de-

6 positary, and may hold the same without interest until it may reason-
7 ably be invested in a proper legal security.

1 SECTION 41. The state treasurer shall have the custody and keep a
2 separate account of all notes, bonds and mortgages belonging to the
3 commonwealth, and shall receive all money accruing therefrom. All
4 deeds and instruments conveying real estate to the commonwealth shall,
5 when recorded, be deposited with and safely kept by him.

1870, 329.

P. S. 16, §§ 19, 20.

R. L. 6, § 67.

Custody of
bonds, etc.,
belonging to
commonwealth.
1893, 98.
R. S. 10, § 6.
G. S. 15, § 18.

1 SECTION 42. The governor shall, annually in August, appoint a com-
2 mittee of the council, which shall examine the value of the notes and
3 securities in charge of the state treasurer and report thereon to the gov-
4 ernor and council, who may direct him to sell or to collect notes or
5 securities over which the commonwealth has exclusive control and to
6 reinvest the proceeds according to section thirty-eight.

Annual exami-
nation of
securities
by committee
of council.
1862, 187, § 2.
P. S. 16, § 61.
R. L. 6, § 68.

1 SECTION 43. [REPEALED, 1926, 143.]

1 SECTION 44. The income or any surplus of funds belonging to or in
2 the custody of the commonwealth shall, unless otherwise provided, be
3 added to the principal.

P. S. 16, § 62.

R. L. 6, § 69.

Unappropriated
income.
1862, 83, § 4.

1 SECTION 45. When any sinking fund of the commonwealth, with its
2 accumulations added, calculated on the basis on which the funds are
3 figured, contains more than an amount sufficient to extinguish at ma-
4 turity the indebtedness for which it was established, the state treasurer
5 shall add such surplus to any other sinking funds which are not suffi-
6 cient with their accumulations, so calculated, to meet the indebtedness
7 for which they were established. In determining the sufficiency of any
8 sinking fund under this section, obligations of the United States, and ob-
9 ligations of the commonwealth, or of any county, city or town thereof,
10 which mature on or prior to the date of maturity of the indebtedness
11 on account of which said sinking fund was established, shall be figured
12 at their par value; but all other obligations or other securities in said
13 sinking fund shall be figured at their fair market value at the time such
14 determination of sufficiency is made, but not exceeding the par value
15 thereof. No securities shall hereafter be purchased for any sinking fund
16 which do not mature on or prior to the maturity date of the indebtedness
17 on account of which said sinking fund was established.

Application of
accumulations
of sinking
funds. Invest-
ment of sink-
ing funds
limited.
1891, 259.
R. L. 6, § 70.
1912, 3,
§§ 5, 6.
Op. A. G. (1920)
120.

1 SECTION 46. The state treasurer, instead of selling any securities,
2 belonging to any fund over which the commonwealth has exclusive con-
3 trol, to meet maturing liabilities, may transfer them to any other such
4 fund upon terms and conditions approved by the governor and council.

Transfer of
securities from
one fund to
another.
1868, 71.
P. S. 16, § 63.
R. L. 6, § 71.

1 SECTION 47. The state treasurer may borrow at any time during a
2 fiscal year, in anticipation of the receipts for that year, including assess-
3 ments for the metropolitan districts, such sums of money as may be
4 necessary for the payment of ordinary demands on the treasury, includ-
5 ing interest and maintenance charges of said districts, and may issue
6 notes therefor. Money so borrowed and notes so issued may be at

State treasurer
may borrow in
anticipation of
receipts
Const. amend.
02, § 2.
(Const. Rev.
art. 113.)
1910, 123.
1911, 3; 4.

such rates of interest as shall be found necessary. He shall repay any sums borrowed under this section as soon after said receipts are paid as is expedient, but in any event before the close of the fiscal year in which the same were borrowed. He may collect proportionately from the cities and towns of each such district all interest that may be paid upon money borrowed for that district under this section.

Notes for borrowed money.
1857, Res. 99.
1858, Res. 13.

SECTION 48. Notes for money borrowed in anticipation of the receipts shall be signed by the state treasurer, approved by the governor, and countersigned by the comptroller.

G. S. 15, § 34.

R. L. 6, § 72

1923, 362, § 32.

Bonds, etc., to be issued on serial payment plan.
1903, 226, § 1.
1912, 3, § 1.
1917, 6.

SECTION 49. The state treasurer shall issue all bonds or scrip of the commonwealth upon the serial payment plan. The said plan shall provide for the issue of bonds or scrip to be paid serially in such amounts and at such times as he shall determine, with the approval of the governor and council, to be for the best interests of the commonwealth; the bond last payable in any such issue shall become due at a date not later than the time named in the act authorizing such issue.

Amount to be included in state tax.
1903, 226, § 2.
1912, 3, § 2.
1923, 362, § 33.

SECTION 50. He shall annually certify to the budget commissioner the amount necessary to be included in the state tax to provide for such serial payments of any bonds or scrip of the commonwealth, and the amount shall be included in the state tax to be assessed for the year in which such payments are to be made.

Assessments on metropolitan districts.
1903, 226, § 3.
1905, 169.
1912, 3, § 3.

SECTION 51. On all bonds or scrip issued for the benefit of any of the metropolitan districts, so called, the state treasurer shall assess upon the said metropolitan districts annually amounts necessary for the payment of the serial bonds falling due, and shall collect the same in the same manner as assessments for sinking fund purposes are collected.

Application of premium.
1912, 3, § 4.

SECTION 52. Any premium received on the sale of bonds or scrip shall be applied to the payment of the principal of the first bonds which mature.

Proposals for certain bonds or notes issued by commonwealth.
1904, 263, § 1.

SECTION 53. Whenever there is to be an issue of bonds or notes of the commonwealth maturing at a time later than one year from their dates, excepting such bonds or notes as are to be issued for the investment of cash in any of the sinking or other established funds of the commonwealth, the state treasurer shall invite proposals for the purchase thereof by advertisement, which shall be published at least ten days before the time for receiving such proposals, in not less than four daily papers published in the commonwealth, at least two of which shall be published in Boston, and in at least one paper published in the city of New York. Such advertisement shall state the time and place for opening the proposals in answer thereto, and shall reserve the right to reject any or all proposals. The proposals shall be opened in public by the state treasurer at the place specified in said advertisement, and in the presence of such of those who have made proposals as may desire to attend. If no proposal is accepted the whole or any part of the loan may be awarded to any person.

Deposits by bidders.
1904, 263, § 2.

SECTION 54. Every bidder, as a condition precedent to the consideration of his proposal, shall deposit with the state treasurer in cash, or by

3 certified check drawn to the order of the state treasurer upon some state
4 or national bank or trust company doing business in this commonwealth
5 or in the city of New York, an amount to be fixed by the state treasurer,
6 but not to exceed two and one half per cent of the amount of his proposal.

1 SECTION 55. The state treasurer may annually expend such sums
2 as the general court shall appropriate for the purpose of providing for
3 and advertising sales of bonds for the direct debt of the commonwealth
4 and for the purpose of preparing and paying for bond books necessary
5 for such sales. But, when bonds of the commonwealth are issued, the
6 payment of which is provided by assessments upon the metropolitan
7 or other districts, the expenses of providing for and advertising sales and
8 for the preparing and paying for bond books shall be paid from the main-
9 tenance appropriation of the district from which the assessment is to be
10 received.

Payment of
expense of
sale, etc., of
bonds, etc.
1913, 376.

1 SECTION 56. The state treasurer, with the approval of the governor
2 and council, may transfer funds remaining in his hands from the sale of
3 bonds and other securities issued for specific purposes, when such pur-
4 poses have been fully accomplished and said bonds or other securities
5 so issued paid in full, to such sinking funds or such other accounts for
6 the reduction of outstanding indebtedness of the commonwealth as may
7 be approved by the comptroller.

Transfer of
unexpended
receipts from
sales of bonds,
etc.
1915, 139
1923, 362, § 34.

1 SECTION 57. The principal and interest of all bonds or scrip of the
2 commonwealth when due shall be paid in gold coin or its equivalent.

1862, 82.

1878, 11.

1890, 91.

R. L. 6, § 73.

Bonds or scrip
payable in
gold.

1 SECTION 58. The state treasurer may, upon terms and regulations
2 prescribed by the governor and council, issue, in denominations of not
3 less than one thousand dollars, registered bonds in exchange for any
4 coupon bonds of the commonwealth, which, with the exception of the
5 coupons, shall be in conformity with the laws authorizing the issue of
6 such coupon bonds. He shall mutilate and retain the bonds so received
7 in exchange. The comptroller shall certify such registered bonds; and
8 he and the state treasurer shall each keep a register of their dates, num-
9 bers and amounts, the names of the persons to whom they were issued,
10 when they are payable, and for what bonds they were issued in exchange.
11 The state treasurer may also, upon the same terms and regulations, issue
12 in substitution for mutilated, defaced or endorsed bonds presented to
13 him other bonds of like or equivalent issues.

Issue of reg-
istered in ex-
change for
coupon bonds.
1867, 255,
§§ 1, 3.
P. S. 8, 16,
§§ 68, 69.
R. L. 6, § 74
1923, 362, § 35.
221 Mass. 201.

1 SECTION 59. If it appears to the governor and council that any
2 interest-bearing bond of the commonwealth identified by number and
3 description has, without bad faith upon the part of the owner, been lost
4 or destroyed, wholly or in part, they shall, under regulations and with
5 restrictions as to time and retention for security or otherwise prescribed
6 by them, order the state treasurer to issue a registered duplicate of such
7 bond, payable at the same time, bearing the same rate of interest as the
8 bond lost or destroyed, and so marked as to show the number and date
9 of the original bond. If such bond was of a class or series which has been
10 called in for redemption before the application for a reissue, it shall be

Issue of dupli-
cate bonds
when originals
have been lost
or destroyed.
1872, 367, § 1.
P. S. 16, § 70.
R. L. 6, § 75.

paid, with such interest only as would have been paid if the bond had been presented in accordance with such call. 11 12

Bond of indemnity by owner of lost or destroyed bond
1872, 267, § 2.
P. S. 16, § 71.
R. L. 6, § 76.

SECTION 60. The owner of such bond shall surrender so much thereof as may remain, if any, and shall give to the state treasurer a bond in double the amount of said lost or destroyed bond and of the interest which would accrue until the principal is due and payable, with two sufficient sureties, residents of the commonwealth, approved by the governor and council, conditioned to indemnify and save harmless the commonwealth from any claim on account of said lost or destroyed bond. 1 2 3 4 5 6 7

Requirement of oath of claimant
1862, 101, § 3.
P. S. 16, § 65.
R. L. 6, § 78.
1923, 362, § 36.

SECTION 61. The comptroller or any other person authorized to approve claims for materials, supplies or other articles furnished to, or for service or labor performed for, the commonwealth, may, before approving any such claim, require the claimant to certify on oath that all the articles have been furnished, for which the claim has been made, or that the service or labor has been performed, and that no commission, discount, bonus, present or reward of any kind has been received or promised or is expected on account of the same. 1 2 3 4 5 6 7 8

Agent to prosecute claims
1883, Res. 45.
R. L. 6, § 79.
1910, 512

SECTION 62. The governor, with the advice and consent of the council, may from time to time appoint an agent to examine and prosecute any account or claim of the commonwealth against the United States; and if any amount is received into the treasury of the commonwealth by reason of the services rendered by such agent he may be paid in full compensation for services and expenses such sum, not exceeding ten per cent of the amount so received, as may be agreed upon in advance between the governor and council and such agent. 1 2 3 4 5 6 7 8

CHAPTER 30.

GENERAL PROVISIONS RELATIVE TO STATE DEPARTMENTS, COMMISSIONS, OFFICERS AND EMPLOYEES.

SECT.	SECT.
1. Definition of "departments".	7B. Women holding certain state offices, registration in case of change of name.
2. Certain offices, etc., to be placed temporarily under the supervision of some state department.	8. Tenure of office of certain public officers.
3. Establishment of certain divisions subject to approval of governor and council.	9. Removal of such officers.
4. Organization of departments, etc.	10. Filling of vacancies in certain offices.
5. Appeal to governor and council in case of conflict of orders, etc.	11. Taking of oaths of office.
6. Head of department, etc., may designate person to perform certain duties, etc.	12. Failure to qualify.
6A. Designation of persons to perform certain duties of members, ex officio, of permanent state boards, etc.	13. Fees for certain commissions, etc.
7. Appointment and removal of confidential employees.	14. Commission not to issue until bond, if required, approved.
7A. Women eligible to election, etc., to state offices, etc.	15. Amounts of certain bonds, how fixed.
	16. Schedule bonds.
	17. Reimbursement for premiums.
	18. Examination of bonds.
	19. Removal of principal not giving new bond when required.
	20. Examination of bonds of county officers.

- SECT.
- 21. More than one salary forbidden.
 - 22. Penalty for holding offices in violation of law.
 - 23. Certain state officers may be required to give full time.
 - 24. Office hours of departments.
 - 25. Expenses of state officers, etc.
 - 26. Traveling expenses of state officers, etc.
 - 27. Money received for commonwealth to be paid over daily. Exceptions.
 - 28. Books and accounts to be kept for fiscal year.
 - 29. Maintaining office and keeping books at state institutions.
 - 30. Size of paper for official letters established.
 - 30A. Uniform style of headings for official letterheads.
 - 31. Printing, etc., for departments, etc.
 - 32. Annual reports.
 - 33. To be accompanied by drafts of legislation. Submission to counsel.
 - 33A. To contain recommendations for avoidance of special legislation.
 - 34. Reports of special commissions to be accompanied by drafts of legislation.
 - 35. Special reports, when made. Appeals.
 - 35A. Information to be furnished to certain municipalities relative to amount of assessments recommended to be made upon them for certain new state projects, etc.
 - 36. Marking and record of state motor vehicles, etc. Distinctive number plates.
 - 37. Taking effect of certain rules and regulations. Filing and indexing thereof.

- SECT.
- 38. Departments, etc., to furnish information concerning officials and employees.
 - 39. Construction and repair of public buildings, etc. Security for payment for labor and materials.
 - 40. Discharge and substitution of bonds, etc., given to commonwealth.
 - 41. Itemized accounts of sales of property.
 - 42. Disposal of duplicate and obsolete documents, etc.
 - 43. Employees not to receive certain fees. Penalty.
 - 44. Officer or employee not to act as agent in sale of land to commonwealth. Penalty.
 - 44A. Sale, conveyance, etc., of land owned by commonwealth necessary for laying out, etc., highways.

CLASSIFICATION OF CERTAIN STATE OFFICES AND POSITIONS.

- 45. Classification of certain state offices and positions. Definitions.
- 46. Rules and regulations for application and administration of such classification.
- 47. Procedure in obtaining increase of salary.
- 48. Duties of incumbents of positions classified.
- 49. Appeal from classification.
- 50. Limit of application of five preceding sections.

CENTRALIZED STATE PURCHASING.

- 51. Purchase of materials, supplies, etc., by state departments, etc.
- 52. Approval of such purchases.

1 SECTION 1. The word "departments", as used in this chapter,
 2 except in section two, shall, unless the context otherwise requires, mean
 3 all the departments of the commonwealth, except the departments of
 4 banking and insurance and of civil service and registration but includ-
 5 ing in lieu thereof the divisions of banks and loan agencies, of insurance,
 6 of savings bank life insurance and of civil service and the several boards
 7 serving in the division of registration of the department of civil service
 8 and registration, and also including the metropolitan district commis-
 9 sion and the commission on administration and finance.

Definition of "departments".
 1923, 362, § 37.
 1931, 426,
 § 138.

1 SECTION 2. All executive and administrative offices, boards, com-
 2 missions and other governmental organizations and agencies, except
 3 those serving directly under the governor or the governor and council,
 4 not by law placed under the direction and control of some state depart-
 5 ment, shall be placed thereunder by order of the governor, with the
 6 advice and consent of the council, until such time as the general court
 7 shall make provision therefor.

Certain offices, etc., to be placed temporarily under the supervision of some state department.
 1919, 350, § 1.

Establishment of certain divisions subject to approval of governor and council 1919, 350, § 9.

SECTION 3. In all cases where the executive and administrative head of a department is vested with authority to establish therein divisions not specifically provided for by law, the establishment of such divisions shall be subject to the approval of the governor and council.

Organization of departments, etc.

SECTION 4. A state department, board or commission shall, upon organizing, report its organization to the state secretary.

1898, 265.

R. L. 18, § 4.

Appeal to governor and council in case of conflict of orders, etc. 1919, 350, § 10.

SECTION 5. In all cases where a question arises between executive or administrative departments, or officers or boards thereof, as to their respective jurisdictions or powers, or where such departments, or officers or boards thereof, issue conflicting orders or make conflicting rules and regulations, the governor and council may, on appeal by any such department or by any person affected thereby, determine the question, and order any such order, rule or regulation amended or annulled; provided, that this section shall not deprive any person of the right to pursue any other lawful remedy. The time within which such appeal may be taken shall be fixed by the governor and council.

Head of department, etc., may designate person to perform certain duties, etc. 1920, 44, 1921, 275.

SECTION 6. If during the absence or disability of a commissioner or head of an executive or administrative department or of a director or head of a division in a department, his duties are not specially authorized by law to be performed by another person, the commissioner or head of such department may designate another person in his department to perform the duties of such person in case of and during such absence or disability, but a person so designated shall have no authority to make permanent appointments or removals. Every such designation shall be subject to approval by the governor and council, and shall remain in force and effect until revoked by the commissioner or head of such department or by the governor and council.

Designation of persons to perform certain duties of members, ex officers, of permanent state boards, etc. 1930, 56.

SECTION 6A. If any member of a permanent state board or commission who serves as such by virtue of holding any other office or position is unable by reason of absence or disability to perform his duties as such member, he may, by a writing filed in the office of such board or commission, designate an officer or employee in his department who shall, without additional compensation therefor, perform such duties in case of and during such absence or disability, but a person so designated shall have no authority to make any appointments or removals. Any such designation may in like manner be revoked at any time.

Appointment and removal of confidential employees. 1920, 205, 1923, 362, § 38.

SECTION 7. Each commissioner in charge of a bureau of the commission on administration and finance and the officer in charge of the division of personnel and standardization of said commission, and each officer, board and commission, other than the aforesaid commission, having supervision and control of an executive or administrative department, including the adjutant general and each officer, board and commission, mentioned in section seventeen of chapter six, may, subject to the approval of the governor and council, employ a person to serve in a confidential capacity and may, with like approval, remove him. Such employee shall receive such compensation as shall be fixed by the officer, board or commission employing him and approved by the governor and council.

1 SECTION 7A. Women shall be eligible to election or appointment to
 2 all state offices, positions, appointments and employments. This section
 3 shall not prevent heads of departments or officers from making requisition
 4 for male officers or employees for various positions which require special
 5 qualification of sex nor shall the commissioner of civil service be restricted
 6 from recognizing any special qualification of sex stated in requisitions
 7 made to him.

Women eligible
to election, etc.,
to state offices,
etc.
1921, 449, § 3.
1922, 371, § 1.

1 SECTION 7B. Upon the change of name of any woman holding an
 2 executive, administrative or legislative office in the state government,
 3 she shall register her new name with the state secretary.

Women holding
certain state
offices, registra-
tion in case of
change of name.

1931, 153.

1 SECTION 8. A public officer appointed for any term by the governor,
 2 with or without the advice and consent of the council, shall hold his
 3 office during the term for which he is appointed and until his successor in
 4 office has qualified, unless he is sooner removed in accordance with law.
 5 Unless otherwise provided, the beginning of the term of office of a public
 6 officer appointed by the governor shall be the date of his appointment,
 7 or, if he is appointed by the governor with the advice and consent of the
 8 council, it shall be the date of his confirmation; but no officer shall enter
 9 upon the duties of his office until he is duly qualified as provided by law.

Tenure of
office of certain
public officers.
1887, 364
R. L. 18, § 1
1918, 257, § 86.
1919, 5.
1920, 2.
154 Mass. 603.

[NOTE:— For provisions requiring officers to take oath before entering office, see
 Const. pt. 2, c. 6, art. 1; Const. amend. 6. (Const. Rev. art. 149.)]

1 SECTION 9. Unless some other mode of removal is provided by law, a
 2 public officer, if appointed by the governor, may at any time be removed
 3 by him for cause, and, if appointed by him with the advice and consent
 4 of the council, may be so removed with its advice and consent.

Removal of
such officers.
1881, 57.
P. S. 21, § 1.
R. L. 18, § 2.
216 Mass. 605.

1 Op. A. G. 140.

1 SECTION 10. Any vacancy in any office, the original appointment to
 2 which is required by law to be made by the governor, with or without
 3 the advice and consent of the council, and for which no other method of
 4 filling vacancies is expressly provided by law, shall be filled for the
 5 unexpired term in the manner provided for an original appointment;
 6 and the appointment of a successor of any incumbent of any such office
 7 who is holding over after the expiration of his term of office shall be
 8 made in like manner for the remainder of the term which would have
 9 begun at such expiration if his successor had then been appointed.

Filling of
vacancies in
certain offices.
1860, 216.
P. S. 21, § 2.
R. L. 18, § 3.
1919, 350.
1931, 426, § 3.

1 SECTION 11. A person chosen or appointed to an office may, unless
 2 otherwise provided by law, take and subscribe the oaths required to
 3 qualify him before the governor, lieutenant governor, two councillors or
 4 two commissioners appointed under section three of chapter two hundred
 5 and twenty-two.

Taking of
oaths of office.
Const. pt. 2,
c. 6, art. 1.
Const.
amend. 6.
(Const. Rev.
art. 149.)

1780, Res. 58.
R. S. 13, § 57.

G. S. 14, § 40.
P. S. 21, § 3.

R. L. 18, § 7.

1 SECTION 12. A person appointed to an office by the governor with
 2 or without the advice and consent of the council shall be notified of his
 3 appointment by the state secretary and his commission delivered to him,
 4 and if he does not, within three months after the date of such appoint-
 5 ment, take and subscribe the oaths of office, his appointment shall be
 6 void, and the secretary shall forthwith notify him thereof and require

Failure to
qualify.
1862, 109.
§§ 1, 2, 5.
1867, 138.
§§ 1, 2, 5.
P. S. 21.
§§ 4, 5.
R. L. 18, § 8.

him to return his commission, and shall also certify said facts to the governor. This section shall be printed on every such commission.

Fees for certain commissions, etc.
1862, 109, § 1;
176, § 18.
1877, 211, § 8.
P. S. 21, § 6.
1898, 574, § 2.
1901, 149.
R. L. 18, § 9.
1927, 74.
1930, 212.

SECTION 13. Before the delivery of a commission to a person appointed commissioner under section three or four of chapter two hundred and twenty-two, notary public, master in chancery, justice of the peace or pilot, he shall pay to the state secretary a fee of five dollars, except that a person whose acts as a notary public or a justice of the peace have been validated by the general court shall pay a fee of fifteen dollars before the delivery of the first commission for either of said offices to be delivered after such validation. Upon the change of name of any woman, who has been appointed and qualified as a notary public, she shall re-register under her new name and shall pay to the state secretary a fee of one dollar.

Commission not to issue until bond, if required, approved.

SECTION 14. If a bond is required of any person appointed to office by the governor with or without the advice and consent of the council, the commission shall not issue until the bond has been approved.

1881, 56.

P. S. 21, § 7.

R. L. 18, § 10.

Amounts of certain bonds, how fixed.
1917, 18.
1920, 546, § 4.
1923, 362, § 39.

SECTION 15. When state officials or employees are required to give bond in which the amount is not fixed by law, the comptroller shall fix the amount and shall require that such bonds be made uniform so far as possible.

Schedule bonds.
1918, 257,
§ 90; 294,
1919, 5; 144.
1920, 2;
546, § 1.

SECTION 16. State officers and heads of state departments may arrange for such schedule bonds as they deem advisable, which shall take the place of bonds required by law of them or any of their officers and employees. Every such schedule bond shall be a surety company bond with a surety company authorized to do business in the commonwealth as surety, conditioned that the officers and employees named in the bond shall faithfully perform the duties of their offices and employments, with other conditions or provisions required by law.

Reimbursement for premiums.
1907, 276.
1908, 409, § 1.
1912, 66.
1914, 589; 615.
1918, 257, § 8 S.
90, 294.
1919, 5; 144.
1920, 2;
546, § 4.

SECTION 17. If an official having custody of property of the commonwealth, or charged with the duty of receiving or disbursing money, is required to give bond to the commonwealth for the faithful discharge of his duty, the commonwealth shall reimburse him for the amount paid by him to a surety company for becoming surety on his official bond. Premiums on all surety bonds paid by the commonwealth shall be paid out of the appropriations for expenses of the several officers and departments.

Examination of bonds.
1887, 32,
§§ 1, 2.
R. L. 18, § 16.
1904, 295.
1916, 196, § 1.
1919, 350,
§§ 46, 52, 54.

SECTION 18. Every public official having custody of any bond for the faithful performance of the duties of any office, occupation, agency or trust, requiring the approval of any court, public officer, department or board other than the governor and council, shall, except in those cases where the duty is imposed upon the director of accounts, annually in March examine into the sufficiency of every such bond, and shall, whenever at any other time there is reason to believe that any such bond has become insufficient, examine into its sufficiency. The governor shall appoint a committee of the council which shall annually in March make such examination of bonds required to be approved by the governor or by the governor and council. If a bond is found upon examination to

12 be insufficient, the person who has examined it shall forthwith notify
13 the principal thereof and shall require him, within thirty days after the
14 date of such notice, to file a new bond in conformity with law. All
15 bonds requiring the approval of the state treasurer and all bonds requir-
16 ing his examination as to their sufficiency shall, when he deems it neces-
17 sary, be secured by a surety company approved by the commissioner of
18 insurance.

1 SECTION 19. If a new bond is not filed, as required by the preceding
2 section, the governor, with the advice and consent of the council, shall
3 remove the principal from such office or trust or terminate his authority
4 to exercise such occupation or agency.

Removal of principal not giving new bond when required. 1885, 32, § 3. R. L. 18, § 17.

1 SECTION 20. Bonds of public officers, except officers in Suffolk
2 county, required to be deposited with county treasurers shall, at least
3 once a year, be examined by the director of accounts or his representa-
4 tive. If such bond is insufficient, he shall report to the superior court,
5 which shall require a new bond, satisfactory to it, within such time as
6 it shall order.

Examination of bonds of county officers. 1893, 257. R. L. 18, § 18. 1919, 350, § 52, 54.

1 SECTION 21. A person shall not at the same time receive more than
2 one salary from the treasury of the commonwealth.

G. S. 15, § 36. R. L. 18, § 11. Op. A. G. (1920) 282, 283.
P. S. 21, § 8. 2 Op. A. G. 21, 309.

More than one salary forbidden.

1 SECTION 22. Whoever wilfully violates the preceding section or wil-
2 fully accepts or holds office in violation of article two of chapter six of
3 the second part of the constitution, as amended by article twenty-seven
4 of the amendments thereof, shall forfeit to the commonwealth the
5 compensation from all offices held in violation of said provisions during
6 the time they are so held, to be recovered by the attorney general, upon
7 written complaint made within one year by any citizen.

Penalty for holding offices in violation of law. Const. Rev. art. 150. 1880, 180. P. S. 21, § 9. R. L. 18, § 12.

1 SECTION 23. Any person in any executive or administrative depart-
2 ment who is appointed to office by the governor, with the advice and
3 consent of the council, and who is paid a salary, may be required by the
4 governor, with like advice and consent, to give his whole time to the
5 duties of his office.

Certain state officers may be required to give full time. 1919, 350, § 11.

1 SECTION 24. The offices of all the departments of the state govern-
2 ment shall be open to the public for the transaction of business daily,
3 except on Sundays and legal holidays, from nine o'clock in the forenoon
4 until five o'clock in the afternoon, except on Saturdays, when they may
5 be closed at twelve o'clock, noon. The state treasurer shall not be
6 required to keep his office open for the receipt and payment of money
7 later than two o'clock in the afternoon.

Office hours of departments. 1886, 67. 1879, 236. 1881, 42. P. S. 21, § 10. 1886, 257. 1890, 522. R. L. 18, § 13. 1903, 229, § 1. 2 Op. A. G. 375.

1 SECTION 25. State officers, and members of departments receiving a
2 salary or its equivalent, who are provided with offices by the common-
3 wealth and whose duties require regular attendance at such offices, shall
4 not be allowed or paid by the commonwealth any expenses in the nature
5 of traveling or living expenses. Such officers or members of depart-
6 ments whose duties require them to travel elsewhere than to and from
7 the offices provided for them by the commonwealth, and unpaid state

Expenses of state officers, etc. 1899, 459. R. L. 6, § 54. 1923, 362, § 40.

officers or members of departments, and those whose duties do not require daily attendance and who receive compensation by the day, shall be allowed their actual reasonable expenses incurred in the performance of such duties, if such expenses are authorized by law to be paid by the commonwealth. Bills for such expenses shall be itemized and the dates when, and the purposes for which, such expenses were incurred shall be stated before their allowance by the comptroller.

Traveling expenses of state officers, etc.
1859, 221, § 7.
G. S. 15, § 48.
P. S. 16, § 50.

SECTION 26. Such officers and members of departments to whom traveling expenses are allowed by the commonwealth shall, unless otherwise provided, receive the amount actually expended but not more than three and one half cents a mile each way actually traveled.

R. L. G. § 55.

Money received for commonwealth to be paid over daily.
Exceptions. Const. amend. 63, § 1.
(Const. Rev. art. 125.)

SECTION 27. Except as otherwise expressly provided, all fees or other money received on account of the commonwealth shall be paid daily into the treasury thereof, but if in the opinion of the commission on administration and finance and the state treasurer the interests of the commonwealth require, payments may be made weekly in accordance with such rules and regulations as the state treasurer may prescribe.

1874, 360, § 1. R. L. G. § 56. 1921, 225.
P. S. 16, § 52. 1914, 770, § 13. 1923, 362, § 41.

Books and accounts to be kept for fiscal year.
1905, 211, § 1.

SECTION 28. All books and accounts of all offices, departments, boards, commissions and institutions of the commonwealth shall be kept by the fiscal year established for the commonwealth.

1918, 257, § 476. 1919, 5. 1920, 2.

Maintaining office and keeping books at state institutions.
1887, 87, § 1.
R. L. G. § 16.

SECTION 29. Every treasurer and disbursing officer of a state institution shall maintain an office at his institution where all books, accounts and vouchers of such institution shall be kept. The books shall show all receipts and disbursements on account of the institution.

1908, 195.

Size of paper for official letters established.
1913, 702.

SECTION 30. Official letters of departments, institutions or officials of the commonwealth shall be written or printed, so far as practicable, on paper eight and one half inches wide and eleven inches long.

Uniform style of headings for official letterheads
1923, 362, § 42.

SECTION 30A. The state secretary, the director of personnel and standardization and the state purchasing agent shall, after consultation with state officers, heads of departments and superintendents of institutions, determine a uniform style of headings for letterheads to be used by all executive and administrative officers and departments and all institutions; but other styles may be authorized in limited quantities for special purposes.

Printing, etc., for departments, etc.
1856, Res. 74.
R. L. G. § 49.

SECTION 31. The printing, binding and procuring of stationery for the use of the several offices and departments of the commonwealth shall be under the direction of the heads of said offices or departments and shall be approved by them.

Annual Reports.
1905, 211, § 1
1918, 189, § 1;
257, §§ 9, 476.
1919, 5.
1920, 2.

SECTION 32. All annual reports required by law to be made by state officers and departments or heads thereof shall, except as otherwise expressly provided, cover the preceding fiscal year and, except for facts or

4 information specifically required by law, shall be a brief summary of the
5 said year's work, together with recommendations for the succeeding
6 fiscal year. All such reports shall, except as otherwise expressly provided,
7 be deposited with the state secretary and by him transmitted to the
8 general court on or before the third Wednesday in January.

1 SECTION 33. State officers and departments or heads thereof, except
2 the commission on administration and finance, shall annually, on or
3 before the first Wednesday in December, deposit with the state secretary
4 such parts of their annual reports as contain recommendations or sug-
5 gestions for legislative action, accompanied by drafts of bills embodying
6 the legislation recommended; and the state secretary shall forthwith
7 transmit them to the general court; provided, that such recommendations
8 or suggestions for legislative action shall not include any requests for
9 appropriations or any matters required to be covered by budget esti-
10 mates submitted to the budget commissioner under section three or
11 four of chapter twenty-nine. Such drafts of bills shall, seasonably be-
12 fore being deposited with the state secretary, be submitted to the coun-
13 sel to the senate or counsel to the house of representatives for advice
14 and assistance as to the form thereof.

To be accom-
panied by
drafts of
legislation.
Submission to
counsel.
1893, 144.
R. L. 18, § 6.
1910, 452, § 1.
1915, 222, § 1;
269.
1919, 131.
1922, 24, § 2.
1923, 362, § 43.

1 SECTION 33A. If, in the opinion of a state officer or department re-
2 quired to submit annual reports to the general court, the necessity of
3 enacting special bills in relation to any particular subject of legislation
4 may, without detriment to the public interest, be avoided in whole or in
5 part by the enactment of general legislation, such officer or department
6 shall submit from time to time in such reports recommendations for
7 such changes in or additions to the General Laws as will accomplish
8 said purpose.

To contain
recommendations for avoid-
ance of special
legislation.
1930, 6, § 2.

1 SECTION 34. All reports of special commissions recommending legis-
2 lation shall be accompanied by drafts of bills embodying the legislation
3 recommended.

1915, 269.

1919, 131.

Reports of
special com-
missions to be
accompanied
by drafts of
legislation.

1 SECTION 35. State officers, departments or heads thereof may make
2 such special reports as the division of personnel and standardization
3 deems to be of practical utility. Appeal may be taken from any de-
4 cision of said division hereunder to the committee of the executive
5 council appointed to consider matters of finance whose decision shall be
6 final.

Special reports,
when made.
Appeals.
1902, 438,
§§ 3, 6.
1916, 296,
§§ 1, 5, 9.
1923, 362, § 44.

1 SECTION 35A. Reports of state officers, departments or heads thereof,
2 and special commissions, recommending the expenditure of money to
3 an amount in the aggregate exceeding five hundred thousand dollars for
4 a new project or undertaking, any part of the cost of which is recom-
5 mended to be assessed upon the cities and towns of any metropolitan
6 district, shall be accompanied by a statement showing the amount, in
7 dollars and cents, that would be assessed upon each such city and town
8 if such recommendation should be enacted into law. The officer, de-
9 partment or special commission making a recommendation as aforesaid
10 shall, upon the filing of its report containing the same, send a copy of
11 said statement to each city and town which would be subject to such
12 assessment.

Informa-
tion to be
furnished to
certain
municipalities
relative to
amount of
assessments
recommended
to be made
upon them
for certain
new state
projects, etc.
1930, 222.

Marking and
record of state
motor vehicles,
etc.
Distinctive
number plates.
1917, 219
1919, 359,
§ 115
1923, 362, § 45.

SECTION 36. Every motor vehicle purchased by the commonwealth shall be marked on a part of the vehicle not readily removable, and in a conspicuous place, with the words in plain letters "Commonwealth of Massachusetts", or in such other manner as may be approved by the state purchasing agent. He may make rules and regulations governing the marking of such motor vehicles, and any appointed official who fails to comply with an order, rule or regulation made under authority hereof may be removed by the governor, with the advice and consent of the council. Every officer, department, board, commission or institution of the commonwealth operating any such motor vehicle shall keep such a record of the use of such vehicle, and shall make such reports in relation thereto, as may be prescribed by the comptroller. The registrar of motor vehicles shall furnish for each such motor vehicle a distinctive number plate bearing such arrangement of letters or numbers, or both, as will distinguish the particular vehicle, and the officer, department, board, commission or institution by which the vehicle is operated, and at the expense thereof.

Taking effect
of certain
rules and
regulations.
Filing and
indexing
thereof.
1917, 307,
§§ 1, 3, 4,
1920, 433,
267 Mass. 501.

SECTION 37. Every department, commission, board or official vested by law with the power to make and issue rules or regulations general in scope, and to be observed or performed under penalty for the violation thereof, shall file attested copies thereof, together with a citation of the law by authority of which the same purport to have been issued, with the state secretary, and such rules or regulations, whether or not they require the approval of the governor and council, or other authority, before taking effect, shall not take effect until so filed. The foregoing provision shall not apply to rules or regulations issued by commissions, boards or officials of towns, or to municipal ordinances or by-laws, or to rules or regulations affecting solely the internal management or discipline of a department, commission, board or office, nor to orders or decrees made in specific cases within the jurisdiction of a department, commission, board or official. The state secretary shall file and index all rules and regulations filed with him hereunder, noting and keeping available such references to preceding rules and regulations as may be necessary for certification purposes.

Departments,
etc., to furnish
information
concerning
officials and
employees.
1916, 268, § 1.
1911, 43,
1913, 534,
1916, 266, § 6.
1917, 217.

SECTION 38. Every state officer, department or head thereof shall, whenever required by the division of personnel and standardization, furnish it with such information as it prescribes concerning all officials and employees of the commonwealth employed in or by such office or department for whose services money has been paid by the commonwealth.

1923, 362, § 46.

Construction
and repair of
public build-
ings, etc.
Security for
payment for
labor and
materials.
1878, 209
P. S. 16, § 61.
R. L. 6, § 77.
1922, 416,
1929, 111
174 Mass. 325,
182 Mass. 490
197 Mass. 357,
202 Mass. 326,
204 Mass. 194.

SECTION 39. Officers or agents contracting in behalf of the commonwealth for the construction or repair of public buildings or other public works shall obtain sufficient security, by bond or otherwise, for payment by the contractor and sub-contractors for labor performed or furnished and for materials used or employed in such construction or repair; but in order to obtain the benefit of such security, the claimant shall file with such officers or agents a sworn statement of his claim, within sixty days after the claimant ceases to perform labor or furnish labor or materials, and shall, within one year after the filing of such claim, file a petition in the superior court for the proper county to en-

11 force his claim or intervene in a petition already filed; and the pro- 208 Mass. 372.
 12 visions of chapter two hundred and fifty-eight shall apply to such peti- 212 Mass. 534.
 13 tions. 215 Mass. 369.

222 Mass. 405.

233 Mass. 420.

259 Mass. 310.

1 SECTION 40. Bonds or other security given to the commonwealth to Discharge
 2 secure the performance of contracts for the construction or repair of and substitution
 3 public buildings or other public works, or given in accordance with the of bonds,
 4 preceding section, may be discharged or released by the governor, with etc., given to
 5 the advice and consent of the council, upon such terms as they deem commonwealth.
 6 pedient, after the expiration of sixty-five days from the time of the 1916, 251.
 7 pletion of the work contracted to be done; provided, that no claim filed
 8 under said section is pending; and new bonds or other security in sub-
 9 stitution therefor may be taken by the governor, with like advice and
 10 consent.

1 SECTION 41. If sales of property of the commonwealth are made by Itemized ac-
 2 any officer of a state institution, the superintendent thereof shall submit counts of sales
 3 to the trustees or other supervising board or officer an itemized account, of property.
 4 on oath, of such sales, for their approval in the same manner as accounts 1884, 326.
 5 for materials and supplies for such institutions are approved, and such R. L. 6, § 57.
 6 account shall be filed with the state treasurer when the proceeds are
 7 paid over to him.

1 SECTION 42. The state purchasing agent, the state librarian and an Disposal of
 2 assistant attorney general designated by the attorney general, acting duplicate and
 3 as a board, in consultation with the chairman of any board or commission obsolete docu-
 4 and the head of any department or institution which may be interested, ments, etc.
 5 may, in their discretion, sell any duplicate volumes or documents, the 1920, 174.
 6 property of the commonwealth, which are held in the state library or 1923, 362, § 47.
 7 any other department, and they shall sell or destroy, from time to time,
 8 obsolete or worthless records, books and documents. At least thirty
 9 days before selling or destroying any such records, books or documents,
 10 the board shall publish in a daily newspaper in Boston a notice of its in-
 11 tention so to do, containing a brief description or summary of the articles
 12 to be sold or destroyed, and it shall give such other and further notice
 13 as it deems advisable to historical societies or persons interested in the
 14 matter. It may, and upon petition of twenty-five or more citizens of
 15 the commonwealth shall, before selling or destroying any particular
 16 records, books or documents, give a public hearing to all persons in-
 17 terested, and ten days' notice of such hearing shall be given in a daily
 18 newspaper published in Boston. Any money received from sales under
 19 this section shall be paid to the commonwealth.

1 SECTION 43. No person employed in any state department shall re- Employees
 2 ceive for his own use any fee for copying public records or documents, or not to receive
 3 for other services during office hours, but all fees therefor shall be paid to certain fees.
 4 the commonwealth. Whoever violates this section shall be punished by Penalty
 5 a fine of not more than one hundred dollars and shall be disqualified for 1915, 259, § 3.
 6 employment in any state department. P. S. 21, § 11.
 R. L. 18, § 15.
 1918, 257, § 89.
 1919, 5.
 1920, 2.

1 SECTION 44. No officer or employee of the commonwealth shall act Officer or
 2 as agent or attorney of any person in a sale or conveyance of land to the employee
 not to act as

agent in sale
of land to
commonwealth.
Penalty
1910, 306.

commonwealth. Whoever violates any provision of this section shall be 3
punished by a fine of not more than one thousand dollars and shall be 4
disqualified for employment in any state department. 5

1918, 257, § 87.

1919, 5.

1920, 2.

Sale, convey-
ance, etc., of
land owned by
commonwealth
necessary for
laying out,
etc.,
highways.
1927, 135.

SECTION 44A. A commissioner or head of a state department having 1
control of any land of the commonwealth may, in the name of the com- 2
monwealth and subject to the approval of the governor and council, 3
sell and convey to any county, city or town, or transfer to the control 4
of another state department, so much of such land as may be necessary 5
for the laying out or relocation of any highway. 6

CLASSIFICATION OF CERTAIN STATE OFFICES AND POSITIONS.

Classification
of certain state
offices and
positions.
Definitions.
1914, 605,
§§ 1, 2, 5, 9,
1918, 228, § 1,
1919, 350, § 22,
1923, 362, § 48,
1930, 460, § 6.
Op. A. G. (1918)
116.

SECTION 45. All appointive offices and positions in the government 1
of the commonwealth, except those in the judicial branch and those in 2
the legislative branch other than the additional clerical and other assist- 3
ants in the sergeant-at-arms' office, but including registers and assistant 4
registers of probate and their assistants, shall be classified by the divi- 5
sion of personnel and standardization, subject to the approval of the 6
governor and council, in services, groups and grades according to the 7
duties pertaining to each office or position. Such classification shall be 8
established by specifications defining for each grade the titles, duties and 9
responsibilities, and minimum qualifications for entrance and promo- 10
tion. The titles so designated shall be the official title of offices or posi- 11
tions included therein, and shall be set forth on all pay rolls. The 12
following words as used in this and the four following sections and in 13
said classification shall have the following meanings: 14

"Group" includes offices and positions in a separate profession, 15
vocation, occupation or trade involving a distinctive line of work which 16
requires special education, training or experience; 17

"Grade", a subdivision of a group, including all positions with sub- 18
stantially identical authority, duties and responsibility as distinct from 19
all other grades in that group; 20

"Advancement", an increase from one salary rate to another within 21
a grade; 22

"Promotion", a change from the duties of one grade to the duties of 23
a higher grade, which shall involve a change in salary to the rates of 24
the higher grade. 25

Rules and
regulations for
application
and adminis-
tration of such
classification.
1918, 228, § 2,
1923, 362, § 49,
1930, 460,
§§ 5, 7-9
1931, 301, § 101.

SECTION 46. Said division may make rules and regulations, subject 1
to the approval of the governor and council, providing for the applica- 2
tion and administration of the classification and the specifications 3
established under the preceding section; and the salaries of all officers 4
and employees holding offices and positions required to be classified 5
under said section, except those whose salaries are now or shall be 6
otherwise regulated by law and those whose salaries are required by 7
law to be fixed subject to the approval of the governor and council, 8
shall be fixed in accordance with such classification and specifications. 9
The word "salary" or "salaries", as used in sections forty-five to fifty, 10
inclusive, shall include compensation, however payable. 11

Procedure in
obtaining in-
crease of salary.
1911, 605,
§§ 1-4, 6.

SECTION 47. Recommendations for increases in the salaries of officers 1
and employees whose salaries are required by the preceding section to 2

3 be fixed in accordance with such classification and specifications, shall
 4 be submitted in the first instance to the said division, and if approved
 5 by it shall take effect upon notice by the said division to the commissioner
 6 of civil service and the comptroller. If the said division does not approve
 7 a proposed increase in salary, it shall report the recommendation of the
 8 department or institution with its own recommendation to the governor
 9 and council whose decision shall be final, except that the governor and
 10 council shall not grant an increase in salary greater than that recom-
 11 mended by the department or institution. Increases in salaries granted
 12 under this section shall conform to such standard rates as may be estab-
 13 lished by rule or regulation in accordance with the preceding section.
 14 No increase in salary shall be granted under this section unless an appro-
 15 priation sufficient to cover such increase has been granted by the general
 16 court in accordance with estimates for the budget filed as required by
 17 law. No increase in a salary exceeding or to exceed one thousand dol-
 18 lars, authorized under this section between December first and May
 19 thirty-first, both inclusive, in any year shall take effect until June first
 20 following or such later date as may be fixed by the department or insti-
 21 tution recommending such increase, with the approval of the said
 22 division or the governor and council.

1916, 2, 33;
 1918, 228, § 3.
 1919, 320;
 35, §§ 63, 67
 1923, 362, § 50
 Op. A. G. (1920)
 142.

1 SECTION 48. Incumbents of offices or positions classified under sec-
 2 tions forty-five to fifty, inclusive, shall perform, so far as practicable,
 3 the duties prescribed for the respective grades, but said sections shall
 4 not limit or restrict administrative authorities in exercising supervision
 5 of, or control over, their employees, or in assigning related, incidental
 6 or emergency duties to them.

Duties of in-
 cumbents of
 positions
 classified.
 1918, 228, § 4.

1 SECTION 49. Any employee of the commonwealth objecting to any
 2 provision of the classification affecting his office or position may appeal
 3 in writing to the said division and shall be entitled to a hearing upon
 4 such appeal. The said division shall report thereon with such recom-
 5 mendations as it may deem expedient to the governor and council.

Appeal from
 classification.
 1918, 228, § 6.
 1923, 362, § 51.

1 SECTION 50. For the purposes of the classification authorized by
 2 section forty-five the words laborers, workmen and mechanics shall
 3 have the same meaning as in sections thirty to thirty-six, inclusive,
 4 of chapter one hundred and forty-nine; and sections forty-five to forty-
 5 nine, inclusive, of this chapter shall not be construed as placing state
 6 employees outside the civil service laws, rules and regulations, nor
 7 shall the classification aforesaid take precedence over any rulings of the
 8 division of inspections of the department of public safety, of the board
 9 of boiler rules of said department, or of the state examiners of electricians,
 10 regarding the construction, care and operation of boilers, engines
 11 and other apparatus which may be under the charge of such laborers,
 12 workmen and mechanics.

Limit of
 application
 of five pre-
 ceding sec-
 tions.
 1918, 228, § 5.
 1919, 350,
 § 103.

CENTRALIZED STATE PURCHASING.

1 SECTION 51. All materials, supplies and other property, except legis-
 2 lative or military supplies, needed by the various executive and admin-
 3 istrative departments and other activities of the commonwealth shall
 4 be purchased by or under the direction of the purchasing bureau in the
 5 manner set forth in the following section, and sections twenty-two to

Purchase of
 materials,
 supplies, etc.,
 by state de-
 partments,
 etc.
 1923, 362, § 52.

twenty-six, inclusive, of chapter seven. Said bureau shall be furnished
with such general supply appropriations, in addition to its departmental
supply accounts, as may be necessary in order to place blanket contracts
or advance orders and thereby take advantage of favorable market
conditions.

Approval of
such
purchases
1923, 362, § 52.

SECTION 52. No supplies, equipment or other property, other than
for legislative or military purposes, shall be purchased or contracted for
by any state department, office or commission unless approved by the
state purchasing agent as being in conformity with the rules, regulations
and orders made under section twenty-two of chapter seven. Such
approval may be of specific or blanket form at the discretion of the state
purchasing agent.

TITLE IV.

CIVIL SERVICE, RETIREMENTS AND PENSIONS.

CHAPTER 31. Civil Service.

CHAPTER 32. Retirement Systems and Pensions.

CHAPTER 31.

CIVIL SERVICE.

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Definitions.
1919, 350, § 66.
§ 65, 66.

SECTION 1. In this chapter, unless otherwise expressly provided or the context otherwise requires, the following words shall have the following meanings:

- "Board", commissioner and associate commissioners of civil service;
- "Commissioner", commissioner of civil service;
- "Division", division of civil service of the department of civil service and registration;
- "Town" shall not include city.

Certain duties of board.
1919, 350, § 66.
1930, 167, § 2.

SECTION 2. In addition to other duties imposed by this chapter and chapter thirteen, the board shall hear and decide all appeals taken by an applicant, eligible person or appointee from any decision of the commissioner.

RULES.

Rules.
1884, 320,
§§ 2, 14.
1895, 501, § 1.
1896, 517,
§§ 6, 8.
R. L. 19,
§§ 6, 7, 24.
1916, 297, § 4.
1919, 350, § 66.
1930, 227.
138 Mass. 601.
143 Mass. 589.
145 Mass. 587.
166 Mass. 14,
589.
170 Mass. 58.
178 Mass. 186.
192 Mass. 219.
193 Mass. 537.
203 Mass. 539.
225 Mass. 270.
242 Mass. 61.
251 Mass. 71.
253 Mass. 416.
259 Mass. 286.
275 Mass. 368.
1 Op. A. G. 71.
194, 216, 243,
252, 353, 554,
568.
2 Op. A. G.
119, 186, 280,
296, 302, 312,
341, 391, 409,
469, 167, 623.
3 Op. A. G.
165, 190, 270,
296, 324, 368,
575.
4 Op. A. G. 127,
151, 172, 619.
Op. A. G.
(1918) 66, 97.
Op. A. G. (1920)
127.

SECTION 3. The board shall, subject to the approval of the governor and council, from time to time make rules and regulations which shall regulate the selection of persons to fill appointive positions in the government of the commonwealth, the several cities thereof, and any such towns as have been placed under its jurisdiction by any act of the general court or by accepting provisions of this chapter or corresponding provisions of earlier laws, and, except as otherwise provided in section forty-seven, the selection of persons to be employed as laborers or otherwise in the service of the commonwealth and said cities and towns. Such rules shall be of general or limited application, shall be consistent with law and shall include provisions for the following:

- (a) The classification of the positions and employments to be filled;
- (b) Open competitive and other examinations to test the practical fitness of applicants;
- (c) The selection of persons for public positions and employments in accordance with the results of such examinations, or in the order of application, or otherwise;
- (d) Promotions, if practicable, on the basis of ascertained merit in the examination and seniority of service;
- (e) A period of probation before an appointment or employment is made permanent;
- (f) Preference to veterans in appointment and promotion, not inconsistent with this chapter.

The present rules of the board so far as they are consistent with law shall continue in force until changed.

26 No new rule or regulation and no change in any rule or regulation shall
 27 be submitted for approval by the governor and council hereunder until
 28 after a hearing relative thereto has been held by the board. Not later
 29 than seven days before such hearing, the board shall send notice thereof
 30 to each member of the general court and to the mayor of each city and
 31 the selectmen of each town to which such rule, regulation or change re-
 32 lates and shall also publish the same in one or more newspapers.

1 SECTION 4. The following, among others, shall be included within Positions to
 2 the classified civil service by rules of the board: be included

1924, 197.

3 All persons having charge of steam boilers, heating, lighting or power Persons having
 4 plants maintained by the commonwealth; charge of steam
 1914, 486. 1918, 257, § 91. 1919, 5. 1920, 2. boilers, etc.

5 All sealers and deputy sealers of weights and measures in towns of Sealers of
 6 over ten thousand inhabitants and in cities, whether such officers are weights and
 7 heads of principal departments or not, and also the inspectors of stand- measures, etc.
 8 ards in the service of the commonwealth; 1914, 452, § 1.
 1918, 218, 257, § 252. 1920, 2. 4 Op. A. G. 213.
 1919, 5. 222 Mass. 296.

9 Members of police and fire departments of cities and of such towns Members of
 10 as accept the provisions of this chapter, or have accepted corresponding police and fire
 11 provisions of earlier laws, and members of the police or fire department departments
 12 of any town which, as to such department, accepts section forty-eight or 1884, 320, § 15.
 13 has accepted corresponding provisions of earlier laws; except that no 1901, 78.
 14 rule regulating the height and weight of persons eligible to become mem- R. L. 19,
 15 bers of the fire department shall be made or enforced except by the city §§ 9, 37.
 16 council or selectmen; and except further that no rule shall prescribe a 1904, 194.
 17 maximum age limit for applicants for positions in police or fire depart- 1914, 352.
 18 ments lower than thirty-five years;

19 Inspectors of plumbing in receipt of an annual salary; Inspectors of
 1894, 455, § 5. R. L. 103, § 5. 1909, 536, § 7. plumbing.

20 Instructors in the state prison and the Massachusetts reformatory, Instructors,
 21 and all other employees in said institutions having prisoners under their etc., in prison
 22 charge; and reformatory.
 1912, 597.

23 Janitors of school buildings in cities, and in such towns of over twelve Janitors of
 24 thousand inhabitants as accept this paragraph; school buildings
 1920, 134. in cities and
 in certain
 towns.

25 Supervisors of attendance in cities, and in such towns of over twelve Supervisors of
 26 thousand inhabitants as accept this paragraph. attendance in
 1930, 34. cities and in
 certain towns.

1 SECTION 5. No rule made by the board shall apply to the selection Positions
 2 or appointment of any of the following: not to be
 included

3 Judicial officers; officers elected by the people or, except as otherwise § 15.
 4 expressly provided in this chapter, by a city council; officers whose 1884, 95.
 5 appointment is subject to confirmation by the executive council, or by 1896, 502.
 6 the city council of any city; officers whose appointment is subject to R. L. 19, § 9.
 7 the approval of the governor and council; officers elected by either 1911, 468.
 8 branch of the general court and the appointees of such officers; heads of 1918, 291, § 22.
 9 principal departments of the commonwealth or of a city except as oth- 1919, 350.
 10 erwise provided by the preceding section; directors of divisions author- § 11, 46.
 1923, 130.
 178 Mass. 186.
 195 Mass. 35.
 196 Mass. 261.
 201 Mass. 506.
 203 Mass. 539.
 206 Mass. 46

213 Mass 1
229 Mass 117.
253 Mass 416.
259 Mass 417.
264 Mass 158.
1 Op. A. G. 72,
102, 194.
3 Op. A. G. 129,
158, 325.
4 Op. A. G. 213,
329.
Op. A. G. (1920)
305.

ized by law in the departments of the commonwealth; employees of the 11
state treasurer appointed under section five of chapter ten, employees 12
of the commissioner of banks, and of the treasurer and collector of taxes 13
of any city; two employees of the city clerk of any city; public school 14
teachers; secretaries and confidential stenographers of the governor, or 15
of the mayor of any city; clerical employees in the registries of probate 16
of all the counties; police and fire commissioners and chief marshals or 17
chiefs of police and of fire departments, except as provided in section 18
forty-nine; and such others as are by law exempt from the operation 19
of this chapter. 20

Applicant
entitled to
three certifi-
cations.
1904, 198.

SECTION 6. No rule shall be made which shall prevent, except for 1
moral unfitnes and after investigation, the certification for the same 2
office, on at least three separate occasions, of any person whose name is 3
on any eligible list. 4

Changes in
rules, distribu-
tion and publi-
cation.
1884, 320, § 19.
1888, 253.
R. L. 19, § 8.

SECTION 7. Changes in the rules, when approved, shall be printed 1
forthwith for distribution, and a certified copy thereof sent to the mayor 2
of each city and the selectmen of each town to which such changes relate, 3
and shall be published in one or more newspapers. Such publication 4
shall specify the date when such changes shall take effect, which shall be 5
not less than sixty days subsequent to the date of publication. 6

EXAMINATIONS.

Notices of
examinations.
Posting.
1906, 277, § 1.

SECTION 8. The commissioner shall prepare notices of civil service 1
examinations and send them to the clerks of the several cities and towns, 2
who shall cause the same to be posted in the city and town halls and in 3
other conspicuous places. Of such notices there shall be posted not less 4
than five in every town, and not less than twenty-five in every city, 5
including one in each ward. 6

Penalty for
failure to post,
or destruction
of notices.
1906, 277, § 2.

SECTION 9. Any city or town clerk who refuses or wilfully neglects 1
to post the notices required by the preceding section and any person who 2
maliciously tears down, destroys, defaces or injures any such notice 3
prior to the date of any examination of which notice is given therein, 4
shall be punished by a fine of not more than twenty-five dollars. 5

Scope of
examination.
1884, 320, § 16.
R. L. 19, § 13.
1911, 153.
1919, 350, § 66.

SECTION 10. No question in any examination shall relate to political 1
or religious opinions or affiliations, and no appointment to a position or 2
selection for employment shall be affected by them. Examinations shall 3
be conducted under the direction of the commissioner. They shall be 4
practical and shall relate to matters which will fairly test the capacity 5
and fitness of the applicants; and all answers of applicants to questions 6
in examinations relating to training and experience, outside of the labor 7
service, shall be on oath, if the board so requires. The board shall deter- 8
mine the scope and weight of examinations. 9

Certain acts
relative to
examinations
forbidden.
1884, 320, § 18.
R. L. 19, § 14.

SECTION 11. No person in the public service shall wilfully and cor- 1
ruptly defeat, deceive or obstruct any person as to his right of exami- 2
nation; or wilfully or corruptly make a false mark, grade, estimate or 3
report on the examination or proper standing of any person examined 4
under this chapter, or wilfully or corruptly make any false representa- 5
tion concerning the same or concerning the person examined; or wilfully 6
or corruptly furnish to any one special or secret information, for the 7

8 purpose of improving or injuring the prospects or chances of appoint-
9 ment, employment or promotion of any person so examined or to be
10 examined.

1 SECTION 12. The lists of persons eligible to any position shall be
2 prepared or revised as soon as may be after their respective ratings or
3 standings have been determined by the commissioner by examination or
4 otherwise in accordance with the rules of the board. The commissioner
5 shall not place on any such list any person not a citizen of the United
6 States. All persons who have taken an examination shall be notified of
7 the results thereof within sixty days from the completion of such exam-
8 ination. All lists established, as aforesaid, shall be open to public
9 inspection.

Lists of
eligibles.
1897, 501, § 4.
1899, 517, § 4.
R. L. 19, § 15.
1914, 600, § 2.
1918, 257, § 92.
1919, 5, 93.
1920, 2.
223 Mass. 109.

1 SECTION 13. Every application shall state under oath the full name,
2 residence and post office address, citizenship, age, place of birth, health
3 and physical capacity, right of preference as a veteran, previous employ-
4 ment in the public service, occupation and residence for the previous
5 five years and education of the applicant, and such other information
6 as may be reasonably required relative to his fitness for the public
7 service; but no question shall be asked in such application or in any
8 examination requiring a statement as to any offence committed before
9 the applicant reached the age of sixteen.

Statements
required of
applicants for
examination.
1884, 320, § 17.
1899, 185.
R. L. 19, § 12.
1911, 119.
1930, 242.

1 SECTION 13A. A police officer or fireman holding an office classified
2 under the civil service rules who has completed five years of service in
3 the department of which he is a member, and who is an applicant for
4 promotion and has filed with the commission a certificate of a registered
5 physician approved by the commission, stating that he has examined
6 the police officer or fireman, and that in his opinion the police officer or
7 fireman is afflicted with no disability which will interfere with his per-
8 formance of the duties of the position for which he is an applicant,
9 shall not be required to pass any further physical examination for pro-
10 motion in such department.

Physical
requirements
for promotion
in police and
fire depart-
ments.
1930, 423.

1 SECTION 14. Applicants for positions in the classified labor service
2 of the commonwealth, and of the cities and towns having such a service,
3 shall be allowed to register on the first Mondays of February, May,
4 August and November in each year, at places appointed therefor by the
5 board. The number registered shall not be limited below five hundred
6 in the commonwealth or in any city.

Labor service.
1897, 328.
R. L. 19, § 12.
1911, 119.

APPOINTMENTS.

1 SECTION 15. No person shall be appointed to any position in the
2 classified civil service except upon certification by the commissioner
3 from an eligible list in accordance with the rules of the board; but if
4 there is no suitable eligible list, or if the commissioner is unable to
5 comply with a requisition in accordance with the rules of the board, the
6 commissioner, subject to section twenty-five, may authorize a provi-
7 sional appointment or may authorize the appointing officer or board to
8 select a suitable person who shall be subjected to a non-competitive
9 examination, such provisional or non-competitive appointment to be
10 subject to the rules of the board. Within five days after the certification

Appointment,
certification,
etc.
1884, 320, § 22.
1895, 501, § 4.
1899, 517, § 4.
R. L. 19,
§§ 15, 19.
1918, 257, § 92.
1919, 5.
1920, 2.
252 Mass. 323.

of persons for appointment or employment the commissioner shall make a record of the persons so certified. If the appointing officer rejects the persons certified he shall so notify the commissioner.

Recommendation by public officers restricted
1884, 320, § 5.
R. L. 19, § 18.

SECTION 16. No recommendation of an applicant for an office or position under this chapter given by any member of the general court, alderman or councilman, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making the appointment.

Certain persons ineligible.
1884, 320,
§§ 3, 4
1888, 334.
R. L. 19,
§§ 16, 17,
1912, 212,
1915, 76,
1922, 36,
1929, 306.
1 Op. A. G. 243,
3 Op. A. G. 103,
461.

SECTION 17. No person habitually using intoxicating liquors to excess shall be appointed, employed or retained in any position to which this chapter applies, nor shall any person be appointed or employed in any such position within one year after his conviction of any crime against the laws of the commonwealth; provided, that the commissioner may in his discretion authorize the appointment or employment, within said year, of a person convicted of any of the following offences: — (1) a violation of any rule or regulation made under section thirty-one of chapter ninety; (2) a violation of any provision of said chapter ninety relating to motor vehicles, except those of sections twenty-three to twenty-five, inclusive; (3) any other offence for which the sole punishment imposed was (a) a fine of less than one hundred dollars, (b) a sentence to imprisonment in a jail or house of correction for less than six months, with such a fine or without any fine, or (c) a sentence to any other penal institution under which the actual time served was less than six months, with such a fine or without any fine.

Names of persons employed, promoted, etc., to be reported to commissioner.
1884, 320, § 22.
R. L. 19, § 19.

SECTION 18. The officer appointing, employing, promoting or discharging any person within the classified civil service shall forthwith report to the commissioner the name and residence of the person, the designation of the position, and the fact of the appointment, employment, promotion or discharge.

Citizens to have preference in public appointment.
1914, 600, § 1.
1931, 125.
223 Mass. 109.

SECTION 19. Except as otherwise provided by law, in all positions, employments and work in any branch of the service of the commonwealth, or of any county, city, town or district therein, citizens of the commonwealth shall be given preference.

Appointment and promotion of police officers, except in Boston.
1920, 368.

SECTION 20. Appointments and promotions in the police forces of cities and towns, except Boston, whose police forces are within the classified civil service, shall be made only by competitive civil service examination, except as otherwise provided in this chapter, or in the rules of the board relative to temporary or emergency appointments. No such examination shall be held until there are at least three applicants for appointment or promotion for one existing vacancy, except as to applicants for appointment to the lowest grade. In making appointments or promotions to all grades of service other than the lowest, the examination and appointment shall be limited to persons of the next lower rank; but if the number of applicants for examination in such lower rank is not sufficient to hold an examination, the next lower ranks shall in succession be thrown open to the examination until at least the necessary number have applied.

1 SECTION 20A. In each city and town subject to section twenty in
 2 which there has been established a reserve police force, appointments to
 3 the regular force shall be made by the appointing authority upon certi-
 4 fication by the commissioner from the list of members of the reserve
 5 police force in accordance with the rules of the board, except that the
 6 basis of certification shall be the order of appointment to the reserve
 7 force.

Appointments
to regular
police forces in
certain cities
and towns.
1930, 160.

VETERANS' PREFERENCE.

1 SECTION 21. The word "veteran" as used in this chapter shall mean
 2 any person who has served in the army, navy or marine corps of the
 3 United States in time of war or insurrection and has been honorably
 4 discharged from such service or released from active duty therein, or
 5 who distinguished himself by gallant or heroic conduct while serving in
 6 the army or navy of the United States and has received a medal of honor
 7 from the president of the United States, provided that such person was
 8 a citizen of the commonwealth at the time of his induction into such
 9 service or has resided in the commonwealth for five consecutive years
 10 next prior to the date of filing application with the commissioner under
 11 this chapter; and provided further that any such person who at the
 12 time of entering said service had declared his intention to become a
 13 subject or citizen of the United States and withdrew such intention under
 14 the provisions of the act of congress approved July ninth, nineteen
 15 hundred and eighteen, and any person designated as a conscientious
 16 objector upon his discharge, shall not be deemed a "veteran" within
 17 the meaning of this chapter.

Veteran
defined.
1896, 517,
§ 1, 6.
R. L. 19, § 20.
1919, 150, § 1.
1924, 155.
196 Mass. 248.
215 Mass. 502.
259 Mass. 286.
272 Mass. 237.
1 Op. A. G. 408.
2 Op. A. G. 186.
Op. A. G. (1920)
90.

1 SECTION 22. A veteran of the civil war, or a person who has received
 2 a medal of honor as provided in the preceding section, may apply to the
 3 commissioner for appointment or employment in the classified civil service
 4 without examination. In such application, he shall state on oath the facts
 5 required by the rules. Age, loss of limb or other disability which does not
 6 in fact incapacitate shall not disqualify him for appointment or employ-
 7 ment under this section. Appointing officers may make requisition for
 8 the names of any or all such veterans and appoint or employ any of them.

Employment
without
examination.
1896, 517, § 3.
R. L. 19,
§ 20, 22.
166 Mass. 589.
195 Mass. 370.
259 Mass. 286.

1 SECTION 23. The names of veterans who pass examinations for ap-
 2 pointment to any position classified under the civil service shall be placed
 3 upon the eligible lists in the order of their respective standing above
 4 the names of all other applicants, except that any such veterans who are
 5 disabled and who present a certificate of any physician, approved by
 6 the board, that their disability is not such as to prevent the efficient per-
 7 formance of the duties of the position to which they are eligible and
 8 who shall present proof satisfactory to the commissioner that such dis-
 9 ability was received in line of duty in the military or naval service of
 10 the United States in time of war or insurrection and is a continuing dis-
 11 ability shall be placed ahead of all other veterans on such eligible lists
 12 in the order of their respective standing. In addition to the aforesaid
 13 certificate, in order to be entitled to the preference provided for dis-
 14 abled veterans by this section, a veteran shall present an honorable dis-
 15 charge or an equivalent release from active duty in the military or naval
 16 service of the United States and shall present proof that he is at the
 17 time of application for appointment disabled and also proof, by means

Preference for
veterans
passing
examinations.
1887, 437.
1889, 473.
1895, 501,
§ 1-3, 6.
1896, 517, § 2.
R. L. 19, § 21.
1902, 413.
1919, 150, § 2.
1922, 463.
145 Mass. 587.
166 Mass. 14,
580.
195 Mass. 370.
242 Mass. 61.
259 Mass. 286.
269 Mass. 410.
1 Op. A. G. 243,
340.

of the records of the adjutant-general of the army of the United States or of the navy department or marine corps or by means of a certificate of the receipt at that time of a pension or compensation from the United States, that such disability was incurred in the line of duty in such service in time of war or insurrection, or in absence of proof as aforesaid shall present a certificate from a physician, approved by the board, that he is substantially handicapped for industrial life through injury or illness and shall present proof, satisfactory to the commissioner that such handicap was received in line of duty in the military or naval service of the United States in time of war or insurrection and is a continuing disability. Upon receipt of a requisition not especially calling for women, names shall be certified from such lists according to the method of certification prescribed by the civil service rules applying to civilians. A disabled veteran shall be appointed and employed in preference to all other persons, including veterans.

Veterans in labor service
1896, 547, § 6.
R. L. 19, § 24
1919, 150, § 3.
166 Mass. 14, 589.
170 Mass. 58.
192 Mass. 269
193 Mass. 337
195 Mass. 370
259 Mass. 286.

SECTION 24. A veteran who registers for employment in the service of the commonwealth and of the cities and towns thereof, if found qualified, shall be placed on the eligible list for the class for which he registers ahead of all other applicants. The names of eligible veterans shall be certified for labor service in preference to other persons eligible according to the method of certification prescribed by the civil service rules applying to civilians. If, however, the appointing officer certifies in the requisition for laborers that the work to be performed requires young and vigorous men, and, on investigation, the commissioner is satisfied that such certificate is true, he may fix a limit of age and certify only those whose age falls within such limit.

Provisional appointment of veteran in absence of eligible list.
1919, 150, § 4.
259 Mass. 286.

SECTION 25. If there is no suitable eligible list from which to certify to fill a requisition, the commissioner shall authorize the appointing officer to make provisional appointment of a veteran, and shall send to the appointing officer the names and addresses of veterans who have filed applications for the kind of work for which requisition is made, and the position shall be filled provisionally by the appointment of a veteran. If, however, the appointing officer cannot find a veteran qualified for the position who will accept, he may with the approval of the commissioner, appoint provisionally some other person. This section shall not apply to requisitions calling for women.

SECTION 26. [REPEALED, 1925, 220, § 1.]

Reinstatement after military or naval service.
1909, 454.
R. L. 19, § 25.
1918, 169, § 1.
1919, 14, § 1.
1920, 219, § 1.
1931, 126, § 53.
248 Mass. 339
259 Mass. 286.

SECTION 27. Any person who resigns from or leaves the classified public service of the commonwealth or of any city or town therein or who is discharged, suspended or granted a leave of absence therefrom, for the purpose of serving in the military or naval service of the United States in time of war, and who so serves, shall, if he so requests of the appointing authority within two years after his honorable discharge from such military or naval service, or release from active duty therein, and if also, within said time, he files with the division the certificate of a registered physician that he is not physically disabled or incapacitated for the position, be reappointed or re-employed, without civil service application or examination, in his former position, provided that the incumbent thereof, if any, is a temporary appointee; or, if his former

13 position has been filled by a permanent appointment, he shall be em-
 14 ployed in a similar position in the same department, if a vacancy exists
 15 therein. All appointments made to fill vacancies caused by the mili-
 16 tary or naval service of the former incumbent shall be temporary only.

1 SECTION 28. A person whose name is on any eligible list or register
 2 of the division at the time of his entering the military or naval service of
 3 the United States in time of war shall be suspended from such eligible
 4 list or register; but upon his request, made at any time within two years
 5 after his honorable discharge from such service, or release from active
 6 duty therein, his name shall be restored thereto for the remainder of
 7 his period of eligibility, provided that he files with the division the
 8 certificate of a registered physician that he is not physically disabled or
 9 incapacitated for the position.

Restoration of
 names to eli-
 gible list after
 such service.
 1918, 199, § 2.
 1919, 14, § 2.
 1920, 219, § 2.
 259 Mass. 286.

GENERAL POWERS.

1 SECTION 29. Records of the proceedings of the board and of the
 2 commissioner, all recommendations of applicants and all applications
 3 and examination papers, shall be kept on file. Said records and files
 4 shall be open to public inspection under rules approved by the governor
 5 and council. No applications, recommendations or examination papers
 6 need be preserved for a longer period than three years.

Records and
 files.
 1884, 320, § 23.
 R. L. 19, § 5.
 1902, 308.
 1915, 6.

1 SECTION 30. The commissioner shall recommend to the general
 2 court appropriate legislation for the administration and improvement
 3 of the civil service, and shall make an annual report containing any rules
 4 adopted under this chapter.

Recommendations and
 annual reports.
 1884, 320, § 2.
 R. L. 19, § 5.
 1902, 308.
 1915, 6.

1 SECTION 31. The officer or board having power in any city to appoint
 2 or employ persons in any department thereof to which this chapter
 3 and the rules thereunder apply shall, within seven days after the receipt
 4 of a written request therefor made by the commissioner, make and file
 5 with the commissioner and with the auditor or officers whose duty it is
 6 to audit the accounts of such appointing or employing officer or board,
 7 a report containing the names of all persons who have been appointed
 8 or employed by such appointing or employing officer or board or who
 9 have received pay or rendered bills for services or labor rendered or
 10 performed during the calendar month next preceding the date of the
 11 filing of such request. Said reports shall be made on oath and shall
 12 contain the following information: First, name of person appointed or
 13 employed, or rendering bill for services or labor; second, nature and
 14 brief description of the services or labor which such person has actually
 15 rendered or performed during said month; third, title of the office or
 16 employment of such person as stated in the pay rolls of the department;
 17 fourth, the regular salary or wages of the appointee or employee; fifth,
 18 all other payments of any kind made to the appointee or employee
 19 during said month; provided, that such appointing or employing officer
 20 or board shall not be required to file in any month more than one such
 21 report with the commissioner and one with the auditor or auditing
 22 officers. The reports in the office of the auditor or auditing officers shall
 23 be open to public inspection.

City officers
 to make
 reports, etc.
 Enforcement.
 1906, 306.
 1922, 31.

24 The supreme judicial court by mandamus or other appropriate rem-
 25 edy in law or in equity, upon suit or petition of the commissioner, may

compel any such appointing or employing officer or board in any city 26
to comply with this section. 27

Every appointing or employing officer, or in the case of a board every 28
member thereof, who willfully refuses to comply with this section shall 29
be punished by a fine of not less than twenty-five nor more than one 30
hundred dollars. 31

Summoning
witnesses, etc.
1891, 149
R. L. 19, § 3.

SECTION 32. In any investigation or inquiry the commissioner, or 1
an associate commissioner, may summon witnesses, administer oaths, 2
and take testimony. Fees for such witnesses shall be the same as for 3
witnesses before the superior court and shall be paid from the appropri- 4
ation for incidental expenses. 5

INVESTIGATIONS.

Commissioner
may investi-
gate classified
service as to
efficiency, etc.
1916, 297, § 3.

SECTION 33. On request of any appointing power in respect to 1
officers or employees by it appointed, the commissioner shall, and the 2
commissioner may at any time without such request, inquire into the 3
efficiency and conduct of any officers or employees in the classified civil 4
service, and may recommend to the appointing power the removal of any 5
such officers or employees, or make other appropriate recommendations. 6

May investi-
gate classified
service as to
duties, compen-
sation, etc.
1916, 297, § 3.

SECTION 34. The commissioner may investigate in whole or in part 1
the classified civil service, and the work, duties and compensation of 2
the officers and employees therein, and the number employed, and the 3
grades, titles, ratings and methods of promotion established, and may 4
report thereon to the governor, or to the general court. 5

Exemption of
police-men and
firemen.

SECTION 35. The two preceding sections shall not apply to police- 1
men or firemen. 2

1916, 297, § 6.

MISCELLANEOUS PROVISIONS.

Provisional
appointment
of alien to
terminate, etc.
1914, 600, § 3.
223 Mass. 109.

SECTION 36. If an appointing officer, before a list of eligible ap- 1
pointees is established, appoints under provisional authority from the 2
commissioner a person not a citizen of the United States, he shall dis- 3
charge such person, and appoint another from the list when it is estab- 4
lished. 5

Enforcement
of dismissal
of alien.
1914, 600, § 4.
223 Mass. 109.

SECTION 37. On complaint by any citizen of the commonwealth of the 1
employment of a non-citizen when there is a list of eligibles existing, the 2
commissioner shall take steps to enforce the dismissal of such non-citizen 3
and the appointment in his place of a person from the eligible list. 4

Enforcement
of law and
rules.
1901, 512
R. L. 19, § 34.
1910, 359.

SECTION 38. If, in the opinion of the commissioner, a person is ap- 1
pointed or employed in the classified public service in violation of any 2
provision of this chapter or any rule of the board, the commissioner shall, 3
after written notice mailed to the appointing or employing officers, and 4
to such person, notify in writing the treasurer, auditor or other officer 5
whose duty it is to pay the salary or compensation of such person, or to 6
authorize the drawing, signing or issuing of the warrant therefor; and 7
the payment of any salary or compensation to such person shall cease 8
at the expiration of one week after the mailing of the notice to such treas- 9
urer, auditor or other officer, and no such officer shall pay any salary 10

11 or compensation to such person, or draw, sign or issue, or authorize the
 12 drawing, signing or issuing of any warrant therefor, until the legality
 13 of such appointment or employment is duly established.

1 SECTION 39. Any person found by the commissioner to be illegally
 2 appointed or employed may file a petition for a writ of mandamus in the
 3 supreme judicial or superior court to compel the commissioner to author-
 4 ize such appointment or employment, and the payment of compensation
 5 or salary therefor. At any time after the petition is filed the court, if of
 6 opinion that there is reasonable doubt whether the appointment or em-
 7 ployment of such person is in violation of the civil service law or rules,
 8 may order that the compensation accruing to such person for services
 9 actually rendered shall be paid to him until otherwise ordered by said
 10 court.

*Remedy by
 mandamus to
 collect salary,
 etc.*
 1901, 512
 R. L. 19, § 34
 1910, 359
 229 Mass. 147

1 SECTION 40. If an appointing officer or board in applying for the cer-
 2 tification of persons eligible for appointment as foreman or inspector
 3 expresses a preference for persons having had experience in his depart-
 4 ment, the commissioner shall so far as practicable include among those
 5 certified the name of at least one person for each vacancy who is serving
 6 as a laborer or mechanic in such department.

*Commissioner
 to certify
 laborer or
 mechanic for
 foreman.*
 1914, 479.
 243 Mass. 193

1 SECTION 41. Persons employed by the commonwealth, or by any
 2 county, city or town, as inspectors of masonry construction, shall have
 3 had at least three years' practical experience in masonry construction,
 4 but shall not be required to have technical knowledge as engineers, archi-
 5 tects or draftsmen, unless they have other duties for which such knowledge
 6 is necessary. This section shall apply only to persons whose principal
 7 duty is the inspection of masonry construction, consisting of stone, brick
 8 or substitutes therefor.

*Qualifications
 of inspectors
 of masonry.*
 1914, 540.

1 SECTION 42. Appointments of treasurers and stewards in the insti-
 2 tutional service of the commonwealth shall not be made from a civil
 3 service list established by examination. Whenever a vacancy occurs
 4 in the office of treasurer or steward at any institution of the common-
 5 wealth, the appointing authority shall certify to the commissioner the
 6 name of a person believed to be competent by reason of training and
 7 experience to fill the vacancy, and shall give the commissioner such
 8 information concerning the proposed appointee as he may require. The
 9 commissioner shall immediately make a careful inquiry into the quali-
 10 fications of the proposed appointee under such rules as the board may,
 11 with the approval of the governor and council, establish; and if he is
 12 satisfied that the appointee is a competent person, with the requisite
 13 qualifications, he shall notify the appointing authority that the appoint-
 14 ment is approved, and upon receipt of such notice the appointment shall
 15 take effect, subject to the provisions of law relating to the filing of bonds
 16 by the treasurers of institutions. If the commissioner does not, within
 17 thirty days after the appointee is certified to him, notify the appointing
 18 authority of his approval, the appointment shall be void.

*Appointment
 of treasurers
 and stewards
 of state
 institutions.*
 1918, 239.

1 SECTION 42A. Every police officer holding an office classified under
 2 the civil service rules, in any city except Boston or in any town, whether
 3 for a definite or stated term or otherwise, shall hold such office con-
 4 tinuously during good behavior and shall not be removed nor, except as

*Certain police
 officers in
 towns and
 cities except
 Boston,
 duration of
 office, removal,
 etc.*

1923, 242, § 1.
1925, 220, § 2.
253 Mass. 193
271 Mass. 448.

otherwise provided herein, be suspended or, without his consent, be transferred from such office, nor shall he be lowered in rank or compensation, nor shall his office be abolished, except after a full hearing of which he shall have at least seventy-two hours' written notice, with a statement of the reasons for the contemplated removal, suspension, transfer, lowering in rank or compensation, or abolition of office, and except upon a written order stating fully and specifically the causes therefor made after a hearing as aforesaid and signed by the board or officer before whom the hearing is held. Such a police officer may, however, be temporarily suspended without such notice when necessary as a matter of police discipline, but only for just cause and for reasons specifically given him in writing within twenty-four hours after such suspension. If within three days thereafter the police officer so suspended shall so request in writing he shall be given a public hearing in not less than three nor more than fourteen days after the filing of the request. Any hearing under this section shall, if the police officer so requests in writing, be public and shall be held before the officer or board having power of appointment and removal. Any such hearing may be continued from time to time, if said board or officer and the police officer concerned agree thereto. At any such hearing charges shall be made by the officer in command of the department or of the district where the police officer is on duty or by any person designated by the official in command of the department, and the police officer concerned shall be allowed to answer the charges preferred against him, either personally or by counsel. Said police officer shall be notified in writing within three days after the hearing, of the decision at such hearing. A copy of the reasons, notice and answers and of the order of removal, suspension, transfer, lowering in rank or compensation, or abolition of office shall be made a matter of public record.

Judicial review
of removal,
etc., of such
officers
1923, 242, § 1.
262 Mass. 393,
477.
271 Mass. 448.

SECTION 42B. Within thirty days after a hearing provided for by the preceding section, the police officer who was removed, suspended, transferred, or lowered in rank or compensation, or whose office was abolished, may bring a petition in the district court of the judicial district where such police officer resides, addressed to the justice of the court, praying that the action of the officer or board in removing, suspending or transferring him, or lowering him in rank or compensation, or abolishing his office, may be reviewed by the court, and after such notice to such officer or board as the court deems necessary, it shall review such action, hear any or all of the witnesses and determine whether or not upon all the evidence such action was justified. If the court finds that such action was justified, the decision at the hearing shall be affirmed; otherwise it shall be reversed and the petitioner shall be reinstated in his office without loss of compensation. The decision of the court shall be final and conclusive upon the parties.

Removal, sus-
pension, reduc-
tion in grade,
or transfer
of certain
other persons
in classified
public service.
1901, 314
1905, 244, § 1.
1908, 217,
§ 1, 4
187 Mass. 323.

SECTION 43. Except as otherwise provided in this chapter, every person holding office or employment in the classified public service of the commonwealth, or of any county, city or town thereof, shall hold such office or employment and shall not be removed therefrom, lowered in rank or compensation or suspended, or without his consent transferred from such office or employment to any other, except for just cause, and for reasons specifically given him in writing within twenty-four hours

8 after such removal, suspension, transfer or lowering in rank or compensa-
9 tion.

10 If within three days thereafter, the person sought to be removed, sus-
11 pended, lowered or transferred shall so request in writing, he shall be
12 given a public hearing in not less than three nor more than fourteen
13 days after the filing of the request, by the officer or board whose action
14 affected him as aforesaid, and he shall be allowed to answer the charges
15 preferred against him, either personally or by counsel, and shall be
16 notified, in writing within three days after the hearing, of the decision
17 of such officer or board. In default of such hearing, said person shall
18 forthwith be reinstated. A copy of said reasons, notice, answer and
19 decision shall be made a matter of public record in the department.

190 Mass. 501.
196 Mass. 539.
199 Mass. 47.
201 Mass. 506.
202 Mass. 352.
204 Mass. 482
222 Mass. 5.
236
234 Mass. 478
227 Mass. 119
229 Mass. 147.
208
233 Mass. 174
234 Mass. 301
242 Mass. 387
244 Mass. 491
245 Mass. 12
246 Mass. 485.
252 Mass. 184
253 Mass. 416,
590, 597.

257 Mass. 471, 545. 264 Mass. 158, 178. 269 Mass. 345, 445.
258 Mass. 444. 265 Mass. 338. 270 Mass. 179
260 Mass. 529 266 Mass. 513. 2 Op. A. G. 322.
261 Mass. 351.

1 SECTION 44. [REPEALED, 1923, 242, § 2.]

1 SECTION 45. Within thirty days after the hearing provided for in
2 section forty-three or after action under section forty-six, the person
3 so removed, transferred or lowered in rank or compensation, or sus-
4 pended, or whose office or position is abolished, except members of the
5 police department of Boston, the police of the metropolitan district
6 commission and the state police, may bring a petition in the district
7 court of the judicial district where such person resides, addressed to the
8 justice of the court, praying that the action of the officer or board may be
9 reviewed by the court, and after such notice to such officer or board as
10 the court deems necessary, it shall review such action, hear the witnesses,
11 and shall affirm the decision of the officer or board unless it shall appear
12 that it was made without proper cause or in bad faith, in which case said
13 decision shall be reversed and the petitioner be reinstated in his office
14 without loss of compensation. The decision of the court shall be final
15 and conclusive upon the parties.

Judicial Review
of certain
removals, etc
1911, 624
1915, 251, 301
1917, 280.
1918, 247,
§§ 3, 4; 257,
§ 93
1919, 5; 150,
§ 6; 350,
§ 102, 123;
Sp. 188
1925, 220, § 3
213 Mass. 1,
493
220 Mass. 393
221 Mass. 150.
222 Mass. 5.
227 Mass. 116.
228 Mass. 12
238 Mass. 557
242 Mass. 387.
244 Mass. 491.
249 Mass. 465.

253 Mass. 193, 400, 416, 590. 258 Mass. 444. 265 Mass. 338.
257 Mass. 545. 260 Mass. 529. 269 Mass. 345, 445.

1 SECTION 46. An officer or employee of the state prison, of the re-
2 formatory for women, of the prison camp and hospital, or of the Massa-
3 chusetts reformatory, sought to be removed, suspended, lowered in rank
4 or compensation, or transferred, shall be notified of the proposed action,
5 and shall be furnished a copy of the reasons therefor as required by sec-
6 tion forty-three, and shall, if he so requests in writing, be given a hearing
7 before the commissioner of correction, and be allowed to answer any
8 charges preferred against him, either personally or by counsel. Said
9 commissioner, after hearing the officer preferring the charges, and the
10 officer or employee in question, together with such witnesses as either
11 of the parties may produce, shall determine whether or not the reasons
12 for such proposed removal, suspension, lowering in rank or compensation,
13 or transfer, are just and sufficient, and shall certify his finding to the
14 head of the institution in which such officer or employee is employed,
15 who shall, if the reasons given have been sustained by the finding, forth-
16 with remove from office or employment, suspend, lower in rank or com-
17 pensation, or transfer the officer or employee in question, subject to the
18 right of judicial review provided by the preceding section. If said
19 commissioner finds that such reasons are not just and sufficient, the head

Removal, etc.,
of certain
prison officials.
1917, 280.
1919, 350, § 83.
1925, 220, § 4.

of the institution in which the officer or employce is employed shall 20
 continue him in service or, if he has temporarily been suspended, shall 21
 forthwith restore him to duty or to his original rank or compensation, 22
 as the case may be. A copy of the reasons, notice, answer, finding, and 23
 order of removal, suspension, lowering in rank or compensation, or 24
 transfer, shall, in each case, be filed in the office of the division and made 25
 a matter of public record. 26

Petition for writ of mandamus for reinstatement of certain persons
 1930, 243.

SECTION 46A. The supreme judicial court shall have jurisdiction of 1
 any petition for a writ of mandamus for the reinstatement of any person 2
 alleged to have been illegally removed from his office or employment 3
 under this chapter; provided, that such petition shall be filed in said 4
 court within six months next following such allegedly illegal removal, 5
 unless said court for cause shown extends the time. 6

Notice to certain persons separated from service.
 1931, 360.

SECTION 46B. Upon receipt of notice from an appointing officer or 1
 of other information that a person in the classified civil service has be- 2
 come separated therefrom through no fault or delinquency of his own, 3
 the commissioner shall forthwith give notice of the fact of such separation 4
 to such person by registered mail and shall set forth in said notice the 5
 manner, means and methods whereby such person may be reinstated 6
 in such service or his civil service status and rights preserved. 7

APPLICATION OF LAW TO CITIES AND TOWNS.

Application of chapter, 1894, 267, 1896, 449, R. L. 19, § 36, 1902, 544, § 3, 201 Mass. 506, 251 Mass. 71.

SECTION 47. This chapter shall continue in force in all the cities of 1
 the commonwealth and in all towns of more than twelve thousand 2
 inhabitants which have accepted corresponding provisions of earlier laws, 3
 and shall be in force in all such towns which hereafter accept it by vote 4
 at a town meeting. The provisions of this chapter and the rules estab- 5
 lished under it relative to employment of laborers designated as the 6
 "labor service" shall not be in force in any city of less than one hundred 7
 thousand inhabitants, which has not heretofore accepted the correspond- 8
 ing provisions of earlier laws, until said provisions are accepted by the 9
 city council. 10

Application to police, etc., of certain towns. 1901, 78, R. L. 19, § 37, 253 Mass. 400.

SECTION 48. A town which has not accepted this chapter or the 1
 corresponding provisions of earlier laws may accept this section as to 2
 its regular or permanent police and fire forces, or as to either of them. 3
 Acceptance as to the fire force shall include regular members, and may 4
 include call members, and a town which has accepted this section or 5
 the corresponding provisions of earlier laws as to regular firemen may 6
 afterward accept it as to call firemen. In a town which accepts this 7
 section by vote of the town at a town meeting, or has accepted corre- 8
 sponding provisions of earlier laws, as to any or all of said forces, the 9
 members of the forces to which the acceptance relates shall be subject to 10
 this chapter and the rules made hereunder, and shall hold office until their 11
 death, resignation or removal; but members in office at the time of such 12
 acceptance shall continue in office without examination or reappointment. 13

Application to chiefs of police, etc., of certain cities and towns. 1911, 468.

SECTION 49. This chapter and the rules made hereunder shall apply 1
 to superintendents, chiefs of police and chief marshals in cities which 2
 have accepted chapter four hundred and sixty-eight of the acts of nine- 3
 teen hundred and eleven in the manner therein provided, and in towns 4

5 which have a police force subject to this chapter, and which have ac- 1918, 291, § 22.
 6 cepted said chapter four hundred and sixty-eight, or accept this section, 213 Mass. 1
 7 by vote at an annual town meeting. 229 Mass. 147.
 253 Mass. 400.

1 SECTION 50. Nothing in this chapter shall repeal, amend or affect Special
 2 any special provision of law relative to any city or town, or extend to laws not
 3 any city or town any provision of law to which it is not now subject. affected.

GENERAL PENALTY.

1 SECTION 51. Whoever makes an appointment or employs any person General
 2 in violation of any provision of this chapter, or the rules made there- penalty
 3 under, or whoever refuses or neglects to comply with any of such provi- 1884, 320, § 24.
 4 sions or rules, shall be punished by a fine of not less than one hundred 1895, 501, § 5.
 5 nor more than one thousand dollars, unless some other penalty is specifi- 1896, 517, § 7.
 6 cally provided. R. L. 19, § 35.
 1914, 600, § 5.
 1918, 257, § 94.

1919, 5.

1920, 2.

192 Mass. 299.

CHAPTER 32.

RETIREMENT SYSTEMS AND PENSIONS.

SECT.

STATE RETIREMENT SYSTEM.

1. Definitions.
2. State retirement association.
3. Certain duties of the board of retirement.
4. Funds of retirement system.
5. Administration of funds.

RETIREMENT SYSTEM FOR TEACHERS.

6. Definitions.
7. Teachers' retirement association.
8. Certain duties of the retirement board.
9. Funds of retirement system.
10. Retiring allowances.
11. Same subject.
12. Duties of school committees.
13. Trustees of certain schools.
14. Treasurers of cities and towns, duties.
15. Membership in other retirement associations.
16. Reimbursement of cities and towns.
17. Referendum and repeal.
18. Certain sections not applicable to Boston.
19. Persons employed in the public schools and also by the commonwealth.

COUNTY RETIREMENT SYSTEMS.

20. Definitions.
21. Establishment of retirement system.
22. The retirement association.
23. The board of retirement.

SECT.

24. Funds, how raised.
25. Administration of funds.

RETIREMENT SYSTEMS FOR CITIES AND TOWNS.

26. Definitions.
27. Establishment of retirement system.
28. The retirement association.
29. The board of retirement.
30. Funds, how raised.
31. Administration of funds.

GENERAL PROVISIONS.

32. Certificates of membership. Policies.
33. Payments to estates of deceased members.
34. Supervision by commissioner of insurance.
35. Violations of state or teachers' retirement law or rules.
36. Violations of county or municipal retirement law or rules.
37. Exemption from taxation, attachments and assignments.
38. Jurisdiction of superior court.

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39. Association for providing pensions.
40. By-laws and statements.
41. Exemption from taxation, attachments and assignments.

SECT.

MUNICIPAL PENSIONS FOR TEACHERS.

42. Municipal pensions for teachers.
43. Same subject.

MUNICIPAL PENSIONS FOR SCHOOL JANITORS.

44. Municipal pensions for school janitors.
45. Same subject.

PENSIONS FOR PRISON EMPLOYEES.

46. Pensions for prison employees.
47. Computation of time of service.
48. Amount of pension.

VETERANS OF THE CIVIL WAR.

49. Veterans in service of commonwealth.
50. Veterans in service of county.
51. Veterans in service of soldiers' home.
52. Veterans in municipal service.
53. Veterans employed jointly by two towns.
54. Acceptance of two preceding sections.
55. Acceptance subject to mayor's veto.

VETERANS OF SPANISH AND WORLD WARS.

56. Retirement if incapacitated.
57. Same subject.
58. Retirement after thirty years' service.
59. "Retiring authority" defined.
60. Acceptance of four preceding sections, etc.

ARMY NURSES.

- 60A. Certain army nurses in public service to have retirement rights of certain veterans.

PENSIONS FOR JUSTICES AND COURT OFFICERS.

61. Pensions for justices and judges of supreme and probate courts.
62. Same subject.
63. Pensions for justices and judges of supreme, superior, probate and land courts.
64. Justices of municipal court of Boston.
65. Justices of district courts.
66. Pensions for court officers.
67. Pensions and expenses, how paid.

PENSIONS FOR STATE POLICE.

68. Pensions for state police.

SECT.

PENSIONS FOR METROPOLITAN POLICE.

69. Pensions for permanent members.
70. Pensions for call officers.
71. Annuities to dependents.
72. Appropriations for pensions, etc.
73. [Repealed.]

PENSIONS FOR SCRUBWOMEN.

74. Scrubwomen in state house.

PENSIONS FOR PROBATION OFFICERS.

75. Pensions for probation officers.
76. Amount of pension.

PENSIONS FOR LABORERS.

77. Pensions for laborers.
78. Laborers in fire or water districts.
79. Existing pensions.

PENSIONS FOR FIREMEN IN CITIES.

80. Pensions for firemen in cities.
81. Amount of pension.
82. Pensions for call members.

PENSIONS FOR POLICE AND FIREMEN.

83. Pensions for police in cities.
84. Retirement of injured police officers in cities and towns having no pension systems.
85. Pensions for policemen and firemen in towns.
85A. Retirement of call members of fire departments in certain towns.
86. Police pensioners accepting other employment not to draw pension.
87. [Repealed.]
87A. [Repealed.]
88. Payments to dependents of certain persons killed, etc., while aiding police officers, etc.
89. Annuities to dependents of policemen or firemen killed, etc., in performance of duty.
90. Aged police officers not subject to certain laws.

MISCELLANEOUS PROVISIONS.

91. Pensions not to be paid for services.
92. No interest in a pension, etc., to be pledged, etc. Expense of supporting persons receiving such pensions, etc., upon becoming public charges to be deducted therefrom.
93. Certain pensions not affected.

STATE RETIREMENT SYSTEM.

SECTION 1. In sections one to five, inclusive, unless the context otherwise requires, the following words shall have the following meanings:

"Annuities", the payments for life derived from contributions of members;

Definitions.
1911, c. 27, § 1.
1912, c. 83, § 1.
1914, c. 8.
1915, c. 98, § 1.
1919, c. 1, c. 59,
§ 61.

5 "Association", the retirement association provided by section two; 1920, 535.
 6 "Board", the board of retirement specified in section three; 1921, 486, § 4;
 7 "Employees", persons permanently and regularly employed in the 487, § 7.
 8 direct service of the commonwealth or in the service of the metropolitan 1922, 341, § 1
 9 district commission, whose sole or principal employment is in such 1931, 378, § 1
 10 service; 3 Op. A. G. 469

11 "Pensions", the payments for life, derived from money contributed by
 12 the commonwealth;

13 "Regular interest", interest at three per cent per annum, compounded
 14 semi-annually on the last days of December and June, and reckoned for
 15 full three and six months' periods only;

16 "Retirement system" or "system", the arrangements provided for the
 17 payment of annuities and pensions;

18 "Salary or wages", cash received for regular services together with
 19 such allowance for other compensation not paid in cash as may be herein-
 20 after provided;

21 The words "continuous service" shall mean uninterrupted employ-
 22 ment, but a lay-off on account of illness or reduction of force, and a leave
 23 of absence, suspension or dismissal, followed by reinstatement within two
 24 years or a period of absence as specified in paragraph *G* of section five
 25 shall not be considered as breaking the continuity of service; provided,
 26 that in the case of employees engaged in the military or naval service of
 27 the United States or of nations associated with the United States in the
 28 world war such reinstatement may occur at any time within two years
 29 after discharge from such service or release from active duty therein.
 30 As to appointees of the sergeant-at-arms the interval between sessions of
 31 the general court shall not be considered as breaking the continuity of
 32 service. Engineers and inspectors in the intermittent service of the
 33 commonwealth shall not lose the benefit of continuity of service in the
 34 intervals between employments, and for the purpose of computation,
 35 cumulative credit shall be given them for all periods of employment in the
 36 service of the commonwealth as shown by the records of the division of
 37 civil service.

38 In the case of employees of any department or institution formerly ad-
 39 ministered by a city, county or corporation, and later taken over by the
 40 commonwealth, service rendered prior to such transfer shall be counted as
 41 a part of a continuous service.

42 In the case of employees who before entering the service of the common-
 43 wealth had been regularly employed as teachers in public schools, as
 44 defined by section six, all periods of such employment rendered prior to
 45 July first, nineteen hundred and fourteen, shall be counted as a part of a
 46 continuous service; provided, that this paragraph shall not apply to
 47 employees entering the service of the commonwealth after July first,
 48 nineteen hundred and fourteen, who are not members of the teachers'
 49 retirement association mentioned in section seven.

50 Any member of the association who shall have withdrawn from the
 51 service of the commonwealth or metropolitan district after June first,
 52 nineteen hundred and twelve, on being re-employed in such service within
 53 two years, may be reinstated in said association in accordance with such
 54 rules for reinstatement as the board shall adopt, and when so reinstated
 55 the period of such withdrawal shall not operate to break the continuity of
 56 service, but shall not be counted as service. All periods of active service
 57 for the commonwealth or metropolitan district rendered prior to June
 58 first, nineteen hundred and twelve, by members of the association shall

be a part of their continuous service, and for the purpose of computing the accumulation for the pension for such service, regular interest as defined in this section shall be allowed for all periods that are to be counted as service.

State retirement association.

1911, § 532, § 3.
1912, 305, § 2.
1914, 419.
1916, 54.
§ § 1, 3.
1918, 257.
§ § 101, 102,
110.
1919, 5.
1920, 2; 394;
416, § § 1, 5.
1921, 439, § 1;
480, § 4;
487, § § 4, 5, 7.
1925, 12.
1928, 248,
§ § 1, 2.
Op. A. G.
(1918) 55.

SECTION 2. There shall be a retirement association for the employees of the commonwealth, including employees in the service of the metropolitan district commission, organized as follows:

(1) All persons who are now members of the state retirement association established on January first, nineteen hundred and twelve, shall be members thereof. Any employee who entered the service before said January first, who has not become a member of the association, may before attaining the age of seventy, upon written application to the board, become a member of the association by paying in one sum an amount equal to the total assessments which he would have paid, together with the interest which would have been credited to his account, if he had contributed assessments on a five per cent basis from June first, nineteen hundred and twelve.

Or, such an employee may make application for membership and accumulate in the annuity fund in instalments, in accordance with such rules as the board shall adopt, the amount due to join the association, he being enrolled a member of the association when the total amount due on account of back assessments and interest has been accumulated in the annuity fund; provided, that all instalments must be paid before said employee is sixty years of age. Until the full amount required for membership has been accumulated, said employee may at any time discontinue payments and withdraw his total contributions with interest thereon.

(2) All persons who are members of the teachers' retirement association at the time of entering the service of the commonwealth, and persons who were or are in the employment of a department or institution formerly administered by a city, county or corporation when taken over by the commonwealth shall become members of the association, irrespective of age, but no such person shall remain in the service of the commonwealth after reaching the age of seventy. Except as provided in paragraph (3) all other persons who enter the service of the commonwealth hereafter shall, upon completing ninety days of service, become thereby members of the association, except that such persons over fifty-five shall not be allowed to become members of the association, and no such person shall remain in the service of the commonwealth after reaching the age of seventy.

(3) No officer elected by popular vote shall be a member of the association, nor any employee who is or will be entitled to a non-contributory pension from the commonwealth; but if such employee leaves a position for which such a pension is provided, before becoming entitled thereto, and takes a position to which this section applies, he shall thereupon become a member of the association. An official under fifty-five years of age when appointed or reappointed by the governor for a fixed term of years, may, if his sole employment is in the service of the commonwealth, become a member of the association by making written application for membership within one year from the date of his original appointment or subsequent reappointment to the same office. An official who is a member of the association shall not receive credit

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49 for any period of service which he may have rendered as an official from
50 June first, nineteen hundred and twelve, to the date of his appointment
51 or reappointment which immediately preceded his membership in the
52 association.

53 (4) Any member who reaches the age of sixty and has been in the
54 continuous service of the commonwealth for a period of fifteen years
55 immediately preceding may retire or be retired by the board upon
56 recommendation of the head of the department in which he is employed,
57 or, in case of members appointed by the governor, upon recommendation
58 of the governor and council, and any member who reaches the age of
59 seventy must so retire. Any member who is a teacher or principal in
60 a state school or college where classes are graded or conducted by a
61 school year or term, or who is an instructor of the blind, on attaining
62 the age of seventy, shall be retired from the service at the end of the
63 school year or term in which said age is attained, but any such member
64 attaining that age in July, August or September shall then be retired.

65 (5) Any member who has completed a period of thirty-five years of
66 continuous service may retire, or may be retired at any age by the
67 board upon recommendation of the head of the department in which
68 he is employed, if such action be deemed advisable for the good of the
69 service.

70 (6) Employees who are paid partly by the commonwealth and partly
71 by a county having a retirement system shall be enrolled as members of
72 the association. Such employees shall be assessed on their full wages or
73 salaries, and the assessments on the part of such wages or salaries paid
74 by the county shall be deducted by the county treasurer and turned
75 over by him to the fund of the association. When any such employee
76 is retired under this paragraph, the state treasurer shall be reimbursed
77 out of the county treasury for a part of the pension payments to such
78 employee equivalent to the amount of the annuity payable on the
79 assessments on that part of his wages or salary paid by the county which
80 was deducted and turned over to the fund of the association in the
81 manner hereinbefore provided.

82 (7) All persons except teachers employed in the training schools
83 maintained and controlled by the department of education in buildings
84 owned by the commonwealth shall be considered employees of the
85 commonwealth.

86 (8) Retirement of a member for ordinary disability shall be made
87 by the board on the written application of the head of the department
88 in which the member is employed or of the member, or of a person act-
89 ing in his behalf if he is incapable of acting, filed with the board not
90 later than two years after the date of the member's last salary pay-
91 ment, if it appears to the board that said member has not attained age
92 sixty, that he has had fifteen or more years of continuous service im-
93 mediately preceding the application, that he is permanently physically
94 or mentally incapacitated for the performance of duty as shown by a
95 written report of a physician selected by him and that such incapacity
96 did not result from his own vicious habits, intemperance or wilful mis-
97 conduct. The retirement allowance of a member retired under this
98 paragraph shall be computed at his age nearest birthday under para-
99 graphs (2) B and (2) C of section five, subject, however, to the provisions
100 of paragraph (2) E of said section, and shall be payable not earlier than
101 the date of receipt by the board of such application.

4 Op. A. G.
105.
Op. A. G.
(1918) 55.

(9) Any member who is found by the board, after examination by one or more physicians selected by the board, to have been permanently incapacitated, mentally or physically, by injuries sustained through no fault of his own while in the actual performance of his duty, from the further performance of such duty, may be retired, irrespective of age and of his period of service, and shall receive yearly payments as follows: (a) an annuity at his age nearest birthday, as provided by section (2) B; (b) such a pension from the commonwealth that the sum of the annuity under section five (2) B (a) and the pension shall equal one half the annual salary received by him at the time when the injury was received. Except as otherwise provided, a person retired under this paragraph shall not receive from the commonwealth any other sum by way of annuity, pension or compensation. In case of emergency, a retired officer or inspector of the department of public safety or a retired permanent member of the metropolitan district police may be called upon by the proper authority for such temporary active duty as such officer or inspector is able to perform, and there shall be paid to him for such service the difference between the rate of full pay and the rate of pension received by him. Application for disability retirement hereunder shall be made in writing within two years after the date of the applicant's last salary payment, and pension and annuity payments granted under this paragraph shall be payable only from the date of receipt by the board of such application. The board may require re-examinations from time to time of any member of the association pensioned under this paragraph or under paragraph (8), and if the disability or incapacity is found no longer to exist the pension shall cease and there shall be refunded to such member such sum, if any, as the board finds then remaining to his credit in the annuity fund.

(10) If any member is found by the board to have died from injuries received while in the discharge of his duty, and leaves a widow, or if no widow any child or children under the age of sixteen, a pension equal to the retirement allowance to which such member would have been entitled under paragraph (9) had he been permanently incapacitated shall be paid to such widow so long as she remains unmarried, or for the benefit of such child or children so long as he or any one of them continues under the age of sixteen. A person receiving a pension under this paragraph shall not receive from the commonwealth any other sum by way of annuity, pension or compensation.

(11) The word "injuries", as used in paragraphs (9) and (10) of this section, shall mean any injury which is a natural and proximate result of an accident occurring in the performance and within the scope of duty and without fault of the member. The board may employ special examiners whenever, in its judgment, it is necessary to assist in determining the degree of disability under paragraph (8) or (9) of this section. The fee of each such examiner, not exceeding ten dollars in amount in any one case, shall be paid by the commonwealth. The decision of the board on the question of disability and retirement under said paragraph (8) or (9) shall be final. Payments under paragraph (10) shall not be made as of a date earlier than that of the receipt by the board of written application therefor, except that payments to a child of a deceased member shall date from the day as of which payments to his widow shall terminate.

1 SECTION 3. (1) The retirement system shall be managed by the
2 board of retirement provided in section eighteen of chapter ten.

3 (2) Subject to the approval of the board the state treasurer shall have
4 custody of the funds of the system and any and all unappropriated
5 income thereof, and shall invest and reinvest the same when not required
6 for current disbursements, in accordance with section thirty-eight of
7 chapter twenty-nine.

8 (3) The board may make by-laws and regulations consistent with law.

9 (4) It shall determine the percentage of wages or salary that employees
10 shall contribute to the fund, subject to the minimum and maximum
11 percentages, and may classify employees for the purposes of the system
12 and establish different rates of contribution for different classes within
13 the prescribed limits. It shall add to the cash payment for regular serv-
14 ices, in cases where an employee of a state institution receives a non-cash
15 allowance to cover compensation in the form of full or complete boarding
16 and housing in accordance with the practice in such state institution, an
17 amount at the rate of five dollars per week, which amount added to said
18 cash payment shall be the basis upon which annuity contributions shall
19 be made; and the foregoing provision shall also apply in computing pen-
20 sions based upon prior service.

21 (5) The board shall file in the office of the commissioner of insurance,
22 annually on or before the fifteenth day of February, unless for cause shown
23 the commissioner shall extend the time, a sworn statement showing the
24 financial condition of the system on the thirty-first day of the preceding
25 December and its financial transactions for the year ending thereon.
26 The statement shall be in the form, and shall give the details, prescribed
27 by the commissioner. Subject to the same conditions and requirements,
28 the state treasurer shall file a sworn statement showing the financial
29 condition of the system on said day.

Certain duties
of the board of
retirement.
1911, 532, § 4.
1912, 363, § 3.
1918, 257,
§ 103.
1919, 5, 36;
350, § 46.
1920, 2.
1921, 486, § 4;
487, § 7.
1922, 341, § 2.

1 SECTION 4. The funds of the retirement system shall be raised as
2 follows:

(1) *Expense and Contingent Fund.*

3 Such amount as the general court may annually appropriate for the
4 purpose of defraying the entire expense of administration according to
5 estimates prepared by the state treasurer shall constitute an expense and
6 contingent fund.

(2) *Annuity and Pension Fund.*

7 *A. Deposits by Members.* — (a) Except as hereinafter provided, each
8 member shall deposit in this fund from his salary or wages, as often as the
9 same are payable, not less than one nor more than five per cent thereof,
10 as determined by the board under section three (4); but members who
11 receive as weekly salary or wages an amount in excess of thirty-five dollars
12 shall not be assessed for contributions to this fund on the excess above
13 thirty-five dollars. Any member receiving on January first, nineteen
14 hundred and thirty, salary or wages at the rate of more than thirty dollars
15 per week shall make deposits based upon the salary or wages received
16 but not on the amount received exceeding the weekly rate of thirty
17 dollars, or, upon written application of such member filed with the board

Funds of
retirement
system.
1911, 532, § 5.
1915, 198, § 2.
1918, 257,
§ 104.
1919, 5.
1920, 2.
1921, 486, § 4;
487, §§ 6, 7.
1925, 509,
§ 1.
1929, 366.

after said date, upon the full salary or wages received but not on the amount received exceeding a weekly rate of thirty-five dollars. The pension for prior service of any member receiving on January first, nineteen hundred and thirty, salary or wages at the rate of more than thirty dollars per week shall be computed upon the salary or wages received during such service but not on the amount received exceeding the weekly rate of thirty dollars; but, if such member shall pay deposits prior to January first, nineteen hundred and thirty-one, on his salary or wages exceeding a weekly rate of thirty dollars, the pension for prior service shall be computed upon the salary or wages received but not on the amount exceeding the weekly rate of thirty-five dollars.

(b) A member who has been in the service of the commonwealth for a continuous period contributing to the annuity fund during the first part thereof at the rate of three per cent and during the remainder thereof at the rate of five per cent may pay in one sum the difference between the amount credited to him in the annuity fund and the amount which would have been so credited to him if all his contributions had been at the rate of five per cent. Or, such a member may accumulate in the annuity fund in regular instalments during a period not exceeding five years from the date of the first instalment the amount due to cover such difference with interest, provided, that all instalments shall be paid before said member is sixty years of age.

(c) Members of the teachers' retirement association, described in section seven, who enter the service of the commonwealth shall have the full amount of their contributions, with interest thereon as determined by the teachers' retirement board, transferred by the state treasurer to the retirement fund provided by this section, and these amounts shall thereby become a part of their deposits.

B. Contributions of the Commonwealth.— The commonwealth shall contribute as follows:

(a) Each month, such amount as the board may determine to be necessary to pay current pensions for subsequent service under section five (2) C (a).

(b) Each year, such amount as is necessary to guarantee regular interest and make good any deficiency in the annuity fund as of the preceding thirty-first day of December.

(c) Each month, such amount as the board may determine to be necessary to pay current pensions for prior service under section five (2) C (b).

(d) Each month, such amount as the board may determine to be necessary to insure the minimum payments provided for in section five (2) E, and also the payments provided for in section two (9) (b).

(e) Each month, such amount as the board may determine to be necessary to pay current pensions on account of disability, permanent incapacitation or death under paragraph (8), (9) or (10) of section two.

(3) Provision for Payments.

All amounts payable by members of the association under paragraph (2) A (a) of this section shall be deducted by the commonwealth from the amounts payable to them as salary or wages as often as the same are payable, and shall immediately be credited to the retirement fund by the state treasurer.

1 SECTION 5. The state treasurer shall administer the funds of the
2 system in accordance with the following plan:

Administration
of funds.
1911, 542, § 6.
1912, 363, § 1.
1913, 64, § 1;
310, § 2.
1914, 582,
§§ 1, 2.
1915, 197, § 3.
1916, 164, § 2.
1918, 237.
§§ 105-108.
1919, 5.
1920, 2; 416,
§§ 2-4; 539.
1921, 486, § 4;
487, § 7.

(1) *Expense and Contingent Fund.*

3 The fund provided for by section four (1) shall be used, so far as
4 necessary, for the payment of the expenses of administration. Any
5 unused portion shall be repaid into the treasury of the commonwealth.
6 If the amount appropriated for the expense and contingent fund in any
7 year should prove insufficient, the general court shall appropriate in the
8 following year an additional sum to cover the deficit.

1922, 341, §§ 3, 4.	1926, 300, § 2.	1930, 335, §§ 1-3.
1923, 205, §§ 1, 2.	1927, 101.	1931, 378, § 2;
1925, 244, § 1, 2.	1929, 367.	426, § 139.

(2) *Annuity and Pension Funds.*

9 A. *Refunds.*—(a) Should a member of the association enter a posi-
10 tion in the service of the commonwealth not covered by sections one to
11 five, inclusive, or cease to be an employee of the commonwealth for any
12 cause other than death, or for the purpose of entering the service of the
13 public schools as defined in section six, before becoming entitled to a
14 pension, there shall be refunded to him all the money paid in by him
15 under section four (2) A, with such interest as shall have been earned
16 thereon.

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(1918) 26.
Op. A. G.
(1920) 220.

17 (b) Should a member of the association die before becoming entitled
18 to a pension, or should an employee die while in process of accumulat-
19 ing under section two (1) the amount required to become a member,
20 all the money contributed by him under section four (2) A, or said sec-
21 tion two (1), as the case may be, with such interest as shall have been
22 earned thereon, shall be paid to his legal representatives, subject to
23 paragraph (2) F of this section.

24 (c) Should a member of the association resign from the service of the
25 commonwealth at any time after he is eligible for retirement, there shall
26 be refunded to him upon written demand all the money contributed by
27 him under section four (2) A, with such interest as shall have been
28 earned thereon. No such refund shall be made unless and until such
29 member waives and releases for himself, his heirs and his legal repre-
30 sentatives and any designated beneficiary any and all claims to any pen-
31 sion or annuity to which he was entitled at the time of resignation, and
32 to which his heirs or legal representatives or any designated beneficiary
33 may thereafter be entitled, by reason of his membership in the asso-
34 ciation; and no further payment shall be made from the treasury of the
35 commonwealth to any person by reason of the age, service, disability
36 or death of said member, unless he shall have been reinstated in the
37 association in the manner provided in section one.

38 B. *Annuities from Employeers' Deposits.*—Any member who reaches
39 the age of sixty and has been in the continuous service of the common-
40 wealth for fifteen years immediately preceding and then or thereafter
41 retires or is retired, any member who retires or is retired at the age of
42 seventy, and any member who is retired for the good of the service under
43 section two (5), shall receive an annuity to which the sum of his deposits
44 under section four (2) A, with such interest as shall have been earned
45 thereon, shall entitle him, according to the tables adopted by the board,
46 in one of the following forms:

- (a) A life annuity, payable monthly. 47
- (b) A life annuity of less amount, payable monthly, with the provision that if the annuitant dies before receiving annuity payments equal to the amount used to purchase the annuity, the difference shall be paid to his legal representatives, subject to paragraph (2) F of this section. 48
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- C. *Pensions derived from Contributions by the Commonwealth.* — (a) Pensions based upon subsequent service. Any member entitled to an annuity under paragraph (2) B of this section shall receive in addition thereto a pension for life, payable monthly, equivalent to that annuity to which he would be entitled if his annuity were figured under (2) B (a) of this section, to be paid out of the fund contributed by the commonwealth under section four (2) B (a). In computing the pension for subsequent service of any member who has left a position in the service of the commonwealth for which a non-contributory pension is provided to take a position subject to sections one to five, inclusive, he shall be credited with regular accumulated contributions to the annuity fund during his period of service in said former position since June first, nineteen hundred and twelve. 52
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- (b) Pensions based upon prior service. Any member of the association who reaches the age of sixty and has been in the continuous service of the commonwealth for fifteen years or more immediately preceding and then or thereafter retires or is retired, any member who completes thirty-five years of continuous service and then or thereafter retires or is retired, and any member retired under section two (8), shall receive, in addition to the annuity and pension provided for by paragraphs (2) B and (2) C (a) of this section, an extra pension for life as large as the amount of the annuity, computed under paragraph (2) B (a) of this section, and the pension, to which he might have acquired a claim if the retirement system had been in operation at the time when he entered the service, and if accordingly he had paid regular contributions from that date to June first, nineteen hundred and twelve at the same rate at which his contributions were first made and if such contributions had been accumulated with regular interest; provided, that a member who pays the full amount provided in paragraph (2) A (b) of section four in either manner provided therein, shall be credited, in computing the pension for service prior to June first, nineteen hundred and twelve, on the basis of contributions at the rate of five per cent. 65
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- The pension for prior service under (2) C (b) of this section of any person becoming a member of the association under chapter three hundred and ten of the acts of nineteen hundred and thirteen or chapter one hundred and sixty-four of the General Acts of nineteen hundred and sixteen shall not be based upon or include any allowance for the time between June first, nineteen hundred and twelve, and the date when such person became a member of the association. 84
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- If any employee is paid partly by the commonwealth and partly by a county having a retirement system, or has rendered service in the past both for the commonwealth and for such county, all of his continuous service rendered either for the commonwealth or for the county before June first, nineteen hundred and twelve, shall be counted as part of his prior service for the purposes of this section. 91
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- Where members of the association are husband and wife, if one of the two retires or is retired the other may, irrespective of age and service, on the date of such retirement, be retired by the board, and if so retired, shall be paid at the attained age the retiring allowances provided under 97
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101 paragraphs (2) *B* and *C* of this section; provided, that the minimum
102 allowance provided under (2) *E* of this section shall not apply to a mem-
103 ber whose retirement allowance is granted under authority of this
104 paragraph.

105 If the total contributions, with accumulated interest, at the time of
106 retirement of any member exceed the amount required to provide an
107 annuity under paragraph (2) *B* (a) of this section equal to one fourth
108 of the average annual rate of salary or wages of such employee during
109 the five year period provided for computing the maximum retirement
110 allowance under paragraph *E* of this section, the excess above such
111 amount shall be paid to such member upon his retirement in a lump
112 sum with the first monthly payment on account of his retirement allow-
113 ance. Whenever the retirement board deems it to be impracticable to
114 determine the exact length of service or amount of salary, pay or com-
115 pensation of a member, said board may estimate the same on a basis
116 determined by it.

117 Any employee not a member of the association who had already
118 reached the age of fifty-five on June first, nineteen hundred and twelve,
119 may be retired at any time, and shall be paid a pension equivalent to
120 the minimum payment hereinafter provided for.

121 (c) Any member entitled to retirement under sections one to five,
122 inclusive, whose continuous employment for the commonwealth began
123 at the time a department or institution formerly administered by a city,
124 county, or corporation was taken over by the commonwealth shall
125 receive at retirement in addition to the pension payable under para-
126 graph (2) *C* (b) of this section an extra pension for life equal to the
127 annuity he would have purchased under paragraph (2) *B* (a) of this
128 section by five per cent contributions from the salary paid to him by
129 the department or institution from June first, nineteen hundred and
130 twelve, up to the date of membership in the retirement association if
131 such contributions had been accumulated with regular interest to the
132 date of his retirement.

133 (d) In addition to the interest and surplus otherwise credited under
134 sections one to five, inclusive, to the account of a member of the asso-
135 ciation who, between the semi-annual interest compounding dates
136 established by section one, retires or is retired under said sections or
137 dies or leaves the service, there shall be credited interest on his account
138 as standing on the semi-annual interest compounding date last preced-
139 ing his retirement, death or leaving the service at the rate prescribed
140 by said section one for regular interest, computed from said date to the
141 first day of the month in which his service ended, in case of his retire-
142 ment or leaving the service, or to the first day of the month in which
143 refund is made, in case of his death while in the service.

144 *D. Application of Surplus.*— Subject to the approval of the com-
145 missioner of insurance the board may determine the application of any
146 surplus.

147 *E. Minimum and Maximum Payments.*— Except as otherwise pro-
148 vided, in no case shall a member, whether he has elected the form of
149 annuity provided for in paragraph (2) *B* (a) or (2) *B* (b) of this section,
150 be retired at such an annual rate of pension as would, when added to
151 the annual amount which would be required to be paid from the annuity
152 fund if he had elected the form of annuity provided for in said para-
153 graph (2) *B* (a), amount to a total retirement allowance of less than
154 three hundred dollars or, in case the member has completed twenty-five

years or more of service and his annuity at retirement is computed upon 155
an amount equal to the sum which accumulated contributions for the 156
entire period of his membership at the rate of five per cent have pro- 157
vided, less than four hundred and eighty dollars; and in no case shall 158
a member who has elected either of the aforesaid forms of annuity be 159
retired at such an annual rate of pension as would, when added to the 160
annual amount which would be required to be paid from the annuity 161
fund if he had elected the form of annuity provided for in said para- 162
graph (2) *B (a)*, amount to a total retirement allowance of more than 163
one half the average annual rate of his salary or wages during the five 164
years prior to retirement, or, if such member resigns or is dismissed prior 165
to the date of retirement, during the five years prior to such resignation 166
or dismissal, except that the minimum retirement allowance hereinbe- 167
fore provided for such member shall not thereby be reduced. For the 168
purpose of determining the maximum pension and the maximum annuity 169
under this section, the rate of salary or wages received by a member on 170
the date immediately preceding any period of absence without pay 171
shall be used as the rate of pay which he would have received during 172
such absence without pay. 173

All pensions and annuities, and the average annual rate of salary or 174
wages during the five years prior to retirement, resignation or dismissal, 175
shall be computed under the preceding sections to the nearest multiple 176
of twelve. 177

F.—Any sum of money otherwise payable to the legal representatives 178
of a deceased member or deceased employee under paragraph (2) *A (b)* 179
or (2) *B (b)* of this section shall be paid, subject to the following condi- 180
tions, to the beneficiary or beneficiaries nominated as hereinafter pro- 181
vided, if any, surviving at the death of such member or employee, as 182
appearing in the records of the association at his death, and such pay- 183
ment or payments shall bar the recovery by any other person of such 184
sum. Any such member or employee, by a written instrument duly 185
executed by him and filed with the board prior to his death, upon a form 186
to be furnished by the board, may nominate, and from time to time 187
change, one or more beneficiaries to receive, in designated proportion, 188
but not in the alternative, any such sum; any such person so nominated 189
by a minor to be of his kindred. The sum which would have been paid 190
to any beneficiary if he had survived such member or employee shall be 191
paid to the legal representatives of such member or employee, subject 192
to the conditions hereinafter provided in this paragraph. Any question 193
arising hereunder as to survivorship shall be finally determined by the 194
board. If any sum otherwise payable to the legal representatives of a 195
member or employee under paragraph (2) *A (b)* or (2) *B (b)* of this 196
section and under this paragraph does not exceed one hundred dollars, 197
and if there has been no demand upon the board for payment of such 198
sum by a duly appointed executor or administrator of the estate of such 199
member or employee, and the board has not otherwise been informed 200
that probate proceedings relative to such estate have been commenced, 201
such sum may be paid, after the expiration of three months from the 202
date of death of such member or employee, to the persons appearing, 203
in the judgment of the board, to be entitled thereto, and such payments 204
shall bar recovery by any other person. 205

G.—Any member of the association during the entire period of time 206
while receiving from the commonwealth weekly compensation payments 207
for total incapacity under sections sixty-nine to seventy-five, inclusive, 208

209 of chapter one hundred and fifty-two, or during any period, computed
 210 as hereinafter provided, to cover a lump sum payment from the com-
 211 monwealth in lieu of compensation aforesaid and also during a further
 212 period not exceeding thirty days shall, so long as his account is not
 213 withdrawn from the annuity fund, be treated in all respects as a con-
 214 tributing member, except as to liability to contribute to the annuity
 215 fund and except that such a member who attains age seventy prior to
 216 the date of termination of the actual or computed period of compensa-
 217 tion payments shall not be treated as such a member beyond the date of
 218 termination aforesaid. Such a member attaining age seventy as afore-
 219 said shall, without being required to be reinstated in the service of the
 220 commonwealth, be retired on the date of termination aforesaid on a
 221 retirement allowance then payable at age seventy; and such a member
 222 otherwise meeting the age and, or service requirements necessary for
 223 retirement prior to the date of termination aforesaid shall, on and after
 224 the date of termination aforesaid and without being required to be
 225 reinstated in such service, have all the rights and benefits provided by
 226 sections one to five, inclusive, to which he would have been entitled if
 227 his service had not been interrupted by a period of absence as aforesaid,
 228 and if such a former member re-enters the service after the termination
 229 of the aforesaid thirty day period he shall from the date of entry be
 230 treated in all respects as a contributing member; but in case of retire-
 231 ment hereunder no pension or annuity payments shall be made on
 232 account of any period of time prior to the date of receipt by the board
 233 of the written application for retirement. In no case shall interest be
 234 added to the account of such a member beyond the first day of the
 235 month in which the date of termination of the additional thirty day
 236 period occurs, unless such member is sooner reinstated in such service.
 237 The account of such a member in the annuity fund may be withdrawn
 238 at any time upon the filing of a written notice with the board, which shall,
 239 if the member has already become eligible for retirement, be accom-
 240 panied by a waiver as set forth in section five. Whenever such a member
 241 receives a lump sum payment under section forty-eight of chapter one
 242 hundred and fifty-two, the period of time covered by such payment
 243 shall, for the purposes of this section, be computed to begin on the last
 244 day the name of such member appeared upon the pay roll prior to such
 245 payment or on the day of the last compensation payment in case weekly
 246 payments had previously been made and to continue throughout a
 247 number of weeks equal to the quotient of the lump sum payment divided
 248 by the maximum weekly compensation which would otherwise be pay-
 249 able to such member, and any fraction of a week so resulting shall be
 250 taken as a full week.

RETIREMENT SYSTEM FOR TEACHERS.

1 SECTION 6. In sections seven to nineteen, inclusive, unless the con-
 2 text otherwise requires, the following words shall have the following
 3 meanings:
 4 "Annuities", payments for life derived from contributions of mem-
 5 bers;
 6 "Annuities-certain", payments for a definite number of years only,
 7 derived from contributions of members, and the number of years during
 8 which payments shall be made shall be determined by the retirement
 9 board;

Definitions.
 1913, 832, § 1.
 1916, 257, § 1.
 1917, 233, § 1.
 1924, 281, § 1.
 1925, 228, § 1.
 1928, 184, § 3.

“Annuity fund”, the fund provided in section nine (2);	10
“Assessments”, the annual payments to the annuity fund by mem- bers;	11 12
“Association”, the teachers’ retirement association provided in sec- tion seven;	13 14
“Board”, the teachers’ retirement board specified in section eight;	15
“Expense fund”, the fund provided in section nine (1);	16
“Pensions”, payments for life, derived from contributions of the commonwealth;	17 18
“Pension fund”, the fund provided in section nine (3);	19
“Public school”, any day school conducted in the commonwealth under the superintendence of a duly elected school committee, also any day school conducted under sections one to thirty-seven, inclusive, of chapter seventy-four;	20 21 22 23
“Regular interest”, interest at the rate determined by the retire- ment board, which shall be substantially that which is actually earned compounded annually on the last day of December;	24 25 26
“Retirement system” or “system”, the arrangement provided for payment of annuities and pensions to teachers;	27 28
“School year”, the twelve months beginning July first in any year and ending June thirtieth next;	29 30
“Teacher”, any person employed by one or more school committees or boards of trustees, or by any combination of such committees and boards, on a full time basis as a teacher, principal, supervisor or super- intendent in the public day schools in the commonwealth, or as a super- visor or teacher of adult alien education.	31 32 33 34 35

3 Op. A. G.
460.

Teachers’
retirement
association.
1913, §32, § 3.
1914, 494,
§§ 1, 2.
1916, 54, § 1
1919, 292, § 18
1924, 263, § 1.
1927, 173.
1928, 184, § 3.
1929, 365, § 1.
Op. A. G.
(1918) 81.

SECTION 7. There shall be a teachers’ retirement association organ- ized as follows:	1 2
(1) All persons now members of the teachers’ retirement association established on July first, nineteen hundred and fourteen, shall be mem- bers thereof.	3 4 5
(2) All teachers hereafter entering the service of the public schools for the first time shall thereby become members of the association.	6 7
(3) Any teacher who entered the service of the public schools before July first, nineteen hundred and fourteen, who has not become a member of the association, may hereafter, before attaining the age of seventy, upon written application to the board, become a member of the associ- ation by paying an amount equal to the total assessments, together with regular interest thereon, which he would have paid if he had joined the association on September thirtieth, nineteen hundred and fourteen. Such a teacher may make application for membership and accumulate in the annuity fund in instalments, in accordance with such rules as the board shall adopt, the amount due to join the association, he being enrolled a member of the association when the total amount due on account of back assessments and interest has been accumulated in the annuity fund; provided, that all instalments must be paid before the teacher is sixty years of age. Until the full amount required for membership has been accumulated, a teacher may at any time discontinue payments and withdraw his total contributions with the regular interest thereon. If a teacher dies before said full amount has been accumulated, his total contributions, with regular interest thereon, shall be paid to the person or persons entitled, as if constituting a sum due a deceased member, in accordance with section thirty-three.	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27

28 (4) Teachers in training schools maintained and controlled by the
 29 department of education shall be considered as public school teachers
 30 under sections seven to nineteen, inclusive, and such a teacher upon
 31 becoming a member of the association shall thereafter pay assessments
 32 based upon his total salary including the part paid by the common-
 33 wealth; provided, that the total assessments shall not exceed in any
 34 year the maximum annual assessment established by paragraph (2) of
 35 section nine. Such assessments shall be deducted in accordance with
 36 rules prescribed by the board. This paragraph shall not apply to
 37 teachers regularly employed in the normal schools and therefore subject
 38 to sections one to five, inclusive, although they devote a part of their
 39 time to training school work.

1 SECTION 8. (1) The retirement system shall be managed by the
 2 teachers' retirement board provided in section sixteen of chapter fifteen.
 3 (2) The board may make by-laws and regulations consistent with
 4 law.
 5 (3) The board shall provide for the payment of retirement allowances
 6 and the other expenditures required by sections seven to nineteen,
 7 inclusive.
 8 (4) [REPEALED, 1930, 23S, § 2.]
 9 (5) The board shall perform such other functions as are required to
 10 comply with sections seven to nineteen, inclusive.

Certain duties
 of the retire-
 ment board.
 1913, 832, § 4.
 1919, 350, § 61.
 1928, 184, § 3.
 1930, 238, § 2.

1 SECTION 9. The funds of the system shall consist of an expense fund,
 2 an annuity fund and a pension fund.
 3 (1) The expense fund shall consist of such amounts as shall annually
 4 be appropriated by the general court, on estimates submitted by the
 5 board, to defray the expenses of administration, exclusive of the pay-
 6 ment of retirement allowances.
 7 (2) The annuity fund shall consist of assessments paid by members and
 8 interest derived from investments of the annuity fund. Each member
 9 shall pay into the annuity fund, by deduction from his salary in the
 10 manner provided in section twelve (5), such assessments upon his salary
 11 as may be determined by the board. The rate of assessment shall be
 12 established by the board on the first day of July of each year after a prior
 13 notice of at least three months, and shall at any given time be uniform
 14 for all members of the association, and shall not be less than three nor
 15 more than seven per cent of the member's salary; provided, that when
 16 the total sum of assessments on the salary of any member at the rate
 17 established by the board would amount to more than one hundred dollars
 18 or less than thirty-five dollars for a full school year, such member shall
 19 in lieu of assessments at the regular rate be assessed at the rate of one
 20 hundred dollars a year or thirty-five dollars a year, payable in equal
 21 instalments, to be assessed for the number of months during which the
 22 schools of the community in which such member is employed are com-
 23 monly in session. Any member who shall for thirty years have paid
 24 regular assessments to the annuity fund shall be exempt from further
 25 assessments; but such member may thereafter, if he so elects, continue
 26 to pay his assessments to the fund. No member, however, shall pay
 27 further assessments after the total sum of assessments paid by him shall
 28 have amounted, with regular interest, to a sum sufficient to purchase
 29 under section ten (3) (a) an annuity of six hundred and fifty dollars at
 30 age sixty, and interest thereafter accruing shall be paid to the member on

Funds of retire-
 ment system.
 1913, 832, § 5.
 1915, 197, § 1.
 1918, 257,
 § 111, 112.
 1919, 5.
 1920, 2.
 1928, 184, § 3.
 1929, 365, § 2.
 1930, 238, § 1.

his retirement. The commonwealth shall annually contribute such amount as is necessary to make good any deficiency in the annuity fund for active or retired members as of the preceding thirty-first day of December.

(3) The pension fund shall consist of such amounts as shall be appropriated by the general court from time to time, on estimates submitted by the board, for the purpose of paying pensions to teachers.

(4) Members of the state retirement association, provided in section two, who enter the service of the public schools shall have the full amount of their contributions, together with such interest as shall have been earned thereon, transferred by the state treasurer to the annuity fund established by paragraph (2) of this section, and these amounts shall thereby become a part of their assessments.

Retiring allowances.
1913, 832, § 6.
1915, 197, § 2.
1916, 257, § 2.
1917, 233, § 2.
1918, 257, § 2.
§§ 113-115.
1919, 5.
1920, 2; 49; 335.
1921, 460.
1928, 184, § 3.
1929, 365.
§§ 3, 4, 6.

SECTION 10. (1) Any member of the association shall, on written application to the board, be retired from service in the public schools on attaining the age of sixty, or at any time thereafter. If in the opinion of the employing school committee any member who has attained said age is incapable of rendering satisfactory service as a teacher, he may, with the approval of the board, be retired by such committee. If he is not employed by a school committee, he may be so retired by his employer.

(2) Any member, on attaining the age of seventy, shall be retired from service in the public schools at the end of the school year in which said age is attained, but any member attaining that age in July, August or September shall then be retired.

(3) A member, after his retirement under paragraph (1) or (2) of this section, shall be entitled to receive from the annuity fund, as he shall elect at the time of his retirement, on the basis of tables adopted by the board: (a) an annuity, payable in quarterly payments, to which the sum of his assessments under section nine (2), with regular interest thereon, shall entitle him; or (b) an annuity of less amount, as determined by the board for the annuitants electing such option, payable in quarterly payments, with the provision that if the annuitant dies before receiving annuity payments equal to the amount used to purchase the annuity, the difference shall be paid to his estate.

(4) Any member receiving payments of an annuity as provided in paragraph (3) of this section, if not rendered ineligible therefor by section fifteen, shall receive with each quarterly payment of his annuity an amount from the pension fund, as directed by the board, equal to the quarterly annuity payment to which he would be entitled if his annuity were figured under clause (a) of paragraph (3) of this section.

(5) Any member who served as a regular teacher in the public schools prior to July first, nineteen hundred and fourteen, and who has served fifteen years or more in the public schools, not less than five of which shall immediately precede retirement, on retiring as provided in paragraph (1) or (2) of this section, shall be entitled to receive a retirement allowance as follows: (a) such annuity and pension as may be due under paragraphs (3) and (4) of this section; (b) an additional pension to such an amount that the sum of this additional pension and the pension provided in paragraph (4) of this section shall equal the annuity to which he would have been entitled under sections seven to nineteen, inclusive, if he had paid thirty assessments based on his average yearly rate of salary for the five years immediately preceding his retirement, at the rate

41 of assessment in effect at that time, and his account had been annually
 42 credited with interest at the rate of four per cent per annum; provided,^{Proviso.}
 43 that if his term of service in the commonwealth shall have been over
 44 thirty years, the thirty assessments, with interest as provided above,
 45 shall be credited with interest at the rate of four per cent, compounded
 46 annually for each year of service in excess of thirty; but the assumed
 47 accumulation of assessments with interest under this paragraph shall not
 48 exceed the amount which at the age of sixty and in accordance with
 49 clause (a) of paragraph (3) of this section will purchase an annuity of six
 50 hundred and fifty dollars, and the minimum pension shall be of such an
 51 amount that the annual pension, plus the annual amount which would
 52 have been paid from the annuity fund if the member had chosen an
 53 annuity computed under clause (3) (a) of this section, shall be four hun-
 54 dred dollars. If a member is at any time eligible to retire and receive a
 55 pension computed under this paragraph, he shall receive upon retire-
 56 ment a pension computed hereunder without the necessity of five years of
 57 continuous service preceding retirement.

58 (6) If at any time it is impossible or impracticable to consult the
 59 original records as to wages received by a member during any period,
 60 the board shall determine the pension to be paid under clause (b) of para-
 61 graph (5) of this section in accordance with the evidence it may be able to
 62 obtain.

63 (7) In determining the retiring allowance of a member of the asso-
 64 ciation who was regularly employed by the commonwealth prior to June
 65 first, nineteen hundred and twelve, or as a teacher in the public schools
 66 prior to July first, nineteen hundred and fourteen, credit shall be given
 67 in the manner provided for by paragraph (5) of this section for all periods
 68 of employment by the commonwealth and of service as a teacher in the
 69 public schools, if such service is fifteen years or more, not less than five
 70 of which shall immediately precede retirement; provided, that this
 71 paragraph shall not apply to any person who had the option of joining
 72 the state retirement association and did not become a member thereof.
 73 Such rules as the board may adopt under paragraph (3) of section eleven
 74 shall apply to a person becoming a member thereof after July first, nine-
 75 teen hundred and twenty, who shall have withdrawn any sum from the
 76 state retirement association.

77 (8) Any member of the association whose employment by the com-
 78 monwealth and service in the public schools amount to twenty or more
 79 years, the last five years of which are consecutive, and who, before at-
 80 taining the age of sixty, becomes permanently incapable of rendering
 81 satisfactory service as a teacher by reason of physical or mental disability,
 82 may, with the approval of the board, be retired by the employing school
 83 committee or other employer as provided in paragraph (1).

84 (9) Any member shall, upon retirement under the preceding para-
 85 graph, and during the continuance of disability, be entitled to receive
 86 from the annuity fund, in quarterly payments, a sum computed in ac-
 87 cordance with paragraph (3) of this section; provided, that upon the
 88 approval of the board, an annuity-certain based upon the tables of the
 89 board may be substituted for either of the plans provided for in said
 90 paragraph; and in case of the death of the annuitant before all the in-
 91 stalments thereon have been paid, the value at that time of the unpaid
 92 instalments, as determined on the basis of the tables adopted by the
 93 board, shall be paid to his estate.

94 (10) Any member receiving a payment under the preceding para-

graph shall, if not rendered ineligible therefor by section fifteen, receive 95
 from the pension fund for each year of service a pension equal to one 96
 thirtieth of the pension which would have been due him if he had retired 97
 at the age of sixty, having paid thirty annual assessments to the annuity 98
 fund, and received an annuity computed in accordance with clause (a) 99
 of paragraph (3) of this section; provided, that the minimum annual 100
 amount to be paid from the pension fund shall be such that a member 101
 shall receive from this fund, for each year of his service, one thirtieth of 102
 two hundred and fifty dollars; and provided, further, that the total re- 103
 tiring allowance shall not be greater than the amount which the said mem- 104
 ber would receive if he were to continue in service until the age of sixty, 105
 contributing annual assessments based on his average yearly rate of 106
 salary for the five years immediately preceding retirement, at the rate of 107
 assessment in effect at that time. 108

(11) If a member is granted an annuity-certain by the board, his 109
 total retiring allowance shall not be limited to the total retiring allowance 110
 which he would have received at the age of sixty, as provided in the 111
 preceding paragraph, but the amount to be paid from the pension fund 112
 shall be the amount which would have been paid from that fund if an 113
 annuity-certain had not been granted. 114

(12) In computing the amount to be paid from the pension fund 115
 under paragraph (10) of this section, the assumed assessments necessary 116
 to complete the thirty annual assessments shall be based on the average 117
 yearly rate of salary for the five years immediately preceding retirement, 118
 and shall be at the rate of assessment in effect at that time. Interest on 119
 the amount to the member's credit on his retirement and on the assumed 120
 assessments shall be figured at the rate of four per cent. 121

(13) No member shall be retired under paragraph (8) of this section 122
 until the fact of his disability has been certified to on oath by an examin- 123
 ing physician selected by the employing school committee or other em- 124
 ployer as provided in paragraph (1) and approved by the board, and 125
 until any further evidence of his disability which the board may require 126
 shall have been furnished. 127

(14) At intervals of not less than one year, any member receiving 128
 a retiring allowance under this section, who has not attained the age 129
 of sixty, shall, if so requested by the board, be re-examined by a phy- 130
 sician selected by it. If the board finds that disability which prevents 131
 satisfactory service as a teacher no longer exists, the retiring allowance 132
 shall cease. Refusal to submit to re-examination shall be cause for dis- 133
 continuing the retiring allowance. 134

(15) If a teacher ceases to receive a retiring allowance under the pre- 135
 ceding paragraph, the amount then to his credit in the annuity fund 136
 shall be determined on the basis of tables adopted by the board, and the 137
 said amount shall be considered to constitute the sum of his assessments, 138
 with the regular interest allowed thereon, to the time when his retiring 139
 allowance ceased. 140

(16) Any member who shall cease to receive a retiring allowance 141
 under paragraph (14) of this section, who does not re-enter public school 142
 service, and who does not withdraw the amount to his credit in the 143
 annuity fund, may, upon attaining the age of sixty, receive a retiring 144
 allowance computed in accordance with paragraphs (3) and (4) of this 145
 section, or may, before attaining the age of sixty, under conditions to be 146
 determined by the board, upon request and after an interval of one year, 147
 be entitled to further re-examination by a physician selected by it, and, 148

149 if disability contracted during service as a public school teacher is found
 150 to exist, shall again be entitled to receive a retiring allowance under par-
 151 agraphs (9) and (10) of this section.

152 (17) In determining the average salary under paragraphs (5), (10)
 153 and (12) of this section, the yearly rate which the teacher would have
 154 received had he been in service shall be used for periods of sickness or
 155 leave of absence.

156 (18) Periods of leave of absence or sickness of one month or more shall
 157 not be considered as part of the five years of service immediately pre-
 158 ceding retirement required under paragraphs (5), (7) and (8) of this
 159 section, but, subject to the approval of the board, such periods of absence
 160 or sickness shall not be considered as breaking the continuity of service.

161 (19) No pension under paragraph (4) shall exceed one third of the
 162 member's average yearly rate of salary for the five years immediately
 163 preceding his retirement, and no pension under paragraph (5), except a
 164 minimum pension, shall exceed one half of the member's average yearly
 165 rate of salary for the five years immediately preceding his retirement;
 166 provided, that the pension of any person who became a member of the
 167 teachers' retirement association prior to June thirtieth, nineteen hundred
 168 and twenty-nine, shall in no case be reduced by this paragraph to an
 169 amount less than the amount to which such person would have been
 170 entitled as pension had the provisions of sections seven to nineteen,
 171 inclusive, in effect immediately prior to said date been in effect at the
 172 time of his retirement. All annuities and pensions under this section
 173 shall be in multiples of four cents.

1 SECTION 11. (1) Any member withdrawing from the public school
 2 service before becoming eligible to retirement, except for the purpose
 3 of entering the service of the commonwealth, and any member who be-
 4 comes subject to chapter two hundred and thirty-seven of the acts of
 5 nineteen hundred and chapter five hundred and eighty-nine of the acts
 6 of nineteen hundred and eight as amended or chapter five hundred and
 7 twenty-one of the acts of nineteen hundred and twenty-two shall be en-
 8 titled to receive from the annuity fund all amounts contributed as
 9 assessments, together with regular interest thereon, either in one sum or,
 10 at the election of the board, in four quarterly payments. If a member
 11 dies before receiving all his quarterly payments the balance thereof
 12 shall be paid to his estate.

13 (2) Any member thus withdrawing, after having paid ten annual
 14 assessments, may receive, at his election and in lieu of payments under
 15 paragraph (1) of this section, an annuity for life, as determined by the
 16 board, of such amount as the sum of his assessments under section nine,
 17 paragraph (2), with regular interest thereon, shall entitle him to receive,
 18 with the provision that if he dies before receiving payments equal to
 19 the amount used to purchase the annuity the difference shall be paid
 20 to his estate.

21 (3) Any member after having withdrawn from the public school
 22 service shall, on being re-employed in such service, be reinstated as a
 23 member in accordance with such rules for reinstatement as the board
 24 shall adopt.

25 (4) If a member who is not receiving payments under paragraph (1)
 26 or (2) of this section dies before retirement, the full amount of his as-
 27 sessments, with regular interest thereon, shall be paid to his estate.

28 (5) All sums due the estate of a deceased member from the annuity

Same subject.
 1913, 832, § 7.
 1915, 198, § 3.
 1916, 60,
 §§ 1, 2;
 238, § 1.
 1919, 292, § 19.
 1920, 50, § 4.
 1923, 381, § 1.
 1926, 212.
 1928, 184, § 3.
 1931, 310.

and pension funds of the association shall be paid to such beneficiary as 29
 he shall have named in writing on a form furnished by the board and 30
 filed with the board, properly executed, prior to his death, and such 31
 payment shall be a bar to recovery by any other person; provided, 32
 that if there be no named beneficiary surviving the deceased member, 33
 the amount due the estate shall be paid in accordance with section thirty- 34
 three. A member may at any time revoke or change the designation of 35
 a beneficiary by a written instrument duly executed by him and filed 36
 with the board prior to his death, the form for this purpose to be fur- 37
 nished by the board. 38

(6) Interest shall not be credited to any account in the annuity fund, 39
 while subject to withdrawal under this section, after the third annual 40
 compounding date following the time when such account became subject 41
 to withdrawal under paragraph (1). 42

Duties of
 school com-
 mittees
 1913, 832, § 9.
 1928, 184, § 3.

SECTION 12. (1) Any school committee, before employing a teacher 1
 to whom sections seven to nineteen, inclusive, apply, shall notify him 2
 of his duties and obligations under said sections. 3

(2) Annually on or before October first school committees shall certify 4
 to the board the names of all teachers to whom said sections apply. 5

(3) School committees shall, on the first day of each month, notify the 6
 board of the employment of new teachers, removals, withdrawals or 7
 changes in salaries occurring during the month preceding. 8

(4) Under the direction of the board, school committees shall furnish 9
 such other information as the board may require relevant to the discharge 10
 of the duties of the board. 11

(5) The school committee of each town shall, as directed by the 12
 board, deduct from the amount of the salary due each teacher employed 13
 in the public schools of such town such amounts as are due as contribu- 14
 tions to the annuity fund as prescribed in section nine, shall send to the 15
 treasurer of said town a statement as voucher for such deductions, and 16
 shall send a duplicate statement to the secretary of the board. 17

(6) School committees shall keep such records as the board may 18
 require. 19

Trustees of
 certain schools.
 1913, 832, § 10.
 1928, 184, § 3.

SECTION 13. The boards of trustees of schools conducted under sections 1
 one to twenty-four, inclusive, of chapter seventy-four shall per- 2
 form all the duties prescribed for school committees under section twelve. 3

Treasurers of
 cities and
 towns, duties.
 1913, 832, § 11.
 1928, 184, § 3.

SECTION 14. (1) The treasurer of each town, on receipt from the 1
 school committee or board of trustees of the voucher for deductions 2
 from the teachers' salaries provided for in section twelve, shall transmit 3
 monthly the amounts specified in such voucher to the secretary of the 4
 board. 5

(2) The secretary of the board shall monthly pay to the state treas- 6
 urer all sums received under the preceding paragraph. 7

(3) All funds of the system shall be in the custody of the state treas- 8
 urer, and he shall, in accordance with the laws governing the investment 9
 of sinking funds, invest and reinvest such funds as are not required for 10
 current disbursements. 11

(4) The state treasurer shall make such payments to members from 12
 the annuity fund and pension fund as the board shall order to be paid. 13
 in accordance with sections ten and eleven. 14

15 (5) On or before the third Wednesday in January, the state treasurer
 16 shall file with the commissioner of insurance and with the secretary of
 17 the board a sworn statement exhibiting the financial condition of the
 18 system on December thirty-first preceding and its financial transactions
 19 for the year ending thereon. Such statement shall be in the form pre-
 20 scribed by the board and approved by the commissioner of insurance.

1 SECTION 15. (1) No person required to become a member of the
 2 association shall participate in the benefits of any other teachers' retire- Membership
 3 ment system, supported in whole or in part by funds raised by taxation, in other
 4 or be entitled to a pension under section forty-three or chapter five hun- retirement
 5 dred and eighty-nine of the acts of nineteen hundred and eight, as associations.
 6 amended by chapter six hundred and seventeen of the acts of nineteen 1913, 832, § 12.
 7 hundred and ten. 1928, 184, § 3.
 Op. A. G.
 (1929) 165.

8 (2) No member shall receive any pension under section ten who is
 9 at the time in receipt of a pension paid from funds raised in whole or in
 10 part from taxation, under section forty-three or under chapter five hun-
 11 dred and eighty-nine of the acts of nineteen hundred and eight, as
 12 amended by chapter six hundred and seventeen of the acts of nineteen
 13 hundred and ten, or any other act providing pensions for teachers.

1 SECTION 16. (1) Whenever, after July first, nineteen hundred and Reimbursement
 2 fourteen, a town retires a teacher who is not eligible to a pension under of cities and
 3 section ten and pays to such teacher a pension in accordance with section towns.
 4 forty-three, or chapter five hundred and eighty-nine of the acts of nine- 1913, 832, § 13
 5 teen hundred and eight and acts in amendment thereof, or chapter five 1919, 292, § 29.
 6 hundred and twenty-one of the acts of nineteen hundred and twenty-two 1922, 521, § 33.
 7 and acts in amendment thereof, and the chairman or secretary of the 1924, 250.
 8 school committee of said town or the chairman or executive officer of 1928, 184, § 3.
 9 the retirement board of the Boston retirement system established by
 10 said chapter five hundred and twenty-one certifies under oath to the
 11 board the amount of said pension paid during any period prior to the
 12 preceding July first for which reimbursement has not been made and
 13 furnishes such other information as the board may require, said town
 14 shall be reimbursed therefor by the commonwealth; provided, that no
 15 such reimbursement shall be granted unless the retirement has been
 16 approved by the board and the amount of said reimbursement shall not
 17 be in excess of the amount, as determined by the board, to which said
 18 teacher would have been entitled as a pension, had he been a member
 19 of the association.

20 (2) The board shall make an annual report containing a statement
 21 of the amount expended previous to the preceding first day of July
 22 by towns in the payment of pensions under the preceding paragraph,
 23 for which such towns should receive reimbursement. On the basis of
 24 such a statement, the general court may make an appropriation for
 25 the reimbursement of such towns up to such first day of July.

1 SECTION 17. Upon the petition of not less than five per cent of the Referendum
 2 legal voters of any city or town in which sections forty-two and forty- and repeal.
 3 three are in force, the following question shall be placed upon the ballot 1913, 832, § 15
 4 and submitted to the voters of such city at the next city election, or to 1928, 184, § 3.
 5 the voters of such town at the next annual town meeting: "Shall sec-
 6 tions forty-two and forty-three of chapter thirty-two of the General

Laws, authorizing cities and towns to retire and pension teachers in the public schools, be repealed?" If a majority of the voters voting thereon at such election or meeting shall vote in the affirmative, said sections shall cease to be in force in such city or town.

Certain sections not applicable to Boston
1913, 832, § 3.
1920, 50, § 1.

SECTION 18. Sections six to fifteen, inclusive, shall not apply to teachers in the public schools of Boston, except teachers who, on September first, nineteen hundred and twenty-three, are employed by Boston and are members of the association.

1923, 381, § 2.

1928, 184, § 3.

Op. A. G. (1920) 165.

Persons employed in the public schools and also by the commonwealth.
1920, 56.
1928, 184, § 3.
1929, 365, § 5.

SECTION 19. A person who is principally employed as a teacher in the public schools but who is also employed by the commonwealth shall, if a member of the teachers' retirement association, pay assessments to the annuity fund established by paragraph (2) of section nine, based on the total salary received for service as a public school teacher and for employment by the commonwealth; provided, that the annual assessment of such a member shall not exceed the maximum annual assessment established by said paragraph (2).

A person who is principally employed by the commonwealth but who is also employed in the public schools shall not be a member of the teachers' retirement association, but shall be subject to sections one to five, inclusive, and if a member of the state retirement association shall pay assessments to the annuity fund established by section four based on the total salary received for service rendered to the commonwealth and for employment as a public school teacher; provided, that the annual assessment of such a member shall not exceed the maximum annual assessment established by paragraph (2) A (a) of said section four.

Assessments under this section shall be deducted from salary or other compensation in accordance with the rules and regulations prescribed by the respective retirement boards having jurisdiction.

This section shall not apply to teachers referred to in paragraph (4) of section seven.

COUNTY RETIREMENT SYSTEMS.

Definitions.
1911, 634, § 1.
1913, 817, § 1.
1915, 234, § 1.
1919, 106.
1921, 413.
1925, 479, § 3.
1924, 281, § 2.
1926, 378, § 1.

SECTION 20. In sections twenty-one to twenty-five, inclusive, unless the context otherwise requires, the following words shall have the following meanings:

"Annuities", the payments for life derived from money contributed by the members;

"Association", the retirement association provided by section twenty-two;

"Board", the retirement board provided by section twenty-three;

"Employees", any persons permanently and regularly employed in the direct service of the county whose sole or principal employment is in such service, except teachers employed in any day school conducted under sections twenty-five to thirty-seven, inclusive, of chapter seventy-four, and also any officials or public officers whose compensation is paid by the county, whether employed or appointed for a stated term or otherwise, except, in counties other than Worcester, an official or public officer elected by the people.

"Pensions", the payments for life derived from money contributed by the county;

19 "Regular interest", interest at three per cent per annum, compounded
 20 semi-annually on the last days of December and June and reckoned for
 21 full three and six months' periods only;

22 "Retirement system" or "system", the arrangements provided for
 23 the payment of annuities and pensions;

24 The words "continuous service" shall mean uninterrupted employ-
 25 ment; but a lay-off on account of illness or reduction of force, and a
 26 leave of absence, suspension or dismissal, followed by reinstatement
 27 within two years, shall not be considered as breaking the continuity of
 28 service; provided, that in reckoning the period of two years, all time
 29 spent in the military or naval service of the United States or of any
 30 nation associated with it in the world war shall be excluded.

31 In the case of employees of the county who are now paid wholly by
 32 it, but who at any prior period were employees of the county as defined
 33 above and were not paid wholly by it, or in the case of employees of
 34 any department or institution formerly administered by the common-
 35 wealth or formerly administered in part by the commonwealth and in
 36 part by the county and later taken over by the county, service rendered
 37 prior to such payment in whole by the county or transfer to it shall be
 38 counted as a part of their continuous service.

1 SECTION 21. Any county, except one which has established a system
 2 under chapter six hundred and thirty-four of the acts of nineteen hun-
 3 dred and eleven, may establish a retirement system for its employees by
 4 accepting sections twenty to twenty-five, inclusive, in the following
 5 manner: Upon the initiative of the county commissioners, the following
 6 question shall be placed upon the ballot and submitted to the voters of
 7 the county at the next state election: "Shall sections twenty to twenty-
 8 five, inclusive, of chapter thirty-two of the General Laws, entitled
 9 'County Retirement System', be accepted?" If a majority of the voters
 10 voting thereon at such election shall vote in the affirmative, said sections
 11 shall take effect in that county, as hereinafter provided.

Establishment
 of retirement
 system.
 1911, 634, § 2.
 1919, 350, § 46.
 1921, 413.
 1923, 479, § 3.

12 A copy of the vote, sworn to by the county commissioners or the
 13 officers corresponding thereto, shall, within thirty days after the date
 14 of the vote, be filed in the office of the commissioner of insurance. The
 15 latter shall forthwith issue a certificate that the retirement system is
 16 declared established in that county, to become operative on the first
 17 day of January or the first day of July following the expiration of three
 18 months after the date of the certificate.

1 SECTION 22. Whenever a county shall have voted to establish a
 2 retirement system under section twenty-one, or corresponding provisions
 3 of earlier laws, a retirement association shall be organized as follows:

The retirement
 association.
 1911, 634, § 3.
 1913, 817, § 2.
 1918, 257, § 117.
 1919, 5; 158.
 1920, 2.
 1921, 413.
 1923, 479, § 3.
 1930, 413.

4 (1) All employees of the county on the date when the retirement
 5 system is declared established by the issue of the certificate under
 6 section twenty-one may become members of the association. On the
 7 expiration of thirty days after said date, every such employee shall
 8 thereby become a member unless he shall have, within that period, sent
 9 notice in writing to the county commissioners or officers performing
 10 like duties that he does not wish to join the association.

11 (2) All employees who enter the service of the county after the date
 12 when the system is declared established, except persons who have
 13 already passed the age of fifty-five, shall, upon completing ninety days
 14 of service, thereby become members. Persons over fifty-five who enter

the service of the county after the establishment of the system shall not be allowed to become members, and no such employee shall remain in the service of the county after reaching the age of seventy.

(3) No officer elected by popular vote, except in Worcester county, nor any employee who is or will be entitled to a pension from any county for any reason other than membership in the association may become a member.

(4) Any member who reaches the age of sixty and has been in the continuous service of the county for fifteen years immediately preceding may retire, or be retired by the board upon recommendation of the head of the department in which he is employed, and any member who reaches the age of seventy shall so retire.

(5) Any member who has completed thirty-five years of continuous service may retire, or be retired upon recommendation of the head of the department in which he is employed, if such action be deemed advisable for the good of the service.

(6) Any officer of a jail or house of correction who is a member and who is found by the board, after examination by one or more physicians selected by the board, to have been permanently incapacitated, mentally or physically, by injuries sustained through no fault of his own while in the actual performance of his duty, from the further performance of such duty, may be retired, irrespective of age and of his period of service, and shall receive yearly payments as follows: (a) an annuity at his age nearest birthday, as provided by section twenty-five (2) B; and (b) such a pension from the county that the sum of the annuity under section twenty-five (2) B (a) and the pension shall equal one half the annual salary received by him at the time when the injuries were received. Except as otherwise provided, a person retired under this paragraph shall not receive from the county any other sum by way of annuity, pension or compensation. Application for disability retirement hereunder shall be made in writing within two years after the date of the said injuries, and the pension and annuity payments granted under this paragraph shall be payable only from the date of receipt by the board of such application. The board may require re-examinations from time to time, and the county commissioners shall require re-examinations at least annually, of any member pensioned under this paragraph. Re-examinations under authority of this paragraph shall be by one or more physicians selected by the board or by the county commissioners, as the case may be.

(7) The term "officer", as used in paragraph (6), shall be deemed to mean and include any person who is employed to, and who as a regular part of his duty does, have charge either of all or of a definite number of persons committed to the jail or house of correction by legal process.

(8) Upon the completion of any re-examination provided for by paragraph (6) the physician or physicians making the same shall report and certify to the board, or to the county commissioners, as the case may be, whether said beneficiary is still incapacitated mentally or physically for service in the institution where he was employed and of the rank or rating held by him when retired for disability.

If such physician or physicians shall find that the disability for which the member was retired under said paragraph (6) has ceased, or if the member fails to submit to said re-examination, his retirement allowance shall cease. Should the finding be that disability for which a member was so retired has ceased, he shall, if he so desires, be restored to active duty

69 with the same rank and salary which he had when he was retired. Should
 70 the retirement allowance of any disability beneficiary cease as provided
 71 in this paragraph without his restoration to service, there shall be re-
 72 funded to him such sum, if any, as the board shall find remaining to his
 73 credit in the annuity fund. Should a disability beneficiary be restored
 74 as aforesaid to active service, he shall then become again a member of the
 75 retirement system and shall be credited with such sum, if any, as the
 76 board shall find remaining to his credit in the annuity fund. When next
 77 retired his retirement allowance shall be based upon his service period
 78 preceding his first retirement together with the service period from the
 79 date of his restoration to service to the date of his final retirement.

80 (9) If any such member is found by the board to have died from
 81 injuries received while in the discharge of his duty, leaving a widow, or,
 82 if no widow, any child or children under the age of sixteen, a pension
 83 equal to the retirement allowance to which such member would have
 84 been entitled under paragraph (6) had he been permanently incapacitated
 85 shall be paid to such widow so long as she remains unmarried, or for the
 86 benefit of such child or children so long as he or any of them continues
 87 under the age of sixteen. A person receiving a pension under this para-
 88 graph shall not receive from the county any other sum by way of annuity,
 89 pension or compensation. Payments under this paragraph shall not be
 90 made as of a date earlier than that of the receipt by the board of written
 91 application therefor, except that payments to a child of a deceased mem-
 92 ber shall date from the day as of which payments to his widow shall
 93 terminate.

94 (10) The word "injuries", as used in paragraphs (6) and (9) shall
 95 mean any injury which is a natural and proximate result of an accident
 96 occurring in the performance and within the scope of duty and without
 97 fault of the member. The county commissioners may employ special
 98 examiners whenever, in their judgment, it is necessary to assist in deter-
 99 mining the degree of disability under said paragraphs. The fee of each
 100 such examiner, not exceeding ten dollars in any one case, shall be paid by
 101 the county. The decision of the board, or of the county commissioners,
 102 as the case may be, on the question of disability or retirement under para-
 103 graph (6) or (8) shall be final.

1 SECTION 23. (1) The system shall be managed by the board of re-
 2 tirement, consisting of three members, one of whom shall be the county
 3 treasurer; the second member shall be a member of the association,
 4 elected by the latter within sixty days after the system is declared estab-
 5 lished, in a manner to be determined by the county commissioners; the
 6 third member shall be chosen by the other two. If the third member is
 7 not so chosen within thirty days after the election of the second, the
 8 chairman of the county commissioners shall appoint the third member.
 9 The initial terms of the second and third members shall be two years;
 10 thereafter their terms shall be three years. If a vacancy occurs in the
 11 board or if the term of a member thereof expires, a successor of the
 12 person whose place has become vacant or whose term has expired shall
 13 be chosen in the same manner as his predecessor.

14 (2) The members of the board shall serve without compensation; but
 15 they shall be reimbursed out of the contingent fund for any expense or
 16 loss of salary or wages incurred through service on the board. All claims
 17 for reimbursement on this account shall be subject to the approval of
 18 the county commissioners.

The board of
 retirement.
 1911, 634, § 4.
 1918, 257,
 § 113.
 1919, 5;
 350, § 46.
 1920, 2.
 1921, 413.
 1923, 479, § 3.

(3) The county treasurer shall have custody of the funds of the system, subject to the approval of the board, and shall invest and reinvest the same, and may sell any securities held by him and invest and reinvest the proceeds and any and all unappropriated income of said funds; provided, that all funds received by him not required for current disbursements shall be invested in accordance with the laws relating to the investment of the funds of savings banks, giving preference to the securities of the county.

(4) The board may make by-laws and regulations consistent with law, and employ necessary clerical or other assistance for the performance of its duties, subject to the approval of the county commissioners.

(5) The board shall determine the percentage of wages which employees shall contribute to the fund, subject to the minimum and maximum percentages, and may classify employees for the purposes of the system, and establish within the prescribed limits different rates of contribution for different classes.

(6) The county treasurer shall annually in January, unless for cause the commissioner of insurance shall extend the time, file in the office of the commissioner a sworn statement, showing the financial condition of the system of his county on the thirty-first day of the preceding December and its financial transactions for the year ending thereon. The statement shall be in the form, and give the details, prescribed by the commissioner.

Funds, how raised.
1911, 634, § 5.
1918, 257,
§§ 119, 120.
1919, 5.
1920, 2.
1921, 413.
1923, 479, § 3.

SECTION 24. The funds of the system shall be raised as follows: 1

(1) *Expense and Contingent Fund.*

The county shall annually expend, from the amount appropriated therefor by the general court, the sums necessary to defray the entire expense of administration, according to estimates prepared by the county treasurer and by him submitted to the county commissioners, who shall include the same in their estimates required by section twenty-eight of chapter thirty-five.

(2) *Annuity and Pension Fund.*

A. Deposits by Members.— Each member shall deposit in this fund from his wages or salary, as often as the same is payable, not less than one nor more than five per cent of the amount of his wages or salary, as determined by the board under section twenty-three (5); provided, that employees receiving more than thirty dollars weekly in wages or salary shall not be assessed for contributions to this fund on the excess above that amount.

B. Contributions by the County.— The county shall contribute the following:

(a) Each month, such amount as the board may determine to be necessary to pay current pensions for subsequent service under section twenty-five (2) C (a).

(b) Each year, the amount necessary to guarantee regular interest and make good any deficiency in the annuity fund as of the preceding thirty-first day of December.

(c) Each month, such amount as the board may determine to be necessary to pay current pensions for prior service under section twenty-five (2) C (b).

26 (d) Each month, such amount as the board may determine to be
 27 necessary to insure the minimum payments provided for in section
 28 twenty-five (2) E.

(3) *Provision for Payments.*

29 All amounts payable by members under paragraph (2) A of this section
 30 shall be deducted by the county from the amount payable to them as
 31 wages or salary as often as the same are payable, and shall immediately
 32 be credited to the retirement fund by the county treasurer.

1 SECTION 25. The county treasurer shall administer the funds of the
 2 system as follows:

Administration
 of Funds.
 1911, 634, § 6.
 1913, 817, § 3.
 1915, 234, § 2.
 1918, 104,
 §§ 1, 2; 257,
 §§ 121-124.
 1919, 5.
 1920, 2; 319.
 1921, 413, 480.
 1923, 190,
 §§ 1, 2; 479,
 § 3.

(1) *Expense and Contingent Fund.*

3 The fund provided for in section twenty-four (1) shall be used, so
 4 far as necessary, for the payment of the expenses of administration.
 5 Any unused portion shall be repaid into the treasury of the county. If
 6 the amount appropriated for the expense and contingent fund in any
 7 year should prove insufficient, the general court shall appropriate in the
 8 following year an additional sum to cover the deficit.

(2) *Annuity and Pension Funds.*

9 A. *Refunds.* — (a) Should a member cease to be an employee of the
 10 county for any cause other than death before becoming entitled to a
 11 pension, there shall be refunded to him all the money that has been paid
 12 in by him under section twenty-four (2) A, with such interest as shall
 13 have been earned thereon.

14 (b) Should a member die before becoming entitled to a pension, there
 15 shall be paid to his legal representatives all the money that has been paid
 16 in by him under section twenty-four (2) A, with such interest as shall
 17 have been earned thereon.

18 B. *Annuities from Employees' Deposits.* — Any member who reaches
 19 the age of sixty and has been in the continuous service of the county for
 20 fifteen years immediately preceding and then or thereafter retires or is
 21 retired, any member who retires or is retired at the age of seventy, and
 22 any member who is retired for the good of the service under section
 23 twenty-two (5), shall receive an annuity to which the sum of his deposits
 24 under section twenty-four (2) A, with such interest as shall have been
 25 earned thereon, shall entitle him, according to the tables adopted by the
 26 board, in one of the following forms:

27 (a) A life annuity, payable monthly.

28 (b) A life annuity of less amount, payable monthly, with the pro-
 29 vision that if the annuitant dies before receiving annuity payments equal
 30 to the amount used to purchase the annuity, the difference shall be paid
 31 to his legal representatives.

32 C. *Pensions derived from Contributions by the County.* — (a) Pen-
 33 sions based upon subsequent service. Any member entitled to an
 34 annuity under paragraph (2) B of this section shall receive in addition
 35 thereto a pension for life, payable monthly, equivalent to that annuity
 36 to which he would be entitled if his annuity were figured under (2) B
 37 (a) of this section, to be paid out of the fund contributed by the county
 38 under section twenty-four (2) B (a).

(b) Pensions based upon prior service. Any member who reaches 39 the age of sixty and has been in the continuous service of the county for 40 fifteen years or more immediately preceding and then or thereafter 41 retires or is retired, and any member who completes thirty-five years of 42 continuous service and then or thereafter retires or is retired, shall receive, 43 in addition to the annuity and pension provided for by paragraphs 44 (2) B and (2) C (a) of this section, an extra pension for life as large as 45 the amount of the annuity and pension to which he might have acquired 46 a claim if the system had been in operation when he entered the service 47 of the county, and if accordingly he had paid regular contributions from 48 that date to the date of the establishment of the association at the same 49 rate as that first adopted by the board, and if such deductions had been 50 accumulated with regular interest. 51

If any two members are husband and wife, and one of the two retires 52 or is retired, the other may also retire, and shall be paid a retiring allow- 53 ance proportionate to the amount of his accumulated contributions to 54 the date of such retirement, or, if such allowance should be less than 55 the minimum allowance of two hundred dollars hereinafter provided 56 for, shall be paid that sum annually. 57

If the accumulated contributions of any employee retired under sections 58 twenty to twenty-five, inclusive, exceed the amount required to 59 provide an annuity equal to one fourth of the average annual rate of 60 wages or salary of such employee during the last ten years prior to his 61 retirement, the excess above that amount shall be paid to such employee 62 in a gross sum with the first monthly payment on the account of his 63 retiring allowance. 64

Any employee who had already reached the age of fifty-five when the 65 retirement system was established, and also had become a member, may 66 be retired under the first paragraph of (2) C (b) of this section without 67 having completed the otherwise required service period of fifteen years. 68 In computing any pension payable for prior service, the board may estimate, 69 on a basis determined by them, the wages received at any period 70 for which they may deem it impracticable to consult the original records. 71

Any employee not a member who had already reached the age of 72 fifty-five when the system was established may be retired at any time, 73 and shall be paid a pension equivalent to the minimum payment hereinafter 74 provided. 75

D. Application of Surplus. — Subject to the approval of the commissioner 76 of insurance the board may determine the application of any 77 surplus. 78

E. Minimum and Maximum Payments. — Except as otherwise provided, 79 in no case shall a member, whether he has elected the form of 80 annuity provided for in paragraph (2) B (a) or (2) B (b) of this section, 81 be retired at such an annual rate of pension as would, when added to the 82 annual amount required to be paid from the annuity fund to a member 83 who elects the form of annuity provided for in said paragraph (2) B (a), 84 amount to a total retirement allowance of less than three hundred 85 dollars, and in no case shall a member who has elected either of the 86 aforesaid forms of annuity be retired at such an annual rate of pension 87 as would, when added to the annual amount required to be paid from 88 the annuity fund to a member who elects the form of annuity provided 89 for in said paragraph (2) B (a), amount to a total retirement allowance 90 of more than one half the average annual rate of his salary or wages 91 during the five years prior to retirement, or, if such member resigns or is 92

93 dismissed prior to the date of retirement, during the five years prior to
 94 such resignation or dismissal. For the purpose of determining the
 95 maximum pension and the maximum annuity under this section, the
 96 rate of salary or wages received by a member on the date immediately
 97 preceding a period of absence without pay shall be used as the rate of
 98 pay which he would have received during such absence without pay.

RETIREMENT SYSTEMS FOR CITIES AND TOWNS.

1 SECTION 26. In sections twenty-seven to thirty-one, inclusive, unless Definitions.
 2 the context otherwise requires, the following words shall have the follow- 1910, 619, § 1.
 3 ing meanings: 1911, 338, § 1.
 4 "Annuities", the payments for life derived from money contributed
 5 by the members;
 6 "Association", the retirement association provided by section twenty-
 7 eight;
 8 "Board", the retirement board provided by section twenty-nine;
 9 "Employees", regular and permanent employees whose sole or prin-
 10 cipal employment is in the service of the city or town;
 11 "Pensions", the payments for life derived from money contributed
 12 by the city or town;
 13 "Regular interest", interest at three per cent per annum, compounded
 14 semi-annually on the last days of January and July, and reckoned for
 15 full three and six months' periods only.
 16 The words "continuous service" mean uninterrupted employment;
 17 but a lay-off on account of illness or reduction of force, and a leave of
 18 absence, suspension or dismissal, followed by reinstatement within one
 19 year, shall not be considered as breaking the continuity of service.

1 SECTION 27. Any city or town may establish a retirement system Establishment
 2 for its employees by accepting sections twenty-six to thirty-one, inclusive, of retirement
 3 in the following manner: In a city, whenever a vote to accept sections system.
 4 twenty-six to thirty-one, inclusive, has been passed by the city council, 1910, 619, § 2.
 5 the following question shall then be placed upon the ballot and submitted 1911, 338,
 6 to the voters of the city at the next municipal election: "Shall sections § 2, 7,
 7 twenty-six to thirty-one, inclusive, of chapter thirty-two of the General 1919, 350, § 46.
 8 Laws authorizing the cities and towns of the commonwealth to estab-
 9 lish retirement systems for their employees, be accepted?" In a town,
 10 whenever a vote to accept said sections has been passed by the selectmen,
 11 the said question shall then be submitted to the voters of the town at
 12 the next town meeting. If a majority of the voters voting on the ques-
 13 tion at the city election or at the town meeting shall vote in the affirma-
 14 tive, said sections shall take effect in such city or town as hereinafter
 15 provided.
 16 A copy of the vote of the city council or of the selectmen, certified by
 17 the city or town clerk, and a copy of the vote at the city election or at
 18 the town meeting, sworn to by the local election commissioners or the
 19 officers corresponding thereto, shall, within thirty days respectively after
 20 the date of the latter vote, be filed in the office of the commissioner of
 21 insurance. He shall forthwith issue a certificate that the retirement
 22 system is declared established in said city or town, to become operative
 23 on the first day of February or the first day of August following the
 24 expiration of three months after the date of the certificate.

Sections twenty-six to thirty-one, inclusive, may be altered or amended from time to time, and all such alterations and amendments shall, upon their passage, become binding upon cities and towns which have previously accepted said sections, and all contractual rights entered into by and between any city or town and the employees thereof under said sections shall be deemed to have been entered into subject to being subsequently affected by such alterations or amendments; provided, that no such alterations or amendments shall affect the rights of employees under section thirty-one (2) A with reference to deposits previously made.

The retirement association, 1910, 619, § 3, 1911, 338, § 3, 1918, 257, § 126, 1919, 5, 1920, 2.

SECTION 28. Whenever a city or town has voted to establish a system, a retirement association shall be organized as follows:

(1) All employees of the city or town, when the system is declared established by the issue of the certificate under section twenty-seven, may become members of the association. On the expiration of thirty days from that time every such employee shall thereby become a member, unless he shall have, within that period, sent notice in writing to the city council or selectmen that he does not wish to join the association.

(2) All employees who enter the service of the city or town after the date when the retirement system is declared established, except persons who have passed the age of fifty-five, shall, upon completing thirty days of service, thereby become members. Persons over fifty-five who enter the service of the city or town after the establishment of the system shall not become members, and no such employee shall remain in the service of the city or town after reaching the age of seventy.

(3) No officer elected by popular vote may become a member, nor any employee who is or will be entitled to a pension from the city or town for any reason other than membership in the association.

(4) Any member who reaches the age of sixty and who has been in the continuous service of the city or town for a period of fifteen years immediately preceding may retire or be retired by the board upon recommendation of the head of the department in which the member is employed, and any member who reaches the age of seventy shall be retired.

(5) Any member who has completed thirty-five years of continuous service may retire or be retired at any age by the board upon recommendation of the head of the department in which the member is employed, if such action be deemed advisable for the good of the service.

The board of retirement, 1910, 619, § 4, 1911, 338, § 4, 1918, 257, § 127, 1919, 5, 350, § 46, 1920, 2.

SECTION 29. (1) The system shall be managed by the board of retirement, consisting of three members, one of whom shall be the city or town treasurer; the second shall be a member of the association, elected by the latter within sixty days after the system is declared established, in a manner to be determined by the city council or selectmen; the third shall be chosen by the other two. If the third member is not so chosen within thirty days after the election of the second, the mayor or the chairman of the selectmen shall appoint him. The initial terms of the second and third members shall be two years; thereafter their terms shall be three years. If a vacancy occurs in the board or if the term of a member thereof expires, a successor of the person whose place has become vacant or whose term has expired shall be chosen in the same manner as his predecessor.

(2) The members of the board shall serve without compensation, but they shall be reimbursed out of the contingent fund for any expense or loss of salary or wages incurred through service on the board. All

17 claims for reimbursement on this account shall be subject to the approval
18 of the city council or selectmen.

19 (3) The city or town treasurer shall have custody of the funds of the
20 system, subject to the approval of the board, and shall invest and rein-
21 vest the same, and may sell any securities held by him and invest and
22 reinvest the proceeds and any and all unappropriated income of said
23 funds; provided, that all funds received by him not required for current
24 disbursements shall be invested in accordance with the laws relating to
25 the investment of the funds of savings banks, giving preference to securi-
26 ties of the city or town in which the system has been established.

27 (4) The board may make by-laws and regulations consistent with law,
28 and employ necessary clerical or other assistance for the performance of
29 its duties, subject to the approval of the city council or selectmen.

30 (5) The board shall determine the percentage of wages that em-
31 ployees shall contribute to the fund, subject to the minimum and maxi-
32 mum percentages, and may classify employees for the purposes of the
33 system, and establish within the prescribed limits different rates of con-
34 tribution for different classes.

35 (6) The city or town treasurer shall annually in February, unless for
36 cause the commissioner of insurance shall extend the time, file in the
37 office of the commissioner a sworn statement, showing the financial con-
38 dition of the system of his city or town on the thirty-first day of the
39 preceding January and its financial transactions for the year ending
40 thereon. The statement shall be in the form, and shall give the details,
41 prescribed by the commissioner.

1 SECTION 30. The funds of the system shall be raised as follows:

Funds, how
raised
1910, 619, § 5.
1911, 338, § 5.
1918, 257,
§ 128
1919, 5,
1920, 2.

(1) *Expense and Contingent Fund.*

2 The city or town shall appropriate annually the amount necessary to
3 defray the whole expense of administration, according to estimates pre-
4 pared by the city or town treasurer.

(2) *Annuity and Pension Fund.*

5 A. *Deposits by Members.* — Each member shall deposit in this fund
6 from his wages or salary, as often as the same are payable, not less than
7 one nor more than five per cent of the amount of his wages or salary, as
8 determined by the board under section twenty-nine (5); provided, that
9 employees receiving more than thirty dollars weekly in wages or salary
10 shall not be assessed for contribution to this fund on the excess above
11 that amount.

12 B. *Contributions by the City or Town.* — The city or town shall con-
13 tribute the following:

14 (a) Every month, such amount as the board may determine to be
15 necessary to pay current pensions for subsequent service under section
16 thirty-one (2) C (a);

17 (b) Every year, in February, the amount necessary to guarantee regu-
18 lar interest and make good any deficiency in the annuity fund as of the
19 preceding thirty-first day of January;

20 (c) Every month, such amount as the board may determine to be
21 necessary to pay current pensions for prior service under section thirty-
22 one (2) C (b);

(d) Every month, such amount as the board may determine to be necessary to insure the minimum payments under section thirty-one (2) E; 23
 (c) Every year, by appropriation, the amount necessary to defray the 25
 contributions to be made by it under paragraphs (2) B (a), (b), (c) and 26
 (d) of this section, according to estimates prepared by the city or town 27
 treasurer. 28

(3) *Provisions for Payments.*

All amounts payable by members under paragraph (2) A of this section 29
 shall be deducted by the city or town from the amounts payable to them 30
 as wages or salary, as often as the same are payable, and shall be credited 31
 immediately to the retirement fund by the city or town treasurer. 32

Administration
 of funds:
 1910, 619, § 6.
 1911, 358, § 6.
 1918, 257,
 §§ 129-132.
 1919, 5, 350,
 § 46.
 1920, 2.

SECTION 31. The city or town treasurer shall administer the funds of 1
 the system as follows: 2

(1) *Expense and Contingent Fund.*

The fund provided under section thirty (1) shall be used, so far as 3
 necessary, for the payment of the expenses of administration. Any 4
 unused portion shall be repaid into the city or town treasury. If the 5
 amount appropriated for the expense and contingent fund in any year 6
 should prove insufficient, the city or town shall appropriate in the follow- 7
 ing year an additional sum to cover the deficit. 8

(2) *Annuity and Pension Funds.*

A. *Refunds.* — (a) Should a member cease to be an employee of the 9
 city or town for any cause other than death before becoming entitled 10
 to a pension, there shall be refunded to him all the money that has 11
 been paid in by him under section thirty (2) A, with regular interest. 12

(b) Should a member die before becoming entitled to a pension, 13
 there shall be paid to his legal representatives all the money that has 14
 been paid in by him under section thirty (2) A, with such interest as 15
 shall have been earned thereon. 16

B. *Annuities from Employees' Deposits.* — Every member who 17
 reaches the age of sixty and has been in the continuous service of the 18
 city or town for fifteen years immediately preceding and then or there- 19
 after retires or is retired, every member who retires or is retired at the 20
 age of seventy, and every member who is retired for the good of the 21
 service under section twenty-eight (5), shall receive an annuity to which 22
 the sum of his deposits under section thirty (2) A, with regular interest, 23
 shall entitle him, according to the tables adopted by the board, in one 24
 of the following forms: 25

(a) A life annuity, payable monthly. 26

(b) A life annuity, payable monthly, with the provision that in the 27
 event of the death of the annuitant before receiving payments equal 28
 to the sum at the date of his retirement of his deposits under section 29
 thirty (2) A, with regular interest, the difference shall be paid to his 30
 legal representatives; provided, that this form of annuity shall not be 31
 paid unless the amount of his accumulations will provide an annuity of 32
 one hundred dollars or more. 33

C. *Pensions derived from Contributions by the City or Town.* — (a) 34
 Pensions based upon subsequent service. Any member entitled to an 35
 annuity under paragraph (2) B of this section shall receive in addition 36

37 thereto a pension for life, payable monthly, equivalent to that annuity to
 38 which he would be entitled if his annuity were figured under (2) B (a)
 39 of this section, to be paid out of the fund contributed by the city or
 40 town under section thirty (2) B (a).

41 (b) Pensions based upon prior service. Any member who reaches the
 42 age of sixty and has been in the continuous service of the city or town
 43 for fifteen years or more immediately preceding and then or there-
 44 after retires or is retired, shall receive, in addition to the annuity and
 45 pension provided by paragraphs (2) B and (2) C (a) of this section, an
 46 extra pension for life as large as the amount of the annuity to which he
 47 might have acquired a claim if the system had been in operation at
 48 the beginning of such period of continuous service, and if accordingly
 49 he had paid regular contributions from that date to the date of the
 50 establishment of the association at the same rate as that first adopted
 51 by the board and if such deductions had been accumulated with regular
 52 interest.

53 Any employee who had already reached the age of fifty-five when the
 54 system was established, and also had become a member, may be retired
 55 under the preceding paragraph without having completed the otherwise
 56 required service period of fifteen years.

57 In computing any pension payable for prior service, the board may
 58 estimate, on a basis determined by them, the wages received at any
 59 period for which they may deem it impracticable to consult the original
 60 records.

61 Any employee not a member who had already reached the age of
 62 fifty-five when the system was established may be retired at any time,
 63 and shall be paid a pension equivalent to the minimum payment herein
 64 provided for.

65 If the accumulated contributions of any employee retired under
 66 sections twenty-six to thirty-one, inclusive, exceed the amount required
 67 to provide an annuity equal to one fourth of the average annual rate of
 68 wages or salary of such employee during the last ten years prior to his
 69 retirement, the excess shall be paid to such employee in a gross sum
 70 with the first monthly payment on the account of his retiring allowance.

71 *D. Application of Surplus.*—Subject to the approval of the com-
 72 missioner of insurance, the board may determine the application of any
 73 surplus.

74 *E. Minimum and Maximum Payments.*—The total monthly pay-
 75 ment to a member shall not be at a rate of less than two hundred dollars
 76 a year, or of more than one half the average annual rate of wages or
 77 salary of the member during the ten years prior to his retirement.

GENERAL PROVISIONS.

1 SECTION 32. In any association provided by the preceding sections,
 2 except the teachers' retirement association, the board shall issue to each
 3 member a certificate of membership and to each member who retires
 4 or is retired a policy which shall be evidence of his right to an annuity
 5 or a pension.

Certificates of
 membership.
 Policies.
 1910, § 619, § 6;
 1911, § 338, § 6;
 532, § 6;
 634, § 6.

1 SECTION 33. Should there be due to the estate of a deceased member
 2 of any of the retirement associations established under the preceding
 3 sections, except sections one to five, inclusive, any sum of money payable
 4 from the funds of the association, the same shall be paid to his legal repre-

Payments to
 estates of
 deceased
 members.
 1913, § 63
 1916, § 238, § 1
 1918, § 257,
 § 134.

1919, 5;
292, § 19 (5).
1929, 2.
1930, 335, § 4.

representatives; provided, that if the sum so due does not exceed three hundred 5
dollars if due from the funds of the teachers' retirement association, or one 6
hundred dollars if due from the funds of any other such association, and 7
there has been no demand therefor by a duly appointed executor or 8
administrator, payment may be made, after the expiration of three months 9
from the date of the death of such member, to the persons appearing, 10
in the judgment of the board, to be entitled thereto, and such payment 11
shall be a bar to recovery by any other person. 12

Supervision
by commis-
sioner of
insurance.
1910, 619, § 8.
1911, 532, § 8;
634, § 8.
1913, 832, § 4.
1919, 350, § 46.
1930, 238,
§§ 2, 3.

SECTION 34. The commissioner of insurance shall prescribe for the 1
state retirement system, the retirement system for teachers and for 2
each county, city and town retirement system one or more mortality 3
tables, and fix the rates of interest to be used in connection therewith, 4
and may later modify such tables or prescribe other tables to represent 5
more accurately the expense of such retirement systems, or may change 6
the rates of interest and determine the application of such changes. 7
He shall also prescribe and supervise methods of bookkeeping of their 8
retirement associations. 9

The commissioner or his agent shall at least once every year thoroughly 10
inspect and examine the affairs of each such retirement association to 11
ascertain its financial condition, its ability to fulfil its obligations, whether 12
all the parties in interest have complied with the laws applicable thereto, 13
and whether the transactions of each board of retirement have been in 14
accordance with the rights and equities of those in interest. Each such 15
retirement system shall be credited, in the account of its financial con- 16
dition, with its investments having fixed maturities upon which the 17
interest is not in default at amortized values, and its other investments at 18
a reasonable valuation. 19

For the purposes aforesaid, the commissioner or his agent shall have 20
access to all the securities, books and papers of such retirement systems, 21
and may summon and administer oath to and examine any person rela- 22
tive to the financial affairs, transactions and condition of the retirement 23
system. The commissioner shall preserve in a permanent form a full 24
record of the proceedings at such examination and the results thereof. 25
Upon the completion of such examination, verification and valuation, the 26
commissioner shall make a report in writing of his findings to the board, 27
and shall send a copy thereof to the governor and council, the county 28
commissioners, the city council or the selectmen, as the case may be. 29

Violations of
state or
teachers' retire-
ment law
or rules.
1911, 532, § 9.
1918, 257,
§§ 109, 116.
1919, 5;
350, § 46.
1929, 2.

SECTION 35. If, in the judgment of the commissioner of insurance, the 1
commonwealth, the state board of retirement or the teachers' board of 2
retirement has violated or neglected to comply with any provision of sec- 3
tions one to nineteen, inclusive, or the rules and regulations established 4
thereunder, he shall give notice thereof to the governor and to the board, 5
and thereafter, if such violation or neglect on the part of the board con- 6
tinues, shall forthwith present the facts to the attorney general for action. 7

Violations of
county or
municipal
retirement
law or rules.
1910, 619, § 9.
1911, 634, § 9.
1918, 257,
§§ 125, 133.
1919, 5;
350, § 46.
1929, 2.

SECTION 36. If, in the judgment of the commissioner of insurance, 1
the county, city or town or the board of retirement thereof has violated 2
or neglected to comply with any provision of sections twenty to thirty- 3
one, inclusive, or of the rules and regulations established thereunder, 4
he shall give notice thereof to the county commissioners or the mayor 5
or the chairman of the selectmen and to the board of retirement, and 6

7 thereafter, if such violation or neglect continues, shall forthwith present
8 the facts to the attorney general for action.

1 SECTION 37. The funds of every retirement system established
2 under the preceding sections, so far as they are invested in personal
3 property, shall be exempt from taxation.

Exemption
from taxation,
attachments
and assign-
ments.
1910, 619, § 7;
1911, 532, § 7;
634, § 7
1913, 832, § 8.

4 That portion of the wages of a member deducted or to be deducted
5 under the preceding sections, the right of a member to an annuity or
6 pension, and all his rights in the funds of the retirement system shall be
7 exempt from taxation and from the operation of any law relating to
8 bankruptcy or insolvency, and shall not be attached or taken upon
9 execution or other process. No assignment of any right in or to said
10 funds, annuities or pensions shall be valid.

1 SECTION 38. The superior court shall have jurisdiction in equity,
2 upon petition of the commissioner of insurance or any interested party,
3 to compel the observance and to restrain the violation of any provision
4 of sections one to thirty-one, inclusive, and of the rules and regulations
5 established thereunder.

Jurisdiction of
superior court.
1910, 619, § 10
1911, 532, § 10;
634, § 10.
1913, 832, § 14.
1919, 350, § 46.

PRIVATE ASSOCIATIONS FOR PROVIDING PENSIONS.

1 SECTION 39. Employees, officers and agents of any person and the
2 person by whom they are employed may form an association for the
3 purpose of providing annuities, pensions or endowments for employees
4 retiring from their employment on account of age, under a system by
5 which the participating employees contribute to the funds of the associa-
6 tion a percentage or portion of their salaries or wages as fixed by the
7 by-laws of the association, to be deducted by the employer and paid to
8 the association, and the employer contributes to the funds of the associa-
9 tion in the manner and to the extent fixed in said by-laws. The funds so
10 provided shall be held by trustees independently of other funds of the
11 employer, for the purchase or payment of annuities, pensions or endow-
12 ments to participating employees upon their retirement from service on
13 account of age, for the payments to the representatives or appointees
14 of any participator dying before reaching the age of retirement, for the
15 payment to any participator retiring from service before becoming en-
16 titled to a pension or annuity and for the payment of the expenses of
17 the administration. An association formed under the authority of this
18 section shall not be subject to chapter one hundred and seventy-five or
19 to such other provisions of law as relate to insurance companies or asso-
20 ciations, except as provided by this and the following section.

Association
for providing
pensions.
1910, 559, § 1.

1 SECTION 40. The by-laws of every such association shall be approved
2 by the commissioner of insurance, and shall prescribe the manner in
3 which and the officers and agents by whom the association may be con-
4 ducted and the manner in which its funds may be invested and paid out.
5 Such association shall be deemed to be formed when its by-laws have
6 been approved and agreed to by the employer and by the employees by
7 vote of two thirds of all employees present and voting at a meeting
8 called by the employer for the purpose, and have been approved by
9 said commissioner. Such association shall annually, on or before Febru-
10 ary first, report to the commissioner such statements of its membership
11 and financial transactions for the year ending on the preceding thirty-

By-laws and
statements.
1910, 559, § 2.
1919, 350, § 46.

first day of December as the commissioner may consider necessary 12
to show its business and standing. Said commissioner may verify such 13
statement by an examination of the books and papers of the association; 14
and whoever, having charge or custody of said books and papers, neglects 15
to comply with this section shall be punished by a fine of not more than 16
five hundred dollars. 17

Exemption
from taxation,
attachments
and assign-
ments.
1910, 559, § 3.
1918, 257,
§ 136.
1919, 5.
1920, 2.

SECTION 41. The property of every such association, the portion of 1
the wages or salary of an employee deducted or to be deducted under 2
the two preceding sections, the right of an employee to an annuity, 3
pension or endowment, and all his rights in the funds of the association, 4
shall be exempt from taxation and from the operation of any law relating 5
to bankruptcy or insolvency, and shall not be attached or taken on 6
execution or other process to satisfy any debt or liability of the employer 7
or of any member of the association. 8

No assignment of any right in or to said funds or of any pension, 9
annuity or endowment payable under section thirty-nine or forty shall 10
be valid. 11

MUNICIPAL PENSIONS FOR TEACHERS.

Municipal
pensions
for teachers.
1908, 498,
§§ 1, 3, 4.
1913, 832, § 16.

SECTION 42. In any city or town, except Boston, which accepted 1
chapter four hundred and ninety-eight of the acts of nineteen hundred 2
and eight, the pension fund established for the retirement of teachers in 3
the public schools shall be derived from such revenues as may be assigned 4
thereto by the city council of a city or by direct appropriation by a 5
town. The treasurer of the city or town shall be the custodian of the 6
fund, and shall make annual or semi-annual payments therefrom to 7
such persons and of such amounts as shall be certified to him by the 8
school committee. 9

Same subject.
1908, 498, § 2.

SECTION 43. The school committee of any such city or town may 1
retire from active service and place upon the pension roll any teacher 2
of such city or town who is sixty or over or who, in the judgment of said 3
committee, is incapacitated for useful service, and who has faithfully 4
served such city or town for twenty-five years. The amount of the 5
annual pension allowed to any person under this and the preceding 6
section shall not exceed one half of the annual compensation received 7
by such person at the time of such retirement, and in no case shall it 8
exceed five hundred dollars. 9

MUNICIPAL PENSIONS FOR SCHOOL JANITORS.

Municipal
pensions for
school janitors.
1919, 143,
§§ 1, 2.
258 Mass. 72.

SECTION 44. The school committee, official, board or other body 1
having control of janitors employed in public schools of cities and towns 2
which accept this section, as provided in the following section, or have 3
accepted corresponding provisions of earlier laws, may retire, with an 4
annual pension, any janitor so employed who has reached the age of 5
sixty, after completing a service of not less than twenty-five years, and 6
is physically incapacitated. The pension shall be one half the com- 7
pensation to which the pensioner would have been entitled for full 8
employment during the last year of his service, but not more than five 9
hundred dollars a year, and shall be payable out of the appropriation 10
for the support of public schools, maintenance of school buildings or 11
payment of janitors. 12

1 SECTION 45. The preceding section shall not apply to the city of
 2 Boston, but shall apply to any other city upon its acceptance by the
 3 mayor and city council thereof and to any town having a population
 4 of ten thousand or more, according to the state census last preceding its
 5 submission to the town, upon its acceptance by the town at a meeting.

Same subject,
 1919, 143, § 3.
 258 Mass. 72.

PENSIONS FOR PRISON EMPLOYEES.

1 SECTION 46. The commissioner of correction may, with the approval
 2 of the governor and council, retire from active service and place upon a
 3 pension roll any officer of the state prison, the Massachusetts reformatory,
 4 the prison camp and hospital, the state farm, the reformatory for women
 5 or any jail or house of correction, or any person employed to instruct the
 6 prisoners in any prison or reformatory, as provided in section fifty-two of
 7 chapter one hundred and twenty-seven, or any other employee of the
 8 state prison, the Massachusetts reformatory or the prison camp and
 9 hospital, who has attained the age of sixty-five and who has been em-
 10 ployed in prison service in the commonwealth, with a good record, for
 11 not less than twenty years; or who, without fault of his own, has become
 12 permanently disabled by injuries sustained in the performance of his
 13 duty; or who has performed faithful prison service for not less than thirty
 14 years; provided, that no officer of any jail or house of correction shall so
 15 be retired except upon the recommendation of the sheriff and county
 16 commissioners of the county, except in the county of Suffolk, where the
 17 recommendation as to the officers of the jail shall be made by the sheriff
 18 and the mayor of Boston, and, as to the officers of the house of correction,
 19 by the penal institutions commissioner and the mayor of Boston: and
 20 provided, that no such officer, instructor or employee shall be retired
 21 unless he began employment as such in one of the above named in-
 22 stitutions, or as an officer or instructor in one of those named in the
 23 following section, on or before June seventh, nineteen hundred and eleven.
 24 The word "officer", as used in this and the two following sections, shall
 25 extend to and include prison officer, correction officer and matron.

Pensions for
 prison em-
 ployees
 1908, 601, § 1.
 1911, 673, § 1.
 1916, 241, § 1;
 273
 1919, 350,
 §§ 82, 83.
 1921, 402
 1926, 343, § 7
 1931, 426, § 140.
 Op. A. G.
 (1918) 63.

1 SECTION 47. An officer, instructor or employee in any institution
 2 named in the preceding section shall, for the purpose of retirement there-
 3 under, be credited with all the time which he has served as such in any
 4 of said institutions, or as an officer or instructor at the industrial or
 5 Lyman school for boys, the industrial school for girls, the Suffolk school
 6 for boys or any county training school, if he has not been discharged for
 7 misconduct from any of said institutions, or, if so discharged, it was
 8 afterward found that he was not at fault; and the restoration to duty
 9 or reappointment in the institution from which he was discharged shall
 10 be sufficient evidence for his exoneration.

Computation
 of time of
 service.
 1908, 601, § 2.
 1920, 461.

1 SECTION 48. An officer, instructor or employee who is retired under
 2 section forty-six shall be allowed a pension equal to one half of the salary
 3 which he was receiving at his retirement. The pension, in the case of
 4 an officer, instructor or employee of the state prison, Massachusetts
 5 reformatory, prison camp and hospital, state farm or reformatory for
 6 women, shall be paid in monthly instalments by the commonwealth;
 7 and in the case of an officer or instructor of a jail or house of correction,
 8 the pension shall be paid in monthly instalments by the county.

Amount of
 pension.
 1908, 601, § 3.

VETERANS OF THE CIVIL WAR.

Veterans in
service of
commonwealth
1907, 438
1915, 95
1921, 279.
1931, 304, § 204
3 Op. A. G.
119, 128, 141,
494.
4 Op. A. G. 54.

SECTION 49. A veteran of the civil war in the service of the commonwealth, if incapacitated for active duty, shall be retired from active service, with the consent of the governor, at one half the rate of compensation paid to him when in active service, to be paid by the commonwealth; provided, that no veteran shall be retired under this section unless he shall have been in the service of the commonwealth at least ten years. But if, in the opinion of the governor and council, any veteran of the civil war, after five years in said service, is incapacitated to such a degree as to render his retirement necessary for the good of the service, he may so be retired. A veteran otherwise qualified for retirement under this section, whose term of service was for a fixed number of years which has expired, or whose office has been abolished, shall be entitled to its benefits, without reappointment, from the date of incapacitation, said date to be determined by the governor and to be certified by him to the comptroller.

Veterans in
service of
county
1909, 398
1910, 459.

SECTION 50. A veteran of the civil war in the service of any county, if incapacitated for active duty, may be retired from active service by the county commissioners, with the consent of the governor, at one half the rate of compensation paid to him when in active service, but not to exceed eight hundred dollars a year, to be paid by the county; provided, that no veteran shall be retired under this section unless he shall have been in the service of the county at least ten years and shall have arrived at the age of sixty-five. But if, in the opinion of the governor and council, any veteran of the civil war in said service is incapacitated to such a degree as to render his retirement necessary for the good of the service, he may so be retired at any time.

Veterans in
service of
soldiers' home.
1913, 642
1920, 204.

SECTION 51. A veteran of the civil war who has been in the service of the soldiers' home in Massachusetts for fifteen years, if incapacitated for active service, may be retired by the trustees of the home, with the consent of the governor and council, at one half the average rate of compensation paid to him during the two years immediately preceding his retirement.

Veterans in
municipal
service
1912, 447, § 1.
254 Mass. 559.
271 Mass. 495.

SECTION 52. A veteran of the civil war who has been in the service of any city or town for ten years, if incapacitated for active duty, may be retired from active service by the city council or the selectmen at one half the rate of the average compensation paid to him during the two years immediately preceding his retirement.

Veterans em-
ployed jointly
by two towns.
1912, 447, § 2.

SECTION 53. A veteran of the civil war who is employed jointly by two municipalities, if incapacitated for active duty, may be retired from active service by the joint action of the governing bodies thereof, whether the city council or selectmen, as the case may be, at one half the rate of the average compensation paid to him during the two years immediately preceding his retirement, one half of the said retiring compensation to be paid by each of the municipalities employing him; provided, that no veteran shall be retired under this section unless he has been in the service of the two municipalities, as aforesaid, for a period of not less than ten years preceding the time of his retirement. But a period of employment by either one of said municipalities immediately preceding

12 his employment by both jointly shall be reckoned as a part of the said
13 ten years.

1 SECTION 54. The two preceding sections shall be in effect in any
2 city which by vote of the city council or in any town which at a town
3 meeting accepts them or has accepted corresponding provisions of earlier
4 laws. Acceptance of
two preceding
sections
1912, 447, § 3.

1 SECTION 55. The action of any city council in regard either to the
2 acceptance of sections fifty-two and fifty-three or to the retiring of any
3 veteran under authority thereof shall be subject to veto by the mayor
4 and to passage over his veto in the manner provided by the charter of
5 the city. Acceptance
subject to
mayor's veto.
1912, 447, § 4.

VETERANS OF SPANISH AND WORLD WARS.

1 SECTION 56. A person who has served in the army, navy or marine
2 corps of the United States in the Spanish war or Philippine insurrection
3 between April twenty-first, eighteen hundred and ninety-eight, and
4 July fourth, nineteen hundred and two, or in the world war between
5 April sixth, nineteen hundred and seventeen, and November eleventh,
6 nineteen hundred and eighteen, and has been honorably discharged
7 from such service or released from active duty therein, in sections fifty-
8 six to sixty, inclusive, called a veteran, who is in the service of the com-
9 monwealth, or of any county, city, town or district thereof, shall be
10 retired with the consent of the retiring authority, if incapacitated for
11 active service, at one half the regular rate of compensation paid to him
12 at the time of retirement, and payable from the same source; provided,
13 that he has been in the said service at least ten years, has reached the
14 age of fifty, and has a total income from all sources, exclusive of such
15 retirement allowance and of any sum received from the government of
16 the United States as a pension for war service, not exceeding five hundred
17 dollars. Retirement if
incapacitated.
1920, 574,
§§ 1, 4.
1922, 261,
252 Mass. 213.
267 Mass. 1.
Op. A. G.
(1920) 220.

1 SECTION 57. A veteran who has been in the service of the common-
2 wealth, or of any county, city, town or district thereof, for a total period
3 of ten years, may, upon petition to the retiring authority, be retired, in
4 the discretion of said authority, from active service, at one half the
5 regular rate of compensation paid to him at the time of retirement, and
6 payable from the same source, if he is found by said authority to have
7 become incapacitated for active service; provided, that he has a total
8 income, from all sources, exclusive of such retirement allowance and of
9 any sum received from the government of the United States as a pension
10 for war service, not exceeding five hundred dollars. Same subject.
1920, 574, § 2.
1923, 386.
252 Mass. 213.
267 Mass. 1.

1 SECTION 58. A veteran who has been in the service of the common-
2 wealth, or of any county, city, town or district, for a total period of
3 thirty years, shall, at his own request, with the approval of the retiring
4 authority, be retired from active service at one half the regular rate of
5 compensation paid to him at the time of retirement, and payable from
6 the same source. Retirement
after thirty
years' service.
1920, 574, § 3.
267 Mass. 1.

1 SECTION 59. The words "retiring authority", as used in sections
2 fifty-six to sixty, inclusive, shall mean, as to the commonwealth, the "Retiring
authority"
defined.

1920, 574, § 5.
1931, 426, § 141.
252 Mass. 213.
267 Mass. 1.

governor; as to a county, the county commissioners; as to a city, the mayor; as to a town, the selectmen; as to any district under the jurisdiction of the metropolitan district commission, said commission; and as to all other districts, the governing boards thereof.

Acceptance of four preceding sections, etc.
1920, 574,
§§ 6, 7.
252 Mass. 213.

SECTION 60. Sections fifty-six to fifty-nine, inclusive, shall not take effect in any county, city, town or district until accepted by the retiring authority of the particular county, city, town or district, nor shall they apply to veterans who are members of the police department of Boston.

ARMY NURSES.

Certain army nurses in public service to have retirement rights of certain veterans.
1930, 161.

SECTION 60A. A person who has served as an army nurse in the Spanish war or Philippine insurrection between April twenty-first, eighteen hundred and ninety-eight and July fourth, nineteen hundred and two, or in the world war between April sixth, nineteen hundred and seventeen and November eleventh, nineteen hundred and eighteen, and has been honorably discharged from such service or released from active duty therein, and who is in the service of the commonwealth, or who is in the service of any city, town or district which by its retiring authority, as defined in section fifty-nine, has accepted the provisions of sections fifty-six to fifty-nine, inclusive, and shall hereafter accept the provisions of this section, shall have and enjoy the same rights and privileges of retirement as are conferred by said sections fifty-six to fifty-nine, inclusive, upon veterans, as defined in section fifty-six, who are in such public service.

PENSIONS FOR JUSTICES AND COURT OFFICERS.

Pensions for justices and judges of supreme and probate courts.
1885, 162.
1887, 420.
1899, 310, § 1.
R. L. 158, § 10.
1906, 474, § 1.
1908, 179.
1910, 540,
§§ 1, 3.
1911, 527.
1918, 257,
§§ 95, 96.
1919, 5, 288,
§ 2; 301, § 7.
1920, 2.
1921, 486, § 3.
1931, 426,
§§ 142, 147.
2 Op. A. G. 52

SECTION 61. Any justice of the supreme judicial court appointed before June tenth, nineteen hundred and twenty-three, or any judge of probate and insolvency appointed before July second, nineteen hundred and twenty-one, who, having attained the age of seventy and having served as such for at least ten consecutive years, shall resign his office, or who shall be retired under Article LVIII of the amendments to the constitution, shall thereupon be entitled to receive a pension at an annual rate equal to three fourths the annual rate of salary payable to him immediately prior to said June tenth in case he resigns or is retired from the office of justice of the supreme judicial court, or immediately prior to December first, nineteen hundred and twenty-six in case he resigns or is retired from the office of judge of probate and insolvency, to be paid by the commonwealth in the same manner as the salaries of justices or judges of said courts.

Same subject
1899, 310, § 2.
R. L. 158, § 11.
1906, 474, § 2.
1910, 540,
§§ 2, 3.
1931, 426,
§§ 143, 147.

SECTION 62. Any justice of the supreme judicial court appointed before June tenth, nineteen hundred and twenty-three, or any judge of probate and insolvency appointed before July second, nineteen hundred and twenty-one, who, having attained the age of sixty and having served as such for at least fifteen consecutive years, shall have become disabled for the full performance of his duties as such justice or judge by reason of illness or otherwise, may, with the approval of the governor and council, resign his office, and shall thereupon be entitled to receive the same pension as provided in the preceding section, payable in the manner provided therein.

1 SECTION 63. Any justice of the supreme judicial court appointed on
 2 or after June tenth, nineteen hundred and twenty-three, or any justice of
 3 the superior court or judge of the land court whenever appointed, or any
 4 judge of probate and insolvency appointed on or after July second, nine-
 5 teen hundred and twenty-one, who shall be retired under Article LVIII
 6 of the amendments to the constitution shall on retirement be entitled to
 7 receive a pension at an annual rate equal to one half the annual rate of
 8 salary which a like justice or judge was entitled to receive immediately
 9 prior to the effective date of chapter six hundred and twenty-seven of the
 10 acts of nineteen hundred and twenty in case of the retirement of such a
 11 justice of the supreme judicial court or a justice of the superior court or
 12 judge of the land court, or immediately prior to said July second in case
 13 of the retirement of such a judge of probate and insolvency, to be paid
 14 by the commonwealth in the same manner as the salaries of justices or
 15 judges of said courts. Sections one to five, inclusive, shall not apply to
 16 justices or judges of any of said courts.

Pensions for
 justices and
 judges of
 supreme,
 superior,
 probate and
 land courts.
 1929, 627,
 §§ 4, 5.
 1921, 486, § 4;
 487, § 7.
 1931, 426,
 §§ 144, 147.

1 SECTION 64. The chief justice and any associate justice of the munic-
 2 ipal court of the city of Boston who shall be retired under Article LVIII
 3 of the amendments to the constitution shall on retirement be entitled to
 4 receive a pension at an annual rate equal to one half the annual rate of
 5 salary which a like justice was entitled to receive immediately prior to
 6 the effective date of chapter six hundred and fourteen of the acts of nine-
 7 teen hundred and twenty, to be paid by the county of Suffolk in the same
 8 manner in which the salaries of acting justices are paid; provided, that
 9 the foregoing shall not apply in case of the retirement as aforesaid of any
 10 such justice who shall have been a member of the Boston retirement
 11 system, established under chapter five hundred and twenty-one of the
 12 acts of nineteen hundred and twenty-two.

Justices of
 municipal
 court of
 Boston
 1911, 231, § 1.
 1920, 614, § 1.
 1931, 426,
 §§ 145, 147.

1 SECTION 65. Any justice of a district court, other than the municipal
 2 court of the city of Boston, appointed before July second, nineteen hun-
 3 dred and twenty-one, who shall have reached the age of seventy and shall
 4 have served as a justice of such court for at least twenty consecutive
 5 years, may, with the approval of the governor and council, resign his
 6 office, and any such justice who so resigns, or any justice of any such
 7 court appointed as aforesaid who shall be retired under Article LVIII
 8 of the amendments to the constitution, shall thereupon be entitled to
 9 receive a pension at an annual rate equal to three fourths the annual rate
 10 of salary payable to him immediately prior to January first, nineteen
 11 hundred and twenty-four, to be paid in the same manner in which the
 12 salaries of acting justices are paid. Any justice of any such court ap-
 13 pointed on or after July second, nineteen hundred and twenty-one, who
 14 shall be retired under said Article LVIII, shall on retirement be entitled
 15 to receive a pension at an annual rate equal to one half the annual rate of
 16 salary which the justice of said court was entitled to receive immediately
 17 prior to said July second, and payable in like manner; provided, that the
 18 foregoing shall not apply in case of the retirement as aforesaid of any
 19 such justice appointed on or after said July second who shall have been
 20 a member of the Boston retirement system established under chapter
 21 five hundred and twenty-one of the acts of nineteen hundred and twenty-
 22 two. Sections twenty to twenty-five, inclusive, shall not apply to the
 23 justices of such district courts.

Justices of
 district courts.
 1911, 682, § 1.
 1921, 413.
 1923, 479, § 3.
 1931, 426,
 §§ 146, 147.

Pensions for
court officers.
1912, 722, § 1.
1925, 407, § 3.

SECTION 66. Any court officer of the supreme judicial or superior court who, in the judgment of the sheriff of his county, is disabled for useful service in either of said courts, and who is certified by a physician, designated by the sheriff, to be permanently incapacitated, either mentally or physically, by injuries sustained through no fault of his own, in the actual performance of his duty in said court, and any court officer of either of said courts who has performed faithful service in either or both of said courts for not less than twenty years, and who in the judgment of the sheriff of his county is incapacitated for further service in said courts, shall, if the sheriff so requests, with the approval of a majority of the justices of the court in which he serves, be retired, and shall annually receive a pension equal to one half of the compensation received by him at the time of his retirement.

Pensions and
expenses,
how paid.
1912, 722, § 2.

SECTION 67. Pensions granted under the preceding section and all expenses connected therewith shall be paid by the commonwealth and the several counties to the same extent and in the same proportion as the salaries of the pensioners were paid at the time of their retirement.

PENSIONS FOR STATE POLICE.

Pensions for
state police.
1911, 675.
1919, 350,
§§ 99, 102.
1921, 487, § 1.
Op. A. G.
(1920) 198.

SECTION 68. Any officer or inspector of the department of public safety, who began continuous service prior to July first, nineteen hundred and twenty-one, if in the judgment of the commissioner of public safety he is disabled for useful service in the department and a physician designated by said commissioner certifies that he is permanently incapacitated, either physically or mentally, for the further performance of his duty in the department, by injuries sustained through no fault of his own in the actual performance of his duty, or any such officer or inspector of said department who has performed continuous faithful service for the commonwealth for not less than twenty years, if in the judgment of said commissioner he is incapacitated for further service as a member of the department, shall, if he so requests, be retired, and shall annually receive a pension from the commonwealth equal to one half the compensation received by him at the time of his retirement. Said commissioner may in an emergency call upon any person so pensioned for such temporary service as a member of the department as he may be fitted to perform, and during such service there shall be paid to him the difference between the rate of full pay for such employment and the rate of pension received by him. Any former inspector of the district police transferred to the state board of labor and industries under authority of section eight of chapter seven hundred and twenty-six of the acts of nineteen hundred and twelve shall, for the purposes of this section, be deemed an inspector of the department of public safety.

PENSIONS FOR METROPOLITAN POLICE.

Pensions for
permanent
members.
1909, 453,
§§ 1, 3.
1919, 350,
§ 123.
1921, 487, § 2.

SECTION 69. The metropolitan district commission shall, at the request of any permanent member of its police department who began continuous service prior to July first, nineteen hundred and twenty-one, if in the judgment of said commission he is disabled for useful service in said department, retire from active service and place upon a pension roll such member if a physician selected by the commission certifies in writing that he is permanently disabled, either mentally or physically, by injuries sustained through no fault of his own in the actual performance

9 of his duty, from further performing duty as such member, or any such
 10 permanent member of said department who has performed faithful
 11 continuous service therein for not less than twenty years, if in the judg-
 12 ment of the commission said member is incapacitated for useful service
 13 as a police officer; and every member so retired shall annually receive
 14 as a pension one half the amount of compensation received by him at the
 15 time of his retirement. The commission may in case of emergency
 16 call upon any person pensioned under this section for such temporary
 17 service as a police officer as he may be fitted to perform, and during such
 18 service there shall be paid to him the difference between the rate of full
 19 pay for such employment and the rate of pension received by him.

1 SECTION 70. The commission may, at the request of any call officer,
 2 if in its judgment he is disabled for useful service as such call officer, re-
 3 tire him from active service and place him upon the pension roll; pro-
 4 vided, that a physician selected by the commission certifies in writing
 5 that such officer is permanently disabled, either mentally or physically,
 6 and that by reason of injuries sustained through no fault of his in the
 7 actual performance of his duty as a call officer he is unable further to
 8 perform his duty as such officer; and every member so retired shall
 9 annually receive a pension equivalent to one half of what his annual
 10 compensation for continuous service throughout the year would have
 11 been at the rate of pay he received from said commission at the time he
 12 received the injury.

Pensions for
 call officers.
 1916, 56, § 3.
 1919, 350,
 § 123.

1 SECTION 71. Subject to the requirement of election set forth in the
 2 last paragraph of section eighty-nine, if any permanent or call officer of
 3 said police department is killed or dies within one year from injuries re-
 4 ceived while in the performance of his duty as such officer and it shall be
 5 proved to the satisfaction of the commission that such death was the
 6 natural and proximate result of an accident occurring during the per-
 7 formance and within the scope of his duty as such officer and the attend-
 8 ing physician or medical examiner shall certify to the state treasurer that
 9 the death was the direct result of the said injury, there shall be paid to
 10 the following dependents of such deceased officer the following annuities:
 11 To the widow, so long as she remains unmarried, an annuity not exceeding
 12 one thousand dollars a year, increased by not exceeding two hundred
 13 dollars for each child of such deceased person during such time as such
 14 child is under the age of eighteen or over said age and physically or men-
 15 tally incapacitated from earning; and, if there is any such child and no
 16 widow or the widow later dies, such an annuity as would have been pay-
 17 able to the widow had there been one or had she lived, to or for the benefit
 18 of such child, or of such children in equal shares, during the time afore-
 19 said; and, if there is any such child and the widow remarries, in lieu of
 20 the aforesaid annuity to her, an annuity not exceeding two hundred and
 21 sixty dollars to or for the benefit of each such child during the time afore-
 22 said; and, if there is no widow and no such child, an annuity not ex-
 23 ceeding one thousand dollars to or for the benefit of the father or mother
 24 of the deceased if dependent upon him for support at the time of his death,
 25 during such time as such beneficiary is unable to support himself or her-
 26 self and does not remarry. The total amount of all such annuities shall
 27 not exceed the annual rate of compensation received by such deceased
 28 officer at the date of his death, except that if he was a call officer, said
 29 total amount shall not exceed the annual rate of compensation payable

Annuities to
 dependents.
 1909, 453, § 4.
 1913, 545, § 4.
 1916, 56, § 5.
 1919, 350,
 § 123.
 1920, 403;
 515, § 2.
 1921, 487, § 3.
 1928, 402, § 2.
 1929, 308,
 §§ 2-4.
 1930, 241,
 §§ 2, 3.
 1931, 385,
 §§ 2, 3.

to a permanent officer of said police department for the first year of 30
 service therein. The amount of any such annuity shall, from time to 31
 time, be determined within the limits aforesaid by the said commission. 32
 The provisions of this and the two preceding sections as to pensions or 33
 annuities for disability or death resulting from injuries received in the 34
 performance of duty shall apply to officers assigned to duty under the 35
 commissioner of public safety as provided in section four of chapter one 36
 hundred and forty-seven. 37

Appropriations for pensions, etc. 1909, 453, § 5. 1916, 595, § 9. 1919, 350, § 129. 1920, 403.

SECTION 72. Pensions and annuities granted under the three preceding sections and any expenses connected therewith shall, except as hereinafter provided, be paid out of the appropriations for the Metropolitan Parks Maintenance Fund; provided, that such pensions, annuities and expenses shall not be paid out of any general appropriations made for the maintenance of reservations or boulevards under the care and control of said commission, but shall be provided for by specific appropriations for the purpose. Pensions or annuities paid on account of disability or death of officers assigned to duty under the commissioner of public safety shall be paid out of the ordinary revenue of the commonwealth. 1 2 3 4 5 6 7 8 9 10 11

SECTION 73. [REPEALED, 1931, 426, § 148.] 1

PENSIONS FOR SCRUBWOMEN.

Scrubwomen in state house. 1913, 711. 1919, 350, § 17. 1921, 487, § 8. 1922, 296. 1931, 426, § 54.

SECTION 74. Any woman who entered the continuous employ of the superintendent of buildings or the sergeant-at-arms as a cleaner and scrubwoman prior to July first, nineteen hundred and twenty-one, if she has reached the age of sixty and has been in such employ for not less than fifteen years and has become physically or mentally incapacitated for labor, or any such employee if she has been in such employ for not less than ten years and has become physically or mentally incapacitated for labor by reason of any injury received in the performance of her duties, may, with the approval of the superintendent, be retired from service, and if so retired she shall receive from the commonwealth for the remainder of her life the sum of three dollars per week. 1 2 3 4 5 6 7 8 9 10 11

PENSIONS FOR PROBATION OFFICERS.

Pensions for probation officers. 1912, 723, § 1. 1916, 225, § 1. 215 Mass. 57. 4 Op. A. G. 576.

SECTION 75. Any probation officer or assistant probation officer whose whole time is given to the duties of his office shall, at his request, be retired from active service and placed upon a pension roll by the court upon which it is his duty to attend, with the approval of the county commissioners of the county in which the court is situated; provided, that he is certified in writing by a physician designated by such court to be permanently disabled, mentally or physically, for further service by reason of injuries or illness sustained or incurred through no fault of his in the actual performance of his duty as such officer. Any such probation officer or assistant probation officer who has faithfully performed his duties for not less than twenty consecutive years, and who is not less than sixty, shall be retired at his request without the aforesaid certification. Such probation officer must be retired upon attaining the age of seventy. 1 2 3 4 5 6 7 8 9 10 11 12 13

Amount of pension. 1912, 723, § 2.

SECTION 76. Every person retired under the preceding section shall receive an annual pension equal to one half of the compensation received 1 2

3 by him at the time of his retirement, to be paid by the county employ-
 4 ing him, or, if he is employed by more than one county, by the counties
 5 by which his salary is paid, and in the same proportion.

PENSIONS FOR LABORERS.

1 SECTION 77. (a) Any laborer in the employ of a city or town, except
 2 Boston, which accepted chapter five hundred and three of the acts of
 3 nineteen hundred and twelve, who has reached the age of sixty and has
 4 been in such employ for not less than twenty-five years and has become
 5 physically or mentally incapacitated for labor, and any laborer in the
 6 employ of such city or town who has been in such employ for not less
 7 than fifteen years and has become physically or mentally incapacitated
 8 for labor by reason of any injury received in the performance of his
 9 duties for such city or town may, at his request, in cities, with the ap-
 10 proval of the mayor, or in towns, with the approval of the selectmen,
 11 be retired from service; and if so retired he shall receive from the city
 12 or town for the remainder of his life an annual pension equal to one half
 13 of the annual compensation paid to him as a laborer at his retirement.
 14 Any laborer in the employ of such city or town who has reached the age
 15 of sixty-five and has been in such employ for not less than twenty-five
 16 years, including the time when incapacitated by reason of sickness, not
 17 exceeding two years in the aggregate, as certified by a physician in
 18 regular standing, shall be retired from service, and shall receive from
 19 the city or town an annual pension computed in the manner herein-
 20 before set forth.

21 (b) In any such city or town which accepts or has accepted this para-
 22 graph or corresponding provisions of earlier laws, "laborers" shall in-
 23 clude foremen, inspectors, mechanics, draw tenders, assistant draw
 24 tenders and storekeepers, but the pension payable under this section to
 25 any person holding a position included as aforesaid within the meaning
 26 of the word "laborers" shall not exceed four hundred dollars a year, or,
 27 in any such city or town which after the effective date of chapter four
 28 hundred and fifty-eight of the acts of nineteen hundred and twenty-three
 29 accepted or shall accept this paragraph, whether or not it had accepted
 30 this paragraph or corresponding provisions of earlier laws prior to said
 31 date, five hundred dollars a year.

Pensions for
 laborers
 1912, 503,
 §§ 1, 2, 4,
 1915, 47, § 1.
 1919, 21,
 1920, 179,
 1923, 458,
 §§ 1, 2
 1931, 426,
 § 149
 258 Mass 72

1 SECTION 78. Any laborer employed by any fire or water district
 2 which accepts this section or has accepted corresponding provisions of
 3 earlier laws, who has reached the age of sixty and has been in the employ
 4 of such district for not less than twenty-five years and has become
 5 physically or mentally incapacitated for labor, and any laborer in the
 6 employ of any such district who has been in such employ for a period
 7 of not less than fifteen years and has become physically or mentally in-
 8 capacitated for labor by reason of any injury received in the performance
 9 of his duties for such district, may, at his request, with the approval of
 10 the prudential committee or water commissioners, be retired from service;
 11 and if so retired he shall receive from the district, for the remainder of
 12 his life, an annual pension equal to one half of the average annual com-
 13 pensation paid to him as a laborer during the two years next prior to
 14 his retirement. Any laborer in the employ of such a district who has
 15 reached the age of sixty-five and has been in such employ for not less
 16 than twenty-five years shall be retired from service, and shall receive

Laborers in
 fire or water
 districts
 1913, 471, § 1.
 1914, 352,
 §§ 1, 3.

from the district an annual pension computed in the manner herein- 17
before set forth. This section shall take effect in any fire or water district 18
if accepted by the district at a meeting. 19

Existing
pensions,
1913, 671, § 2.
1914, 352,
§§ 2, 3.

SECTION 79. All pensions which were payable under chapter five 1
hundred and three of the acts of nineteen hundred and twelve or chapter 2
six hundred and seventy-one of the acts of nineteen hundred and thirteen 3
by any city or town to former employees of a fire or water district therein 4
which accepted chapter three hundred and fifty-two of the acts of nine- 5
teen hundred and fourteen at the annual meeting of the district held 6
next after the passage thereof, shall be paid by the district. 7

PENSIONS FOR FIREMEN IN CITIES.

Pensions for
firemen
in cities
1898, 267.
1900, 246.
R. L. 32,
§§ 81, 82
1906, 476.
1913, 697.
§§ 1, 3-5.
1918, 257, § 98
1919, 5.
1920, 2.
1921, 337, § 1.
1930, 70.

SECTION 80. In cities, except Boston, which accept this and the 1
following section or have accepted corresponding provisions of earlier 2
laws by vote of the city council, the fire commissioner in cities having 3
such an official, otherwise the aldermen, in all cases with the approval of 4
the mayor, shall retire from active service and place upon the pension 5
roll any fireman, call fireman or substitute call fireman of the city whom 6
the city physician certifies in writing to be permanently disabled, men- 7
tally or physically, by injuries sustained or illness incurred through no 8
fault of his own in the actual performance of duty, from further per- 9
forming duty as such member; or any permanent member of said 10
department who has performed faithful service therein for not less than 11
twenty-five years as such or as a call member and permanent member 12
of said department, if in the judgment of said board or official such 13
member is disabled for useful service in the department; provided, that 14
any permanent member of said department who has performed faithful 15
service therein for twenty-five years as aforesaid and has attained the 16
age of sixty shall be retired at his request. Any acceptance of this and 17
the following section may be limited by the vote of acceptance to any 18
one or more of the classes of firemen hereinbefore set forth. 19

Amount of
pension.
1913, 697, § 2
1918, 257, § 98
1919, 5.
1920, 2.
1928, 252.

SECTION 81. Any permanent member of a fire department retired 1
under the preceding section shall receive an annual pension, payable 2
monthly, equal to one half of the annual salary or other compensation 3
received by him at his retirement. The pension of any call or substitute 4
call fireman retired under said section shall be the same as that of a 5
permanent member of the first grade of the same department in which 6
he served, or, if there be no grades, his compensation shall be that of a 7
permanent member of the department performing duties like those 8
which he performed. 9

Pensions for
call members.
1916, 218.

SECTION 82. All call members of fire departments of cities, except 1
Boston, which accept this section or have accepted corresponding pro- 2
visions of earlier laws, by vote of the city council, with the approval of 3
the mayor, who were retired for disability previous to May twenty- 4
third, nineteen hundred and thirteen, shall receive the same pension 5
provided for call members of fire departments placed on the retired list 6
under section eighty. 7

PENSIONS FOR POLICE AND FIREMEN.

1 SECTION 83. In every city, except Boston, which, by vote of its city
 2 council, accepts this section or has accepted corresponding provisions of
 3 earlier laws, the mayor and aldermen, or the board of police where such
 4 a board is established, shall, at his own request or at the request of the
 5 chief or superintendent of police if, in the judgment of said board or
 6 officer, he is disabled for useful service in said department, retire from
 7 active service and place upon a pension roll any member of the police
 8 department of such city whom the city physician of such city certifies in
 9 writing to be permanently disabled, mentally or physically, by injuries
 10 sustained through no fault of his own in the actual performance of duty,
 11 from further performing duty as such member, or any member of said
 12 department who has performed faithful service therein for not less than
 13 twenty years continuously if, in the judgment of said board or officer,
 14 such member is disabled for useful service in the department; and every
 15 member so retired shall annually receive as a pension one half the amount
 16 of compensation received by him at his retirement, such amount to be
 17 paid by the city, which shall appropriate money therefor.
 18 The board of police, or the mayor in cities having no such board, may
 19 in an emergency call upon any person so pensioned for such temporary
 20 service in the department as he may be fitted to perform, and during
 21 such service he shall be entitled to full pay.

Pensions for
 police in cities.
 1892, 378,
 §§ 1-4
 R. L. 108,
 §§ 29, 30,
 1903, 428,
 1909, 188,
 1918, 257,
 §§ 99, 100.
 1919, 5;
 333, § 3.
 1920, 2.
 215 Mass. 92.
 220 Mass. 393.
 252 Mass. 213.
 260 Mass. 477.

1 SECTION 84. In cities which, by vote of the city council, and in towns
 2 which, by vote of the inhabitants at an annual town meeting, accept this
 3 section, or have accepted corresponding provisions of earlier laws, and
 4 which have not established a system of pensions for the members of its
 5 police department, the board or officer having authority to make appoint-
 6 ments to the police department shall retire from further service therein
 7 any member of said department whom the city or town physician and two
 8 other physicians certify to be permanently incapacitated, physically or
 9 mentally, by injuries sustained in the actual performance of duty in the
 10 department. A member who is so retired shall annually receive as a
 11 pension one half the compensation received by him at his retirement.

Retirement of
 injured police
 officers in cities
 and towns
 having no pen-
 sion systems.
 1901, 377.
 R. L. 108, § 31.

1 SECTION 85. The selectmen of every town which accepts this section
 2 or has accepted corresponding provisions of earlier laws by a two thirds
 3 vote at an annual town meeting shall retire from active service and place
 4 upon the pension roll any permanent member of the police department
 5 and any permanent member of the fire department of such town found
 6 by them to be permanently incapacitated, mentally or physically, for
 7 useful service in the department to which he belongs, by injuries received
 8 through no fault of his own in the actual performance of his duty. They
 9 may also retire and place upon the pension roll any permanent member
 10 of either of said departments who has performed faithful service in the
 11 department for not less than twenty-five years continuously, and is not
 12 less than sixty. If a permanent member of the police department of such
 13 a town was, prior to the establishment of a police department therein,
 14 employed in said town as a police officer by appointment under section
 15 ninety-six of chapter forty-one, the period of such appointment shall be
 16 counted as a part of his continuous service as a permanent member of its
 17 police department. Every person so retired shall annually receive from

Pensions for
 policemen
 and firemen
 in towns.
 1904, 327,
 §§ 1-3
 1931, 161.

the town as a pension a sum equal to one half of the annual compensation received by him at his retirement. The selectmen may in an emergency call upon any person so pensioned for such temporary service in the department from which he was retired as they may deem him fitted to perform, and during such service he shall be entitled to full pay.

Retirement of call members of fire departments in certain towns. 1921, 337, § 2.

SECTION 85A. Upon the acceptance of this section by a town at its annual town meeting by a two thirds vote, the provisions of section eighty-five relative to the retirement of permanent members of the fire department for incapacity shall apply to call members of its fire department, except that a call member retired hereunder shall annually receive from the town a pension at such rate, not exceeding five hundred dollars a year, as the town may authorize.

Police pensioners accepting other employment not to draw pension. 1913, 681, § 1.

SECTION 86. Any police officer lawfully retired and pensioned after May nineteenth, nineteen hundred and thirteen, who accepts another appointment or employment as a police officer or police official in any city or town, shall not receive a pension during such time as he shall hold the new appointment or employment.

SECTION 87. [REPEALED, 1930, 182, § 5.]

SECTION 87A. [INSERTED, 1924, 504, § 2; REPEALED, 1928, 402, § 4.]

Payments to dependents of certain persons killed, etc., while aiding police officers, etc. 1928, 402, § 5. 1930, 182, § 2.

SECTION 88. The selectmen of any town which accepts this section or has accepted corresponding provisions of earlier laws by a two thirds vote at an annual town meeting may pay to the widow of any person aiding a police officer in the discharge of his duty by the order or request of such officer or any of the authorities of the town, or to the widow of a person doing fire duty at the request or by the order of the authorities of the town, if it has no organized fire department, or of a person performing the duties of a fireman in such town, who dies from injuries received through no fault of his own in the actual performance of his duty, a pension not exceeding three hundred dollars a year while such widow remains unmarried, or, if there is no widow, a pension not exceeding said sum for the benefit of any of the children under sixteen of such deceased person while any such child is under the age of sixteen, and the selectmen of such town may determine the amount of such pension within said limits. No payments shall be made under this section on account of any death in respect to which compensation is payable under section eighty-nine.

Annuities to dependents of policemen or firemen killed, etc., in performance of duty. 1902, 437. 1920, 515, § 1. G. L. (ed) of 1920, 32. §§ 87, 89. 1923, 178. 1924, 371; 394, § 3. 1928, 402, §§ 1, 3. 1929, 308, §§ 1, 3, 4. 1930, 182, §§ 1, 5; 241, §§ 1, 3.

SECTION 89. If a member of the police or fire force of a city or town, or a member of the department of public safety doing police duty, is killed, or dies within one year from injuries received, while in the performance of his duty as such member and it shall be proved to the satisfaction of the mayor and city council or selectmen, or of the commissioner of public safety subject to the approval of the governor and council, as the case may be, that such death was the natural and proximate result of an accident occurring during the performance and within the scope of his duty as such member, and the attending physician or medical examiner shall certify to the city, town or state treasurer, as the case may be, that the death was the direct result of the said injury, there shall be paid except as hereinafter provided, out of the city, town or

13 state treasury, as the case may be, to the following dependents of such
 14 deceased person the following annuities: To the widow, so long as she
 15 remains unmarried, an annuity not exceeding one thousand dollars a
 16 year, increased by not exceeding two hundred dollars for each child of
 17 such deceased person during such time as such child is under the age of
 18 eighteen or over said age and physically or mentally incapacitated from
 19 earning; and, if there is any such child and no widow or the widow
 20 later dies, such an annuity as would have been payable to the widow
 21 had there been one or had she lived, to or for the benefit of such child,
 22 or of such children in equal shares, during the time aforesaid; and, if
 23 there is any such child and the widow remarries, in lieu of the aforesaid
 24 annuity to her, an annuity not exceeding two hundred and sixty dollars
 25 to or for the benefit of each such child during the time aforesaid; and,
 26 if there is no widow and no such child, an annuity not exceeding one
 27 thousand dollars to or for the benefit of the father or mother of the
 28 deceased if dependent upon him for support at the time of his death,
 29 during such time as such beneficiary is unable to support himself or her-
 30 self and does not remarry. The total amount of all such annuities shall
 31 not exceed the annual rate of compensation received by such deceased
 32 person at the date of his death, except that if such deceased person was
 33 a reserve or special policeman or a reserve or call fireman of a city or
 34 town and, at the time he was killed or at the time he received the injuries
 35 resulting in his death, was performing duty to which he was assigned
 36 or called as such policeman or fireman and for the performance of which
 37 he was entitled to compensation from said city or town, the total amount
 38 of all such annuities shall not exceed the annual rate of compensation
 39 payable to a regular or permanent member of the police or fire force
 40 thereof, as the case may be, for the first year of service therein, and if
 41 there are no regular or permanent members of the police or fire force
 42 thereof, as the case may be, said total amount shall not exceed the sum
 43 of one thousand dollars. The amount of any such annuity shall from
 44 time to time be determined within the limits aforesaid by the mayor and
 45 city council, the selectmen, or the commissioner of public safety subject
 46 to the approval of the governor and council, as the case may be.

47 In case the deceased was a member of a contributory retirement
 48 system for public employees, the benefits provided under this section
 49 shall be in the alternative for the benefits, if any, provided by such
 50 retirement system for dependent widows and children or for dependent
 51 fathers or mothers; and the widow, or if there is no widow, the legal
 52 representative of the children entitled thereto, if any, otherwise the
 53 father or mother in the order named, shall elect which benefits shall be
 54 granted. Such election shall be made in writing and shall be filed with
 55 the retirement board in charge of the system of which the deceased was
 56 a member and shall not be subject to change or revocation after the
 57 first payment of any benefit thereunder.

1 SECTION 90. Sections forty-two A and forty-two B of chapter thirty-
 2 one and section three of chapter two hundred and forty-two of the acts
 3 of nineteen hundred and twenty-three shall not apply in cities to the
 4 retirement on pension of members of police departments who are over
 5 seventy years of age.

1931, 385,
 §§ 1, 3
 271 Mass. 362

Aged police
 officers not sub-
 ject to certain
 laws.
 1916, 113, § 1.
 1931, 426, § 62.

MISCELLANEOUS PROVISIONS.

Pensioners
not to be paid
for services
1913, 657, § 1.
1916, 88,
1918, 257,
§ 135.
1919, 5; 80,
1920, 2
Op. A. G.
(1918) 81.

SECTION 91. No person while receiving a pension or an annuity 1
from the commonwealth, or from any county, city or town, except 2
teachers who on March thirty-first, nineteen hundred and sixteen, were 3
receiving annuities not exceeding one hundred and eighty dollars per 4
annum, shall, after the date of the first payment of such annuity or pen- 5
sion, be paid for any service rendered to the commonwealth, county, 6
city or town which pays such pension or annuity, except for jury service 7
or for service rendered in an emergency under section sixty-eight, sixty- 8
nine or eighty-three, or for service in a public office to which he has been 9
elected by the direct vote of the people. 10

No interest in
a pension, etc.,
to be pledged,
etc. Expense of
supporting
persons receiv-
ing such pen-
sions, etc.,
upon becoming
public charges
to be deducted
therefrom.
1916, 75.
1926, 289.

SECTION 92. Any pledge, mortgage, sale, assignment or transfer of 1
any right, claim or interest in any pension, annuity or retirement allow- 2
ance from the commonwealth or any county, city, or town shall be void. 3
Whoever is a party to such pledge, mortgage, sale, assignment or trans- 4
fer of any right, claim or interest in any pension, annuity or retirement 5
allowance or pension certificate from the commonwealth or any county, 6
city or town, or holds the same as collateral security for any debt or 7
promise, or upon any pretext of such security or promise, shall be pun- 8
ished by a fine of not more than one hundred dollars. If a person re- 9
ceiving a pension, annuity or retirement allowance becomes a charge 10
upon the commonwealth, or any county, city or town thereof, the exp- 11
ense incurred by the commonwealth, or any such county, city or town, 12
for his maintenance and support shall, unless otherwise paid, be ded- 13
ucted from such pension, annuity or retirement allowance as it becomes 14
due and payable, and the amount of such deduction shall thereupon be 15
paid to the department, board, commission or officer by whom or under 16
whose authority such expense was incurred. 17

Certain
pensions
not affected
1919, 350, § 4

SECTION 93. Persons who, at the time when chapter three hundred 1
and fifty of the General Acts of nineteen hundred and nineteen took 2
effect, were appointed to or employed by an office, board, commission 3
or other governmental organization or agency abolished by said chapter 4
and were appointed to positions in any of the departments established 5
thereby shall retain all rights to retirement with pension that had accrued 6
or would thereafter accrue to them, and their services shall be deemed 7
to have been continuous as if said chapter had not been passed. 8

TITLE V.

MILITIA.

CHAPTER 33. Militia.

CHAPTER 33.

MILITIA.

[The General Acts regulating the militia subsequent to the General Statutes and prior to the Public Statutes are Sts. 1864, 238; 1866, 219; 1873, 313; 1874, 320; 1878, 265.]

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1. Definitions.

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2. Persons to be enrolled in the militia.
3. Exemptions.
4. Same subject.
5. Organized and unorganized militia.
6. Assessors' reports of persons liable to enrolment.
7. Tavern keepers, etc., to give names, etc. Penalty.
8. Calling out of unorganized militia.
9. Muster of same, etc. Deserter, who deemed.

VOLUNTEER OR ORGANIZED MILITIA.

10. Active militia. Composition.
11. Organization. Provisions applicable.

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12. Commander-in-chief may raise volunteer companies.
13. Recruiting, appointment and powers of provisional officers.
14. Time of appointment. Designation as enlisting, etc., officers.
15. Organization, etc., how prescribed.
16. Commander-in-chief may disband inefficient company.
17. May order out militia for escort duty, etc.
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20. Transfer of organizations, etc.

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21. Lease, etc., of property to United States, etc.
22. Commander-in-chief's staff, appointment, composition, etc. Military council and naval militia bureau.
23. Adjutant general and department of naval militia. Powers and duties.
24. Adjutant general, salary. Assistants.

AID TO CIVIL POWER.

25. Call of militia in case of invasion or insurrection.
26. Call of militia in case of tumult, riot, etc. Form of precept.
27. Duty of commander of unit.
28. Penalty for disobedience.
29. Troops to appear armed, etc.
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31. No liability for acts under orders.
32. Expense of service at call of sheriff, mayor, etc., how collected.
33. Additional force to be taken from unorganized militia, when.
34. Excuse from duty, and punishment for absence without leave.

ARMORIES AND ARMORY COMMISSIONERS.

35. Certain cities and towns to provide armories and headquarters.
36. Location of armories and headquarters in certain cases.
37. Parade grounds, etc. Authority to raise money for such purposes.
38. Allowances to cities and towns for armories, etc.
39. Armory commissioners. General duties.

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40. Construction, etc., of armories, etc.
41. Taking of land for drill grounds, ranges, etc.
42. Purchase of certain armories, drill grounds, etc.
43. Expenditures under three preceding sections.
44. Armories of the first class.
45. Cities and towns to be relieved of certain obligations. Armories to be under control of commander-in-chief, etc.
46. Annual returns relative to armories, etc.
47. Commanding officer to have control of armory, etc.
48. Use of armories regulated.
49. Operation of cinematographs, etc., in armories, etc.

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50. Penalty for unauthorized wearing of uniforms, etc.
51. Disposition of certain returns and applications.
52. Street railways, etc., may transport military supplies.
53. Military bands may be excused from camp and substitute duty ordered.
54. No parade, etc., without approval. Details for temporary or special duty.
55. Judge advocate, powers at encampment.
56. Bounds of parades or encampments, and punishment for intrusion, etc.
57. Penalty for molesting or insulting troops on duty.
58. Troops to have right of way, etc.
59. No military duty on election day, except, etc.
60. Unauthorized drilling with firearms, etc., forbidden, etc.
61. Regulations governing drill and parade with firearms by certain organizations in time of war.
62. Penalty for violation of two preceding sections, etc.
63. Rifle team.
64. Officers of United States army and navy to be reimbursed for expenses, when.
65. Division, brigade, etc., funds.
66. Exemption from jury duty and from civil arrest.
67. No loss of pay or vacation to certain state and municipal employees in militia, etc.
68. Rolls of militia. Penalty for false certificate.
69. Compensation to members of militia for injury during military duty, or for death resulting therefrom.
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71. Paymasters' bonds.
72. Bond for military property, etc.
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75. Certain rights of the Ancient and Honorable Artillery Company not affected.
76. Penalty on certain civil officers for violation of this chapter.
77. Prizes for competitions. Maintenance and repair of aeroplanes.
78. Allowances for military instruction.

LAND FORCES.

Organization.

79. Land forces, how constituted. Reserve officers, exemption from certain examinations.
80. First and second corps of cadets, officers, equipment, etc.

Staff Corps and Departments.

81. Titles and grades to conform to United States laws and regulations.
82. State surgeon. State judge advocate. State inspector. State ordnance officer.
83. State quartermaster.
84. Officers not to be pecuniarily interested in purchases and sales, etc.
85. Penalty.

Commissioned Officers.

86. Eligibility to appointment.
87. Relative rank, date of commission, etc.
88. Staff and department officers.
89. Eligibility for appointment as medical or veterinary officer, etc.
90. Military service commission.
91. Prerequisites to exercising command.
92. Discharge for failure to pass tests.
93. Retirement after failure to pass tests.
94. Oath; form, etc.
95. Discharge, etc., of officers.
96. Term of office of general officers of the line.
97. Term of office of colonel, etc.
98. Retirement of officers.
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100. Retirement for disability.
101. Register of active and retired officers.
102. Retired officers, privileges and duties.
103. Certificates of discharge.

Noncommissioned Officers.

104. Number to conform to law or orders.
105. Appointment, etc., how regulated.

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- 106. Enlistment, etc., how regulated.
- 107. Dishonorable discharge, etc., regulated.
- 108. Certificates of discharge.

Uniforms of Commissioned Officers.

- 109. Uniforms, etc.

Public Property — Issue, Accountability, etc.

- 110. Certain supplies to be provided by the commonwealth. Sale of certain other supplies to officers and enlisted men.
- 111. Uniforms, how prescribed and provided.
- 112. Uniforms, etc., to be used only for military purposes, etc.
- 113. Responsibility for military property, etc.
- 114. Accountability of officer for military property, etc.
- 115. Disposition of and liability for records, reports and military property.
- 116. Penalty for unlawful purchase, etc.
- 117. Liability for loss, etc.
- 118. Penalty on officer or soldier for destruction of public property.
- 119. Uniform, etc., to be worn, etc., only when on duty, etc.
- 120. Adoption of other than prescribed uniform, etc.
- 121. Volunteer organizations may own personal property, etc.
- 122. Inspection and condemnation of military property, etc.

Duty — Active and Peace. Inspection and Drill.

- 123. Annual service training.
- 124. Militia on duty may enter and occupy certain lands, etc., without liability.
- 125. Damages for use of or injury to land, etc.
- 126. Inspection at encampment.
- 127. Notice for duty. Delivery.
- 128. Mounted bands.
- 129. United States system of discipline to be observed. Officers and men subject to military law and jurisdiction.
- 130. Officers and men not entering service of the United States remain in militia.
- 131. Troops, when to be ordered outside commonwealth. Penalty.

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- 132. Meetings of officers and noncommissioned officers for instruction. School for officers or selected enlisted men.

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- 133. Visits by commanding officers, etc. Mileage allowed.
- 134. Evening company inspection may be ordered.
- 135. Company and regimental, etc., drills.
- 136. Excuses from drills, etc.

Pay and Allowances.

- 137. No compensation except for personal service, etc.
- 138. Pay of officers and soldiers.
- 139. Certain inspections not to constitute tours of duty, etc.
- 140. Compensation for killing or injury of horse, etc. Adjustment of claims for injury to private property.
- 141. Annual appropriation for claims, etc.
- 142. Annual appropriation and regulations for maintenance of draft and riding animals.
- 143. State pay, etc., when reduced by amount received as United States pay, etc.
- 144. Allowance for motor vehicles, etc.
- 145. Allowance for travel, etc. Reimbursement to United States for injury to its property, etc. Pay and allowances of inspecting officers. Annual allowances to commissioned and warrant officers of national guard for uniforms.
- 146. Allowance for transporting horses.
- 147. Subsistence. Advertising of bids for supplies. Sale of commissary stores for cash, etc.
- 148. Allowance to headquarters, etc., for certain expenses.
- 149. For repair, etc., of uniforms, etc.
- 150. For armorer.
- 151. For artillery mechanic.
- 152. Advances to state quartermaster for pay, etc.
- 153. Vouchers and accounts of officers of quartermaster corps.
- 154. Pay and allowances for United States service.

Courts-Martial — Courts of Inquiry — Special Boards.

- 155. Courts of inquiry.
- 156. Allowances to witnesses.
- 157. Courts-martial.
- 158. General courts-martial, how convened. Punishments, etc.
- 159. Special courts-martial, appointment, powers, etc.
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- 161. Sentences to confinement in lieu of fines.
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 164. Processes and sentences, how executed, etc. Fines, payment, disposition, etc.
 165. United States articles of war, etc., as modified, to apply to national guard.

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166. Band of musicians.
 167. Chaplains.
 168. Service medals. Medals of valor.
 169. Oaths, by whom administered.
 170. Delegates to annual conventions of national guard association.

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 173. Commander-in-chief may make regulations, prescribe punishments, etc.
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175. Acting judge advocate general, duties, etc.
 176. Clothing. Equipment. Transportation. Control of appropriations. Allowance of claims.
 177. Use of armories or grounds regulated.
 178. Penalty for unlawful purchase, etc., of certain property.
 179. Personal property of organizations, and suits to recover same.
 180. Duty may be performed afloat, etc. Expenses for use of United States ships.
 181. Conditions under which compensation, etc., payable, how prescribed.
 182. Amounts payable, how prescribed.
 183. Advances to acting paymaster general.
 184. Courts-martial, power to issue warrants, compel attendance of witnesses, etc.
 185. Fines, payment, disposition, etc.
 186. Allowances to witnesses.
 187. Administration of oaths.
 188. Service medals and medals of valor.

DEFINITIONS.

Definitions.
 P. S. 14, § 164.
 1886, 63, § 2.
 1887, 411, § 162.
 1893, 367, § 162.
 R. L. 16, § 1.
 1905, 465, § 1.
 1908, 604, § 1.
 1917, 327, § 1.
 1924, 465.

SECTION 1. In this chapter except as otherwise provided herein, the word "soldier", or the words "enlisted man", shall include musicians and all persons, except commissioned officers, in the volunteer or reserve militia, including both land and naval forces; and the word "company" shall include battery, troop, naval division and such other units as may be determined by the commander-in-chief to come under such designation.

UNORGANIZED MILITIA.

Persons to be enrolled in the militia
 P. S. 14, § 1.
 1887, 411, § 1.
 1893, 367, § 1.
 R. L. 16, § 2.
 1905, 465, § 2.
 1908, 604, § 2.
 1917, 327, § 2.
 1924, 465.

SECTION 2. Subject to the following section, every able-bodied male citizen, and every able-bodied male of foreign birth who has declared his intention to become a citizen, resident within the commonwealth, of the age of eighteen and under the age of forty-five, shall be enrolled in the militia. In all cases of doubt respecting the age of a person enrolled, the burden of proof shall be upon him.

22 Pick. 571.

14 Gray. 614.

Exemptions.
 P. S. 14, § 1.
 § 1, 2, 5.

SECTION 3. Persons exempted from military service by the laws of the United States shall be exempt from such enrolment.

1887, 411, §§ 1, 2, 5.
 1893, 367, §§ 1, 2, 5.
 R. L. 16, §§ 2, 3, 6.
 1905, 465, §§ 2, 3, 6.

1908, 604, §§ 2, 3, 6.
 1917, 327, § 3.
 1924, 465.
 14 Mass. 374, 394.

17 Mass. 49.
 2 Pick. 597.
 3 Pick. 226.
 23 Pick. 208.

Same subject.
 P. S. 14, § 3.
 1887, 411, § 3.
 1893, 367, § 3.
 § 3, 4.
 R. L. 16, § 4.
 1905, 465, § 4.

SECTION 4. Every person of the religious denomination of Quakers or Shakers conscientiously scrupulous of bearing arms shall, if such conscientious belief is established as provided by the laws of the United States, be exempt from service in the militia in a combatant capacity.

1908, 604, § 4.
 1917, 327, § 4.

1924, 465.
 12 Mass. 441.

17 Mass. 351.

Organized and unorganized militia
 P. S. 14, § 6.

SECTION 5. The militia shall consist of two classes, namely, the organized militia, to be known as the Massachusetts volunteer militia,

3 composed and organized as provided in this chapter; and the remainder,
 4 to be known as the unorganized militia. The unorganized militia shall
 5 be subject to no active duty except in case of war, actual or threatened,
 6 invasion, the prevention of invasion, the suppression of riots, and the
 7 assisting of civil officers in the execution of the laws.

1887, 411, § 6.
 1903, 367, § 6.
 R. L. 16, § 7.
 1905, 465, § 7.
 1908, 604, § 7.
 1917, 327, § 5.
 1924, 465.

1 SECTION 6. Assessors shall annually, in April or May, make a report
 2 of the number of persons living within their respective limits liable to
 3 enrolment, and shall place a certified copy thereof in the hands of the
 4 clerks of their respective towns, who shall place it on file with the records
 5 of such town, and annually, in May, June or July, transmit reports of
 6 the number of such persons to the adjutant general.

Assessors' reports of persons liable to enrolment.
 P. S. 14, § 7.
 1887, 411, § 7.
 1893, 367, § 7.
 R. L. 16, § 8.
 1903, 465, § 8.

1908, 604, § 8. 1917, 327, § 6. 1922, 152. 1924, 465.

1 SECTION 7. Keepers of taverns or boarding houses, and masters
 2 and mistresses of dwelling houses, shall, upon application of the assessors,
 3 or of persons acting under them, give information of the persons resid-
 4 ing in their houses, liable to enrolment or to military service and every
 5 such person shall, upon like application, give his name and age. Any
 6 such keeper, master or mistress violating this section shall forfeit twenty
 7 dollars, and any person liable to enrolment or to military service guilty
 8 of such violation shall forfeit twelve dollars, to be recovered on com-
 9 plaint of any of the assessors.

Tavern keepers, etc., to give names, etc.
 Penalty.
 P. S. 14, § 8.
 1887, 411, § 8.
 1893, 367, § 8.
 R. L. 16, § 9.
 1905, 465, § 9.
 1908, 604, § 9.
 1917, 327, § 7.
 1924, 465.

1 SECTION 8. When necessary to call out any part of the unorganized
 2 militia for active duty, the commander-in-chief shall direct his order to
 3 the aldermen or to the selectmen, who shall forthwith, by written order
 4 or oral notice to each individual, or by proclamation, appoint a time and
 5 place for the assembling of the unorganized militia in their town, and
 6 shall then and there draft as many thereof, or accept as many volunteers,
 7 as are required by the order of the commander-in-chief, and shall forth-
 8 with forward to him a list of the persons so drafted or accepted as
 9 volunteers.

Calling out of unorganized militia.
 P. S. 14, § 9.
 1887, 411, § 9.
 1893, 367, § 9.
 R. L. 16, § 10.
 1905, 465, § 10.
 1908, 604, § 10.
 1917, 327, § 8.
 1924, 465.

1 SECTION 9. The part of the unorganized militia so drafted or accepted
 2 shall immediately be mustered under the orders of the commander-in-
 3 chief into the service of the commonwealth for three years, or for such
 4 less period as he may direct, and shall be organized into new units, or
 5 assigned to organizations of the volunteer militia then existing. Such
 6 new organizations shall be officered, equipped, trained and governed
 7 according to the laws for the government of the volunteer militia. In
 8 such new organizations, the commander-in-chief may detail officers to
 9 train and command them until their officers shall have qualified. Every
 10 member of the unorganized militia who volunteers or is detached or
 11 drafted, who does not appear to be mustered in as required by the orders
 12 of the commander-in-chief, or does not produce a sworn certificate,
 13 from a physician in good standing, of physical disability so to appear,
 14 shall be taken to be a deserter.

Muster of same, etc.
 Deserter, who deemed.
 P. S. 14, § 10.
 1887, 411, § 10.
 1893, 367, § 10.
 R. L. 16, § 11.
 1905, 465, § 11.
 1908, 604, § 11.
 1917, 327, § 9.
 1920, 127, § 1.
 1924, 465.

VOLUNTEER OR ORGANIZED MILITIA.

1 SECTION 10. The active or organized militia shall be composed of
 2 volunteers.

Active militia Composition.

P. S. 14, § 21. 1893, 367, § 21. 1905, 465, § 22. 1917, 327, § 10.
 1887, 411, § 21. R. L. 16, § 22. 1908, 604, § 15. 1924, 465.

Organization. Provisions applicable. 1908, 604, § 18 (a). 1913, 289, § 1. 1917, 327, § 11. 1924, 465.

SECTION 11. (a) The Massachusetts volunteer militia shall comprise the staff of the commander-in-chief, the land forces and naval forces. (b) Sections one to seventy-eight, inclusive, shall apply to all persons including all parts of the volunteer militia and the unorganized militia. (c) Sections seventy-nine to one hundred and seventy, inclusive, shall apply to all persons except the naval forces (including an officer of the naval forces detailed as aide on the staff of the commander-in-chief) and except such part of the unorganized militia as may under sections eight and nine be called out for active service as a part of the naval forces. (d) Sections one hundred and seventy-one to one hundred and eighty-eight, inclusive, shall apply to all persons except the staff of the commander-in-chief (not including an aide detailed from the naval forces), and except the land forces and such part of the unorganized militia as may under sections eight and nine be called out for active service as a part of the land forces.

COMMANDER-IN-CHIEF.

Commander-in-chief may raise volunteer companies. P. S. 14, § 24. 1887, 411, § 24. 1893, 367, § 24.

SECTION 12. The commander-in-chief may raise volunteer companies or detachments, as he deems necessary, or when they are needed to maintain the forces of the commonwealth at the strength and of the composition required or permitted by law.

R. L. 16, § 25. 1908, 604, § 32. 1917, 327, § 12. 1905, 465, § 25. 1915, 289, § 3. 1924, 465.

Recruiting, appointment and powers of provisional officers. 1919, 138, § 1. G. L. (ed. of 1920) 33, § 14. 1924, 465.

SECTION 13. He may, to recruit the Massachusetts volunteer militia, appoint provisional officers for such units as he may from time to time create, by orders in accordance with this chapter. Such provisional officers, subject to removal by the commander-in-chief and until their successors are qualified as provided by the constitution and laws of the commonwealth, shall exercise the same military authority over their several commands as is specified in the said laws for duly chosen officers of the organized militia.

Time of appointment. Designation as enlisting, etc., officers. 1919, 138, § 2. G. L. (ed. of 1920) 33, § 15.

SECTION 14. Such provisional officers may be appointed before the enlisted personnel of the units to which they are assigned are enlisted and mustered and may be designated as enlisting and mustering officers of the respective units to which they are assigned.

1924, 465.

Organization, etc., how prescribed. Const., pt. 2, c. 2, § 1, art. 10. Const. amend. 53. (Const. Rev. art. 148.) P. S. 14, § 23. 1882, 97. 1881, 230, § 2. 1887, 411, § 23. 1893, 367, § 23. 1897, 391.

SECTION 15. He may from time to time prescribe in orders the organization of the Massachusetts volunteer militia, the designation and location of all units, and the numbers, titles, grades and duties of all officers and enlisted men as he deems the interest of the service demands; provided, that the organization shall not conflict with the laws of the United States relating to the organized militia. He shall, subject to the constitution and laws of the commonwealth, direct how such officers and enlisted men shall be appointed to office or to specific duty.

R. L. 16, § 24. 1907, 356, § 1. 1917, 327, § 14. 1903, 481. 1908, 604, §§ 17, 26. G. L. (ed. of 1920) 33, § 18. 1905, 465, § 24. 1915, 289, § 2. 1924, 465.

1 SECTION 16. He may, subject to the laws of the United States, dis-
 2 band any company of the volunteer militia falling below the proper
 3 standard of efficiency.

Commander-in-chief may
 disband inefficient
 company.

P. S. 14, § 32.	R. L. 16, § 33.	1917, 327, § 16
1887, 411, § 31.	1905, 465, § 36.	G. L. (ed. of 1920) 33, § 20.
1893, 367, § 31.	1908, 604, § 33.	1924, 465.

1 SECTION 17. He may order out any part of the volunteer militia for
 2 escort and other duties.

May order out
 militia for
 escort duty,
 etc.

P. S. 14, § 117.	R. L. 16, § 137.	1917, 327, § 17
1887, 411, § 114.	1905, 465, § 143.	G. L. (ed. of 1920) 33, § 21.
1893, 367, § 114.	1908, 604, § 100.	1924, 465.

1 SECTION 18. The governor, under such regulations as he may pre-
 2 scribe, with the consent of the council, may exclude traffic from highways
 3 during target practice or maneuvers of the Massachusetts volunteer
 4 militia, whenever he deems that public convenience or safety so requires.

Exclusion of
 traffic from
 highways, etc.
 1912, 137.
 1917, 327, § 18.
 G. L. (ed. of
 1920) 33, § 22.

1924, 465.

1 SECTION 19. The commander-in-chief may make regulations for the
 2 government of the militia in accordance with law, and may publish them
 3 with a sufficient index. He shall cause copies of this chapter, with such
 4 amendments as may be made from time to time, to be published for the
 5 information and use of the volunteer militia, with a sufficient index for
 6 every such publication, and copies sufficient for the proper supply of the
 7 several commands of the volunteer militia shall be printed and issued
 8 by the adjutant general.

May make
 regulations,
 publish militia
 law, etc.
 P. S. 14, § 151.
 1887, 411,
 § 149.
 1893, 367,
 § 149.
 R. L. 16, § 171.
 1905, 465,
 § 177.

1906, 504, § 14.	1917, 327, § 19.	1924, 465.
1908, 604, § 193.	G. L. (ed. of 1920) 33, § 23.	

1 SECTION 20. The governor, with the advice and consent of the council,
 2 may transfer any or all organizations, departments or staff corps of the
 3 Massachusetts volunteer militia to such United States volunteer military
 4 or naval force, other than the regular army or navy, as the congress of
 5 the United States may at any time authorize, and commission or enlist-
 6 ment in such United States force shall entitle officers and men to an
 7 honorable discharge from the Massachusetts volunteer militia; but no
 8 organization shall be transferred by the governor to such United States
 9 force if a majority of the officers and enlisted men of the organization
 10 shall by vote reject such proposed transfer within thirty days after notice
 11 to the commanding officer thereof by the governor of his proposal to so
 12 transfer. This section shall not affect the right of any officer to be retired
 13 under the provisions of this chapter. Any officer or enlisted man of any
 14 organization that has been transferred to such United States force, not
 15 electing to enter the said force, shall be entitled to receive an honorable
 16 discharge from the Massachusetts volunteer militia, if such discharge
 17 would not contravene any law of the United States.

Transfer of
 organizations,
 etc.
 1916, 127, § 1.
 1917, 327, § 20.
 G. L. (ed. of
 1920) 33, § 24.
 1924, 465.

1 SECTION 21. The governor, with the advice and consent of the council,
 2 may lease to, or permit to be used by, any United States volunteer
 3 military or naval force, authorized by the congress of the United States,
 4 military or naval property belonging to the commonwealth, upon such
 5 terms and conditions as will fully protect the commonwealth against
 6 expense.

Lease, etc., of
 property to
 United States,
 etc.
 1916, 127, § 2.
 1917, 327, § 21.
 G. L. (ed. of
 1920) 33, § 25.
 1924, 465.

Commander-in-chief's staff, appointment, composition, etc.
 Military council and naval militia bureau.
 Const. amend. 4, 53.
 (Const. Rev. arts. 124, 148.)
 1879, 96.
 P. S. 14, §§ 11, 35.
 1884, 230, § 6.
 1887, 411.
 §§ 11, 34.
 1892, 218.
 1893, 367, §§ 11, 34.
 1895, 465, § 1.
 1897, 448, §§ 1, 2.
 1898, 359, §§ 1-4, 6.
 1900, 352, 353.
 R. L. 16, §§ 12, 30.
 1905, 465, §§ 12, 30.
 1907, 526, § 1.
 1908, 604, §§ 12, 42.
 1910, 299.
 1912, 268;
 720, § 1.
 1914, 360.
 1916, 284, § 5.
 1917, 527, § 22.
 §§ 1-4, 6.
 1919, 18.
 G. L. (ed. of 1920) 33, § 26.
 1924, 465.
 1927, 19.
 1931, 262.

Adjutant general and department of naval militia. Powers and duties.
 1879, 117, § 2.
 P. S. 14, § 12.
 1887, 411, § 12.
 1893, 367, § 12.
 R. L. 16, § 13.
 1905, 465, § 13.
 1908, 604, § 13.
 1916, 284, § 1.
 1917, 527, § 23.
 G. L. (ed. of 1920) 33, § 27.
 1924, 465.
 216 Mass. 605.

SECTION 22. The staff of the commander-in-chief shall be appointed by him and shall consist of:

One adjutant general with the grade of brigadier general;
 Three aides de camp, one with the rank of lieutenant colonel and two with the rank of major;

Eight aides de camp, to be detailed annually from the commissioned officers of the Massachusetts volunteer militia, but not to be relieved from duty with their organizations while serving in that capacity.

In case of war, actual or threatened, the commander-in-chief may appoint such additional staff officers as the service may require, with such grade, not higher than that of colonel, as he may designate, and he may delegate to or confer on such staff officers such authority and duties as he deems proper.

The staff officers aforesaid, excepting the detailed aides de camp, shall be commissioned and hold office until their successors are qualified, but they may be removed at any time by the commander-in-chief.

No person shall be eligible to appointment on said staff unless he has served at least six years in the volunteer militia of the commonwealth, at least two years of which shall have been as a commissioned officer, or has had equivalent active service in the army or navy of the United States, or in the organized militia of other states.

During the absence or disability of the chief of any staff corps or department, or when he is called into the service of the United States, the commander-in-chief may in orders designate some officer to perform his duties.

The commander-in-chief may detail from the officers of the land forces a military council which, subject to his authority, shall determine the policies of the land forces; and he may appoint or detail from the officers of the naval forces a naval militia bureau in the department of naval militia which, subject to his authority, shall determine the policies of the naval forces.

The adjutant general shall be, ex officio, a member of the military council, and of the naval militia bureau in the department of naval militia.

SECTION 23. The adjutant general shall be charged with carrying out the policies of the commander-in-chief and the military council as to the land forces, and shall issue orders in the name of the commander-in-chief. The department of naval militia shall be charged with carrying out the policies of the commander-in-chief as to the naval forces, and shall issue orders under the authority of the commander-in-chief. Except in those cases where by law or regulations specific powers are conferred on the adjutant general as such, he shall have no authority independently of the commander-in-chief, from whom his orders shall be considered as emanating, and the acts of the adjutant general and the department of naval militia shall be regarded as in execution of the orders of the commander-in-chief.

All orders and instructions, and all regulations for the government of the militia and of the officers and enlisted men therein, shall be issued by and communicated to the commands and individuals in the military service through the adjutant general and the department of naval militia.

The adjutant general shall make such returns and reports as may be prescribed by the commander-in-chief or required by the laws or regulations of the commonwealth or of the United States.

1 SECTION 24. The adjutant general shall receive a salary of forty-one
 2 hundred dollars. He may detail such officers of appropriate rank and may
 3 employ such clerks and other assistants as may be necessary in his depart-
 4 ment at an expense not exceeding the amount annually appropriated
 5 therefor.

Adjutant
 general, salary.
 Assistants,
 1879, 117,
 § 3; 197.
 P. S. 14, § 13.
 1886, 237.

1887, 411, § 13.	1905, 465, § 14.	1919, 280, § 1.
1893, 193; 231; 367, § 13.	1908, 604, § 14.	1920, 364, § 1.
1895, 465, § 2.	1910, 348, § 1.	G. L. (ed. of 1920) 33, § 28.
R. L. 16, § 14.	1912, 593.	1921, 359, § 1.
1902, 536.	1915, 749.	1924, 465.
1904, 439.	1917, 92; 327, § 24.	

AID TO CIVIL POWER.

1 SECTION 25. The commander-in-chief shall call out the volunteer
 2 militia to repel an invasion or to suppress an insurrection made or
 3 threatened. If such invasion, insurrection or imminent danger thereof is
 4 so sudden that the commander-in-chief cannot be informed and his orders
 5 seasonably received and executed, a brigade commander in that part of
 6 the commonwealth may order out his brigade, or any part thereof.

Call of
 militia in case
 of invasion or
 insurrection.
 P. S. 14,
 §§ 21, 100.
 1887, 411,
 § 21, 98.
 1893, 367,
 § 21, 98.

R. L. 16, §§ 22, 120.	1917, 327, § 25.	1924, 465.
1905, 465, §§ 22, 124.	G. L. (ed. of 1920) 33, § 29.	S. Mass. 547.
1908, 604, §§ 15, 141.		

1 SECTION 26. In case of a tumult, riot, mob or a body of persons acting
 2 together by force to violate or resist the laws of the commonwealth, or
 3 when such tumult, riot or mob is threatened, or in case of public catas-
 4 trophe or when the usual police provisions are inadequate to preserve
 5 order and afford protection to persons and property, and the fact appears
 6 to the commander-in-chief, to the sheriff of a county, to the mayor of a
 7 city or to the selectmen of a town, the commander-in-chief may issue his
 8 order, or such sheriff, mayor or selectmen may issue a precept, directed to
 9 any commander of a brigade, regiment, naval brigade or battalion,
 10 battalion, squadron, corps of cadets or company, within the jurisdiction
 11 of the officer issuing such order or precept, directing him to order his
 12 command, or any part thereof, to appear at a time and place therein
 13 specified to aid the civil authority in suppressing such violations and
 14 supporting the laws; which precept shall be in substance as follows:

Call of militia
 in case of
 tumult, riot,
 etc. Form
 of precept.
 P. S. 14, § 101.
 1887, 411, § 93.
 1893, 367, § 99.
 R. L. 16, § 121.
 1905, 465,
 § 125.
 1908, 604,
 § 142.
 1915, 289, § 6.
 1917, 327, § 26.
 G. L. (ed. of
 1920) 33, § 30.
 1921, 276.
 1924, 465.

COMMONWEALTH OF MASSACHUSETTS.

To (insert the officer's title) A. B., *commanding* (insert his command).

Whereas, It appears to (the sheriff, mayor or the selectmen) of the (county, city or town) of _____, that (here state one or more of the causes above mentioned) in our _____ of _____, and that military force is necessary to aid the civil authority in suppressing the same: Now, therefore, we command you that you cause (the command or such part thereof as may be desired), armed and equipped with ammunition and with proper officers, to parade at _____, on _____ then and there to obey such orders as may be given according to law. Hereof fail not at your peril, and have you there this precept with your doings returned thereon.

15 This precept shall be signed by the sheriff, mayor or selectmen, and
 16 may be varied to suit the circumstances of the case; and a copy of the
 17 same shall immediately be forwarded by the sheriff, mayor or selectmen
 18 to the commander-in-chief.

1 SECTION 27. The officer to whom the order of the commander-in-chief
 2 or brigade commander, or a precept as aforesaid, is directed shall forth-

Duty of com-
 mander of unit.
 P. S. 14, § 102.

1887, 411, § 100.
1893, 367, § 100.
R. L. 16, § 122.
1905, 465, § 126.

with order the troops therein called for to parade at the time and place appointed, and shall immediately notify the commander-in-chief of his order, in the most expeditious manner, and also by letter through the usual military channels.

1908, 604, § 143. 1917, 327, § 27. G. L. (ed. of 1920) 33, § 31. 1924, 465.

Penalty for disobedience. P. S. 14, § 103.
1887, 411, § 101.

SECTION 28. If an officer neglects or refuses to obey such order or precept, or if any officer or soldier fails to obey an order issued in pursuance thereof, he shall be punished as a court-martial may direct.

1893, 367, § 101. 1908, 604, § 144. G. L. (ed. of 1920) 33, § 32.
R. L. 16, § 123. 1917, 327, § 28. 1924, 465.
1905, 465, § 127.

Troops to appear armed, etc. P. S. 14, § 104.
1887, 411, § 102.
1893, 367, § 102.
R. L. 16, § 124.
1905, 465, § 128.
1908, 604, § 145.

SECTION 29. Such troops shall appear at the time and place appointed, armed, equipped, and with ball ammunition, and shall obey and execute such orders as they have received, or such additional orders as they may then and there or thereafter receive from the commander-in-chief, or from an officer or magistrate acting under section twenty-five or twenty-six.

1917, 327, § 29. G. L. (ed. of 1920) 33, § 33. 1924, 465.

Additional orders to be in writing when practicable, etc. § 129.
1908, 604, § 146.
1917, 327, § 30.
G. L. (ed. of 1920) 33, § 34.
1924, 465.

SECTION 30. Whenever practicable all orders issued under the preceding section shall, at the request of the officers to whom addressed, be in writing and signed by the officers or magistrates issuing the same. Such orders shall set forth the purpose to be accomplished by the military officer to whom addressed, but shall not prescribe the military measures to be used or the orders to be issued by said officer, who shall use such measures and issue such orders as he deems necessary to accomplish the purpose indicated.

No liability for acts under orders. 1905, 465, § 130.
1908, 604, § 147.
1917, 327, § 31.
G. L. (ed. of 1920) 33, § 35.
1924, 465.

SECTION 31. No officer or soldier shall be liable, either civilly or criminally, for any injury to persons or property caused by him or by his order, while serving under section twenty-five or twenty-six and acting in obedience to and in execution of any orders received from the persons, and in the manner, prescribed by this chapter, unless the act or order causing such injury was manifestly beyond the scope of the authority of such officer or soldier.

Expense of service at call of sheriff, mayor, etc., how collected. 1923, 459, § 10 [G. L. 33, § 35A].
1924, 465.

SECTION 32. Upon the termination of any service of the land or naval forces at the call of the sheriff of a county, the mayor of a city or the selectmen of a town, under the seven preceding sections, the adjutant general shall certify to the state treasurer the expense of said service, and the state treasurer shall thereupon assess said expense upon any such city or town as an addition to its share of the state tax next to be assessed, or shall collect said expense from the treasurer of any such county, as the case may be.

Additional force to be taken from unorganized militia, when. P. S. 14, § 107.
1887, 411, § 105.

SECTION 33. When the entire organized militia has been called out under section twenty-five or twenty-six and a further force is required, it shall be taken from the unorganized militia, as provided in section eight.

1893, 367, § 105. 1908, 604, § 150. G. L. (ed. of 1920) 33, § 37.
R. L. 16, § 127. 1917, 327, § 33. 1924, 465.
1905, 465, § 133.

1 SECTION 34. No officer or soldier of the volunteer militia, not on
 2 leave of absence or furlough, shall be excused from duty when called or
 3 ordered out under section twenty-five or twenty-six, except upon a
 4 physician's certificate of disability. If an officer or soldier is absent
 5 without leave and does not produce such certificate to his commanding
 6 officer, he shall be tried by court-martial for desertion, or absence with-
 7 out leave. Sickness shall not be an excuse unless he procures a certificate
 8 or satisfies the court-martial that he was unable to procure the same.

Excuse from
 duty, and
 punishment
 for absence
 without leave
 P. S. 14, § 129
 1887, 411,
 § 126.
 1893, 367,
 § 126.
 R. L. 16, § 119
 1905, 465,
 § 145.
 1908, 604,
 § 172.

1917, 327, § 34.
 G. L. (ed. of 1920) 33, § 38.

1924, 465.
 9 Mass. 322.

11 Mass. 456.
 7 Pick. 251.

ARMORIES AND ARMORY COMMISSIONERS.

1 SECTION 35. The aldermen or the selectmen shall provide for each
 2 command of the volunteer militia, or detachment thereof, not provided
 3 with an armory of the first class, and permanently stationed within the
 4 limits of their respective towns, an armory, including a suitable hall for
 5 the purpose of drill, and suitable rooms annexed thereto for the meetings
 6 of the command, for administrative work, and for the safe keeping of
 7 military property; and shall also provide for each headquarters perma-
 8 nently located within their said limits, suitable rooms for administrative
 9 work, for the assembling of officers for instruction, and for the safe
 10 keeping of military property; and they shall provide for every such
 11 armory and headquarters the necessary fuel, lights, water, telephone
 12 service, janitor service and necessary repairs, or shall make a reasonable
 13 allowance therefor. Any town failing to comply with this section shall
 14 forfeit to the commonwealth a sum not exceeding five thousand dollars
 15 for each year during which such failure continues, to be recovered upon
 16 an information in equity brought in the supreme judicial court by the
 17 attorney general at the relation of the adjutant general. Any amount
 18 so forfeited shall be credited to the armory appropriation for the fiscal
 19 year in which the forfeiture occurs.

Certain cities
 and towns to
 provide ar-
 mories and
 headquarters.
 P. S. 14, § 92.
 1887, 411, § 90.
 1893, 367, § 90.
 R. L. 16, § 105.
 1905, 465,
 § 110.
 1906, 504, § 9.
 1907, 526, § 2.
 1908, 604,
 § 127.
 1917, 327, § 35.
 1918, 257, § 79.
 1919, 5.
 1920, 2.
 G. L. (ed. of
 1920) 33, § 39,
 1924, 465.

1 SECTION 36. Where two or more commands of the volunteer militia
 2 are permanently stationed in the same town, the aldermen or the select-
 3 men may, if practicable, provide for such commands a suitable hall for
 4 drill, to be used by them in common; provided, that in every other
 5 respect the preceding section is complied with. When practicable, the
 6 rooms provided for a headquarters shall be in an armory provided
 7 for its command, or for any of the units thereof.

Location of
 armories and
 headquarters
 in certain
 cases.
 P. S. 14,
 §§ 93, 95.
 1887, 411,
 § 91, 93.
 1893, 367,
 § 91, 93.

R. L. 16, §§ 113, 115.
 1905, 465, §§ 117, 119.
 1906, 504, § 9.

1907, 526, § 3.
 1908, 604, § 128.
 1917, 327, § 36.

G. L. (ed. of 1920) 33, § 40.
 1924, 465.

1 SECTION 37. The aldermen or the selectmen shall provide and main-
 2 tain for each command of the volunteer militia or detachment thereof
 3 permanently stationed within the limits of their respective towns suitable
 4 grounds for parade, drill and small arms practice, unless such grounds
 5 have been furnished for such command by the commonwealth. Any
 6 town failing to comply with this provision shall forfeit to the common-
 7 wealth a sum not exceeding five thousand dollars for each year during
 8 which such failure continues, to be recovered upon an information in
 9 equity brought in the supreme judicial court by the attorney general at
 10 the relation of the adjutant general. Any amount so forfeited shall be
 11 credited to the appropriation for small arms practice for the fiscal year in
 12 which the forfeiture occurs. When two or more commands of the volun-

Parade
 grounds, etc.
 Authority to
 raise money
 for such pur-
 poses.
 P. S. 14,
 §§ 92, 94,
 1887, 411,
 § 90, 92,
 1893, 367,
 § 90, 92.
 R. L. 16,
 §§ 105, 114.
 1905, 465,
 § 110, 118.
 1906, 504, § 9.
 1907, 526,
 § 2-4.
 1908, 256;
 604, § 130
 1917, 327, § 38.

1918, 257,
§ 40, 285.
1919, 5.
1920, 2.
G. L. (ed. of
1920) 33, § 42.
1924, 465.
1 Op. A. G. 63.

teer militia are permanently stationed in the same town, the aldermen 13
or the selectmen may, if practicable, provide for such commands suitable 14
grounds for parade, drill and small arms practice, to be used by them in 15
common. Land for drill and parade grounds and for ranges for small 16
arms practice may be acquired by purchase or lease, or under chapter 17
seventy-nine. Towns where headquarters, commands or detachments 18
of the volunteer militia are permanently stationed may raise money by 19
taxation or otherwise for the acquisition of land for drill and parade 20
grounds or ranges for small arms practice or for complying with sections 21
thirty-five and thirty-eight. 22

Allowances to
cities and
towns for
armories, etc.
P. S. 14.
§§ 96, 98, 99.
1885, 147.
1887, 411.
§§ 94, 96, 97.
1893, 307.
§§ 94, 96, 97.

SECTION 38. For each armory maintained by a town there shall 1
annually be allowed and paid by the commonwealth, in full for rental and 2
for all other charges of maintenance for such an armory, such sum or 3
sums as the state quartermaster shall determine, subject to the approval 4
of the adjutant general. The amount allowed to a corps of cadets shall 5
be determined by the commander-in-chief. 6

1895, 465, § 5.	1906, 504, § 9.	G. L. (ed. of 1920) 33, § 43.
R. L. 16, §§ 116, 118, 119.	1907, 526, § 5.	1924, 465.
1903, 457.	1908, 604, § 131.	1 Op. A. G. 508.
1905, 465, §§ 120, 122, 123.	1917, 327, § 39.	

Armory commis-
sioners.
General duties.
1907, 526, § 6.
1908, 604,
§ 132.
1917, 327, § 40.
G. L. (ed. of
1920) 33, § 44.
1924, 465.

SECTION 39. The armory commissioners provided for in section 1
eighteen of chapter six shall have full supervision and control of the con- 2
struction of all armories erected by the commonwealth, and on comple- 3
tion and acceptance of any such armory the care and maintenance 4
thereof, as well as the care and maintenance of all armories belonging to 5
the commonwealth, shall devolve upon the state quartermaster. 6

Construction,
etc., of
armories, etc.
1888, 384,
§§ 2, 5.
1894, 224.
R. L. 16,
§§ 107, 108.
1904, 371.
1905, 391,
465, §§ 112,
113.
1906, 504, § 9.
1907, 526, § 7.
1908, 604,
§ 133.
1909, 323.
1912, 665.
1917, 327, § 41.
G. L. (ed. of
1920) 33, § 45.
1924, 465.
193 Mass. 406.

SECTION 40. The armory commissioners shall rebuild, remodel or 1
repair armories of the first class injured or destroyed by fire, and may 2
reconstruct, remodel, enlarge or otherwise improve existing state armor- 3
ies, if they deem the needs of the service so require, and shall construct 4
additional armories until the volunteer militia shall be provided with 5
adequate quarters. They shall designate the location of armories so to be 6
constructed and shall thereupon, on behalf of the commonwealth, take 7
under chapter seventy-nine or acquire by purchase or otherwise, suitable 8
lots of land in the respective towns designated, and shall erect, furnish 9
and equip thereon armories sufficient for one or more companies of 10
militia, and for such other commands or headquarters thereof perman- 11
ently stationed in any such town as they deem necessary; but no land 12
shall be acquired and no buildings erected, reconstructed, remodeled or 13
enlarged until the site and plans thereof, respectively, and the total 14
amount to be authorized therefor, have been approved by the governor 15
and council. 16

Taking of
land for drill
grounds, etc.
ranges, etc.
1913, 812, § 1.
1917, 327, § 41.
G. L. (ed. of
1920) 33, § 45.
1924, 465.
1931, 426, § 63.

SECTION 41. The armory commissioners, on behalf of the common- 1
wealth, may, with the approval of the governor and council, take under 2
chapter seventy-nine, or purchase or lease land suitable for parade and 3
drill grounds or for ranges for target practice until the volunteer militia 4
is adequately provided with parade and drill grounds and ranges for 5
target practice, and upon land so acquired may, with the approval of the 6
governor and council, erect such building or buildings as may be needed 7
for the use of the militia. 8

If land is acquired by purchase, under this or the preceding section, the 9
purchase price shall be paid by the commonwealth upon the execution of 10

11 such a release or conveyance as shall be prescribed by the attorney
12 general.

1 SECTION 42. The armory commissioners may, by agreement with the
2 aldermen of any city or the selectmen of any town owning an armory,
3 determine the value of the land and buildings, and on approval of such
4 agreement by the governor and council may purchase said armory in
5 behalf of the commonwealth, and thereupon title to the land and build-
6 ings so purchased shall vest in the commonwealth.

Purchase of
certain ar-
mories, drill
grounds, etc.
1907, 526, § 8.
1908, 604,
§ 134.
1913, 812, § 2.
1917, 327, § 42.
G. L. (ed. of
1920) 33, § 46.
1924, 465.

7 The armory commissioners may, by agreement with the owners of the
8 armory of the first corps of cadets in Boston and of the armory of the
9 Lawrence Light Guard in Medford, determine the value of the land and
10 buildings, and on approval of such agreement by the governor and
11 council may purchase in behalf of the commonwealth either or both of
12 said armories.

13 The armory commissioners may, by agreement with the aldermen of
14 any city or the selectmen of any town holding title to a drill and parade
15 ground or a target range, determine the value of such drill and parade
16 ground or target range and on approval of such agreement by the governor
17 and council may purchase such drill and parade ground or target range
18 in behalf of the commonwealth, and thereupon title to the land and
19 buildings so purchased shall vest in the commonwealth.

1 SECTION 43. To meet the expenses incurred under the three preceding
2 sections the armory commissioners may expend such amounts as are
3 annually appropriated therefor by the general court, together with such
4 armory loan funds as may from time to time be authorized specifically
5 by the general court.

Expenditures
under three pre-
ceding sections.
1888, 384, § 6.
1894, 211, § 2.
R. L. 16, § 109
1904, 371.

1905, 465, § 114. 1908, 604, § 135. G. L. (ed. of 1920) 33, § 47.
1906, 504, § 9. 1917, 327, § 43. 1924, 465.
1907, 526, § 9. 1918, 221.

1 SECTION 44. Armories built or purchased by the armory commis-
2 sioners under former or existing laws shall be designated and known as
3 armories of the first class.

Armories of
the first class.
1906, 504, § 9.
1907, 526, § 10.

1908, 604, § 136. G. L. (ed. of 1920) 33, § 48
1917, 327, § 44. 1924, 465.

1 SECTION 45. (a) When any armory or any parade and drill ground or
2 range for target practice is furnished by the commonwealth in any town,
3 the adjutant general shall notify the town where such armory, parade and
4 drill ground, or range for target practice lies, and thereupon all obligations
5 of said town as to said armory, or parade and drill ground or range for
6 target practice, under sections thirty-five, thirty-six and thirty-seven,
7 and all allowances and payments by the commonwealth for rent, shall
8 cease, as to the organizations quartered in said armory, or using said
9 parade and drill ground or said range for target practice.

Cities and
towns to be
relieved of
certain
obligations.
Armories to be
under control
of commander-
in-chief, etc.
1884, 384, § 8.
R. L. 16, § 111.
1904, 371.
1905, 465,
§ 114.
1906, 504, § 9.
1907, 526, § 11.
1908, 604,
§ 137.
1913, 812, § 3.
1917, 327, § 45.
G. L. (ed. of
1920) 33, § 49.
1924, 465.

10 (b) All armories taken, purchased or erected under this chapter shall
11 be under the control of the commander-in-chief, and shall be cared for and
12 maintained by the commonwealth, and the necessary expenditures for
13 care and maintenance shall be made subject to the approval of the state
14 quartermaster.

1 SECTION 46. The aldermen of a city, or the selectmen of a town,
2 providing an armory or armories, or headquarters, for use of the volun-
3 teer militia, shall annually on or before February first make returns

Annual re-
turns relative
to armories,
etc.
P. S. 14,
§§ 98, 99.

1885, 147.
1887, 411,
§ 96, 97.
1893, 367,
§ 96, 97.
1897, 253.
R. L. 16,
§ 117-119.
1903, 457.
1905, 465,
§ 121-123.
1906, 504, § 9.
1907, 526, § 12.
1908, 604,
§ 138.
1917, 327, § 46.
G. L. (ed. of
1920) 33, § 50.
1924, 465.

thereof to the state quartermaster on blank forms provided by him. 4
All statements contained therein shall be sworn to by at least two mem- 5
bers of the board of aldermen or by two of the selectmen. All such 6
returns shall give the designation and location of each armory or head- 7
quarters, the name of each command or headquarters therein quartered, 8
the rental paid or charged therefor, and when required by the state 9
quartermaster under the classification of such armories or headquarters, 10
the expense incurred in heating, lighting and repairing the same, in 11
furnishing water, telephones and janitor service, as well as the aggregate 12
cost of the land and building. The state quartermaster shall examine 13
each return so made and allow or disallow, in whole or in part, the 14
sums so returned, his decision being subject to review and amendment 15
by the commander-in-chief. He shall annually, not later than March 16
first, file with the state comptroller his certificate, stating the sum 17
allowed for each armory, the name of the command or headquarters 18
occupying it, and the town making the return, and thereupon he shall 19
notify the mayor or the selectmen of the sum allowed, which shall be 20
paid to such town; but no return received by the state quartermaster 21
after February first shall be allowed. 22

Commanding
officer to have
control of
armory, etc.
P. S. 14, § 97.
1887, 411, § 95.
1893, 367, § 95.
R. L. 16, § 117.
1905, 465,
§ 121.
1906, 504, § 9.
1907, 526, § 13.
1908, 604,
§ 139.
1917, 327, § 47.
G. L. (ed. of
1920) 33, § 51.
1924, 465.

SECTION 47. Every officer whose command occupies, or assembles or 1
drills in any armory, drill hall or building used according to law for that 2
purpose shall have control of such premises during the period of occupa- 3
tion, subject to orders of his superior officers, and any person intrud- 4
ing contrary to his orders or to the orders of his superior officers, or who 5
interrupts, molests, obstructs or insults the troops or any of them so 6
occupying such premises, may be ejected, forcibly, if necessary, or may 7
be dealt with as provided in sections fifty-six and fifty-seven for like 8
offences, at the discretion of such officer or of his superior officers; but 9
in armories not of the first class reasonable inspection of the premises 10
may be made by the aldermen or by the selectmen, or by the owners of 11
the premises if such inspection is under the terms of the lease. 12

Use of
armories
regulated
P. S. 14, § 96.
1887, 411, § 91.
1893, 367, § 94.
1895, 465, § 5.
R. L. 16, § 116.
1905, 298;
465, § 120.
1906, 469, § 1;
504, § 9.
1907, 526, § 14.
1908, 604,
§ 140.
1914, 752.
1915, 31.
1917, 327, § 48.
1919, 61; 312;
350, § 63.
G. L. (ed. of
1920) 33,
§ 52 (a)
1922, 344.

SECTION 48. (a) Armories provided for the militia shall be used by 1
the militia for the military purposes or purposes incidental thereto 2
designated by the commander-in-chief. Military units stationed in an 3
armory may, at any time when it is not in use for military purposes, 4
use such armory without charge for social activities, or athletics, subject 5
only to rules and regulations promulgated by the military custodian of 6
such armory and approved by the governor and council. No non- 7
military use of an armory under this section shall be permitted which 8
interferes with its military use, but such non-military use shall not be 9
deemed to interfere with military use if all unit commanders affected 10
can conveniently and without detriment to the service utilize the armory 11
for the usual military purposes at other than the usual time or in other 12
than the usual manner. 13

1924, 257; 465.

1 Op. A. G. 508.

Approval of
application, etc.
G. L. (ed. of
1920) 33,
§ 52 (b)
1924, 257; 465.

(b) Any armory may be used for the purposes set forth in subsections 14
(e) and (d) in accordance with terms and conditions prescribed by the 15
commander-in-chief, upon application therefor to the adjutant general 16
through the military custodian of the armory. No such application 17
shall be granted unless it is approved by both the adjutant general and 18
the military custodian and contains a certificate from each unit com- 19

20 mander whose drill or other military duty is to be changed or modified
 21 by such use, stating that he approves the application and that such
 22 change or modification will not in any way be detrimental to his unit
 23 or to its training, and further stating in detail the manner in which said
 24 change or modification is to be effected.

25 (c) Subject to the provisions of subsection (b), armories may be used
 26 temporarily for the following public purposes:

Use for public purposes.
 G. L. (ed. of 1920) 33, § 52, 1924, 257, 465.

27 A public meeting or hearing held by a state department or commission.

28 An examination conducted by the division of civil service.

29 A meeting of an organization composed of veterans of the civil, Spanish or world war, or their auxiliaries, a board of trade, a chamber of commerce, or a meeting to raise funds for any non-sectarian charitable or non-sectarian educational purpose.

30 A meeting to raise funds for a benefit association of policemen or firemen.

31 Elections, primaries or caucuses, and town meetings.

32 Meetings of such military organizations of scholars in the public schools of a town as may be approved by the school committee thereof.

33 A meeting or rally of a political or municipal party, as defined by section one of chapter fifty, conducted by the duly constituted local committee of such party; provided, that no party shall be permitted to use the same armory more than twice in the same year.

34 A meeting of any organization of boys under eighteen years of age, or of any student military organization conforming to the regulations and training prescribed by the commander-in-chief, with a view to preparing the members thereof for military or naval service. Upon application to the commander-in-chief and on terms and conditions prescribed by him, such organizations may be permitted to use for parade or drill purposes such grounds owned by the commonwealth as are used by the militia of the town where the organization is located.

35 Compensation for the use of any armory under this subsection shall be fixed by the adjutant general with the approval of the commander-in-chief, and shall not exceed a sum sufficient to cover all expenses of lighting, heating and guarding the armory, and similar expenses. Such compensation shall be paid to the adjutant general who shall pay the same to the commonwealth.

36 (d) Subject to the provisions of subsection (b), an armory may be used for a period of not exceeding three days for any exhibition of the products of labor, agriculture or industry, including any automobile exhibition conducted by a responsible organization, and for the purpose of decorating the premises, for such additional time immediately preceding said period, not exceeding eighteen hours, as may be approved by the adjutant general and the military custodian, and for the purpose of removing decorations, exhibits or equipment, for such additional time immediately following said period, not exceeding eighteen hours, as may so be approved; provided, that the compensation for such uses shall in no case be less than the fair rental value for the entire period during which the armory is occupied by any such exhibit or equipment, of halls of a similar nature in the same or a similar city or town together with a sum sufficient to cover the expense of providing such guards as may be necessary to protect the armory while so used. Subject to the foregoing limitation, such compensation shall be fixed by the adjutant general with the approval of the commander-in-chief and shall be paid as provided in subsection (c).

Use for exhibitions, etc.
 G. L. (ed. of 1920) 33, § 52 (d), 1924, 257; 465, 1925, 230.

Payment for
damage, etc.
Bond
G. L. (ed. of
1920) 33,
§ 52 (c).
1924, 257, 465.

(e) Each organization using an armory under subsection (c) or (d) shall, under rules and regulations prescribed by the commander-in-chief, pay for any damage to or loss of any property or equipment. Said rules and regulations may also require that such organization shall file with the adjutant general a bond in such form and amount and containing such conditions as said rules and regulations may prescribe.

Operation of
cinematog-
raphs, etc.,
in armories,
etc.
1914, 196.
1917, 327, § 49.
1919, 350, §§ 99,
101, 102.
G. L. (ed. of
1920) 33, § 53.
1924, 465.

SECTION 49. An officer or enlisted man of the volunteer militia licensed under chapter one hundred and forty-three, may, in any armory or other place permanently occupied by the commonwealth for military purposes, operate any cinematograph or similar apparatus owned or controlled by the commonwealth, without obtaining the special license required by section eighty-two of said chapter or, in Boston, that required by chapter two hundred and eighty of the acts of nineteen hundred and thirteen; provided, that all other laws of the commonwealth and the regulations of the state police relative to the use of the cinematograph or similar apparatus are complied with.

GENERAL PROVISIONS.

Penalty for
unauthorized
wearing of
uniforms, etc.
1890, 425, § 8.
1893, 367, § 71.
R. L. 16, § 85.
1905, 465, § 90.
1906, 504, § 7.
1908, 604,
§ 106.
1912, 67.

SECTION 50. Any part of the uniform or insignia of rank prescribed for officers or enlisted men of the volunteer militia shall be worn only by persons entitled thereto by commission or enlistment under the laws of this commonwealth or of the United States or of another state of the United States. Whoever violates a provision of this section shall be punished by a fine of not less than ten nor more than one hundred dollars, on complaint of any officer or enlisted man of the militia.

G. L. (ed. of 1920) 33, § 55.

1924, 465.

Disposition
of certain
returns and
applications.
1916, 279.
G. L. (ed. of
1920) 33, § 56.
1924, 465.

SECTION 51. Returns made to the adjutant general by town clerks under section six, and applications for the use of armories made under section forty-eight, may, after the lapse of one year from the date of their receipt, be destroyed or disposed of by order of their lawful custodian, and any proceeds received in the course of their disposal shall be paid to the commonwealth.

Street railways,
etc., may
transport
military
supplies.
1909, 118.
1917, 327, § 52.
1919, 350, § 117.
G. L. (ed. of
1920) 33, § 57.

SECTION 52. Street railway, electric railroad and elevated railway companies may transport military supplies and equipment over their respective lines, and from and to any point thereon, subject only to the supervision of the department of public utilities and to such regulations as it may impose.

1924, 465.

Military bands
may be excused
from camp and
substitute duty
ordered.
1912, 117.
1917, 327, § 53.
G. L. (ed. of
1920) 33, § 58.
1924, 465.

SECTION 53. Commanding officers of organizations which are allowed military bands may, so far as is consistent with the laws of the United States for the government of the national guard, with the approval of the commander-in-chief, excuse the members of such bands from performing the annual tours of camp duty with their organizations, or any part of such tours, and at any time thereafter may, with the approval of the commander-in-chief, order such bands to perform duty from time to time not in excess of the number of days for which they were excused from camp duty, and the members of the bands shall be paid for such duty at the same rate and with the same allowance which they would have received had they performed such duty at camp.

1 SECTION 54. (a) No parade or voluntary service shall be performed
 2 by any company under arms or with state uniform without the approval
 3 of the regimental, separate battalion, naval battalion or squadron com-
 4 mander or such other organization commander as may be authorized by
 5 the commander-in-chief or, if unattached, of its next superior commander.
 6 (b) Any officer or enlisted man may temporarily be detailed or assigned
 7 to duty with commands other than his own, or he may be detailed for any
 8 special duty by competent authority.

1905, 465, § 146.
 1908, 604, § 163.

1916, 284, § 2.
 1917, 327, § 54.

G. L. (ed. of 1920) 33, § 59.
 1924, 465.

No parade,
 etc., without
 approval.
 Details for
 temporary or
 special duty
 P. S. 14, § 120.
 1887, 411,
 § 117.
 1893, 367,
 § 117.
 R. L. 16, § 140.

1 SECTION 55. A judge advocate may be detailed by the commander-
 2 in-chief to attend any encampment, and during the encampment shall,
 3 within the limits of the camp and for a distance of one mile from the
 4 guard line, have the jurisdiction of a district court of all offences then and
 5 there committed.

1893, 367, § 110.
 R. L. 16, § 132.
 1905, 465, § 138.

1908, 604, § 155.
 1917, 327, § 150.

G. L. (ed. of 1920) 33, § 139.
 1924, 465.

Judge
 advocate,
 powers at
 encampment.
 P. S. 14, § 112.
 1887, 411,
 § 110.

1 SECTION 56. Every commanding officer, when on duty, may fix
 2 necessary bounds and limits to his parade or encampment, not including
 3 a road within such bounds in such manner as to prevent traveling thereon,
 4 within which bounds and limits no person shall enter without his leave.
 5 Whoever intrudes within the limits of the parade or encampment, after
 6 being forbidden, may be ejected, forcibly if necessary, or may be confined
 7 under guard during the time of parade or encampment, or during a shorter
 8 time, at the discretion of the commanding officer; and whoever resists a
 9 sentry may be arrested by order of the commanding officer and dealt with
 10 as provided in the following section.

1917, 327, § 55.

G. L. (ed. of 1920) 33, § 60.

1924, 465.

Bounds of
 parades or
 encampments,
 and punish-
 ment for
 intrusion, etc.
 P. S. 14, § 121.
 1887, 411,
 § 118.
 1893, 367,
 § 118.
 R. L. 16, § 141.
 1905, 465,
 § 147.
 1908, 604,
 § 164.

1 SECTION 57. Whoever interrupts, molests or insults, by abusive
 2 words or behavior, or obstructs any officer or soldier while on duty or at
 3 any parade, drill or meeting for military improvement, may immediately
 4 be put under guard and kept at the discretion of the commanding officer
 5 until the duty, drill, parade or meeting is concluded; and may be de-
 6 livered into the custody of any police officer or constable of the town
 7 where such duty, parade, drill or meeting is held, who shall detain him in
 8 custody for examination or trial before a court having jurisdiction of the
 9 place; and any person found guilty of any of the offences enumerated
 10 in this section, or in sections forty-seven and fifty-six or of obstructing or
 11 interfering with United States forces or troops or any part of the militia
 12 in the exercise or enjoyment of the right of way granted by the following
 13 section, shall be punished by a fine of not more than one hundred dollars
 14 or by imprisonment for not more than six months.

Penalty for
 molesting or
 insulting
 troops on duty.
 P. S. 14, § 122.
 1887, 411,
 § 119.
 1889, 360, § 3.
 1893, 367,
 § 119.
 R. L. 16, § 142.
 1905, 465,
 § 148.
 1908, 604,
 § 165.
 1917, 327, § 56.
 G. L. (ed. of
 1920) 33, § 61.
 1924, 465.

1 SECTION 58. United States forces or troops, and any part of the
 2 militia parading, or performing any duty, according to law, shall have
 3 the right of way in any street or highway through which they may pass;
 4 provided, that the carriage of the United States mails, the legitimate
 5 functions of the police, and the progress and operation of fire engines and
 6 fire departments shall not be interfered with thereby.

1905, 465, § 149.
 1908, 604, § 166.

1917, 327, § 57.
 G. L. (ed. of 1920) 33, § 62.

1924, 465.

Troops to have
 right of way,
 etc.
 P. S. 14, § 123.
 1887, 411,
 § 120.
 1893, 367,
 § 120.
 R. L. 16, § 143.

1 SECTION 59. Except while on duty under section twenty-five or
 2 twenty-six, or in obedience to the commander-in-chief, no officer or

No military
 duty on elec-
 tion day,
 except, etc.

P. S. 14, § 126.	soldier shall be required to perform military duty on a day appointed	3
1887, 411,	for a state election in the town where he resides; and an officer parading	4
§ 123	his command, or ordering it to parade, contrary to this section, shall be	5
1893, 367,	liable to trial by court-martial.	6
§ 123		
R. L. 16, § 146		
1905, 465,		
§ 152.	1908, 604, § 169. 1917, 327, § 58. G. L. (ed. of 1920) 33, § 63. 1924, 465.	

Unauthorized drilling with firearms, etc., forbidden, etc. P. S. 14, § 127. 1882, 179. 1884, 230, § 15. 1887, 411, § 124. 1890, 425, § 10. 1893, 367, § 124. 1895, 465, § 6. 1900, 162. R. L. 16, § 147. 1904, 226. 1905, 465, § 153. 1906, 198. 1907, 232, § 4. 1908, 604, § 170. 1916, 8. 1917, 327, § 59. 1918, 188, § 1. 1920, 131. G. L. (ed. of 1920) 33, § 64. 1923, 101. 1924, 465. 1927, 120. 1930, 72. 1931, 63, § 1. 169 Mass. 171. 1 Chap. A. G. 86, 543, 552.

SECTION 60. No body of men, except the volunteer militia, the troops of the United States and the Ancient and Honorable Artillery Company of Boston, except as provided in the following section, shall maintain an armory, or associate together at any time as a company or organization, for drill or parade with firearms, or so drill or parade; nor shall any town raise or appropriate money toward arming, equipping, uniforming, supporting or providing drill rooms or armories for any such body of men; provided, that associations wholly composed of soldiers honorably discharged from the service of the United States may parade in public with arms, upon the reception of any regiment or company of soldiers returning from said service, and for escort duty at the burial of deceased soldiers, with the written permission of the aldermen of the city or selectmen of the town where they desire to parade; that students in educational institutions where military science is a prescribed part of the course of instruction may, with the consent of the governor, drill and parade with firearms in public, under the superintendence of their teachers; that members of schools for military instruction conducted with the approval of the governor, may drill and parade with firearms in public, under the supervision of their instructors; that foreign troops whose admission to the United States has been consented to by the United States government may, with the consent of the governor, drill and parade with firearms in public; and any body of men may, with the consent of the governor, drill and parade in public with any harmless imitation of firearms approved by the adjutant general; that regularly organized posts of the Grand Army of the Republic, and of The American Legion, and regularly organized camps of the United Spanish War Veterans and regularly organized posts of the Veterans of Foreign Wars of the United States and regularly organized detachments of the Marine Corps League may drill and parade with firearms in public, under the supervision of their duly authorized officers; that the Kearsarge Association of Naval Veterans, Inc., may at any time parade in public their color guards of not more than twelve men armed with firearms, that the Society of Colonial Wars in the Commonwealth of Massachusetts, the Order of the Founders and Patriots of America, the Massachusetts Society of the Sons of the American Revolution, the Society of the Sons of the Revolution in the Commonwealth of Massachusetts, the Society of the War of 1812 in the Commonwealth of Massachusetts, and regularly organized branches of any of said societies may at any time parade in public their uniformed color guards of ten men with firearms; that regularly organized camps of the Sons of Veterans may at any time parade in public their color guards of ten men with firearms; and that any organization heretofore authorized by law may parade with side-arms; and any veteran association composed wholly of past members of the militia of the commonwealth may maintain an armory for the use of the organizations of the militia to which its members belonged; provided, that such drill or parade is not in contravention of the laws of the United States.

1 SECTION 61. The adjutant general, with the approval of the governor,
 2 may prescribe rules and regulations under which any body of citizens of
 3 the commonwealth, organized as an association, club or training school
 4 for the purpose of acquiring military knowledge, discipline and training,
 5 may drill or parade with firearms; provided, that written consent is
 6 first obtained from the adjutant general, and that the body organized
 7 as aforesaid shall adopt such uniform, equipment and insignia of rank
 8 as he shall prescribe. He may authorize the use by any such body of
 9 any state armory for drill or training; provided, that such use shall not
 10 interfere with the occupation and use of the armory by the volunteer
 11 militia. The governor may, at any time, disband any such body. This
 12 section shall be operative only during such time as the United States
 13 may be in a state of actual warfare.

Regulations governing drill and parade with firearms by certain organizations in time of war. 1917, 300. G. L. (ed. of 1920) 33, § 65. 1924, 465.

1 SECTION 62. Whoever violates any provision of the two preceding
 2 sections, or belongs to or parades with any such unauthorized body of
 3 men with firearms, shall be punished by a fine of not more than fifty
 4 dollars or by imprisonment for not more than six months, or both.

Penalty for violation of two preceding sections, etc. P. S. 14, § 128. 1887, 411, § 125.

1893, 367, § 125.
 1895, 465, § 7.
 R. L. 16, § 148

1905, 465, § 154.
 1908, 604, § 171.
 1917, 327, § 60.

G. L. (ed. of 1920) 33, § 66.
 1924, 465.

1 SECTION 63. The commander-in-chief may send a rifle team composed
 2 of members of the Massachusetts volunteer militia to take part in the
 3 annual competitions in rifle shooting for national and other trophies
 4 held in the United States.

Rifle team. 1909, 300. 1917, 327, § 61. G. L. (ed. of 1920) 33, § 67. 1924, 465.

1 SECTION 64. Officers of the army and navy of the United States
 2 detailed by the war or navy department, at the request of the com-
 3 mander-in-chief, to act as instructors, advisers or umpires, or to perform
 4 any other duty in connection with the volunteer militia of the common-
 5 wealth, shall be reimbursed by the commonwealth for all expenses
 6 incurred by them in the performance of the said duties, and authorized
 7 or approved by the adjutant general, in excess of those expenses allowed
 8 and paid by the United States. Payments under this section shall be
 9 made to officers entitled thereto on certificates approved by the adjutant
 10 general, in such form as the commander-in-chief shall prescribe.

Officers of United States army and navy to be reimbursed for expenses, when. 1909, 280. 1917, 327, § 62. G. L. (ed. of 1920) 33, § 68. 1924, 465.

1 SECTION 65. Division, brigade, regimental, battalion, squadron,
 2 company, mess, band or detachment funds shall be maintained and
 3 conducted as the commander-in-chief may prescribe in regulations.
 4 The administration of such a fund by the officer designated in regula-
 5 tions to have the custody thereof shall be one of the duties pertaining to
 6 his office and for the proper performance of which he shall furnish bond
 7 to the commonwealth. Suit on the bond of such officer to recover for
 8 any misappropriation of the fund shall be brought in the name of the
 9 commonwealth for the benefit of the organization affected. Upon the
 10 disbandment of any organization maintaining a fund as above provided,
 11 the adjutant general shall at once become custodian or treasurer thereof,
 12 and shall draw a check for the total amount on deposit in favor of the
 13 state treasurer, who shall hold such funds or shall expend them as the
 14 general court may prescribe.

Division, brigade, etc., funds. 1915, 289, § 7. 1917, 327, § 63. G. L. (ed. of 1920) 33, § 69. 1924, 465.

1 SECTION 66. Members of the volunteer militia shall not be liable for
 2 jury duty, and any citizen who has served for nine years in the volunteer

Exemption from jury duty and from civil arrest.

P. S. 14, §§ 153, 154 1887, 411, § 151. 1893, 367, § 151. R. L. 16, §§ 173, 174, 1905, 465. §§ 179, 181, 1908, 604, §§ 195, 197.	militia, or whose total faithful service in the volunteer militia and in the United States army in time of war equals nine years, shall be exempt from life from jury duty. No officer or soldier shall be arrested on civil process while going to, remaining at or returning from a place where he is ordered to attend for election of officers or for military duty.	1917, 327, §§ 64, 67.	1920, 199.	G. L. (ed. of 1920) 33, § 70.	1924, 465.	3 4 5 6 7
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No loss of pay or vacation to certain state and municipal employees in militia, etc.
1916, 426
1917, 327, § 65.
G. L. (ed. of 1920) 33, § 71.
1924, 465.
1930, 157.

SECTION 67. Any person in the service of the commonwealth, or of a city or town which, by vote of its city council or of its inhabitants at a town meeting, accepts this section, shall be entitled, during the time of his service in the organized militia, under sections seventeen, twenty-five, twenty-six, one hundred and twenty-three and one hundred and eighty-one, or during his annual tour of duty, not exceeding fifteen days, as a member of the organized reserve of the army of the United States or of the United States naval reserve forces, to receive pay therefor, without loss of his ordinary remuneration as an employee or official of the commonwealth, or of such city or town, and shall also be entitled to the same leaves of absence or vacation with pay given to other like employees or officials.

Rolls of militia.
Penalty for false certificate.
P. S. 14, § 160.
1887, 411,
§ 158.
1893, 367,
§ 158.
R. L. 16, § 180.
1902, 493.
1905, 465,
§ 180
1908, 604,
§ 196
1917, 327, § 66.
G. L. (ed. of 1920) 33, § 72.
1923, 413, § 2.
1924, 465
22 Pick. 406
23 Pick. 298

SECTION 68. Rolls of the volunteer militia, showing the names of all general, field, staff and noncommissioned staff officers, and the names of all company officers and enlisted men in the service, shall be made annually on January first. Those for companies shall be prepared by the respective company commanders, and all others by direction of the commanding officers of the several organizations. A sworn copy of such rolls, or of so much thereof as may be necessary, shall be furnished by the commanding officers of companies and of such other organizations annually before January tenth to the registrars of voters in any city except Boston, and in Boston to the election commissioners, and to the selectmen of any town where such companies or organizations or any members thereof are situated, for use in ascertaining exemptions from jury duty. The issue by an officer of the volunteer militia of a false certificate, or the issue of a certificate to any person not entitled to receive it, in order to secure exemption from jury duty, shall be punished in such manner as the commander-in-chief shall direct.

Compensation to members of militia for money during military duty, or for death resulting therefrom.
P. S. 14, § 155.
1887, 411,
§ 153
1893, 367,
§ 153
1905, 465,
§ 182
1906, 504, § 15.
1908, 604,
§ 198
1909, 170.
1914, 380
1917, 327, § 68.
G. L. (ed. of 1920) 33, § 73.
1924, 465.
1927, 291.

SECTION 69. A member of the volunteer militia who shall, when on duty or when assembled therefor under sections seventeen, twenty-five, twenty-six, one hundred and twenty-three, one hundred and thirty-five and one hundred and eighty-one, receive any injury by reason of such duty or assembly, or who shall without fault or neglect on his part be wounded or disabled, or contract any sickness or disease, while performing any such lawfully ordered militia duty, incapacitating him from pursuing his usual business or occupation, shall, during the period of such incapacity, receive compensation to be fixed by a board appointed to inquire into his claim, not exceeding in amount the pay plus ration allowance provided for by this chapter and actual necessary expenses for care and medical attendance. In case of death resulting from such injury, sickness or disease, compensation shall be paid to the decedent's dependents as determined in accordance with the provisions of clause (3) of section one of chapter one hundred and fifty-two and section thirty-two of said chapter, in the amounts provided by, and otherwise subject to, the provisions of section thirty-one of said chapter; provided, that compen-

18 sation to such dependents other than widows and children shall be based
 19 on the pay plus ration allowance hereinbefore mentioned, and that, for
 20 the purposes hereof, said board shall exercise all the powers given by said
 21 provisions of chapter one hundred and fifty-two to the department of
 22 industrial accidents. All claims arising under this section shall be in-
 23 quired into by a board of three officers, at least one of whom shall be a
 24 medical officer, appointed by the commander-in-chief. The board shall
 25 have the same power to take evidence, administer oaths, issue subpoenas
 26 and compel witnesses to attend and testify and produce books and papers,
 27 and to punish their failure to do so, as is possessed by a general court-
 28 martial. The findings of the board shall be subject to the approval of the
 29 commander-in-chief. The amount so found due and so approved shall be
 30 a charge against the commonwealth, and paid in the same manner as other
 31 military accounts.

1 SECTION 70. Whoever wilfully deprives a member of the volun-
 2 teer militia of his employment, or denies him employment, or prevents
 3 his being employed by another, or obstructs or annoys him or his em-
 4 ployer in respect of his trade, business or employment, because of such
 5 member's connection with the volunteer militia or because of his necessary
 6 absence from business in performance of his duty as such, and whoever
 7 dissuades any person from enlisting in the volunteer militia by threat of
 8 injury to him in respect of his employment, trade or business, or of other
 9 injury, if he shall so enlist, shall be punished by a fine of not more than
 10 five hundred dollars, or by imprisonment for not more than six months, or
 11 both.

Interference
with militia,
penalty.
1912, 358.
1917, 327, § 69.
G. L. (ed. of
1920) 33, § 74.
1924, 465.

1 SECTION 71. Each officer regularly assigned to the duty of paying
 2 troops, and the pay officers of the naval militia, shall give bond in the
 3 penal sum of ten thousand dollars, with such surety or sureties as may be
 4 approved by the governor and council, conditioned faithfully to perform
 5 the duties of his office.

Paymasters'
bonds.
P. S. 14, § 158.
1887, 411,
§ 156.
1893, 367,
§ 156.

R. L. 16, § 178.
1905, 463, § 185.
1908, 604, § 201.

1916, 284, § 14.
1917, 327, § 70.

G. L. (ed. of 1920) 33, § 75.
1924, 465.

1 SECTION 72. Any officer of the volunteer militia to whom any public
 2 property is at any time issued may be required to give bond, with such
 3 surety or sureties as may be approved by the governor and council, con-
 4 ditioned faithfully to perform the duties of his office; to properly hold
 5 and administer funds; to use all necessary care in the safe keeping of
 6 military stores and property committed to his custody; and to account
 7 for and deliver to his successor, or to any other person authorized to
 8 receive the same, all such military property or funds.

Bond for
military
property, etc.
P. S. 14, § 159.
1887, 411,
§ 157.
1893, 367,
§ 157.
R. L. 16, § 179.
1905, 463,
§ 185.
1908, 604,
§ 202.

1917, 327, § 71.

G. L. (ed. of 1920) 33, § 75.

1924, 465.

1 SECTION 73. When a member of the volunteer militia having the
 2 custody of property of the commonwealth, or charged with the duty of
 3 receiving or disbursing money, is required to give bond to the common-
 4 wealth for the faithful discharge of his duty, the commonwealth shall
 5 reimburse him for any amount that he may be required to pay to a surety
 6 company for becoming surety on his official bond.

Reimburse-
ment for
premium on
bond.
1908, 469.
1912, 66.
1914, 615.
1917, 327, § 72.
G. L. (ed. of
1920) 33, § 77.

1924, 465.

1 SECTION 74. The adjutant general may arrange for such schedule
 2 bonds as he deems advisable to take the place of bonds required by law

Schedule
bonds.
1913, 268.

1917, 327, § 73. from any officers of the Massachusetts volunteer militia. Any such 3
 G. L. (ed. of 1920) 33, § 78. schedule bond shall be with surety satisfactory to the governor and council, 4
 1924, 465. and conditioned that the officers named in the bond shall faithfully 5
 perform the duties of their offices; and it shall contain such other con- 6
 ditions or provisions as may be required by law. Such bonds shall take 7
 the place of any bond required from any officer named in the schedule 8
 bond. The premium due to any surety company for acting as surety on 9
 any such bond shall be paid by the commonwealth. 10

Certain rights of the Ancient and Honorable Artillery Company not affected. SECTION 75. This chapter shall not affect the right of the Ancient and Honorable Artillery Company to maintain its organization as a military company and its constitution and by-laws in so far as the same are not repugnant to the laws of this commonwealth or of the United States and do not restrain the lawful parade or exercise of the active militia. 1
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 1893, 367, § 161. 1908, 604, § 205. G. L. (ed. of 1920) 33, § 79.
 R. L. 16, § 182. 1917, 327, § 74. 1924, 465.
 1905, 465, § 190.

Penalty on certain civil officers for violation of this chapter. SECTION 76. Civil officers named in this chapter who neglect or refuse to obey its provisions shall, except as otherwise expressly provided, forfeit not less than twenty nor more than five hundred dollars. 1
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 3
 P. S. 14, § 165. R. L. 16, § 185. 1917, 327, § 75.
 1887, 411, § 163. 1905, 465, § 193. G. L. (ed. of 1920) 33, § 80.
 1893, 367, § 163. 1908, 604, § 208. 1924, 465.

Prizes for competitions. Maintenance and repair of aeroplanes. SECTION 77. (a) Money or other suitable prizes may be awarded for shooting, athletic or other competitions in the militia under such regulations as the commander-in-chief shall determine, which prizes shall be paid by the commonwealth. 1
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 1914, 342. 1915, 123. 1917, 327, § 76. G. L. (ed. of 1920) 33, § 81. 1924, 465.

Allowances for military instruction. SECTION 78. There shall annually be allowed and paid by the commonwealth such sums as may annually be appropriated, to be expended under the direction of the adjutant general in furnishing the officers and men of the militia with uniform instruction in military authority, organization and administration and in the elements of military art. Certificates for allowance of expenses incident to such instruction shall be furnished to the adjutant general and upon his approval payment shall be made to the persons certified to be entitled thereto. 1
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 1905, 202. 1908, 517, 604, § 174. 1912, 399. 1913, 654. 1917, 327, § 77. G. L. (ed. of 1920) 33, § 82. 1924, 465.

LAND FORCES.

Organization.

Land forces, how constituted. Reserve officers, exemption from certain examinations. SECTION 79. (a) The land forces shall consist of the national guard, the national guard reserve, the national guard retired list, such other units, officers and enlisted men as the commander-in-chief may prescribe under section fifteen, and any part of the unorganized militia serving with the land forces under sections eight, nine and eleven. 1
 2
 3
 4
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 G. L. (ed. of 1920) 33, § 83 (a). 1924, 465.

National guard. (b) The national guard of Massachusetts shall consist of such regiments, corps or other units as the commander-in-chief may from time to time authorize to be formed, all to be organized in accordance with the 6
 7
 8

9 laws of the United States affecting the national guard and the regulations
10 issued by the secretary of war. 1885, 236.
1886, 63.
§§ 1, 4, 5.

1887, 411, §§ 22, 25-29, 34.	R. L. 16, §§ 23, 26-28, 31.	1911, 326; 633. 1912, 365, § 2; 720, § 2. 1914, 161.
1890, 425, §§ 1, 2.	1905, 465, §§ 23, 26-29, 32, 33.	1915, 289, § 1. 1916, 1, § 2.
1891, 232, § 4.	1906, 273.	1917, 327, § 78 (b). G. L. (ed. of 1920) 33, § 83 (b). 1924, 465.
1893, 367, §§ 22, 25-27, 34.	1907, 305, §§ 1, 3. 1908, 344; 604, §§ 16, 18 (b), 20, 23, 28. 1910, 228.	
1894, 236.		
1898, 348, § 5.		
1900, 188, §§ 1-3.		

11 (c) The national guard and the organizations thereof shall be and con- To continue
12 tinue as at present constituted until changed by the commander-in-chief as now con-
13 under authority of law. stituted, etc.

1908, 601, § 25. 1917, 327, § 78 (c).	G. L. (ed. of 1920) 33, § 83 (c). 1924, 465.
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14 (d) The coast artillery corps shall be considered a regiment in all Coast artillery
15 matters of administration and law, unless especially excepted in law or corps a reg-
16 orders. iment.

1908, 604, § 20. 1912, 720, § 2 1917, 327, § 78 (d).	G. L. (ed. of 1920) 33, § 83 (d). 1924, 465.
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17 (e) The commander-in-chief may, by order, attach officers and enlisted Special details,
18 men of staff departments and corps to brigades, regiments, battalions etc., by com-
19 and other organizations for duty therewith, and shall so detail such officers mander-in-
20 and enlisted men as may be necessary to comply with the provisions of chief
21 United States laws concerning the organized militia. 1908, 604, § 20.
1912, 720, § 2.
1917, 327,
§ 78 (e).

G. L. (ed. of 1920) 33, § 83 (e).	1924, 465.
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22 (f) The national guard reserve shall consist of such organizations, National
23 officers and enlisted men as the commander-in-chief shall prescribe, con- guard reserve.
24 sistently with the requirements of the United States. 1917, 327,
§ 78 (f).

G. L. (ed. of 1920) 33, § 83 (f).	1924, 465.
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25 (g) Officers on the reserve list of the national guard appointed to office Reserve
26 on the active list, not higher in grade than that of first lieutenant, shall officers exempt
27 be exempt from passing the examinations required of other newly com- from certain
28 missioned officers of those grades, and, upon being commissioned and examinations.
29 qualified, shall be assigned to duty. 1916, 170, § 4.
1917, 327,
§ 78 (g).

G. L. (ed. of 1920) 33, § 83 (g).	1924, 465.
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1 SECTION 80. To the first corps of cadets there shall be such officers, First and
2 noncommissioned staff officers and noncommissioned officers and other second corps
3 enlisted men, as the commander-in-chief deems expedient. The first of cadets,
4 corps of cadets shall be instructed, armed and equipped as the com- officers, equip-
5 mander-in-chief directs. The second corps of cadets shall be organized ment, etc.
6 and equipped as a regiment of field artillery and may retain its name. P. S. 14, § 29.
7 It shall retain the right to own and wear in place of such full dress uni- 1887, 411, § 29.
8 form as may be prescribed by orders or regulations for the militia, a full 1893, 367, § 28.
9 dress uniform of special design such as may be by it adopted and ap- R. L. 16, § 29.
10 proved by the commander-in-chief. 1905, 465, § 30.
1908, 604, § 19.
1916, 1, § 1.
1917, 327, § 79.
G. L. (ed. of
1920) 33, § 84.
1924, 465.

Staff Corps and Departments.

1 SECTION 81. The officers of the several corps and departments shall Titles and
2 be commissioned with such title and grade and have such designation grades to
3 as may be necessary to conform to the laws of the United States, and conform to
4 the regulations issued under the authority thereof. United States
laws and
regulations.

1911, 145, § 2.	1917, 327, § 80.	G. L. (ed. of 1920) 33, § 85.	1924, 465.
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State surgeon.
State judge
advocate.
State inspector.
State ordnance
officer.
1880, 40.
P. S. 14, § 17.
1887, 411, § 17.
1893, 367, § 17.
R. L. 16, § 18.
1905, 465, § 18.
1908, 604, § 36.
1911, 145, § 4.
1916, 284, § 15.
1917, 327, § 15.
§ 81 (c), 334.
1920, 358, § 1.
G. L. (ed. of
1920) 33,
§ 86 (a).

SECTION 82. (a) Except when ordered on duty under section twenty-five or twenty-six, the state surgeon shall receive a salary of fifteen hundred dollars; and, subject to the orders of the commander-in-chief, shall have general supervision and control of all matters pertaining to the medical department of the land forces, and shall prescribe the physical and mental disabilities exempting from military duty. He shall purchase and issue all medical and hospital supplies, and perform such other official duties as the commander-in-chief directs. For services rendered to the commissioner of state aid and pensions in cases of state or military aid and soldiers' relief he may receive such compensation not exceeding twelve hundred dollars per annum, as said commissioner shall approve.

1921, 359, § 2.

1924, 465.

P. S. 14, § 18.
1887, 411, § 18.
1893, 367, § 18.
R. L. 16, § 19.
1905, 465, § 19.
1908, 604, § 37.
1911, 145, § 4.
1917, 327,
§ 81 (b).
G. L. (ed. of
1920) 33,
§ 86 (b).
1923, 459, § 1.
1924, 465.
P. S. 14, § 16.
1887, 411, § 16.
1893, 367, § 16.
R. L. 16, § 17.
1905, 465, § 17.
1908, 604, § 35.
1911, 145, § 4.
1917, 327,
§ 81 (c).
G. L. (ed. of
1920) 33,
§ 86 (c).
1924, 465.
1906, 504, § 1.
1908, 604, § 20.
1911, 145, § 4.
1912, 720, § 2.
1917, 327,
§ 81 (d).
G. L. (ed. of
1920) 33,
§ 86 (d).
1924, 465.

(b) Except when ordered on duty under section twenty-five or twenty-six, the state judge advocate shall receive a salary of fifteen hundred dollars; and shall examine and report in writing on all proceedings of courts-martial requiring the action of the commander-in-chief and, in matters referred to him by law or by the commander-in-chief, shall be the legal adviser of the militia department of the commonwealth and shall bring all necessary actions. He shall perform such other duty as the commander-in-chief may direct.

(c) The state inspector, or such other officers as the commander-in-chief shall designate, shall inspect once in every year, and oftener if the commander-in-chief deems it necessary, all headquarters, armories and state property in the hands of the land forces, and report the condition of the same. The state inspector, or his assistants under his orders, may inspect any organization at any time when the troops thereof are under arms, or in attendance at their armories.

(d) The state ordnance officer, under the direction of the adjutant general, shall be charged with the care and control of all state rifle ranges, with the supervision of all other ranges provided for the small arms practice of the volunteer militia, and with the supervision of expenditure of public funds appropriated by the commonwealth for the promotion of small arms practice.

State
quartermaster.
1879, 197, § 4.
P. S. 14, §§ 13,
14.
1887, 411,
§ 13, 14.
1893, 367,
§ 13, 14.
1905, 465, § 2.
R. L. 16, §§ 14,
15.
1902, 336.
1904, 439.
1905, 465,
§ 14, 15.
1906, 504, § 1.
1907, 526, § 6.
1908, 604, § 39.
1910, 348, § 2.
1911, 145, § 4;
747.
1913, 733.
1916, 284, § 15.
1917, 327, § 82.
1918, 234.
1920, 358, § 2;
595.
G. L. (ed. of
1920) 33, § 87.
1924, 465.
1930, 226.
1 Op. A. G. 166.

SECTION 83. The state quartermaster shall receive a salary of three thousand dollars. An officer of the quartermaster corps of the land forces of suitable grade, detailed to act as superintendent of the state arsenal, shall be in the quartermaster corps of the land forces as a clerk in addition to the clerks hereinafter provided for. The state quartermaster shall give bond to the commonwealth in the penal sum of twenty thousand dollars, with surety or sureties approved by the governor and council, conditioned faithfully to perform the duties of his office, to use all necessary diligence and care in the safe keeping of military stores and property of the commonwealth committed to his custody, and to account for and deliver over to his successor, or to any person authorized to receive the same, such stores and property. The commander-in-chief may require the duties imposed upon the state quartermaster to be performed by any officer of the land forces, who shall, in that case, give bond to the commonwealth in like manner as is required of the state quartermaster. The state quartermaster, under orders of the commander-in-chief, shall have the care and control of the state camp ground and all other land held for military purposes, of all state arsenals

19 and magazines, of the soldiers' burial lot and monument at Dedham,
 20 and of all military property of the commonwealth except such as is by
 21 law expressly intrusted to the keeping of other officers. He shall procure
 22 and provide transportation for the land forces and for all their imple-
 23 ments, munitions of war and military supplies; such transportation to
 24 be in kind whenever practicable. He shall, at the public expense, pro-
 25 vide suitable places for the safe keeping of all munitions of war, and all
 26 other implements of war. Such implements shall be designated as the
 27 property of the commonwealth by suitable permanent brands or marks
 28 on each of them. He may allow annually proper accounts for the repair
 29 of uniforms and equipment. He shall adjust all accounts relating to loans
 30 of state military property to towns, institutions and schools, and shall
 31 require annual returns of such property and of its condition, at such
 32 time and in such manner as he may direct, and may at any time, under
 33 direction of the commander-in-chief, require the return of the whole or
 34 any part of such property as he deems best for the commonwealth.
 35 He may employ a superintendent of armories at a suitable salary, sub-
 36 ject to the provisions of chapter thirty. The actual transportation
 37 expenses of the superintendent of armories, in visiting the various ar-
 38 mories of the state under direction of the state quartermaster shall be
 39 paid from the appropriation for maintenance of armories of the first
 40 class. The state quartermaster may employ necessary clerks and other
 41 assistants in his department, at an expense not exceeding the amount
 42 annually appropriated therefor.

1 SECTION 84. The adjutant general, the officers of a corps or depart-
 2 ment, and the officers attached thereto, shall not be interested, directly
 3 or indirectly, in the purchase or sale of any articles intended for, or
 4 appertaining to, their respective departments, except for and on account
 5 of the commonwealth; nor shall they or any of them take or apply to
 6 his or their own use, for negotiating or transacting business in their
 7 respective departments, any gift, gain or advantage other than that
 8 allowed by law.

Officers not
 to be pecuni-
 arily interested
 in purchases
 and sales, etc.
 P. S. 14, § 20.
 1887, 411, § 20.
 1893, 367, § 20.
 R. L. 16, § 21.
 1905, 465, § 21.
 1906, 504, § 2.
 1908, 604, § 38.

1917, 327, § 83.

G. L. (ed. of 1920) 33, § 88.

1924, 465.

1 SECTION 85. Any officer violating any provision of the preceding
 2 section shall be punished by a fine of not more than five thousand dollars,
 3 or by imprisonment for not more than five years, or both.

Penalty.
 1906, 504, § 2.
 1908, 604, § 38.

1917, 327, § 84.

G. L. (ed. of 1920) 33, § 89.

1924, 465.

Commissioned Officers.

1 SECTION 86. No person, except an officer of the United States army,
 2 shall be eligible to appointment as a commissioned officer in the land
 3 forces who is not a male citizen of the United States of twenty-one years
 4 or over, resident in the commonwealth, or who is disqualified by law from
 5 enrolment in the militia, or who is not certified as eligible by the military
 6 service commission as hereinafter provided; and no person shall be eligible
 7 to such appointment who is under sentence of disability to hold office or
 8 command, or of suspension from command, in the military forces of the
 9 United States or of any state. But no citizen not subject to enrolment on
 10 account of his age, or otherwise qualified, but exempted from military
 11 service by the laws of the United States, or subject to enrolment but not
 12 enrolled, shall, on that account, be ineligible to position in the land forces,
 13 or incapable of serving in a volunteer company, unless he is made ineligible

Eligibility to
 appointment.
 P. S. 14, § 33.
 1887, 411, § 32.
 1893, 367, § 32.
 R. L. 16, § 34.
 1905, 465, § 37.
 1908, 604, § 40.
 1917, 327, § 85.
 1920, 127, § 2.
 G. L. (ed. of
 1920) 33, § 90.
 1924, 465.
 1 Op. A. G. 29.

to such office or service by the laws of the United States. No person shall receive a commission in the national guard unless he has been selected from such classes as may be prescribed by the laws of the United States.

Relative rank, date of commission, etc.
P. S. 14, § 34.
1887, 411, § 33.
1889, 360, § 1.
1893, 367, § 33.
1895, 465, § 3.
1897, 448, § 3.
R. L. 16, § 35.
1905, 465, § 28.
1908, 604, § 41.
1911, 298.
1917, 327, § 86.
1920, 127, § 3.
G. L. (ed. of 1920) 33, § 91.
1924, 465.
1 Op. A. G. 254.

SECTION 87. Commissioned officers of the land forces shall rank in their grade, according to the date of their commissions. Between officers of the same grade and date of appointment or commission, where there has been no previous commissioned service, the relative rank shall be determined by previous enlisted service. Where there has been such previous service in the army of the United States, or in the national guard or national guard reserve of the commonwealth, it shall count in the order herein named.

The day of the appointment of an officer shall be expressed in his commission and shall be considered as the date thereof. When an officer is appointed or transferred from one office or organization to another, without increase of grade or loss of continuous service, he shall rank in his grade according to the date of his original commission, which shall be stated in his new commission.

Staff and department officers
Const. amend. 53.
(Const. Rev. art. 148.)
1899, 381, § 8.
R. L. 16, § 58.
1905, 465, § 63.
1908, 604, § 42.
1910, 299.
1911, 449.
1912, 268.
1914, 715.

SECTION 88. All staff and department officers of the national guard, appointed after March thirteen, nineteen hundred and twenty, shall have had previous military experience, and shall hold their positions until they reach the age of sixty-four years, unless retired prior to that time by reason of resignation, disability, or for cause to be determined by a court-martial legally convened for that purpose, and vacancies among said officers shall be filled by appointment from the officers of the militia of Massachusetts.

1915, 71.
1917, 327, § 87.
1920, 127, § 7.
G. L. (ed. of 1920) 33, § 92.
1924, 465.

Eligibility for appointment as medical or veterinary officer, etc.
1905, 465, § 40.
1908, 604, § 43.

SECTION 89. No person shall be eligible to appointment as a medical or veterinary commissioned officer unless he has been duly registered in accordance with the laws of the commonwealth, and has complied with its laws relative to the practice of his profession.

1917, 327, § 88.
G. L. (ed. of 1920) 33, § 93.
1924, 465.

Military service commission.
P. S. 14, § 54.
1884, 230, § 8.
1887, 411, § 33.
1893, 367, § 53.

SECTION 90. (a) There shall be a military service commission, consisting of three commissioned officers appointed or detailed by the commander-in-chief. Upon the expiration of the term of office of each commissioner, his successor shall be appointed or detailed for three years.

1899, 381, § 1.
R. L. 16, § 53.
1905, 465, § 57.
1908, 604, § 61.
1912, 464, §§ 4, 13.
1915, 203.
1917, 327, § 105 (a).
1920, 127, § 4.
G. L. (ed. of 1920) 33, § 94 (a).
1924, 465.

Eligible officers' list.
1917, 327, § 105 (b).

(b) The military service commission shall establish an eligible officers' list for all commissioned grades in the land forces.

1920, 127, § 4.
G. L. (ed. of 1920) 33, § 94 (b).
1924, 465.

Rules, examinations, etc.
Const. amend. 53.
(Const. Rev. art. 148.)
P. S. 14, § 54.
1884, 230, § 8.
1887, 411, § 53.
1893, 367, § 53.

(c) The commission shall from time to time prepare rules, to take effect upon approval by the commander-in-chief, regulating the selection of persons to fill commissioned offices in the land forces. Such rules may be of general or limited application and shall include provision for: (1) The classification of all grades to be filled; (2) open, competitive and other examinations to test the practical fitness of applicants; (3) the

13 filling of vacancies in and selection of persons for commission in the land
 14 forces, in accordance with the fitness of applicants and the results of such
 15 examination or otherwise.

1903, 151. 1912, 464, § 5. 1920, 127, § 4.
 1905, 465, §§ 59, 63, 64. 1915, 203, § 1. G. L. (ed. of 1920) 33, § 94 (c).
 1908, 604, §§ 63, 67, 68. 1917, 327, § 105 (c). 1924, 465.

1899, 381,
 § 5, 8-10.
 R. L. 16,
 §§ 53, 58, 59.

16 (d) The commission may designate commissioned officers of the regular
 17 army or land forces to act as examiners of particular grades or branches
 18 of the service.

1920, 127, § 4. G. L. (ed. of 1920) 33, § 94 (d). 1924, 465.

Examiners.
 1917, 327,
 § 105 (d).

19 (e) The commission and examiners shall receive such pay for duty
 20 performed and may incur such expenses as the commander-in-chief shall
 21 order.

1917, 327, § 105 (e). 1920, 127, § 4. G. L. (ed. of 1920) 33, § 94 (e). 1924, 465.

Pay of com-
 mission and
 examiners.

22 (f) The commission shall prepare a full record of its proceedings and
 23 findings in the case of each person appearing before it for examination.

R. L. 16, § 54. 1912, 464, §§ 7, 13. 1920, 127, § 4.
 1905, 465, § 58. 1915, 203. G. L. (ed. of 1920) 33, § 94 (f).
 1908, 604, § 62. 1917, 327, § 105 (f). 1924, 465.

Record of
 proceedings,
 etc.
 1899, 381, § 4.

24 (g) All examinations as to physical qualifications to hold office in the
 25 land forces shall be made by a board of three medical officers appointed
 26 by the commander-in-chief. If such board finds an officer physically
 27 competent to perform his duties, it shall certify that fact to the com-
 28 mander-in-chief; if such board finds an officer not physically fit to per-
 29 form his duties, it shall transmit a report to the commander-in-chief
 30 setting forth the nature of the disabilities found and the manner and
 31 extent to which such disabilities are likely to prevent or impair the full
 32 performance of the duties of the office. Whenever the commander-in-
 33 chief finds that an officer reported by such board to be physically unsound
 34 possesses professional and general qualifications of a high order, and that
 35 his physical disabilities will not materially impair his efficiency as an
 36 officer, he may thereupon waive such physical disabilities and order the
 37 officer to duty. A detailed description of such disabilities and all reports
 38 and facts resulting in a waiver of the same shall be entered in the military
 39 record of the officer concerned.

Physical
 examination,
 etc.
 P. S. 14, § 54.
 1884, 230, § 8.
 1887, 411, § 53
 1893, 367, § 53.
 1899, 381,
 § 1, 5.
 R. L. 16,
 §§ 53, 55.
 1905, 465, § 57
 1908, 604, § 61
 1912, 138.
 § 1, 4, 464,
 § 13
 1917, 327,
 § 105 (g).
 1920, 127, § 4.
 G. L. (ed. of
 1920) 33,
 § 94 (g).
 1924, 465.

40 (h) An officer, certified as eligible for his grade, if assigned to duty in
 41 that grade, shall not be required to take another examination under the
 42 rules adopted by authority of subsection (c) in order to continue to hold
 43 the same commission. But the military service commission may, by rule
 44 or regulation, limit the length of time during which an applicant's name
 45 may remain on an eligible list without re-examination.

1905, 465, § 67. 1920, 127, § 4.
 1908, 604, § 71. G. L. (ed. of 1920) 33, § 94 (h).
 1917, 327, § 105 (h). 1924, 465.

No further
 examination
 for appoint-
 ment to grade
 for which
 officer is
 eligible.
 1897, 448, § 15.
 R. L. 16, § 62.

46 (i) Officers appointed from one office to another of equal or lower
 47 grade in the same branch of the militia service, chaplains, and retired
 48 officers, shall be exempt from all examinations under this chapter, as to
 49 professional and practical qualifications.

1887, 411, § 53. 1905, 465, § 57. 1917, 327, § 105 (i).
 1893, 367, § 53. 1908, 604, § 61. 1920, 127, § 4.
 1899, 381, § 1. 1912, 464, §§ 2, 13. G. L. (ed. of 1920) 33, § 94 (i).
 R. L. 16, § 53. 1916, 284, § 8. 1924, 465.

Certain officers
 exempt from
 examination.
 P. S. 14, § 54
 1884, 230, § 8.

50 (j) Subject to article fifty-three of the articles of amendment of the
 51 constitution, any person certified as eligible for any specified grade in the
 52 national guard under the laws of the United States shall be placed on
 53 the eligible list by the military service commission without professional

Certain per-
 sons to be
 placed on eli-
 gible list
 without
 examination.
 Const. Rev.
 art. 148.

1916, 370,
§§ 1, 3
1917, 327,
§ 105 (j).

examination. The commission shall prepare the final examination of the 54
training school, and its graduates shall be placed on the eligible list. 55

1919, 301, § 5.
1920, 127, § 4.

G. L. (ed. of 1920) 33, § 94 (j).
1924, 465.

Commissioned officers of land forces, how selected. Const. pt. 2, c. 2, § 14, art. 19. Const. amend. 53. (Const. Rev. art. 148.) P. S. 14, § 35, 36. 1884, 230, § 6. 1887, 411, §§ 34, 35. 1893, 367, § 34, 35. 1897, 438 § 1. R. L. 16, § 36, 37. 1905, 465, § 39, 41.

(k) All commissioned officers of the land forces shall be selected from 56 the eligible officers' list provided for in this section. General officers and 57 chiefs of departments shall be appointed by the commander-in-chief from 58 said list. 59

Regimental and separate unit commanders shall be appointed by the 60 commander-in-chief from said list upon recommendation of superior 61 commanders, if any. 62

All other officers of the line shall be appointed by the commander-in- 63 chief from said list upon the recommendation of regimental or separate 64 unit commanders, approved by superior commanders, if any. 65

Departmental officers shall be appointed by the commander-in-chief 66 from said list upon the recommendation of the chief of the department in 67 which the appointment is to be made. 68

1908, 604, §§ 20, 42, 44.
1910, 269.
1912, 268; 720, § 2.

1916, 284, §§ 5, 6.
1917, 327, §§ 87 (a), 89.
1920, 127, §§ 1, 8.

G. L. (ed. of 1920) 33,
§ 94 (k).
1924, 465.

Prerequisites to exercising command. 1917, 327, § 106. G. L. (ed. of 1920) 33, § 95. 1924, 465.

SECTION 91. No person commissioned as an officer in the national 1
guard shall enter upon the performance of his official duties or exercise 2
any command unless he shall have taken and subscribed to the oath of 3
office, shall have been selected from such classes, and shall have success- 4
fully passed such tests as to his physical, moral and professional fitness, 5
as are prescribed by the laws of the United States, except that an officer 6
may be ordered to duty pending such tests as hereinbefore provided. 7

Discharge for failure to pass tests. P. S. 14, §§ 54, 65. 1884, 230, §§ 8, 9.

SECTION 92. An officer failing to pass satisfactorily the tests required 1
by this chapter or by the laws of the United States and the regulations 2
issued thereunder, shall, unless further time is allowed for cause, forthwith 3
be discharged by the commander-in-chief. 4

1887, 411, §§ 53, 64.
1893, 367, §§ 53, 64.
1897, 448, § 8.
1899, 381, § 7.

R. L. 16, § 57.
1905, 465, § 61.
1908, 604, § 65.
1912, 464, §§ 9, 13.

1917, 327, § 107.
G. L. (ed. of 1920) 33, § 96.
1924, 465.
1 Op. A. G. 29.

Retirement after failure to pass tests. 1912, 464, § 10. 1917, 327, § 108. G. L. (ed. of 1920) 33, § 97. 1924, 465.

SECTION 93. An officer failing to pass satisfactorily the required tests, 1
but otherwise entitled to be retired, may, in the discretion of the com- 2
mander-in-chief, be placed upon the retired list with the grade to which 3
his new commission entitles him, instead of being discharged as provided 4
in the preceding section. 5

Oath; form, etc. P. S. 14, § 55. 1887, 411, § 54. 1893, 367, § 54. 1897, 448, § 17. R. L. 16, § 64. 1905, 465, § 69. 1908, 604, § 73. 1917, 327, § 109. G. L. (ed. of 1920) 33, § 98. 1924, 465.

SECTION 94. Every commissioned officer, before entering upon the 1
performance of his official duties or exercising any command, shall take 2
and subscribe the following oaths and declarations: 3

I, A. B., do solemnly swear that I will bear true faith and allegiance to the 1
commonwealth of Massachusetts, and will support the constitution thereof. 2
So help me, God. 3

I, A. B., do solemnly swear that I will obey the lawful orders of all my 1
superior officers. So help me, God. 2

I, A. B., do solemnly swear that I will faithfully and impartially discharge 1
and perform all the duties incumbent on me as _____, according to the 2
best of my ability and understanding, agreeably to the rules and regulations 3
of the constitution and the laws of the commonwealth. So help me, God. 4

I, A. B., do solemnly swear that I will support the constitution of the United 1
States. So help me, God. 2

4 All officers shall take and subscribe the said oaths before any competent
 5 authority or an officer qualified under section one hundred and sixty-nine
 6 to administer oaths, except retired officers and the staff of the commander-
 7 in-chief who may take the said oaths before any competent authority;
 8 and the following certificate shall be printed on every commission and
 9 shall be signed by the person before whom the officer is qualified:

This may certify that A. B., commissioned as within on this
 day of _____, A.D. _____, personally appeared and took and subscribed
 the oaths required by the constitution and laws of this commonwealth and by
 a law of the United States, to qualify him to discharge the duties of his office.

Before me,

1 SECTION 95. (a) At any time the moral character, capacity and gen-
 2 eral fitness for the service of any officer may be investigated and deter-
 3 mined by an efficiency board of three commissioned officers, senior in
 4 rank to him, to be appointed by the commander-in-chief. The investi-
 5 gation may include misconduct in civil life for which the officer is not
 6 amenable to court-martial. If the findings of the board are unfavorable
 7 to the officer and are approved by the commander-in-chief, the officer
 8 shall be discharged.

Discharge, etc.,
 of officers.
 1897, 448, § 16.
 R. L. 16, § 63.
 1905, 465, § 68.
 1908, 604, § 72.
 1917, 327,
 § 110 (a).
 G. L. (ed. of
 1920) 33,
 § 99 (a).
 1924, 465.

9 (b) An officer may be discharged by order of the commander-in-chief
 10 upon an address of both branches of the general court, or to carry out
 11 the lawful sentence of a court-martial, or under this chapter.

Discharge by
 address and
 upon sentence
 of court-
 martial.

Const. amend. 4, 53. (Const. Rev. arts. 124, 148.) P. S. 14, § 64. 1887, 411, § 63. 1893, 367, § 63.	1897, 448, § 7. R. L. 16, § 76. 1905, 465, § 81. 1908, 604, § 91. 1912, 444, § 1.	1917, 327, § 110 (b). G. L. (ed. of 1920) 33, § 99 (b). 1924, 465.
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12 (c) An officer may be honorably discharged by the commander-in-
 13 chief upon removal of residence from the commonwealth, upon tender
 14 of resignation, or when he accepts an appointment in the army or navy
 15 of the United States.

Honorably
 discharge.
 P. S. 14, § 66.
 1887, 411, § 65.
 1890, 425, § 5.

1893, 367, § 65. 1896, 425. 1897, 448, § 9. R. L. 16, § 77.	1905, 465, § 82. 1908, 604, § 92. 1912, 444, § 2. 1917, 327, § 110 (c).	G. L. (ed. of 1920) 33, § 99 (c). 1924, 465.
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16 (d) The commander-in-chief may dismiss an officer convicted of
 17 crime, or who has been absent without leave for a period of three months.

Dismissal.
 P. S. 14, § 67.
 1887, 411, § 66.

1893, 367, § 66. R. L. 16, § 80. 1905, 465, § 85.	1908, 604, § 101. 1915, 289, § 5. 1917, 327, § 110 (d).	G. L. (ed. of 1920) 33, § 99 (d). 1924, 465. 216 Mass. 605.
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18 (e) Officers rendered surplus by the disbandment of their organiza-
 19 tions shall be placed in the national guard reserve. Officers may, upon
 20 their own application, be placed in the said reserve, subject to the laws
 21 of the United States.

Placing in
 reserve of
 surplus officers.
 P. S. 14, § 66
 1887, 411, § 65.

1890, 425, § 5. 1893, 367, § 65. 1896, 425. 1897, 448, § 9.	R. L. 16, § 77. 1905, 465, § 82. 1908, 604, § 92. 1912, 444, § 2.	1917, 327, § 110 (e). G. L. (ed. of 1920) 33, § 99 (e). 1924, 465.
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1 SECTION 96. The term of office of general officers of the line shall be
 2 five years from the date of appointment, and such officers shall be
 3 ineligible for reappointment in the same grade. The time during which
 4 such an officer is in the service of the United States, shall be excluded
 5 from, and shall be in addition to, the term of office herein specified.

Term of office
 of general
 officers of the
 line.
 1897, 438, § 1.
 R. L. 16, § 27.
 1905, 465, § 27.
 1906, 425,
 § 1, 4.

1908, 604, § 93. 1917, 473, § 111. 1920, 127, § 5.	G. L. (ed. of 1920) 33, § 100. 1923, 459, § 2.	1924, 465. 1 Op. A. G. 449.
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1 SECTION 97. The term of office for a colonel of a regiment, and for
 2 the colonel of the coast artillery corps, or the commanding officer of a

Term of office
 of colonel, etc.
 1906, 423, § 2.

1908, 604, § 94.
1917, 327,
§ 112.
1920, 127, § 6.
G. L. (ed. of
1920) 33, § 101.
1924, 465.

separate organization shall be seven years from the date of his appointment and he shall be ineligible for reappointment. The time during which such an officer is in the service of the United States shall be excluded from, and shall be in addition to, the term of office herein specified.

Retirement of officers.
1897, 438, § 1;
448, § 4.
1898, 84, § 1.
1899, 202.
R. L. 16, § 7S.
1904, 231,
§§ 1, 2.
1905, 465, § 83.
1906, 212;
423, §§ 3, 4;
504, § 6.
1907, 305, § 2.
1908, 604,
§§ 95, 96.
1912, 441.
1917, 327,
§ 113.
1918, 232.
G. L. (ed. of
1920) 33, § 102.
1924, 465.
1931, 129.

SECTION 98. Any commissioned officer in the militia service of the age of sixty-four shall be discharged, or placed upon the retired list, with the grade held by him at the time of making application therefor, provided that he complies with this chapter. Any commissioned officer in the militia service who has served as such in the active militia of the commonwealth for the period of ten years may, upon his own application, be placed upon the retired list with the rank held by him in the active militia; but an officer of the active militia who, at the time of making such application, has remained in the same grade for the period of ten years, or has served as a commissioned officer for the period of fifteen years, or, having served in the army or navy of the United States in time of war and, having been honorably discharged therefrom, has also served as a commissioned officer in the active militia of the commonwealth for a period of five years, may be retired with the rank next in grade above that held by him during the six months preceeding the time of making such application. Any commissioned officer who has served in the active militia of the commonwealth for the period of fifteen years, at least six of which have been as a commissioned officer, may be placed upon the retired list with the rank held by him in the active militia. Any commissioned officer in the active militia after the completion of twenty-five years or more of commissioned service may be placed upon the retired list with such increase in rank as the commander-in-chief may direct. A commissioned officer upon the retired list accepting a commission in the active militia may at any time, upon his own application, be placed again upon the retired list with the rank with which he was formerly retired; provided, that, if his latest service on the active list has entitled him to a grade on the retired list higher than that previously held by him, he shall be given such higher grade. At his own request, an officer of the active militia applying for retirement, or a retired officer, may be given any rank of the same grade then held by him or of a lower grade. All officers who held a commission in the Massachusetts volunteer militia prior to May twenty-eighth, nineteen hundred and eighteen, who would have been entitled to retirement as hereinbefore provided had the same been in effect, shall be entitled to apply for retirement under the provisions of this section. Service in the state guard shall be considered as service in the active militia.

Continuous service in land forces defined.
1924, 465.

SECTION 99. All officers and enlisted men of the land forces who were drafted into the service of the United States and discharged therefrom, and who within one year after the date of their discharge are commissioned or enlisted in the land forces, shall be deemed to have had continuous service from the time of their draft into the service of the United States to the date of their commission or enlistment in the land forces, and such service shall be construed as service in the volunteer militia as contemplated by sections ninety-eight and one hundred and sixty-eight.

Retirement for disability.
1895, 465, § 4
1897, 448, § 5

SECTION 100. The commander-in-chief may order any commissioned officer before a medical board consisting of at least three commissioned

3 medical officers, and, if the board reports such officer to be physically
4 unable to perform the duties of his office, the commander-in-chief may
5 retire him.

1905, 465, § 83. 1908, 604, § 97. G. L. (ed. of 1920) 33, § 103.
1906, 212; 504, § 6. 1917, 327, § 114. 1924, 465.

1 SECTION 101. The names and records of all active and retired officers
2 shall annually be printed in a separate register in the order of their
3 active and retired rank, to be appended to the report of the adjutant
4 general, or to the roster of the officers of the volunteer militia.

1908, 604, § 99. 1917, 327, § 115. 1924, 465.
1915, 289, § 4. G. L. (ed. of 1920) 33, § 104.

Register of
active and
retired officers.
1904, 221, § 3
1905, 465, § 83.
1906, 212;
504, § 6.

1 SECTION 102. Retired officers shall be commissioned on the retired
2 list by the commander-in-chief, and on occasions of ceremony may,
3 and when acting under orders as hereinafter provided shall, wear the
4 uniform of their retired rank. They shall be eligible to perform any mili-
5 tary duty to the same extent as if not retired, and the commander-in-
6 chief may require them to serve upon military boards, courts of inquiry
7 and courts-martial, or to perform any other special or temporary mili-
8 tary duty, and while actively engaged in such duty they shall receive
9 the pay and allowances provided for like service by officers of the land
10 forces. They shall be amenable to court-martial for military offences,
11 as if upon the active list of the land forces. Their names shall be borne
12 on a separate roster, kept under the supervision of the adjutant general.
13 They shall report to the adjutant general any change in their residence.
14 An officer now on the retired list may, on application, receive a commis-
15 sion on the retired list as provided above, and such commission shall
16 state the date on which he was so retired.

Retired
officers, priv-
ileges and
duties
1897, 448, § 4.
1898, 84, § 1
R. L. 16, § 79
1905, 465, § 84
1908, 604,
§ 100.
1917, 327,
§ 116
G. L. (ed. of
1920) 33, § 105.
1924, 465.

1 SECTION 103. Officers discharged from the service of the common-
2 wealth shall be entitled to a certificate of discharge, in such form as the
3 commander-in-chief shall direct.

1887, 411, § 67. 1905, 465, § 86. G. L. (ed. of 1920) 33,
1893, 367, § 67. 1908, 604, § 102. § 106.
R. L. 16, § 81. 1917, 327, § 117. 1924, 465.

Certificates of
discharge
P. S. 14, § 68.

Noncommissioned Officers.

1 SECTION 104. Commanding officers shall warrant, appoint, enlist or
2 keep warranted, appointed or enlisted the number of noncommissioned
3 staff officers, noncommissioned officers and other enlisted men specified
4 herein or required in orders of the commander-in-chief.

1917, 327, § 118. G. L. (ed. of 1920) 33, § 107. 1924, 465.

Number to
conform to
law or orders.
1905, 465, § 34
1906, 504, § 3.
1908, 604, § 25.

1 SECTION 105. The commander-in-chief shall provide, in regulations
2 issued by him, how and by whom noncommissioned officers and other
3 rated men shall be appointed, warranted and reduced.

1890, 425, § 3. R. L. 16, §§ 31, 65, 66. 1917, 327, § 119.
1893, 367, § 55. 1905, 465, §§ 70, 71. G. L. (ed. of 1920) 33,
1894, 236, § 1. 1908, 604, §§ 74-80. § 108.
1897, 448, § 6. 1909, 167. 1924, 465.
1900, 188, §§ 3, 6. 1916, 284, § 16.

Appointment,
etc., how
regulated.
P. S. 14, § 56
1887, 411, § 55

Enlisted Men.

1 SECTION 106. The commander-in-chief may, by regulations, prescribe
2 such conditions of qualifications, enlistment, service and discharge of
3 enlisted men as he deems necessary, but such regulations shall not

Enlistment,
etc., how
regulated.
1881, 277, § 2.
P. S. 14, § 57.

1887, 411, § 56. conflict with the laws of the United States or with the regulations issued 4
 1893, 367, § 56. thereunder. 5
 R. L. 16, § 67.

1905, 465, § 72. G. L. (ed. of 1920) 33, 13 Mass. 491.
 1908, 604, § 81. § 109. 11 Pick. 264.
 1917, 327, § 120. 1924, 465.

Dishonorable discharge, etc., regulated. SECTION 107. A dishonorable discharge, or a discharge expressly 1
 P. S. 14, § 7 forbidding re-enlistment, shall be given only to carry out the sentence 2
 1887, 411, § 69. of a court-martial. 3

1890, 425, § 6. 1905, 465, § 88. G. L. (ed. of 1920) 33,
 1893, 367, § 69. 1908, 604, § 104. § 118.
 1897, 448, § 10. 1917, 327, § 129. 1924, 465.
 R. L. 16, § 83.

Certificate of discharge. SECTION 108. A discharged soldier shall be furnished with a certifi- 1
 P. S. 14, § 71. cate of discharge, setting forth his rank and stating clearly the reason 2
 1887, 411, § 70. for his discharge. 3
 1890, 425, § 7.

1893, 367, § 70. 1908, 604, § 105. 1924, 465.
 1897, 448, § 11. 1917, 327, § 130. 8 Mass. 279.
 R. L. 16, § 84. G. L. (ed. of 1920) 33,
 1905, 465, § 89. § 119.

Uniforms of Commissioned Officers.

Uniforms, etc. SECTION 109. Commissioned officers shall provide themselves with 1
 P. S. 14, § 72. uniforms, arms and equipments prescribed by the commander-in-chief. 2
 1887, 411, § 71. 3
 1890, 425, § 8.

1893, 367, § 71. 1906, 504, § 7. 1917, 327, § 131.
 R. L. 16, § 85. 1908, 604, § 106. G. L. (ed. of 1920) 33, § 120.
 1905, 465, § 90. 1912, 67. 1924, 465.

Public Property — Issue, Accountability, etc.

Certain supplies to be provided by the commonwealth. SECTION 110. Except as provided in the preceding section, organiza- 1
 Sale of certain other supplies to officers and enlisted men. tions of the land forces shall be provided, at the expense of the common- 2
 P. S. 14, § 73. wealth, with the uniforms, arms, equipments, colors, musical instru- 3
 1887, 411, § 72. ments, books of instruction and of record, supplies and camp and garri- 4
 1893, 367, § 72. son equipage, wagons and draft animals necessary for their proper 5
 R. L. 16, § 86. training and instruction and for the performance of military duty. Such 6
 1905, 465, § 91. property shall be issued as the commander-in-chief may prescribe. The 7
 1908, 604, § 107. state quartermaster may make sales of clothing, equipment, ordnance 8
 1911, 554. stores and medical stores for cash to officers and enlisted men of the 9
 1917, 327, Massachusetts volunteer militia, and the money so received by him shall 10
 § 132. be paid to the commonwealth. 11
 G. L. (ed. of 1920) 33, § 121.

1924, 465.

4 Gray, 502.

Uniforms, how prescribed and provided. SECTION 111. The uniform of the land forces shall be prescribed by 1
 P. S. 14, § 74. the commander-in-chief. No uniforms, except required yearly supplies, 2
 1887, 411, § 73. shall be provided by the commonwealth without a special appropriation 3
 1890, 425, § 9. therefor, and they shall be purchased under such inspection as the com- 4
 1893, 367, § 73. mander-in-chief may direct. 5
 R. L. 16, § 87.
 1905, 465, § 92.

1908, 604, § 108. 1917, 327, § 133. 1924, 465.
 1916, 284, § 13. G. L. (ed. of 1920) 33, § 122.

Uniforms, etc., to be used only for military purposes, etc. SECTION 112. The uniforms, arms, equipments and other property 1
 P. S. 14, §§ 75, 77. so provided shall be used only for military purposes, under regulations 2
 1887, 411, prescribed by the commander-in-chief, who shall provide how and where 3
 § 74, 76. such property shall be kept and used, and shall be returned when ordered 4
 5

1893, 367, §§ 74, 76. 1908, 604, §§ 109, 111. G. L. (ed. of 1920) 33, §§ 123, 124.
 R. L. 16, §§ 88, 90. 1917, 327, §§ 134, 135. 1924, 465.
 1905, 465, §§ 93, 95.

1 SECTION 113. An officer or soldier shall be responsible for the care,
 2 safe keeping and return of all government and state property delivered to
 3 him; he shall use the same for military purposes only, and upon receiving
 4 a discharge or otherwise leaving the military service, or upon the demand
 5 of his commanding officer, shall forthwith deliver such property in his
 6 possession to the commanding officer, or to any officer ordered to receive
 7 it, in good order and condition, reasonable use and ordinary wear thereof
 8 excepted.

Responsibility
 for military
 property, etc.
 P. S. 14, § 80.
 1887, 411, § 79.
 1893, 367, § 79.
 R. L. 16, § 93.
 1905, 465, § 98.
 1908, 604,
 § 114.
 1917, 327,
 § 136.

G. L. (ed. of 1920) 33, § 125. 1924, 465.

1 SECTION 114. (a) An officer shall be accountable for public property
 2 received by him for military use, and shall not sell, loan or transfer it or
 3 any part of it, without the authority of the commander-in-chief; and
 4 shall be liable to the commonwealth for all property defaced, injured,
 5 destroyed or lost by his neglect or default, or for its value, to be recovered
 6 in tort brought by the state judge advocate in the name of the common-
 7 wealth.

Accountability
 of officer for
 military
 property, etc.
 P. S. 14, § 83.
 1887, 411, § 82.
 1893, 367, § 82.
 R. L. 16, § 96.
 1905, 465,
 § 101.

1908, 604, § 118. G. L. (ed. of 1920) 33, 1924, 465.
 1917, 327, § 137 (a). § 126 (a).

8 (b) Commissioned officers shall exercise the strictest care and vigilance
 9 for the preservation of the uniforms, arms, equipment and other property
 10 furnished to their several commands; and in case of any loss thereof or
 11 damage thereto, by their neglect or default they shall be liable to punish-
 12 ment as a court-martial may direct.

Court-martial
 for neglect as
 to same.
 P. S. 14, § 82.
 1887, 411, § 81.
 1893, 367, § 81.
 R. L. 16, § 95.

1905, 465, § 100. 1917, 327, § 137 (b). 1924, 465.
 1908, 604, § 117. G. L. (ed. of 1920) 33, § 126 (b).

13 (c) When any officer or enlisted man neglects or refuses to return any
 14 military property of the commonwealth or of the United States or of any
 15 military organization, or to account satisfactorily for it to the officer
 16 responsible for its custody, or to the officer ordered to receive it, such
 17 custodian or officer may make a written complaint directly to the com-
 18 missioner of public safety, describing the offender and the missing prop-
 19 erty, and thereupon the state police shall make diligent search for the
 20 property and the offender, and shall take possession of all such property
 21 and turn the same over to the officer responsible for its custody.

Recovery of
 stolen or
 embezzled
 property.
 1906, 504, § 8.
 1908, 604,
 § 115.
 1917, 327,
 § 137 (c).
 1919, 350,
 §§ 99-101.
 G. L. (ed. of
 1920) 33,
 § 126 (c).
 1924, 465.

1 SECTION 115. (a) An officer of the land forces, upon vacating an
 2 office, shall turn over to his immediate successor, or other officer desig-
 3 nated by the commander-in-chief, all records, reports and military
 4 property in his possession belonging or in any way pertaining to such
 5 office.

Disposition of
 and liability
 for records,
 reports and
 military
 property.
 P. S. 14, § 166.

1887, 411, § 164. 1905, 465, § 102. G. L. (ed. of 1920) 33, § 127 (a).
 1893, 367, § 164. 1908, 604, § 119. 1924, 465.
 R. L. 16, § 97. 1917, 327, § 138 (a).

6 (b) Upon the disbandment of any organization which has received
 7 property for military use, the commissioned officers thereof shall be
 8 responsible for the safe return to the officer ordered to receive it of all such
 9 property in its possession, and the officer who has receipted for such
 10 property shall be liable for any loss or damage thereto.

Liability upon
 disbandment,
 etc.
 P. S. 14, § 84.
 1887, 411, § 83.
 1893, 367, § 83.
 R. L. 16, § 98.
 1905, 465,
 § 103.

1908, 604, § 120. 1917, 327, § 138 (b). G. L. (ed. of 1920) 33, § 127 (b). 1924, 465.

11 (c) Until an officer or his legal representative receives from the adju-
 12 tant general notice that the property accounts of such officer have been
 13 found correct, the liability of such officer or of his estate for public prop-
 14 erty for which he is or may have been responsible shall continue. Upon
 15 the death or desertion of an officer responsible for public property his

Liability to
 continue, etc.
 Correct in-
 ventory to be
 made, etc.
 P. S. 14, § 85.
 1887, 411, § 84.
 1893, 367, § 84.
 R. L. 16, § 99.

1905, 465,
§ 104
1908, 604,
§ 121.
1917, 327,
§ 138 (c).

immediate commanding officer shall at once cause such property to be collected, and a correct inventory made by actual count and examination and forwarded to the adjutant general, and compensation for any deficiency may be recovered as provided in the preceding section.

G. L. (ed. of 1920) 33, § 127 (c).

1924, 465.

Penalty for
unlawful
purchase, etc.
P. S. 14, § 15.
1887, 411, § 15.
1893, 367, § 15.
R. L. 16, § 16.
1905, 465, § 16.
1908, 604,
§ 116.
1917, 327, § 139.

SECTION 116. Whoever purchases, retains or has in possession any implement, or any weapon of ordnance or article of clothing, camp or garrison equipage or field equipage issued by and the property of the United States or the commonwealth, unless the same shall have been issued to him or is in his possession in accordance with law, shall be punished by a fine not exceeding ten times the value thereof.

G. L. (ed. of 1920) 33, § 128.

1924, 465.

Liability for
loss, etc.
1905, 465, § 16.
1908, 604,
§ 116
1917, 327,
§ 139
G. L. (ed. of
1920) 33, § 128.
1924, 465.

SECTION 117. Every officer and enlisted man of the land forces who loses through carelessness or neglect, carries away, or unlawfully disposes of arms, equipment or other military property belonging to the United States or to the commonwealth, shall be charged with the money value thereof, as determined by a surveying officer or board of survey detailed or appointed by the commander-in-chief to investigate and report upon the case. Such surveying officer or board of survey shall submit with the report all the evidence bearing upon the loss or disposition of the property.

Penalty on
officer or
soldier for
destruction of
public property.
P. S. 14, § 81
1887, 411, § 80.
1893, 367, § 80.
1897, 448, § 12.
R. L. 16, § 94.
1905, 465,
§§ 16, 99.
1906, 504, § 8.
1908, 604,
§§ 115, 116.

SECTION 118. An officer or enlisted man who wilfully or maliciously destroys, injures or defaces any United States or state property, or who loses or injures such property through carelessness or neglect, or who carries away or unlawfully disposes of such property, or who retains in his possession such property and neglects or refuses to return it when so ordered, or who uses it in violation of the regulations or law, or who fails satisfactorily to account for it, shall be punished as a court-martial may direct.

1917, 327, § 140.

G. L. (ed. of 1920) 33, § 129.

1924, 465.

Uniform, etc.,
to be worn,
etc., only
when on duty,
etc.
P. S. 14, § 79.
1887, 411, § 78.

SECTION 119. No soldier shall wear or use, except upon military duty or by special permission of his company commander or other competent authority, any uniform or other article of military property belonging to the commonwealth.

1893, 367, § 78.

1908, 604, § 113.

G. L. (ed. of 1920) 33, § 130.

R. L. 16, § 92.

1917, 327, § 141.

1924, 465.

1905, 465, § 97.

Adoption of
other than
prescribed
uniform, etc.
P. S. 14, § 86.
1887, 411, § 85.
1893, 367, § 85.
R. L. 16, § 100.
1905, 465,
§ 105
1908, 604, § 122.

SECTION 120. Any organization of the land forces may, with the approval of a majority of its commissioned officers and of the commander-in-chief, adopt at its own expense any other uniform than that prescribed under section one hundred and eleven, but such uniforms shall not be worn, except by permission of the commander-in-chief, when such organization is on duty under his orders.

1917, 327, § 142.

G. L. (ed. of 1920) 33, § 131.

1924, 465.

Volunteer
organizations
may own personal
property, etc.
P. S. 14, § 87.
1887, 411, § 86.
1893, 367, § 86.
R. L. 16, § 101.
1905, 465,
§ 106.

SECTION 121. Volunteer organizations may own personal property, to be under the control of the active members thereof; and the commanding officer of any organization may recover in his own name for its use in any county where such organization or part thereof is located any debts or effects belonging to it, or damages for injury to such property. No suit or complaint pending in his name shall be abated by his

7 ceasing to be commanding officer of the organization; but his successor 1908, 604,
 8 shall be admitted to prosecute the suit or complaint. § 123.
 1917, 327, § 143. G. L. (ed. of 1920) 33, § 132. 1924, 465.

1 SECTION 122. The state surveying officer or a board of three officers Inspection and
 2 designated by the commander-in-chief shall inspect and condemn state condemnation
 3 military property unfit for use; and no property shall be sold until it of military
 4 has been so inspected and condemned, and the condemnation approved property, etc.
 5 by the commander-in-chief, except that subsistence stores of a perishable P. S. 14, § 88
 6 nature, which would spoil before action could be taken by the state 1887, 411, § 87.
 7 surveying officer or a board of inspection as above provided, may be 1893, 367, § 87.
 8 sold by the officer responsible therefor, after survey by a surveying R. L. 16, § 102
 9 officer detailed by the commanding officer of the organization. The 1905, 465,
 10 report of the survey, approved by the commanding officer, shall be for § 145.
 11 warded by the accountable officer with his report of the sale. The 1908, 604,
 12 proceeds of all sales made hereunder shall be paid to the commonwealth. § 124
 1912, 142
 1917, 327,
 § 144
 G. L. (ed. of
 1920) 33, § 133
 1924, 465.

Duty — Active and Peace. Inspection and Drill.

1 SECTION 123. The land forces shall perform during each year not Annual service
 2 less than fifteen days' training under service conditions at times and training
 3 places designated by the commander-in-chief. 1881, 277,
 §§ 3, 4.

P. S. 14, §§ 108, 109, 111.	1898, 348, § 1.	1916, 209
1884, 230, §§ 13, 14.	R. L. 16, §§ 128, 129, 131	1917, 327, §§ 146, 147.
1887, 411, §§ 106, 107, 109.	1905, 465, §§ 134, 135, 137.	G. L. (ed. of 1920) 33, § 135.
1893, 367, §§ 106, 107, 109.	1908, 604, §§ 151, 152, 154.	1924, 465.

1 SECTION 124. When on duty under orders of the commander-in-chief, Militia on
 2 the militia may enter upon and occupy any public or private lands duty may
 3 within the commonwealth for the necessary purposes of such duty, and enter and
 4 no officer or soldier shall thereby become liable, either civilly or crim- occupy
 5 inally, for trespass; but, except in times of invasion, insurrection, riot, certain lands,
 6 or public catastrophe or danger, neither the organizations of the militia etc., without
 7 nor individual members thereof shall be permitted to enter houses or liability.
 8 other buildings or their immediate enclosures, without the consent of P. S. 14, § 110
 9 the owner or tenant in possession, nor to go upon the gardens, lawns, 1887, 411,
 10 tobacco fields, cranberry meadows, vineyards, nurseries, fields with § 108
 11 especially valuable crops, orchards or cemeteries unless extreme neces- 1893, 367,
 12 sity for such entry exists, and then only in obedience to the specific § 108.
 13 orders of the senior officer present. R. L. 16, § 130.
 1905, 465,
 § 136
 1908, 604,
 § 153.
 1917, 327, § 148
 G. L. (ed. of
 1920) 33, § 136
 1924, 465.

1 SECTION 125. In the case of land entered upon under the preceding Damages for
 2 section for an encampment or other substantial occupancy, the owner use of or injury
 3 thereof shall receive damages in the nature of compensation for the use to land, etc.
 4 of the land and for any injury to the same resulting from such occupancy. P. S. 14, § 110
 5 and in the case of land so entered upon or passed over in the course of 1887, 411, § 108.
 6 maneuvers, field exercises, or any similar transient purposes, the owner 1893, 367, § 108.
 7 shall receive damages for any injury to the same resulting from such R. L. 16, § 130.
 8 entry, but shall not be entitled to compensation for the use of the land. 1905, 465, § 136.
 9 The amount of damages to be paid by the commonwealth under this 1908, 604, § 153.
 10 section shall be as agreed upon by the owner of the land with an officer 1917, 327,
 11 or board of officers appointed by the commander-in-chief to adjust the § 148
 12 claim, but if the parties are unable to agree, the damages shall be assessed G. L. (ed. of
 13 under chapter seventy-nine. 1920) 33, § 137.
 1924, 465.

Inspection at encampment. 1881, 277, §§ 3, 4. P. S. 14, §§ 108, 111. 1884, 230, § 14. 1887, 411, § 106, 109.

SECTION 126. At each encampment, the state inspector, or such assistants as may be detailed, shall be present, and shall, within thirty days thereafter, report in writing to the commander-in-chief in regard to numbers, discipline and other matters affecting the character and efficiency of the organizations.

1893, 367, §§ 106, 109.	1908, 604, §§ 146, 151, 154.	G. L. (ed. of 1920) 33, § 138.
R. L. 16, §§ 128, 131.	1917, 327, § 149.	1924, 465.
1905, 465, §§ 134, 137.		

Notice for duty. Delivery. 1878, 265, § 110. P. S. 14, § 114. 1887, 411, § 111. 1893, 367, § 111.

SECTION 127. (a) The notice for the duty required under section one hundred and twenty-three shall be given to each person verbally, or by delivery to him in person, or by leaving at or mailing to his last known abode or place of business the order therefor, at least four days previous to the time appointed.

R. L. 16, § 133.	G. L. (ed. of 1920) 33, § 140 (a).	21 Pick. 332.
1905, 465, § 139.	1924, 465.	22 Pick. 406.
1908, 604, § 156.	1917, 327, § 151 (a).	23 Pick. 54, 57.
		15 Pick. 7.

1878, 265, § 111. P. S. 14, § 115. 1887, 411, § 112. 1893, 367, § 112. R. L. 16, § 134. 1905, 465, § 140.

(b) The commanding officer of a regiment, separate battalion or squadron, or of the first corps of cadets, or of a company may direct such orders or the order and copy of charges under section one hundred and sixty-three to be delivered by one or more of the enlisted men of his command.

1908, 604, § 157.	G. L. (ed. of 1920) 33, § 140 (b).	1924, 465.
1917, 327, § 151 (b).		

Mounted bands. P. S. 14, § 217.

SECTION 128. The commander-in-chief may authorize the use of mounted bands.

1887, 411, § 114.	1905, 465, § 143.	G. L. (ed. of 1920) 33, § 141.
1893, 367, § 114.	1908, 604, § 160.	1924, 465.
R. L. 16, § 137.	1917, 327, § 152.	

United States system of discipline to be observed. P. S. 14, § 152. 1887, 411, § 150.

SECTION 129. (a) The land forces shall conform to the system of discipline and field exercise ordered to be observed by the army of the United States, or to such other system as may hereafter be established by the laws of the United States.

1893, 367, § 150.	1908, 604, § 194.	G. L. (ed. of 1920) 33, § 142 (a).
R. L. 16, § 172.	1917, 327, § 153.	1924, 465.
1905, 465, § 178.		

Officers and men subject to military law and jurisdiction. 1881, 277, § 5. P. S. 14, §§ 143-148. 1887, 411, §§ 143-146.

(b) Officers and enlisted men of the land forces may be tried and punished under this chapter for acts contrary to the provisions thereof or to the regulations for the government of the militia, or for any offence for which officers and enlisted men of the United States army may be so tried and punished.

1893, 367, §§ 143-146.	1908, 604, §§ 187-190.	G. L. (ed. of 1920) 33, § 142 (b).
R. L. 16, §§ 165-168.	1917, 327, § 153 (b).	1924, 465.
1905, 465, §§ 171-174.		

Officers and men not entering service of the United States remain in militia. 1905, 465, § 187. 1908, 604, § 203. 1917, 327, § 154. G. L. (ed. of 1920) 33, § 143. 1924, 465.

SECTION 130. Commissioned officers and enlisted men, who, by reason of their supplementary positions in the land forces, cannot be accepted when the organization to which they are attached is taken into the service of the United States, shall not therefor be discharged from the land forces, but shall be subject, within the limits of the commonwealth, to such military duty as the commander-in-chief shall require, and upon the return to the state of the organization to which they were attached shall resume their former duties.

In like manner, officers and soldiers in the service of the commonwealth, but who for any lawful reason do not enter the service of the United States, shall retain their positions with the land forces.

1 SECTION 131. Except by order of the commander-in-chief, or with his
2 consent, no organization of the land forces shall be ordered without the
3 limits of the commonwealth or leave the commonwealth for any period or
4 purpose whatever, with public military property in its possession or use.
5 Any organization disobeying the provisions of this section may, subject
6 to the laws of the United States, be disbanded by the commander-in-chief.

R. L. 16, § 183.
1905, 465, § 191.

1908, 604, § 206.
1917, 327, § 155.

G. L. (ed. of 1920) 33, § 144.
1924, 465.

Troops, when
to be ordered
outside com-
monwealth.
Penalty.
P. S. 14, § 167.
1887, 411,
§ 165
1893, 367,
§ 165.

Meetings and Assemblies.

1 SECTION 132. (a) Division and brigade commanders may, six times
2 in each year, call meetings for instruction of their staff officers, including
3 attached departmental officers, field officers, adjutants, and captains of
4 unattached companies of their commands, at some convenient place
5 within the limits of their divisions or brigades, or at such place as the
6 commander-in-chief may designate. The commanding officer of each
7 regiment, separate battalion or squadron, and such other organizations
8 as may be authorized by the commander-in-chief, or of the first corps of
9 cadets may call similar meetings of the officers and noncommissioned
10 officers of his command, including attached departmental officers, six
11 times in each year. No compensation shall be allowed for attendance at
12 such meetings, but the officers and noncommissioned officers attending
13 such meetings shall be provided with the necessary transportation, at the
14 rates established by law, when the distance traveled exceeds five miles.

Meetings of
officers and
noncommis-
sioned officers
for instruction.
School for
officers or
selected
enlisted men.
P. S. 14, § 116.
1887, 411,
§ 113
1893, 367,
§ 113
R. L. 16, § 135.
1905, 465,
§ 141
1908, 604,
§ 158
1911, 642, § 1.
1917, 327,
§ 156.
G. L. (ed of
1920) 33, § 145.
1923, 459, § 3.
1924, 465.

15 (b) At the discretion of the commander-in-chief a school for officers or
16 selected enlisted men may be established in any part of the common-
17 wealth, under such regulations as he deems proper.

1 SECTION 133. Division and brigade commanders may visit the head-
2 quarters and companies of their commands whenever they deem it neces-
3 sary for military instruction. The commanding officer of each regiment,
4 separate battalion or squadron, or of such other organization as may be
5 authorized by the commander-in-chief, or of the first corps of cadets, may
6 visit the companies in his command six times each year; field and staff
7 officers, such companies as they are ordered to visit by regimental,
8 separate battalion, squadron or such other organization commanders as
9 may be authorized by the commander-in-chief, six times each year;
10 division and brigade staff officers, including attached departmental
11 officers, when ordered so to do by their commanding officers, may visit
12 each company in their division or brigade once in each year. The state
13 ordnance officer may visit competitions of company teams in regimental,
14 battalion, squadron and corps competitions, and competitions of regi-
15 mental, battalion, squadron and corps teams in state matches. Mileage
16 for such visits shall be allowed on receipt of returns therefor at the rate
17 of six cents a mile each way, the distance being computed by the line of
18 the most direct railway communication from the residence of the officers,
19 or by such route as may be approved by the commander-in-chief.

Visits by
commanding
officers, etc.
Mileage
allowed.
1887, 411,
§ 128
1891, 232, § 2.
1893, 367,
§ 127
1898, 348, § 2.
R. L. 16, § 136.
1905, 465,
§ 142
1908, 604,
§ 159
1917, 327,
§ 157
G. L. (ed of
1920) 33, § 146.
1923, 459, § 4.
1924, 465.

1 SECTION 134. The commanding officer of any regiment, separate
2 battalion or squadron, or such other organization as may be authorized
3 by the commander-in-chief, or of the first corps of cadets may order com-
4 pany inspection in the evening at the several company armories, when the
5 good of the service so requires.

Evening com-
pany inspec-
tion may be
ordered.
P. S. 14, § 118.
1887, 411,
§ 115.

1893, 367, § 115.
R. L. 16, § 138.
1905, 465, § 144.

1906, 504, § 10.
1908, 604, § 161.
1917, 327, § 158.

G. L. (ed. of 1920)
33, § 147.
1924, 465.

Company and
regimental,
etc., drills.
P. S. 14, § 119.
1887, 411,
§ 116
1893, 367,
§ 116.
R. L. 16, § 139.
1903, 247.
1903, 465,
§ 145
1908, 604,
§ 162
1911, 504, § 1.
1917, 105, § 3;
327, § 159
G. L. (ed. of
1920) 33, § 148.

SECTION 135. In addition to the duty required by section one hundred and twenty-three, and in addition to any duty that may be required under sections seventeen, twenty-five, and twenty-six, every company of the volunteer militia shall assemble for instruction and drill at least forty-eight times in each year, and oftener upon the orders of the company commander or his superior commanding officers. Regimental, battalion, or squadron drills may be held in place of company drills, and transportation to and from the place of such drills shall be furnished for the companies, batteries or troops composing the regiment, battalion or squadron, if authorized by the commander-in-chief.

1924, 465.

Excuses from
drills, etc.
P. S. 14, § 129.
1887, 411,
§ 126
1893, 367,
§ 126.
R. L. 16, § 149.
1905, 465, § 155.

SECTION 136. The commanding officer of a regiment, separate battalion, squadron or of such other organization as may be authorized by the commander-in-chief, of the first corps of cadets, or of a staff corps or department may, on sufficient grounds, excuse absences from camp duty and drills.

1908, 604, § 172.
1917, 327, § 160.

G. L. (ed. of 1920) 33,
§ 149.

1924, 465.

Pay and Allowances.

No compen-
sation except
for personal
service, etc.
P. S. 14, § 125.
1887, 411,
§ 122.

SECTION 137. No officer or soldier in the land forces shall be entitled to compensation for military service unless he personally performs the same, although he may be excused therefrom; and no substitute shall be allowed any compensation for such services.

1893, 367, § 122.
R. L. 16, § 145.
1905, 465, § 151.

1908, 604, § 168.
1917, 327, § 161.

G. L. (ed. of 1920) 33, § 150.
1924, 465.

Pay of officers
and soldiers.
P. S. 14, § 130.
1882, 178.
1887, 411,
§ 127
1891, 232, § 1.
1893, 367,
§ 127.
1898, 348,
§§ 3, 4.

SECTION 138. (a) There shall be allowed and paid per diem to officers of the land forces, on rolls and accounts kept in such form as the commander-in-chief may prescribe, for the duty prescribed by sections seventeen, twenty-five, twenty-six, and one hundred and twenty-three, the same per diem pay as is received by officers of the national guard, when in federal service.

1900, 188, § 4.
R. L. 16, § 150.
1905, 465, § 156.
1906, 504, § 11.

1908, 604, § 173.
1913, 532.
1916, 221.
1917, 105, § 1; 327, § 162.

G. L. (ed. of 1920) 33, § 151 (a).
1923, 459, § 5.
1924, 465.

Of soldiers for
certain duties.
1920, 274.
G. L. (ed. of
1920) 33,
§ 151 (b).
1924, 465.
4 Gray, 601.

(b) There shall be allowed and paid per diem to soldiers of the land forces, on rolls and accounts kept in such form as the commander-in-chief may prescribe, for the duty prescribed by sections seventeen, twenty-five and twenty-six, as follows: noncommissioned staff officers, first sergeants of companies, three dollars and five cents; bandmen, four dollars and fifty-five cents; cooks, three dollars and fifty-five cents, if, in such form as the commander-in-chief prescribes, it is certified and made to appear that in each case the duty of superintending and assisting in the preparation of the food of the company was actually performed by the cook in person during the tour of duty or day of duty for which he is returned for pay, otherwise the pay of other enlisted men of like grade; and every other enlisted man, one dollar and fifty-five cents.

Of soldiers at
annual service
training camps.
G. L. (ed. of
1920) 33,
§ 151 (c).
1924, 465.
1926, 286.

(c) There shall be allowed and paid per diem to soldiers of the land forces, except horseshoers, bandmen and cooks, on rolls and accounts kept in such form as the commander-in-chief may prescribe, for the duty prescribed by section one hundred and twenty-three the same per diem pay and allowances as are received by soldiers of like grade in the regu-

24 lar army. For this duty, horseshoers shall receive four dollars and fifty-
 25 five cents per diem, and bandsmen and cooks shall receive the same per
 26 diem pay as is prescribed for members of a band and cooks serving under
 27 section seventeen.

28 (d) For all other duty under orders of the commander-in-chief unless
 29 specially provided, or as a witness or defendant under summons, there
 30 shall be paid per diem to all officers above the rank of captain, four
 31 dollars; to every other commissioned officer, two dollars and fifty cents;
 32 to every member of a band, three dollars and fifty-five cents, and if with
 33 troops one dollar additional; and to every other enlisted man, one dol-
 34 lar and fifty-five cents, except where payment is made therefor from
 35 federal funds.

36 (e) There shall be allowed for each horse actually used and furnished
 37 by officers and soldiers authorized to be mounted, and for each draft
 38 animal used, a sum not exceeding four dollars a day, which shall be in
 39 full for keeping and forage, except that when forage is furnished in kind
 40 as provided in section one hundred and forty-seven the cost of the same
 41 shall be deducted from this allowance.

42 (f) In addition to the pay herein specified, each member of the band
 43 and each enlisted man shall receive forty-five cents per diem, in lieu of
 44 subsistence, except as provided in section one hundred and forty-seven.

Of officers- and
 soldiers for
 certain duties.
 G. L. (ed. of
 1920) 33,
 § 151 (d),
 1924, 465.

Allowance for
 horses and
 draft animals.
 G. L. (ed. of
 1920) 33,
 § 151 (e),
 1924, 465.

Payment in
 lieu of
 subsistence.
 G. L. (ed. of
 1920) 33,
 § 151 (f).

1924, 465.

1 SECTION 139. Inspections by the state inspector or his assistants shall
 2 not constitute tours of duty for which state pay will be allowed to the
 3 troops inspected.

Certain in-
 spections not
 to constitute
 tours of duty,
 etc.

P. S. 14, § 16.	R. L. 16, § 17.	1917, 327, § 50.
1887, 411, § 16.	1905, 465, § 17.	G. L. (ed. of 1920) 33, § 54.
1893, 367, § 16.	1908, 604, § 35.	1924, 465.

1 SECTION 140. (a) An owner of a riding or draft animal which is
 2 killed or injured while in the custody of a person in the performance of
 3 duty under the provisions of sections seventeen, twenty-five, twenty-six,
 4 and one hundred and twenty-three, shall be entitled to receive compensa-
 5 tion for the loss sustained by such death or injury.

Compensation
 for killing or
 injury of
 horse, etc.
 Adjustment of
 claims for
 injury to pri-
 vate property.

1910, 227, § 1.	1919, 5.	1924, 465.
1917, 327, § 163 (a).	1920, 2.	
1918, 257, § 81.	G. L. (ed. of 1920) 33, § 152 (a).	

6 (b) All claims for such death or injury shall be inquired into by a board
 7 of three officers appointed by the commander-in-chief. The board shall
 8 have the same power to take evidence, administer oaths, issue subpoenas
 9 and compel witnesses to attend and testify and produce books and papers,
 10 and to punish their failure to do so, as is possessed by a general court-
 11 martial. The findings of the board shall be subject to the approval of the
 12 commander-in-chief. The amount found due to the owner by said board,
 13 to the extent that its findings are approved by the commander-in-chief,
 14 shall be paid from the fund established by section one hundred and forty-
 15 one.

1910, 227, § 2.
 1917, 327,
 § 163 (b).
 G. L. (ed. of
 1920) 33,
 § 152 (b),
 1924, 465.

16 (c) All claims for injury to private property occasioned by members of
 17 the volunteer militia while in the performance of duty under the provi-
 18 sions of sections seventeen, twenty-five, twenty-six, one hundred and
 19 twenty-three, one hundred and thirty-five, and one hundred and eighty-
 20 one, shall be inquired into by a board of three officers appointed by the
 21 commander-in-chief. The board shall have the same power to take evi-
 22 dence, administer oaths, issue subpoenas and compel witnesses to attend
 23 and testify and produce books and papers, and to punish their failure to

1923, 459, § 6
 (G. L. 33,
 § 152 (c)).
 1924, 465.

do so as is possessed by a general court-martial. The findings of the board shall be subject to the approval of the commander-in-chief. The amount found due to the owner of the property by the said board to the extent that its findings are approved by the commander-in-chief shall be paid from the fund established by the following section.

Annual appropriation for claims, etc. 1910, 227, § 3. SECTION 141. To defray the claims and expenses arising under the preceding section, there shall annually be allowed by the commonwealth a sum not exceeding twenty-five hundred dollars.

1917, 327, § 164.

G. L. (ed. of 1920) 33, § 153.

1924, 465.

Annual appropriation and regulations for maintenance of draft and riding animals. 1914, 758, § 1. 1917, 93, 327, § 165 (a). G. L. (ed. of 1920) 33, § 154 (a). 1921, 359, § 3. 1924, 465. SECTION 142. (a) There shall annually be allowed and paid by the commonwealth from such sums as may be hereafter appropriated for the maintenance of the United States and state draft or riding animals, used for military organizations authorized to be mounted, a sum not exceeding fifteen dollars each month for every such animal owned by such organization or by individual members thereof and used for military purposes. Such allowance to an organization maintaining horses under this section shall be for forage, care and maintenance. The commander-in-chief shall, by order, prescribe the conditions and regulations relative to the use and maintenance of such horses, which shall be complied with before the allowance shall be paid.

1914, 758, § 2. 1917, 93, 327, § 165 (b). G. L. (ed. of 1920) 33, § 154 (b). 1924, 465. (b) The commander-in-chief shall, by order, prescribe the conditions and regulations for the use and maintenance of draft or riding animals owned by the commonwealth and used for military purposes, and may authorize the use and letting of such animals. All income received from such use and letting shall be paid into the state treasury.

State pay, etc., when reduced by amount received as United States pay, etc. 1910, 283. 1917, 327, § 166. G. L. (ed. of 1920) 33, § 155. 1924, 465. SECTION 143. When an organization of the land forces engages in any encampment, maneuvers or field instruction under the laws of the United States, or the troops of this commonwealth receive from the United States government any pay, subsistence, forage and transportation or other allowance on account of such service, the allowance for pay, subsistence, forage and transportation provided for by this chapter shall be reduced by the amounts so received from the United States government.

Allowance for motor vehicles, etc. 1911, 514. 1917, 327, § 167. G. L. (ed. of 1920) 33, § 156. 1924, 465. SECTION 144. There may be allowed, on approval of the adjutant general, for motor vehicles actually used in lieu of horses, to each officer and soldier authorized to be mounted, but using such vehicle in lieu of a horse, a sum not exceeding four dollars per day; but the commonwealth shall not be liable for any injury to or depreciation of motor vehicles so used, or for any damages to persons or property resulting therefrom.

Allowance for travel, etc. P. S. 14, § 131. 1887, 411, § 128. 1893, 367, § 128. R. L. 16, § 151. 1905, 463, § 157. 1906, 504, § 12. 1908, 604, § 171. 1911, 642, § 2. 1912, 399. 1916, 221. 1917, 327, § 168 (a). 1919, 73. SECTION 145. (a) There shall be allowed and paid to each officer and soldier required to travel on duty, as follows: Under sections seventeen, twenty-five, twenty-six, and one hundred and twenty-three, mileage at the rates established by law computed by the most direct railroad communication from the place where the headquarters of the various commands and the armories of the companies are situated and return, or by such route as may be approved by the commander-in-chief; and when upon duty as a member or judge advocate of any military court or board, or as a witness or defendant before such court or board, when attending meetings of officers and noncommissioned officers, as provided in section one hundred and thirty-two, when acting

12 as a paymaster, and in any case when obliged by orders of the com-
 13 mander-in-chief to travel without troops, six cents a mile each way,
 14 computed by the most direct railroad communication from the residence
 15 of the officer or soldier, or by such route as may be approved by the
 16 commander-in-chief.

1920, 127.
 G. L. (ed. of
 1920) 33,
 § 157 (c).
 1922, 415, § 1.
 1923, 479, § 7.
 1924, 465.

17 (b) When military property loaned by the United States government
 18 to the commonwealth has suffered loss or injury, the amount of such
 19 loss or injury shall be paid to the United States government by the
 20 commonwealth on approval of the adjutant general, and the amounts
 21 so paid shall be deducted from allowances made payable to officers of
 22 the militia or from sums paid to the commonwealth by the adjutant
 23 general on account of such loss or injury and collected by him from
 24 officers of the militia responsible therefor, or from their bondsmen.

Reimburse-
 ment to
 United States
 for injury to its
 property, etc.
 1908, 371,
 604, § 174.
 1912, 399.
 1917, 327,
 § 168 (d).
 G. L. (ed. of
 1920) 33,
 § 157 (d).
 1924, 465.

25 (c) Inspecting officers, when on duty in armories under orders of the
 26 commander-in-chief, shall receive the pay and allowances provided for
 27 officers on duty.

Pay and allow-
 ances of in-
 specting
 officers.

1880, 360, § 4.	1906, 504, § 12.	1917, 327, § 168 (c).
1893, 367, § 128.	1908, 604, § 174.	G. L. (ed. of 1920) 33, § 157 (c).
R. L. 16, § 151	1912, 399.	1924, 465.
1905, 465, § 157.		

28 (d) There shall be allowed and paid by the commonwealth, as of April
 29 first in each year, to each commissioned officer, and to each warrant
 30 officer, who served as such for the year preceding said date, or for a part
 31 thereof, a sum for uniform allowance computed at the rate of thirty-five
 32 dollars for the full year, upon the approval of the adjutant general and
 33 of the intermediate commanders in the chain of command and upon
 34 their certification that such commissioned officer, or such warrant officer,
 35 has served for the whole or a specified part of said year and during such
 36 service has provided himself with the equipment required by the regu-
 37 lations.

Annual allow-
 ances to com-
 missioned and
 warrant officers
 of national
 guard for
 uniforms.
 1924, 465.
 1926, 373, § 1.
 1930, 148, § 1.

1 SECTION 146. Mounted officers and men, when ordered by the com-
 2 mander-in-chief to transport their horses, shall be allowed the actual
 3 cost of such transportation from the point of departure nearest to the
 4 several headquarters or the armories of the companies to which they
 5 belong. No allowance shall be made for transportation not actually
 6 used, nor to officers or men, when transported by horses provided by
 7 the commonwealth.

Allowance for
 transporting
 horses.
 1878, 265,
 § 129.
 P. S. 14, §§ 132,
 133.
 1887, 411,
 §§ 130, 131.
 1893, 367,
 §§ 130, 131.

R. L. 16, § 153.	1908, 604, § 175.	G. L. (ed. of 1920) 33, § 158.
1905, 465, § 159.	1917, 327, § 169.	1924, 465.

1 SECTION 147. Subsistence for enlisted men and handsmen shall be
 2 furnished in kind, unless it is otherwise directed by the commander-in-
 3 chief, when troops are on duty under sections seventeen, twenty-five,
 4 twenty-six, and one hundred and twenty-three. Bids for supplies for
 5 the annual encampment of the militia, involving the expenditure of
 6 more than one hundred dollars, shall be advertised for by the state
 7 quartermaster in such newspapers as the adjutant general approves;
 8 and the contract shall be awarded to the lowest bidder, if the bid is
 9 approved by the adjutant general, and the bidder furnishes such secur-
 10 ity, if any, as the adjutant general may require. This requirement as to
 11 advertising shall not apply to supplies purchased or drawn from the
 12 war department or from contractors under contract to that department,
 13 if the commander-in-chief so directs. The state quartermaster may
 14 make sales of commissary stores for cash, at contract prices, to officers
 15 and enlisted men, and to civilian employees of the state or of the United

Subsistence.
 Advertising of
 bids for
 supplies.
 Sale of
 commissary
 stores for
 cash, etc.
 P. S. 14, § 134.
 1887, 414,
 § 132.
 1893, 367,
 § 132.
 R. L. 16, § 154.
 1905, 465,
 § 160.
 1908, 604,
 § 176.
 1910, 225,
 1912, 568,
 1917, 327,
 § 170.
 G. L. (ed. of
 1920) 33, § 159.
 1924, 465.

States assigned to or employed at the station or with the troops, and the moneys so received by him shall be paid to the commonwealth. The state quartermaster may purchase annually for sale for cash to officers and enlisted men and to such civilian employees of the state or of the United States, commissary stores to a value not exceeding five thousand dollars. Forage and transportation may be furnished in kind in lieu of money allowances.

Allowance to headquarters, etc., for certain expenses. P. S. 14, § 135. 1884, 45. 1887, 411. §§ 128, 133. 1890, 425, § 11. 1893, 367. §§ 128, 133; 439. 1895, 465, § 8. R. L. 16, §§ 151, 155. 1905, 465, §§ 157, 161. 1906, 504. §§ 12, 13. 1908, 604, §§ 174, 177. 1912, 399. 1914, 481. 1916, 86. 1917, 105, §§ 2, 3; 327, § 171.

SECTION 148. There shall annually be allowed and paid under such regulations as may be promulgated by the commander-in-chief, for postage, printing, stationery, care of property, equipment, military expense, including clerical assistance: to each brigade headquarters, one hundred and fifty dollars; to each regimental headquarters, twelve hundred dollars, and fifty dollars for every company in the command; to each separate battalion or squadron and to each other organization designated by the commander-in-chief, and to the first corps of cadets, one hundred and fifty dollars for each company therein; and to each company, five hundred dollars, and two dollars for each enlisted man attached thereto or enrolled therein, not exceeding the maximum enlisted strength allowed by law, to separate detachments and sections such proportionate amounts as may be approved by the commander-in-chief; to division headquarters for office and maintenance expense, twenty-five hundred dollars.

G. L. (ed. of 1920) 33, § 160. 1922, 445, § 2.

1923, 459, § 8. 1924, 465.

For repair, etc., of uniforms, etc. 1890, 425, § 11. 1893, 439. R. L. 16, § 155. 1905, 465, § 161. 1906, 504, § 13. 1908, 604, § 177. 1914, 481. 1916, 86. 1917, 105, § 2; 327, § 172. G. L. (ed. of 1920) 33, § 161.

SECTION 149. There shall annually be allowed and paid, under such regulations as may be promulgated by the commander-in-chief, to each headquarters, department, corps and company, and to each other unit designated by the commander-in-chief, the sum of two dollars for each enlisted man, excepting bandsmen not mustered, attached thereto or enrolled therein, not exceeding the maximum enlisted strength allowed by law, the amount so paid to be expended in the repair and alteration of uniforms, or in defraying the incidental military expenses of the several organizations.

1923, 459, § 9.

1924, 465.

For armorer. 1906, 504, § 13. 1908, 604, § 177. 1914, 481. 1916, 86. 1917, 105, § 2; 327, § 173. G. L. (ed. of 1920) 33, § 162. 1924, 465.

SECTION 150. There shall annually be allowed and paid under such regulations as may be promulgated by the commander-in-chief, to brigade, regimental, separate battalion, squadron or to each other organization designated by the commander-in-chief, and corps headquarters, and to each company, for the services of a company armorer, or armorer of regimental, separate battalion, squadron and corps headquarters, who shall devote all necessary attention to the care of the arms, equipments and uniforms of the headquarters or company, the sum of one hundred and twenty-five dollars.

For artillery mechanic. 1909, 298. 1917, 327, § 174. G. L. (ed. of 1920) 33, § 163. 1924, 465. 1925, 270.

SECTION 151. There shall annually be allowed and paid, under such regulations as may be promulgated by the commander-in-chief, to each field artillery unit the sum of eight hundred dollars for the employment of a competent mechanic, to be appointed by the unit commander and approved by the state quartermaster, and who shall be regularly enlisted in the unit. The said mechanic shall devote his time and labor exclusively to the care of the artillery equipment and material of the unit, except,

8 however, that he may be required by the state quartermaster to perform,
9 without further compensation, the duties of assistant armorer in the
10 quarters occupied by the unit.

1 SECTION 152. The state quartermaster shall have advanced to him by
2 the commonwealth, under such rules and regulations as the state comp-
3 troller may prescribe, one hundred per cent of the pay and mileage for
4 duty performed at camp, or under sections twenty-five and twenty-six
5 and shall return the unexpended balance of the sum so advanced as soon
6 as possible, or at such times as the comptroller may require.

Advances to
state quartermaster for
pay, etc.
1900, 266
R. L. 6, § 35.
1905, 369.
1908, 434.
1912, 71, § 1.

1914, 45, 370, §§ 2, 3. 1917, 327, § 175. G. L. (ed. of 1920) 33, § 164.
1916, 284, § 15. 1920, 365. 1924, 465.

1 SECTION 153. Officers of the quartermaster corps shall take proper
2 vouchers for all payments, and immediately after the payment of troops
3 shall file with the state comptroller an account of their payments, with
4 their vouchers; and such accounts shall be audited by the state comp-
5 troller, and the several officers shall be held to account for any discrepan-
6 cies.

Vouchers and
accounts of
officers of
quartermaster
corps.
P. S. 14, § 157.
1887, 411,
§ 155.

1893, 367, § 155. 1908, 604, § 200. G. L. (ed. of 1920) 33, § 165.
R. L. 16, § 177. 1912, 58. 1924, 465.
1905, 465, § 184. 1917, 327, § 176.

1 SECTION 154. The militia, when in the service of the United States,
2 if paid by the commonwealth, shall receive the same pay and allowances
3 as the regular troops of the United States, and the rations when com-
4 muted shall be valued at the rate fixed by the regulations of the United
5 States army in force at the time. When the militia are discharged from
6 such service, they shall be allowed pay and rations to their respective
7 homes.

Pay and allow-
ances for
United States
service.
P. S. 14, § 168.
1887, 411,
§ 165.
1893, 367,
§ 166.
R. L. 16, § 184.

1905, 465, § 192. 1917, 327, § 177. 1924, 465.
1908, 604, § 207. G. L. (ed. of 1920) 33, § 166.

Courts-Martial — Courts of Inquiry — Special Boards.

1 SECTION 155. Courts of inquiry in the land forces shall be instituted,
2 constituted and conducted in the same manner and shall have like powers
3 and duties as similar courts in the army of the United States, except that
4 such courts shall be ordered by the commander-in-chief or by a brigade
5 commander.

Courts of
inquiry.
P. S. 14,
§§ 137, 138.
1887, 411,
§§ 135, 136.
1893, 367,
§§ 135, 136.

1897, 448, § 14. 1908, 604, §§ 179, 180. G. L. (ed. of 1920) 33, § 167.
R. L. 16, §§ 137, 158. 1917, 327, § 178. 1924, 465.
1905, 465, §§ 163, 164.

1 SECTION 156. There shall be allowed to each person, not in the volun-
2 teer militia, appearing before courts of inquiry or courts-martial, upon
3 summons of the president or judge advocate thereof, one dollar and fifty
4 cents for each day's attendance and six cents for each mile necessarily
5 traveled in obedience to the summons.

Allowances
to witnesses.
P. S. 14, § 136.
1887, 411,
§ 134.
1893, 367,
§ 134.

R. L. 16, § 156. 1908, 604, § 178. G. L. (ed. of 1920) 33, § 168.
1905, 465, § 162. 1917, 327, § 179. 1924, 465.

1 SECTION 157. Courts-martial in the land forces shall be of three
2 kinds, namely, general courts-martial, special courts-martial and sum-
3 mary courts-martial. They shall be constituted like similar courts pro-
4 vided for by the laws and regulations governing the army of the United
5 States, and shall have cognizance of the same subjects as those courts and
6 possess like powers with them, except as to punishments, and the pro-

Courts-
martial.
P. S. 14,
§§ 139-143,
145-147.
1887, 411,
§§ 137-141,
143-145.
1893, 367,
§§ 137-141,
143-145.

R. L. 16,
§§ 159-163,
165-167.

ceedings of courts-martial of the national guard shall follow the forms and modes of procedure prescribed for said similar courts. 7 8

1905, 465, §§ 165-169, 171-173, 1912, 519, G. L. (ed. of 1920) 33, § 169,
1908, 604, §§ 181-185, 187-189, 1917, 327, § 180, 1924, 465.

General courts-martial, how convened
Punishments, etc.
P. S. 14,
§§ 139-141,
1887, 411,
§§ 137-139,
1893, 367,
§§ 137-139.

SECTION 158. General courts-martial of the land forces may be convoked by order of the president or of the governor, and may impose one or more of the following punishments or sentences for each offence: (1) Fine, not exceeding two hundred dollars. (2) Forfeiture of pay and allowances. (3) Reprimand. (4) Dismissal or dishonorable discharge from the service. (5) Reduction of noncommissioned officers to the ranks. 1 2 3 4 5 6

R. L. 16, §§ 159-161, 1912, 519, G. L. (ed. of 1920) 33, § 170,
1905, 465, §§ 165-167, 1917, 327, § 181, 1924, 465,
1908, 604, §§ 181-183.

Special courts-martial, appointment, powers, etc.
P. S. 14,
§§ 140, 141,
146,
1887, 411,
§§ 138, 139, 144,
1893, 367,
§§ 138, 139, 144,
144
R. L. 16,
§§ 160, 161,
166,
1905, 465,
§§ 166, 167, 172,
1908, 604,
§§ 182, 183, 188.

SECTION 159. The commanding officer of each garrison, fort, post, camp or other place, brigade, regiment, detached battalion, or other detached command, may appoint special courts-martial for his command; and such special courts-martial may in any case be appointed by superior authority at its discretion. Special courts-martial may try any person subject to military law, except a commissioned officer, for any crime or offence made punishable by the military laws of the United States, and such special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed by them shall not exceed one hundred dollars. 1 2 3 4 5 6 7 8 9 10

1912, 519, G. L. (ed. of 1920) 33, 1924, 465,
1917, 327, § 182, § 171.

Summary courts, appointments, powers, etc.
P. S. 14,
§§ 140-143,
146,
1887, 411,
§§ 138-141,
144,
1893, 367,
§§ 138-141,
144
R. L. 16,
§§ 160-163,
166,
1905, 465,
§§ 166-169,
172,
1908, 604,
§§ 182-185, 188,
1912, 519.

SECTION 160. The commanding officer of each garrison, fort, post, or other place, regiment, or corps, detached battalion, company, or other detachment, of the land forces may appoint for such place or command a summary court to consist of one officer, who may administer oaths and try the enlisted men of such place or command for breaches of discipline and violation of laws governing such organizations; and said court, when satisfied of the guilt of the soldier brought before it, may impose fines not exceeding twenty-five dollars for any single offence, may sentence noncommissioned officers to reduction to the ranks, and may sentence to forfeiture of pay and allowances. The proceedings of such courts shall be informal, and the minutes thereof shall be the same as are prescribed for summary courts of the army of the United States. 1 2 3 4 5 6 7 8 9 10 11 12

1917, 327, § 183, G. L. (ed. of 1920) 33, § 172, 1924, 465.

Sentences to confinement in lieu of fines.
P. S. 14, § 141,
1887, 411,
§ 139.

SECTION 161. All courts-martial of the land forces including the summary courts, may sentence to confinement in lieu of fines authorized to be imposed, not exceeding one day for each dollar of fine authorized. 1 2 3

1893, 367, § 139, 1908, 604, § 183, G. L. (ed. of 1920) 33,
R. L. 16, § 161, 1912, 519, § 173,
1905, 465, § 167, 1917, 327, § 184, 1924, 465.

Governor to approve sentences of dismissal or dishonorable discharge.

SECTION 162. No sentence of dismissal from the service or dishonorable discharge imposed by a court-martial shall be executed until approved by the governor. 1 2 3

1917, 327, § 185, G. L. (ed. of 1920) 33, § 174, 1924, 465.

Power to issue warrants, compel attendance of witnesses, etc.

SECTION 163. In the land forces, presidents of courts-martial and summary court officers may issue warrants to arrest accused persons and to bring an accused person before the court for trial whenever he 1 2 3

4 shall have disobeyed a written order from the convening authority,
5 delivered to the accused, with a copy of the charge or charges, and
6 directing him to appear before the court. The said officials may issue
7 subpoenas and subpoenas duces tecum, and may enforce the attendance
8 of witnesses and the production of books and documents, and may
9 sentence for a refusal to be sworn or to answer, as in actions before civil
10 courts.

1908, 604, §§ 185, 186,
1917, 327, § 186.

G. L. (ed. of 1920) 33,
§ 175.

1924, 465.

P. S. 14,
§§ 143, 144,
1887, 411,
§§ 141, 142,
1893, 367,
§§ 141, 142,
R. L. 16,
§§ 163, 164,
1905, 465,
§§ 169, 170.

1 SECTION 164. (a) All processes and sentences of said courts shall be
2 executed by an officer qualified to serve criminal process, and commit-
3 ment under said sentences may be made to any jail or house of correction
4 in the commonwealth. The master or keeper of the jail or house of
5 correction to which a person is sentenced shall receive and detain him
6 in the same manner as if he had been sentenced by a civil court sitting
7 in the county where such jail or house of correction is situated. The
8 necessary charges shall be paid by the commonwealth on vouchers in
9 duplicate to be submitted to the adjutant general.

1917, 327, § 187 (a).
G. L. (ed. of 1920) 33, § 176 (a).

1923, 459, § 11.
1924, 465.

Processes and sentences, how
executed, etc.
Fines, pay-
ment, dis-
position, etc.
P. S. 14, § 143,
1887, 411,
§ 141,
1893, 367,
§ 141
R. L. 16, § 163.
1905, 465,
1908, 604, § 185.

10 (b) All fines assessed under sections seventy-nine to one hundred and
11 seventy, inclusive, and collected or withheld shall be paid to the adju-
12 tant general, to be used to pay court-martial expenses, or for such other
13 purposes as he may determine, subject to such regulations as may be
14 prescribed by the commander-in-chief. Upon receipt of a certificate
15 from the authority convening the court as to any fine assessed by it,
16 the pay officer concerned shall pay over any funds due to the person
17 convicted, not exceeding the amount of the fine, to the adjutant general
18 upon his sole receipt.

1917, 327, § 187 (a).
G. L. (ed. of 1920) 33, § 176 (a).

1923, 459, § 11.
1924, 465.

1912, 519,
1917, 327,
§ 187 (b).
G. L. (ed. of
1920) 33,
§ 176 (b).
1924, 465.

1 SECTION 165. The provisions for training and the general rules of
2 conduct set forth in the articles of war and general regulations for the
3 government of the army of the United States, so far as applicable, and
4 with such modifications as the commander-in-chief may prescribe, shall
5 apply to the national guard, and the officers and men of the national
6 guard shall conform thereto.

1893, 367, § 146.
R. L. 16, § 168.
1905, 465, § 174.

1908, 604, § 190.
1917, 327, § 188.

G. L. (ed. of 1920) 33, § 177.
1924, 465.

United States
articles of war,
etc., as mod-
ified, to apply
to national
guard.
P. S. 14, § 148,
1887, 411,
§ 146.

General Provisions.

1 SECTION 166. The commanding officers of a separate battalion,
2 squadron of cavalry and of the first corps of cadets may each employ
3 or raise by enlistment a band of musicians, not exceeding the number
4 prescribed by the commander-in-chief, to be under his command. Such
5 musicians while on duty shall be subject to the laws and regulations for
6 the government of the militia, except that they may not be mustered in.

1908, 604, § 31.
1916, 284, § 16.

1917, 327, § 189.
G. L. (ed. of 1920) 33, § 178.

1924, 465.

Band of
musicians.
1881, 277, § 1.
P. S. 14, § 30.
1884, 230, § 4.
1887, 411, § 40
1893, 367, § 30.
R. L. 16, § 32.
1905, 465, § 35.
1906, 504, § 4.

1 SECTION 167. Chaplains in the land forces shall hold the same grades
2 as chaplains in the regular army.

G. L. (ed. of 1920) 33, § 179.

1924, 465.

Chaplains.
1917, 327,
§ 190.

1 SECTION 168. To each officer or enlisted man who completes nine
2 years of honorable service, continuous or otherwise, there shall be issued

Service medals.
Medals of valor.
1890, 425, § 12.

1891, 232, § 3.
1893, 367,
§ 127.
1896, 348.
I. L. 16, § 75.
1905, 465, § 80.
1906, 504, § 5.
1908, 604,
604, § 50.
1914, R. S. 28,
1917, 327,
§ 191.
1920, 408.
G. L. (ed. of
1920) 33, § 180.
1924, 396, § 1:
465.
1 Op. A. G. 36.
Op. A. G.
(1919) 89.

a medal, and, for each additional five years of like service, a clasp to be 3
affixed thereto. Active, retired or honorably discharged officers and 4
enlisted men who have served in the military or naval service of the 5
United States in time of war and have been honorably discharged there- 6
from, shall receive an additional clasp indicative of such service, to be 7
affixed to the medal herein provided for. The adjutant general and two 8
commissioned officers above the rank of captain, from time to time 9
designated by the commander-in-chief, shall act as a medal of valor com- 10
mission, and may receive recommendations from the military authorities 11
through military channels that any officer or enlisted man of the volunteer 12
militia, by reason of conspicuous gallantry and intrepidity at the risk of 13
his life above and beyond the call of duty while on active service, is 14
entitled to receive a medal of valor. Such recommendations shall not be 15
considered unless supported by the affidavit of at least one responsible 16
eye-witness to the act to be so recognized. If satisfied that such medal 17
ought to be conferred as recommended, the commission may so advise 18
the commander-in-chief who may confer upon such officer or enlisted man, 19
in the name and on behalf of the commonwealth, a medal of valor. Not 20
more than one such medal shall be awarded to any one person, but for 21
each succeeding deed or act sufficient to justify such an award, the 22
commander-in-chief may bestow a suitable bar or other appropriate 23
insignia to be worn as he shall direct. The design of any such medal or 24
insignia shall be approved by the art commission for the commonwealth. 25

Oaths, by
whom ad-
ministered.
P. S. 14, § 161.
1887, 411,
§ 159.
1893, 367, § 159.
R. L. 16, § 181.
1905, 465, § 189.
1908, 604, § 204.
1917, 327, § 192.
G. L. (ed. of
1920) 33, § 181.
1924, 465.

SECTION 169. General and field officers, officers regularly assigned to 1
the duty of paying troops, any judge advocate or acting judge advocate, 2
the president of a general or special court-martial, any summary court- 3
martial, the trial judge advocate or any assistant trial judge advocate of 4
a general or special court-martial, the president or the recorder of a court 5
of inquiry or of a military board, any officer designated to take a deposi- 6
tion, any officer detailed to conduct an investigation, and the adjutant 7
of any command shall have power to administer oaths for the purposes of 8
the administration of military justice and for other purposes of military 9
administration and the oaths required by this chapter and by the regula- 10
tions for the government of the militia. 11

Delegates to
annual con-
ventions of
national guard
association.
1910, 513,
1917, 327,
§ 193.
G. L. (ed. of
1920) 33, § 182.
1924, 465.

SECTION 170. The governor may appoint from the Massachusetts 1
national guard association delegates, at his discretion, to represent the 2
militia of the commonwealth at the annual conventions of the national 3
guard association of the United States. The necessary expenses of the 4
delegates so appointed shall be paid out of the appropriation for military 5
accounts. 6

NAVAL FORCES.

Naval forces,
how consti-
tuted.
1908, 604, § 18
1917, 327,
§ 194 (a).
G. L. (ed. of
1920) 33,
§ 183 (a).

SECTION 171. (a) The naval forces shall consist of the department 1
of naval militia, the naval militia, the naval militia retired list, and the 2
naval militia reserve list, and any part of the unorganized militia serving 3
with the naval forces under sections eight, nine and eleven. 4

Naval militia,
department of.
1908, 604, § 21.
1912, 365,
§ 1, 4.

(b) The department of naval militia shall consist of a naval militia 5
bureau, such other officers as the commander-in-chief may detail, and 6
necessary clerks and other assistants. The expense of such clerical and 7

8 other assistance shall not exceed the amount annually appropriated
9 therefor.

G. L. (ed. of 1920) 33, § 183 (b).

1921, 465.

1917, 327,
§ 194 (b),
1918, 128.

10 The chief of the naval militia bureau shall be the chief of the depart-
11 ment. A member of the bureau shall be designated as assistant chief of
12 bureau and shall, in the absence of the chief of department, be acting
13 chief of department. The adjutant general shall be, ex officio, a member
14 of the naval militia bureau, and shall be, ex officio, acting chief of depart-
15 ment in the absence of the chief of bureau and the assistant chief of
16 bureau.

Naval militia
bureau.

1 SECTION 172. The naval forces shall consist of such other units,
2 officers and enlisted men, and shall be so organized, maintained, officered,
3 recruited, armed, equipped, uniformed, trained and disciplined as the
4 commander-in-chief may from time to time by order prescribe. Officers,
5 petty officers and other rated men shall be selected, appointed and re-
6 moved as the commander-in-chief may from time to time by order
7 prescribe.

Same subject.
1888, 366,
§§ 1-3.
1892, 366,
§§ 1-5.
1893, 367,
§§ 22, 29.
1894, 312.
1896, 182.
1898, 407.

R. L. 16, §§ 23, 30.

1911, 670.

1917, 327, § 195 (a).

1903, 377.

1912, 365, § 1; 506, § 1.

G. L. (ed. of 1920) 33,

1905, 465, § 31.

1914, 718, § 1.

§ 184.

1908, 604, §§ 18, 22, 23.

1916, 284, § 3.

1924, 465.

1 SECTION 173. The commander-in-chief may make and issue regula-
2 tions for government and discipline of the naval forces, and may pre-
3 scribe the punishments which can be inflicted by sentence of court-
4 martial.

Commander-
in-chief may
make regula-
tions, prescribe
punishments,
etc.

1924, 465.

1 SECTION 174. Such officer of the Massachusetts volunteer militia as
2 the commander-in-chief may designate shall have general supervision and
3 control of all matters pertaining to the medical department of the naval
4 forces, and shall, subject to the laws of the United States, prescribe the
5 physical and mental disabilities exempting from military duty. He shall
6 purchase and issue all medical and hospital supplies and shall perform
7 such other medical duties as the commander-in-chief may direct.

Medical head.
Powers.
1880, 40.
P. S. 14, § 17.
1887, 411, § 17.
1893, 367, § 17.
R. L. 16, § 18.
1905, 465, § 18.
1908, 604, § 36.
1916, 284, § 15.
1917, 327,
§ 197.

G. L. (ed. of 1920) 33, § 186.

1924, 465.

1 SECTION 175. Such officer of the Massachusetts volunteer militia as
2 the commander-in-chief may designate as acting judge advocate general
3 for the naval militia may be required to examine and report in writing
4 upon all proceedings of courts-martial in the naval forces requiring the
5 action of the commander-in-chief; and, in matters referred to him by
6 law or by the commander-in-chief, shall be the legal adviser of the
7 department of naval militia of the commonwealth, and shall bring all
8 necessary actions.

Acting judge
advocate
general,
duties, etc.
P. S. 14, § 18.
1887, 411, § 18.
1893, 367, § 18.
R. L. 16, § 19.
1905, 465, § 19.
1908, 604, § 37.
1911, 145, § 4.
1917, 327,
§ 198.

G. L. (ed. of 1920) 33, § 187.

1924, 465.

1 SECTION 176. (a) Such officers as the commander-in-chief may desig-
2 nate shall have the supervision and control of all clothing, equipment
3 and other naval property, both state and federal, issued to, drawn, or
4 purchased for the use of the naval militia. Such clothing, equipment
5 and other naval property shall be purchased, drawn and issued as the
6 commander-in-chief may direct.

Clothing.
Equipment.
Transportation.
Control of
appropriations.
Allowance of
claims.
P. S. 14, § 14.
1887, 411, § 14.

1893, 367, § 14.
R. L. 16, § 15.
1905, 465, § 15.
1906, 504, § 1.
1908, 604, § 39.

1910, 348, § 2.

1911, 747.

1913, 733.

1916, 284, §§ 4, 15.

1917, 327, § 199 (a).

G. L. (ed. of 1920) 33,

§ 188 (a).

1924, 465.

1 Op. A. G. 166.

1917, 327, § 199 (b).
G. L. (ed. of 1920) 33, § 188 (b).
1924, 465.

(b) Such officers as the commander-in-chief may designate shall procure and provide transportation for the naval forces and their equipment and other property under such regulations as the commander-in-chief may prescribe.

1917, 327, § 199 (c).
G. L. (ed. of 1920) 33, § 188 (c).
1924, 465.

(c) The adjutant general, or such other officer as the commander-in-chief may designate, shall have control of the appropriations for the use and benefit of the naval forces, and may allow, annually, proper accounts for the repair of uniforms and equipment.

Use of armories or grounds regulated.
1917, 327, § 200.
G. L. (ed. of 1920) 33, § 189.
1924, 465.

SECTION 177. The naval militia while occupying armories, or quarters therein, or using grounds for parades, drill or small arms practice, as provided in sections one to seventy-eight, inclusive, shall be subject to the same rules and regulations in the use thereof, and the same administrative control, as is the national guard. The officer or official charged by law with the care and maintenance of armories shall, at the public expense, provide suitable places for the safe keeping of all clothing, equipment and other naval property of the naval militia.

Penalty for unlawful purchase, etc., of certain property.
V. S. 14, § 15.
1887, 411, § 15.
1893, 367, § 15.
R. L. 16, § 16.
1905, 465, § 16.
1908, 604, § 116.

SECTION 178. Whoever purchases, retains or has in possession any tool or equipment, or any weapon of ordnance, or article of clothing or equipment issued by and the property of the United States or the commonwealth, unless it has been issued to him or is in his possession in accordance with law, shall be punished by a fine not exceeding ten times the value thereof.

1917, 327, § 235.

G. L. (ed. of 1920) 33, § 224.

1924, 465.

Personal property of organizations, and suits to recover same.
P. S. 14, § 87.
1887, 411, § 86.
1893, 367, § 86.
R. L. 16, § 101.
1905, 465, § 106.
1908, 604, § 123.
1917, 327, § 237.

SECTION 179. Naval militia organizations may own personal property, to be under the control of the active members thereof; and the commanding officer of any organization may recover in his own name for its use, in any county where such organization or part thereof is located, any debts or effects belonging to it, or damages for injury to such property. No suit or complaint pending in his own name shall be abated by his ceasing to be commanding officer of the organization, but his successor shall be permitted to prosecute the suit or complaint.

G. L. (ed. of 1920) 33, § 226.

1924, 465.

Duty may be performed afloat, etc.
Expenses for use of United States ships.
1888, 366, § 4.
1892, 366, § 5.

SECTION 180. The duty of the naval militia may be performed afloat on vessels of the navy or on vessels or boats loaned by the secretary of the navy to the governor or other proper state authority, for the use of the naval militia.

1893, 367, § 29.
1896, 182, § 1.
R. L. 16, § 30.
1905, 465, § 31.

1908, 604, § 22.
1911, 670.
1912, 506, § 1.
1914, 718, § 1 (g).

1916, 284, § 3 (b).
1917, 327, § 239 (b).
G. L. (ed. of 1920) 33, § 228 (b).
1924, 465.

1916, 10, § 1.

The annual appropriation for the furnishing, repair and care of any United States ships loaned to the commonwealth for the use of the naval militia shall be available for the payment of all damages and other expenses incident to the use of such ships. Claims for damages shall be paid only when approved by the adjutant general, and the release obtained shall be in such form as he may prescribe.

Conditions under which compensation,

SECTION 181. The commander-in-chief may prescribe the terms and conditions under which, and the types of duty for which, officers and

3 enlisted men shall be entitled to receive compensation, transportation, etc., payable,
4 subsistence or other allowances and emoluments. how prescribed,
1924, 465.

1 SECTION 182. The commander-in-chief may prescribe the amounts Amounts pay-
2 to be allowed and paid for compensation, transportation, subsistence, able, how
3 allowances and other emoluments to officers and enlisted men of the prescribed,
4 naval forces, and the amounts to be allowed and paid to brigades, bat- 1924, 465.
5 talions, divisions and other units for administrative and incidental
6 expenses, for the care and repair of uniforms and equipment, and the
7 care of arms and quarters.

1 SECTION 183. Such officer as may be designated in orders of the Advances to
2 commander-in-chief to act as paymaster general for the naval militia acting pay-
3 may have advanced to him, by the commonwealth, under such rules and master general
4 regulations as the comptroller prescribes, one hundred per cent of the 1909, 266
5 pay and mileage for duty to be performed under section one hundred and R. L. 6, § 35.
6 eighty-one, and he shall return the unexpended balance so advanced as 1905, 369,
7 soon as possible, or at such time as the comptroller may require. 1908, 434,
1912, 71,
1914, 45,
370, § 2, 3.
1916, 284, § 15.
1917, 327, § 253.

G. L. (ed. of 1920) 33, § 242. 1924, 465.

1 SECTION 184. Presidents of general courts-martial, senior members Courts-martial,
2 of summary courts-martial and deck court officers of the naval forces power to issue
3 may issue warrants to arrest accused persons and to bring an accused warrants,
4 person before the court for trial, whenever he shall have disobeyed a compel at-
5 written order from the convening authority, delivered to the accused with tendance of
6 a copy of the charge or charges, and directing him to appear before the witnesses, etc.
7 court. The said officers may issue subpoenas and subpoenas duces tecum, P. S. 14,
8 and may enforce the attendance of witnesses and the production of books §§ 143, 144,
9 and documents, and may sentence for refusal to be sworn or to answer, 1887, 411,
10 all as authorized for similar proceedings for courts-martial in the navy of §§ 141, 142,
11 the United States. R. L. 16,
§ 163, 164,
1905, 465,
§ 169, 170,
1908, 604,
§ 185, 186.

1917, 327, § 260 (a). G. L. (ed. of 1920) 33, § 249 (a). 1924, 465.

1 SECTION 185. All fines assessed under any provisions of sections one Fines, pay-
2 hundred and seventy-one to one hundred and eighty-eight, inclusive, and ment, dispo-
3 collected or withheld shall be paid to the commanding officer of the naval sition, etc.
4 militia of the Massachusetts volunteer militia, to be used by him to re- 1912, 519,
5 place lost or damaged property, or for such other purposes of the naval 1917, 327,
6 militia as he may determine, subject to such regulations as may be pre- § 262.
7 scribed by the commander-in-chief or by the secretary of the navy of G. L. (ed. of
8 the United States. Upon receipt of a certificate from the authority con- 1920) 33, § 251.
9 vening the court as to any fine assessed by it, the pay officer concerned 1924, 465.

10 shall pay over any funds due to the person fined, not exceeding the amount
11 of the fine, to the commanding officer upon his sole receipt.

1 SECTION 186. The provisions of section one hundred and fifty-six Allowances to
2 shall apply to each person appearing before courts of inquiry or courts- witnesses,
3 martial. P. S. 14, § 136.

1887, 411, § 134. 1905, 465, § 162. G. L. (ed. of 1920) 33, § 253.
1893, 367, § 134. 1908, 604, § 178. 1924, 465.
R. L. 16, § 156. 1917, 327, § 264.

Administration of oaths. SECTION 187. Officers of or above the rank of lieutenant-commander, 1
 P. S. 14, § 161. pay officers, and any officer serving as judge advocate or as a member of a 2
 1887, 411, court or board, may administer the oaths required by this chapter and by 3
 § 159. the regulations for the government of the militia. 4
 1901, 367, § 159.
 R. L. 16, § 181.

1905, 465, § 189. 1917, 327, § 266. 1924, 465.
 1908, 604, § 204. G. L. (ed. of 1920) 33, § 255.

Service medals and medals of valor. SECTION 188. The provisions of section one hundred and sixty-eight 1
 shall apply to the naval forces. 2

1890, 425, § 12. 1905, 465, § 80. 1917, 327, § 265.
 1891, 232, § 3. 1906, 504, § 5. G. L. (ed. of 1920) 33, § 254.
 1893, 367, § 127. 1908, 315; 604, § 90. 1924, 396, § 2; 465.
 1896, 348, §§ 1, 2. 1910, Res. 28. 1 Op. A. G. 36.
 R. L. 16, § 75.

TITLE VI.

COUNTIES AND COUNTY OFFICERS.

- CHAPTER 34. Counties and County Commissioners.
 CHAPTER 35. County Treasurers, State Supervision of County Accounts, and County Finances.
 CHAPTER 36. Registers of Deeds.
 CHAPTER 37. Sheriffs.
 CHAPTER 38. Medical Examiners.

CHAPTER 34.

COUNTIES AND COUNTY COMMISSIONERS.

SECT.

COUNTIES.

1. Boundaries and powers.
2. County maps.
3. Counties to provide public buildings.
- 3A. Women eligible to county offices, etc.

COUNTY COMMISSIONERS.

4. County commissioners. Election and qualification.
5. Salaries.
6. [Repealed.]
7. Compensation of associate commissioners, etc.
8. Expenses of commissioners.
9. Regular meetings.
- 9A. Records.
- 9B. Docket.
- 9C. Files.
- 9D. Record of payments ordered.

SECT.

- 9E. Extended record.
10. Record of proceedings.
11. Employees. Temporary clerk.
12. Proceedings if commissioners absent, interested, etc.
13. Commissioners may administer oaths, punish for contempt, etc.
14. General powers of commissioners. Seal.
15. Return of qualification of officers.
16. Half holidays for county employees.
17. County contracts.
18. Recognizances and damages.
19. Proceedings at other times than regular meetings, and returns thereof.
20. Laws as to commissioners and clerks applicable to certain other officers.
21. Official letters.
22. Penalty for violation of duty.

COUNTIES.

1 SECTION 1. The boundary of counties bordering on the sea shall be
 2 the marine boundary of the commonwealth. Counties separated by
 3 waters within the jurisdiction of the commonwealth shall exercise a
 4 concurrent jurisdiction over such waters. Each county shall be a body
 5 politic and corporate for the purposes of suit, of buying and holding, for
 6 county uses, personal estate and land lying therein, and of contracting and
 7 doing other necessary acts relative to its property and affairs.

1730-31, 8.
 1760-61, 33.
 1792, 72.
 1803, 14.
 1811, 61; 137; 141.

R. S. 14, §§ 1, 45.
 1859, 289.
 G. S. 1, § 1; 17, § 1.
 P. S. 22, §§ 1, 11.
 R. L. 20, §§ 1, 10.

16 Mass. 193.
 121 Mass. 380.
 153 Mass. 141.
 139 U. S. 240.

Boundaries and powers. Mass. Records, 1643, vol. 2, p. 38; 1662, vol. 4, part 2, p. 52. Plymouth records, 1685. 1692-3, 27. 1695-6, 7.

County maps.
 1846, 241,
 §§ 2, 3,
 1853, 325,
 §§ 1, 2,
 G. S. 17,
 §§ 7, 8,
 P. S. 22,
 §§ 9, 10
 R. L. 20,
 §§ 2, 3.

SECTION 2. County commissioners shall cause changes in the boundaries of towns, in the courses of highways, railroads and canals, and other topographical alterations to be correctly delineated on the county maps, which shall remain in their possession.

The state secretary, as often as necessary, shall transmit the manuscript county maps in his office to the respective county commissioners who shall cause a competent engineer or surveyor under their direction to transfer thereto all changes, and shall, within two months after their receipt, return them to the secretary, who shall forthwith cause the changes to be copied on the plates of the state map.

Countries to provide public buildings.
 C. L. 127, § 2,
 1700-1, 2, § 10,
 1784, 41, § 1,
 1811, 8, § 6,
 1854, 151, § 1,
 R. S. 14,
 §§ 9, 10.

SECTION 3. Each county shall provide suitable court houses, jails, houses of correction, fireproof offices and other public buildings necessary for its use, and suitable accommodations for district courts, except that the county of Dukes need not provide a house of correction, and that Boston shall provide necessary public buildings for Suffolk county.

G. S. 17, §§ 5, 6,	1891, 70,	R. L. 20, §§ 5-7,	212 Mass. 127.
P. S. 22, §§ 5, 6,	1893, 396, § 1.	163 Mass. 34	261 Mass. 294.
1890, 440, § 11.	1897, 245.	166 Mass. 303.	

Women eligible to county offices, etc.

SECTION 3A. Women shall be eligible to election or appointment to all county offices, positions, appointments and employments.

1921, 419, § 4.	1922, 371, § 2.
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COUNTY COMMISSIONERS.

County commissioners. Election and qualification.
 1821, 109, § 8;
 110,
 1854, 83,
 1845, 152,
 §§ 2, 4,
 1838, 71, § 1,
 R. S. 14,
 §§ 16, 21, 24,
 25, 29, 30, § 4,
 §§ 8, 9,
 1850, 299,
 §§ 1-3,
 1851, 336,
 §§ 1, 2,
 1852, 53,
 163,
 1853, 295,
 1854, 77,
 §§ 3, 4, 6.

SECTION 4. Except in Nantucket and Suffolk counties, there shall be elected in each county, as provided in section one hundred and fifty-eight of chapter fifty-four, for terms of four years beginning the first Wednesday of January following their election and until their successors are qualified, three county commissioners and two associate commissioners, who shall be sworn before entering upon their duties, and shall annually, at their first meeting after the first Wednesday of January, choose by ballot a chairman. In Nantucket county the selectmen of Nantucket, in Suffolk county the mayor and city council of Boston and the municipal council of Chelsea, in their respective cities, and in Revere and Winthrop the commissioners for Middlesex county, shall, except as otherwise provided, have the powers and perform the duties of county commissioners.

G. S. 10, §§ 6, 7; 17, §§ 11, 32-34; 43, § 80. 1872, 87, §§ 1, 3. P. S. 10, §§ 6, 7; 22, §§ 13, 29, 30; 49, § 87. 1892, 298, § 6, 1890, 423, § 193.	1893, 417, § 255. 1898, 217, §§ 2, 3. R. L. 11, § 321; 20, §§ 12, 13, 33, 34; 48, § 91. 1907, 500, § 349, 456, 1913, 835, §§ 391, 503.	1917, 255, § 1; 344, II, § 62. 1918, 114, § 2. 1919, 269, § 26. 3 Gray, 126. Op. A. G. (1917) 8.
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Salaries.
 1827, 77, § 10,
 R. S. 84, § 4,
 1839, 163,
 G. S. 17, § 29,
 1860, 185,
 1864, 280, § 1,
 1867, 340,
 1871, 236,
 1872, 151,
 1879, 295,
 P. S. 22, § 14,
 1885, 277,
 1886, 251,
 1887, 211,
 1888, 65.

SECTION 5. The salaries of county commissioners, payable by their respective counties in full for all services performed by said commissioners except as otherwise provided, shall be as follows:—

Dukes County	\$400
Barnstable, Franklin, Hampshire	1,500
Berkshire, Plymouth	2,100
Norfolk, Hampden, Bristol	3,000
Worcester, Essex	3,600
Middlesex	4,200

1889, 30; 339, 1890, 133, 1891, 79, 80, 1892, 298, 354, 1893, 276; 288, R. L. 20, § 14, 1902, 411; 544, §§ 4, 35.	1904, 451, § 1. 1905, 179, 1906, 290, 1910, 537, 1913, 603; 651, 1915, 272, 1918, 261, § 1.	1927, 327, § 1. 1930, 400, § 1. 117 Mass. 453. 140 Mass. 59. 3 Op. A. G. 360. Op. A. G. (1918) 70.
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1 SECTION 6. [REPEALED, 1930, 400, § 2.]

1 SECTION 7. An associate commissioner shall be paid by the county
2 not less than five dollars for each day of actual service, not exceeding five
3 hundred dollars in any year, and ten cents a mile for travel each way.
4 The commissioners of Middlesex county, when acting in relation to
5 Revere or Winthrop, shall be paid therefor by said city and town, or
6 either of them, in such proportions as the commissioners may direct, at
7 the rate of ten dollars a day and five cents a mile for travel for each com-
8 missioner in attendance.

Compensation of
associate
commissioners,
etc.
R. S. 84, § 10.
1827, 77, § 4.
1850, 133.
G. S. 17, § 29.
1860, 185.
1864, 280, § 1.
1867, 340.
1871, 236.

1879, 295.
P. S. 22, § 14.
1885, 277.
1894, 250.
1895, 112.
1898, 316.
1900, 198.
R. L. 20, §§ 14, 34.
1902, 544, § 4.
1930, 400, § 3.
1 Op. A. G. 197.

1 SECTION 8. An itemized statement of the actual and proper cost
2 to the commissioners for transportation and other necessary expenses
3 incurred in the performance of their official duties shall, on the first
4 day of each month, be certified by them to the director of accounts, who
5 shall audit and if correct certify it to the county treasurer who shall
6 reimburse them.

Expenses of
commissioners.
R. L. 20, § 14.
1902, 544, § 4.
1911, 162.
1919, 350.
§§ 52, 54
4 Op. A. G. 302.

1 SECTION 9. The commissioners shall hold meetings at the following
2 times and places for their respective counties:

Regular
meetings.

1818, 120.
1827, 77, § 3.
R. S. 84, § 6.
G. S. 17, § 31.
1867, 341.
1868, 325, § 3.
1869, 208.
P. S. 22, §§ 15, 16.
R. L. 20, §§ 16, 17.
1908, 431, § 1, 2.

- 3 At Barnstable, the second Tuesday of April and October. 1823, 145.
- 4 At Pittsfield, the first Tuesday of January, April, July and October. 1837, 146.
1840, 77. 1860, 3. 1883, 63.
- 5 At Taunton, the fourth Tuesday of March and September.
- 6 At Edgartown, the Wednesday next after the third Monday of May 1820, 41.
- 7 and the Wednesday next after the second Monday of November.
- 8 At Ipswich, the second Tuesday of April; at Salem, the second Tues- 1820, 27.
- 9 day of July; at Newburyport, the second Tuesday of October; at 1828, 103.
- 10 Lawrence, the last Tuesday of August; and the fourth Tuesday of 1851, 227.
- 11 December, at Ipswich, Salem or Newburyport, as they shall order at the
- 12 preceding meeting.
- 13 At Greenfield, the first Tuesday of March and September and the 1828, 103.
- 14 second Tuesday of June and December.
- 15 At Springfield, the second Tuesday of April, the first Tuesday of 1828, 103.
- 16 October and the fourth Tuesday of June and December. 1830, 42.
- 17 At Northampton, the first Tuesday of March, September and Decem- 1828, 103.
- 18 ber and the Tuesday next after the second Monday of June. 1840, 221.
- 19 At Cambridge, the first Tuesday of January and June; at Lowell, 1842, 1.
- 20 the first Tuesday of September. 1857, 36.
- 21 At Dedham, the third Tuesday of April, the fourth Tuesday of June 1837, 200.
- 22 and September and the last Wednesday of December.
- 23 At Plymouth, the first Tuesday of January, the third Tuesday of 1828, 103.
- 24 March and the first Tuesday of August.
- 25 At Worcester, the fourth Tuesday of March, the third Tuesday 1828, 103.
- 26 of June, the second Tuesday of September and the fourth Tuesday of
- 27 December.
- 28 They may by vote, specifying the time and place, establish other 1869, 208.
- 29 regular meetings within their county, and may also hold special meet- P. S. 22, § 16.
- 30 ings therein at such times and places as may be necessary. They may R. L. 20, § 17.
- 31 adjourn any regular or special meeting to any place within the county, 1908, 431,
§ 1, 2.

and persons required to appear at, or processes returnable to, any such meeting, shall appear at or be returnable to the adjourned meeting.

Records.
1922, 123.

SECTION 9A. The records of the commissioners shall consist of the docket, the files, a record of payments ordered, the extended record, and a complete record of proceedings at all meetings as provided in section ten.

Docket.
1922, 123
1931, 426, § 150

SECTION 9B. The docket is hereby defined as a record wherein their clerk shall register, by its title or by an abstract, and numbered consecutively, every action, suit and proceeding commenced before or transferred or appealed to the commissioners, and also contracts filed as required by section seventeen. He shall note therein, according to the date thereof, the filing or return of any paper or process, the making of any decree, adjudication, order, rule or other direction, or any amendment thereof, in or concerning such matter.

Files.
1922, 123.

SECTION 9C. The files are hereby defined as all papers and processes filed with or by the clerk in any action, suit, proceeding or contract, before, by or with the commissioners. All such papers, processes and contracts shall be numbered consecutively in each case, as entered.

Record of payments ordered.
1922, 123.

SECTION 9D. The record of payments ordered shall be in such form as the commissioners, with the approval of the director of accounts, may determine. It shall contain the name of each person to whom payment is ordered made, together with its amount, both of which shall be classified under a heading specifying the appropriation from which such payment is to be made.

Extended record.
1922, 123.

SECTION 9E. The extended record shall be in abridged form. It shall comprise an abbreviated chronicle of all matters entered upon the docket, under the same or a similar title or an abstract thereof, and under the same number, and shall contain a brief and concise narrative of the essential features of the matter. Any final judgment, decree or order affecting the title to land shall be copied therein at length. But contracts and amendments thereof shall not be copied unless so ordered by the commissioners.

Record of proceedings.
1896, 384, § 1.
R. L. 20, § 18.
1919, 350,
§§ 52, 54.
205 Mass. 189.

SECTION 10. They shall keep a full and complete record of the proceedings at all their meetings and, if their vote or decision is not unanimous, the record shall show how each commissioner voted. A copy thereof, attested by their clerk, shall be transmitted annually, on or before the fifteenth day of January, to the director of accounts, who shall submit it to the general court.

Employees.
Temporary clerk.
1890, 198
1896, 384, § 2.
R. L. 20, § 19
1908, 431, § 3.
1922, 423, § 3.
1930, 299.

SECTION 11. They may employ such clerical employees as may be necessary for the proper performance of the work of their offices, who shall perform such duties as the commissioners may determine. They may, in the absence from any meeting of the clerk or any deputy assistant clerk designated under section seven of chapter two hundred and twenty-one, appoint a temporary clerk, who may be a commissioner or other suitable person. He shall be sworn by the chairman or presiding commissioner, keep a record of the proceedings, and deliver the same

9 forthwith to the clerk or deputy assistant clerk, who shall enter it upon
10 the records of the commissioners.

1 SECTION 12. In case of a vacancy, inability to attend, or interest
2 in a question before the commissioners, or if any part of a highway
3 relative to which they are to act lies within the town where a commis-
4 sioner resides, the members qualified to act shall give notice to one or
5 both the associate commissioners, as the case may be, who shall then
6 act as commissioners. They may, however, receive a petition, issue an
7 order of notice thereon, or take a recognizance, whenever two members
8 are competent to act. If they cannot otherwise organize, residence
9 shall not disqualify.

7 Cush 394
13 Gray, 12.

103 Mass. 120.
105 Mass. 219, 225.

116 Mass. 73
122 Mass. 258

Proceedings of
commissioners
absent,
interested, etc
1835, 152, § 5
R. S. 14, § 26
1837, 151
G. S. 17, § 12
P. S. 22, § 17
1862, 238,
1909, 198.
R. L. 20,
§§ 20, 21
11 Pick 322.
2 Met 185

1 SECTION 13. When in session, the commissioners may administer
2 oaths to witnesses and punish disorderly conduct which interrupts their
3 meeting or is an open and direct contempt of their authority or persons
4 by a fine of not more than five dollars or by confinement in the custody
5 of the sheriff, a deputy sheriff or constable for not more than twelve
6 hours.

Commissioners
may administer
oaths, punish
for contempt,
etc.
R. S. 84, § 2.
1856, 53.
G. S. 17, § 14.
P. S. 22, § 19.
R. L. 20, § 22.

1 SECTION 14. In addition to such powers and duties as may other-
2 wise be conferred or imposed by law, the commissioners may provide
3 for erecting and repairing court houses, jails and other necessary public
4 buildings within and for the use of their county, but no money shall
5 be paid or liability incurred therefor in excess of the amount specifically
6 authorized by the general court, except for emergency repairs, and no
7 bills for construction or enlargement of a jail, house of correction or
8 reformatory shall be incurred or paid until the plans therefor have been
9 approved by the commissioner of correction, except as otherwise pro-
10 vided. They shall have authority to represent their county, and to have
11 the care of its property and the management of its business and affairs
12 in cases where not otherwise expressly provided; to sell and convey any
13 real estate of the county by deed, sealed with the county seal, signed
14 and acknowledged by them; to adopt a county seal, which shall be in
15 the custody of their clerk and affixed to all processes requiring it.

General
powers of
commissioners.
Seal.
1784, 41, § 1.
1786, 67.
1811, 75, § 3.
1827, 77.
R. S. 14,
§§ 8, 31.
G. S. 17,
§§ 4, 16.
1862, 157.
P. S. 22,
§§ 4, 20
1897, 137, § 1;
316.
R. L. 20,
§§ 4, 24, 28.
1913, 350,
§ 2.
153 Mass. 141.
205 Mass. 189.
247 Mass. 522.
1 Op. A. G. 399.

1 SECTION 15. They shall, upon administering the oaths of office to
2 officers required by law to qualify before them, forthwith make return
3 thereof to the state secretary.

Return of
qualification
of officers
1898, 264
R. L. 20, § 25.

1 SECTION 16. They may allow one half holiday in each week without
2 loss of pay to county employees, including therein laborers, mechanics
3 and all other classes of workmen, during such portions of the year as
4 they may determine.

Half holidays
for county
employees.
1898, 367.
R. L. 20, § 26.

1 SECTION 17. All contracts exceeding eight hundred dollars in amount
2 made by the commissioners for building, altering, furnishing or repairing
3 public buildings, or for the construction or repair of public works, or for
4 the purchase of supplies, shall be in writing and shall be filed with said
5 commissioners or their clerk, and a copy of each such contract shall be
6 filed in the office of the county treasurer. All changes in or additions to,
7 or agreements for extras under, such contracts shall also be in writing

County
contracts.
1854, 206
G. S. 17, § 23.
P. S. 22, § 22
1897, 157, § 2
1909, 119
R. L. 20, § 27.
1918, 257,
§ 138.
1919, 5.
1920, 2.
1922, 383.

141 Mass. 74
170 Mass. 528.
205 Mass. 189.
3 Op. A. G. 9.

and be so filed. All such contracts shall be made after notice inviting bids therefor has been posted for at least one week in a conspicuous place in each county building where the commissioners have an office and has been advertised at least three times in a newspaper, if any, published in the city or town wherein the public building, bridge, highway or public work or institution to be supplied in accordance with the contract is or is to be situated; otherwise in any newspaper of general circulation in the county. The commissioners shall in each case make and file with the county treasurer a sworn certificate of such posting and advertising, but in an emergency, to the existence of which they shall certify upon the orders to the county treasurer for the payment of bills, they may contract for repairs without such posting or advertising. All bids shall be publicly opened in the presence of the commissioners and recorded in their records. No contract made in violation of this section shall be valid against the county, and no payment thereunder shall be made. The commissioners may, however, repair county buildings or other public works by day work, if in their judgment, expressed in a vote, the best interests of the county so require; but no bill therefor in excess of eight hundred dollars shall be paid by the county treasurer unless, upon or with the bill, the clerk of the commissioners has certified that such vote is entered upon their records.

Recognizances and damages.
1836, 278.
§§ 1, 2.
1847, 259, § 2.
1859, 163, § 4.
G. S. 17,
§§ 24, 25, 30.
P. S. 22,
§§ 23-25.
R. L. 20,
§§ 29, 30.
1917, 344, II.
§§ 29, 31.
139 Mass. 210.

SECTION 18. The commissioners shall require all applicants for the award of damages or the performance of any other official act in which the county has no interest to recognize to the county, with sureties to their satisfaction, for the payment of all costs and expenses accruing to the county by reason of their application and the proceedings thereon, which shall be added to the damages, if any, assessed in consequence thereof. If an application is dismissed and costs are chargeable to the petitioner, they shall be taxed for each commissioner at the rate of three dollars a day, and five cents a mile for travel to and from the place of meeting, and paid to the county. If the persons recognizing refuse or neglect, when required by the commissioners, to pay such costs and expenses, the commissioners may, after notice to the persons who so recognized, issue a warrant against them or some of them, unless sufficient cause is shown to the contrary, for the amount ordered to be paid by them, with the further costs of the notice and warrant, and the money shall be collected and paid into the county treasury.

Proceedings at other times than regular meetings, and returns thereof.
1839, 76,
§§ 2, 3.
1846, 271.
1847, 259, § 1.
G. S. 17,
§§ 26, 27.
P. S. 22,
§§ 26, 27.
1885, 511.
1900, 198.
R. L. 20,
§§ 31, 32.
114 Mass. 514.

SECTION 19. The commissioners severally, except associate commissioners, may, at other times than at regular meetings, receive petitions relative to railroads or to matters where the county has no interest and may take recognizances thereon, and, upon such petitions and similar petitions entered at a regular meeting the commissioners or the chairman may, at other times than at regular meetings, appoint hearings and direct notices to be given to persons interested. They shall severally make return of such petitions and recognizances, with their proceedings, at any regular or special meeting held therefor; and the clerk shall record the same. The costs of any such special meeting shall be paid by such parties as the commissioners determine.

Laws as to commissioners and clerks applicable to certain other officers.

SECTION 20. The laws relative to the powers, duties and liabilities of county commissioners and their clerks shall apply, except as otherwise provided, to all other public officers exercising their powers.

R. S. 14, § 37.

G. S. 17, § 35.

P. S. 22, § 31.

R. L. 20, § 35.

1 SECTION 21. The provisions of section thirty of chapter thirty rela- Official
 2 tive to the dimensions of official letters shall apply to letters from county 1913, 702.
 3 officials.

1 SECTION 22. For wilful breach or neglect of a duty imposed by law, Penalty for
 2 a county commissioner or clerk of the county commissioners shall for- violation
 3 feit not less than fifty nor more than one thousand dollars, recoverable of duty
 4 to the use of the county, at the suit of the attorney general. 1847, 199,
 G. S. 17, § 19.

P. S. 23, § 23.

1897, 130, §§ 1-3.

R. L. 20, § 36.

CHAPTER 35.

COUNTY TREASURERS, STATE SUPERVISION OF COUNTY ACCOUNTS
AND COUNTY FINANCES.

SECT.

COUNTY TREASURERS.

1. County treasurers.
2. Temporary treasurer.
3. Oath, bond.
4. Salaries.
5. [Repealed.]
6. [Repealed.]
7. Office and clerical assistance.
8. Traveling expenses.
9. Penalties for violation of official duty.
10. To collect and disburse county funds.
11. Not to pay out certain money without order from commissioners.
12. Delivery to treasurer of bills for expenses of sittings of courts.
13. Bills, vouchers, etc., to be filed and kept.
14. Treasurer personally liable for certain payments.
15. Treasurer's accounts.
16. Financial year of counties.
17. [Repealed.]
18. Certain sections not applicable to Suffolk and Nantucket counties.
19. County salaries.
20. Treasurer may sue on county bonds, etc.
21. Treasurer to notify district attorney of public officers delinquent as to money payments.
22. Surplus cash to be deposited in banks. Interest.
23. Disposition of money paid into court. Interest.
- 23A. Disposition of certain unclaimed funds.
24. Interest upon overdue accounts.
25. Annual report of treasurer.
26. Annual report of county commissioners.
27. Publication and distribution of annual reports.
- 27A. Treasurers to act as treasurers and custodians of certain funds.

SECT.

COUNTY FINANCES.

28. Estimates of county expenses.
29. Expenditures authorized by general court.
30. Amount of county tax regulated.
31. Apportionment, assessment and collection of county taxes.
32. Expenditures in excess of appropriations forbidden. Exceptions.
33. Proceedings when appropriation is insufficient.
34. Payments from unappropriated balances.
35. Enforcement of duties of commissioners and treasurers.
36. Annual account.
- 36A. Emergency loans to meet extraordinary expenditures.
37. Temporary loans regulated.
- 37A. County bonds and notes regulated. Use of proceeds, etc.
38. Proposals for purchase of bonds, etc., for county loans to be advertised. Exceptions.
39. Interest rate on county securities.
40. Returns of fines, etc.
41. Sworn certificates of certain officers to accompany payments to treasurers.
42. Auditor of Boston to be auditor of Suffolk county.
43. Registration of bonds, etc., held by sinking fund commissioners. Penalty.
- 43A. Certain county officers, etc., to furnish surety company bonds. Payment of premiums.

SUPERVISION OF COUNTY ACCOUNTS.

44. Examination by director of accounts of accounts of county officers.
45. Visitations. Accounts. Returns to director of accounts.

SECT. 46. Annual report of commissioner of corporations, etc., to include certain material. 47. Penalties on county, etc., officers. COUNTY PERSONNEL BOARD AND CLASSIFICATION OF COUNTY SALARIES, OFFICES AND POSITIONS. 48. County personnel board. 49. Certain offices, etc., to be classified by board. "Salary" defined. 50. Director of accounts. Duties, etc. 51. Duties of board.	SECT. 52. Classification and allocation of offices, etc. 53. Powers and duties of county commissioners. 54. Newly elected, etc., officers, etc., to receive minimum rate. Exceptions. Recommendations for promotions, transfers, etc. 55. Salaries to be full compensation. Overtime payments. 56. Special provisions for Suffolk county. Agencies for classification, etc., in other counties.
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COUNTY TREASURERS.

County
Treasurers.
 C. L. 150, § 2.
 1785, 76, § 1.
 1809, 91.
 1821, 109, § 12.
 1823, 91.
 R. S. 14.
 §§ 43, 47-49.
 1855, 92, § 1
 G. S. 10, § 9;
 17, §§ 44-46
 P. S. 10, §§ 1, 9;
 23, §§ 3-5.
 1890, 423,
 §§ 188, 196.

SECTION 1. In Suffolk county the treasurer of Boston, and in Nantucket county the treasurer of the town of Nantucket, shall be the county treasurer. In all other counties, a treasurer, who shall be a resident of the county, shall be elected as provided in section one hundred and sixty four of chapter fifty-four, for the term of six years beginning with the first Wednesday of January following his election and until his successor is qualified. No incumbent of the office of attorney general, district attorney, justice of the superior court, clerk of the courts or sheriff shall be county treasurer.

1893, 417, §§ 257, 258	1907, 560, §§ 326, 351,	1917, 255, § 1.
1898, 548, §§ 320, 322, 323.	353, 456.	1918, 114
R. L. 11, §§ 323, 325;	1913, 835, §§ 389, 391,	1919, 269, §§ 24, 26.
21, §§ 5, 6.	392, 503.	2 Gray, 370.

Temporary
treasurer.
 1913, 835,
 § 340.

SECTION 2. If a county treasurer is unable to act, the county commissioners may appoint a temporary treasurer, who shall hold office until the treasurer is able to resume his duties, and shall give bond as provided in the following section.

Oath, bond.
 C. L. 150, § 2.
 1692-3, 27, § 1.
 1785, 76, § 1.
 1814, 159.
 1829, 63.
 R. S. 14, § 45.
 G. S. 17, § 36.
 P. S. 23, § 1.
 1880, 508.
 1897, 428, § 1.
 1898, 317.
 R. L. 21, § 1.
 1904, 451, § 4.
 1924, 404, § 2.
 259 Mass. 310.

SECTION 3. County treasurers, except in Suffolk and Nantucket counties, shall be sworn before the county commissioners, who shall make a record thereof. Each treasurer shall give bond to the county for the faithful performance of his official duties, in a form approved by the attorney general, with such sureties and in such sum as the commissioners shall approve. An attested copy thereof and a certificate of the commissioners that the original is in their possession shall be filed with the state secretary within one week after its approval. Suit thereon may be brought in the name and for the benefit of the county by the commissioners or by the attorney general.

Salaries.
 C. L. 151, § 4.
 1785, 76, § 2.
 1791, 53, § 5.

SECTION 4. The salaries of county treasurers shall be payable by their respective counties.

1794, 48, § 2.	1879, 246.	1890, 143.	1906, 290.
R. S. 14, § 51;	1881, 158.	1892, 295.	1910, 537.
141, § 10.	P. S. 23, § 2.	1898, 294;	1913, 423.
1859, 253, §§ 1, 2, 4.	1884, 112.	322; 323; 330.	1918, 263, §§ 1, 2, 4.
G. S. 17, § 37.	1886, 132; 133.	R. L. 21, § 2.	1919, 241, §§ 1, 2.
1867, 278.	1887, 57; 159.	1904, 451, § 1.	1840, 400, §§ 5, 7-9.
1872, 80; 247.	1889, 16; 58;	1905, 179.	1931, 301, § 4.
1873, 90.	260.		

SECTION 5. [REPEALED, 1931, 301, § 5.]

SECTION 6. [REPEALED, 1931, 301, § 5.]

1 SECTION 7. The treasurer shall be provided by the county with an
2 office in the court house or other county building, and shall be allowed
3 such clerical assistance as shall be approved by the county commis-
4 sioners with compensation payable by the county.

Office and
clerical as-
sistance
1859, 253, § 1.
G. S. 17, § 37.

1867, 278, § 1.	1901, 388.	1912, 174; 298, § 1;
P. S. 23, § 2.	R. L. 21, §§ 2, 3.	333.
1889, 85; 310.	1905, 163; 322;	1913, 419, § 1.
1892, 144.	332, § 1.	1916, 182.
1893, 156.	1906, 398.	1917, 99; 173.
1895, 113; 133.	1907, 231.	1918, 162.
1896, 147.	1908, 349; 352.	1919, 177.
1897, 257.	1909, 285.	1930, 400, §§ 5, 7-9.
1899, 155.	1911, 122; 270.	1931, 301, § 6

1 SECTION 8. The county treasurer shall be paid his actual and proper
2 traveling expenses incurred in the transaction of county business. An
3 itemized statement thereof shall, on the first day of each month, be
4 certified to the commissioners, by whom it shall be audited and approved.

Traveling
expenses.
1896, 176.
R. L. 21, § 4.
1915, 51.

1 SECTION 9. For wilful violation of a duty imposed by law, a county
2 treasurer shall forfeit not less than fifty nor more than one thousand
3 dollars, recoverable at the suit of the attorney general to the use of the
4 county.

Penalties for
violation of
official duty.
1897, 130.
§§ 1, 2
R. L. 21, § 7.

1 SECTION 10. The treasurer shall collect, receive and safely keep all
2 money belonging to the county, and disburse it according to law. He
3 shall not make payments to the county commissioners or associate com-
4 missioners to be disbursed by them in behalf of the county. He shall
5 pay all claims against his county within ten days after their allowance.
6 He may pay any claim by a bank check which, when paid and returned,
7 shall be a sufficient receipt therefor.

To collect and
disburse
county funds.
C. L. 151, § 2.
1864, 280, § 2.
1880, 198, § 4.
P. S. 23,
§§ 6, 13.
R. L. 21,
§§ 8, 17.
3 Op. A. G.
559.

1 SECTION 11. No payments, except payments of expenses in criminal
2 prosecutions, of expenses of the courts, of the compensation or salaries
3 of county officers established by law, of outstanding notes or bonds and
4 of interest thereon, shall be made by a treasurer except upon orders drawn
5 and signed by a majority of the county commissioners, certified by their
6 clerk and accompanied, except in Suffolk county, by the original bills,
7 vouchers or evidences of county indebtedness for which payment is or-
8 dered, stating in detail the items and confirming the account. Said clerk
9 shall not certify such orders until he has recorded them in the records of
10 the commissioners.

Not to pay
out cer-
tain money
without order
from commis-
sioners.
1785, 76, § 2.
R. S. 14, § 50.
G. S. 17, § 39.
1864, 280,
§§ 2, 4.
1880, 198,
§§ 1, 5.
P. S. 23,
§§ 7, 8, 14.
1800, 206,
§§ 1, 2.

1897, 128, § 4.

R. L. 21, § 9.

205 Mass. 189.

1 SECTION 12. Original bills or vouchers for services and expenses
2 incident to the sittings of the supreme judicial or superior court under
3 section eight of chapter two hundred and thirteen shall be delivered to
4 the county treasurer, or in Suffolk county, to the auditor of Boston, with
5 orders for their payment.

Delivery to
treasurer of
bills for ex-
penses of sit-
tings of courts.
1860, 206, § 3.
R. L. 21, § 10.

1 SECTION 13. Bills, vouchers and other evidences of county indebted-
2 ness shall be carefully filed and safely kept by the treasurer, so as to be
3 accessible for future reference.

Bills, vouchers,
etc., to be
filed and kept.

1864, 280, §§ 2, 4.

P. S. 23, § 9.

1890, 206, § 2.

R. L. 21, § 11.

1 SECTION 14. The treasurer may, before payment of an account
2 rendered against the county by a county officer, in writing require of
3 him a written statement of the specific provision of law authorizing it,

Treasurer
personally
liable for
certain pay-
ments.

1880, 198, § 2.
P. S. 23, § 10.
1897, 128, § 2.
R. L. 21, § 12.

which shall be filed with the vouchers. The treasurer shall be personally liable for money paid out by him, except when specifically required by law, unless there is an unexpended balance of an appropriation made therefor sufficient for such payment, except as provided in section thirty-four, and for any money paid by him without the voucher and certificate required by law. County officers may continue the several departments under their charge after the close of the financial year, at the rate of expenditure authorized for the previous year, until an appropriation has been made by the general court.

Treasurer's accounts.
C. L. 150, § 2.
1864, 280, § 3.
P. S. 23, § 11.
1897, 153, § 1.
R. L. 21, § 13.

SECTION 15. The treasurer shall keep a full and accurate account stating when, from or to whom, and on what account money has been received or paid. Except in Suffolk county, his books shall be kept in the form prescribed by the director of accounts.

1919, 350, §§ 52, 54.

Financial year of counties.
1897, 153, § 2.
R. L. 21, § 14.

SECTION 16. The financial year of each county shall be the calendar year, but the treasurer shall, until January tenth, enter in his books the items for the payment of bills incurred and salaries earned during the previous year. Immediately after January first, he shall pay to every officer in his county any salary balance remaining due.

SECTION 17. [REPEALED, 1931, 426, § 4.]

Certain sections not applicable to Suffolk and Nantucket counties.
R. S. 14, § 36.
1853, 310, § 1.
G. S. 17, § 20.

SECTION 18. Sections ten, fourteen, twenty-five to twenty-nine, inclusive, and forty-four shall not apply to Suffolk county, nor shall sections fifteen, sixteen, twenty-five to thirty, inclusive, and thirty-two to thirty-four, inclusive, affect the special laws relative to Suffolk or Nantucket county.

1864, 280, § 2. 1890, 141. R. L. 21, §§ 8, 14, 18.
1880, 198, § 5. 1897, 153. 24-28, 37, 47.
P. S. 23, §§ 14, 27. §§ 2-6, 13. 1911, 447.
1887, 438, § 3. 1898, 317. 1931, 426, § 5.

County salaries.
1881, 158.
P. S. 23, § 15.
1890, 209,
§§ 1, 3.
R. L. 21,
§§ 16, 19.

SECTION 19. County salaries shall, except as otherwise provided, be payable in monthly instalments on the first day of the month; but no such instalment shall be paid to clerks of courts until all fees then payable by them to the county have been paid to the county treasurer or other officer entitled thereto. County treasurers shall pay no fees to clerks of courts for any official service.

Treasurer may sue on county bonds, etc.
1797, 14.
R. S. 14, § 54.
G. S. 17, § 42.
P. S. 23, § 16.

SECTION 20. A county treasurer may prosecute suits upon bonds, notes and other securities given to or held by the county or its treasurer. He may also prosecute for injuries to the land, buildings or other property of his county, subject to section thirty-six of chapter forty-one.

R. L. 21, § 20. 1918, 257, § 139. 1919, 5. 1920, 2.

Treasurer to notify district attorney of public officers delinquent as to money payments.

SECTION 21. If a public officer, required by law to account with and pay money to a county treasurer, fails so to do for ten days after the time prescribed by law therefor, the treasurer shall notify the district attorney, who shall forthwith proceed to recover the sum due.

1859, 221, § 4. G. S. 17, § 43. P. S. 23, § 17. R. L. 21, § 21.

Surplus cash to be deposited in banks.
Interest.
1876, 143, § 1.
P. S. 23, § 18.

SECTION 22. Except as otherwise provided, county treasurers, clerks of the courts, clerks of district courts, sheriffs and masters of jails and houses of correction, probation officers, registers of probate and insolvency

4 and registers of deeds, having more money in their hands than is required
 5 for immediate use, shall deposit it, in their official names, in national
 6 banks or trust companies in the commonwealth at the best practicable
 7 interest rates, which interest shall be paid to the county, except that
 8 interest accruing to deposits by registers of probate shall be paid to the
 9 commonwealth; provided, that interest accruing on the deposit as afore-
 10 said of any money paid to any official mentioned in this section which is
 11 so paid under order of a court or which is otherwise subject to the direc-
 12 tion of a court shall, if the court so directs, be paid to the parties entitled
 13 to the principal fund of such deposit.

1890, 215.
 1899, 108.
 R. L. 21, § 22.
 1911, 36.
 1915, 121.
 1927, 96, § 1.
 241 Mass. 262.

1 SECTION 23. Money paid into the courts in any county shall, if
 2 possible, be placed at interest by the clerks thereof, and the interest shall
 3 be available for the uses of the county, unless the court directs it to be
 4 paid to the parties to the litigation in connection with which such money
 5 was paid into court. All interest in the custody of any clerk of said courts
 6 not directed to be paid as aforesaid, remaining after payment by order of
 7 the court of the principal fund to parties litigant entitled thereto, shall
 8 annually be paid, if the court is in Suffolk county, to the collector of the
 9 city of Boston or, if the court is in any other county, to the county treas-
 10 urer of said county, between January first and tenth, to be used for general
 11 county purposes.

Disposition of
 money paid
 into court.
 Interest.
 1910, 370.
 1913, 191.
 1916, 38, § 1.
 1927, 96, § 2.
 1931, 426, § 151.
 241 Mass. 262.

1 SECTION 23A. County officers holding funds unclaimed after two
 2 years from the time of receipt thereof and not otherwise subject to statu-
 3 tory disposition shall pay over such funds to their county treasury for
 4 the use of the county; provided, that any person or persons establishing
 5 a lawful claim thereto before the county commissioners within six years
 6 of such payment over may receive satisfaction thereof from any available
 7 funds in the county treasury.

Disposition of certain
 unclaimed
 funds.
 1929, 42.

1 SECTION 24. If a time is fixed for payment of money due a county,
 2 the debtor shall, if notified by the county treasurer seven days at least
 3 before such time, pay interest thereon at the rate of twelve per cent per
 4 annum from such fixed time until payment.

Interest upon
 overdue
 accounts.
 1876, 143, § 2.
 P. S. 23, § 19.
 R. L. 21, § 23.

1 SECTION 25. Immediately after January tenth, the county treasurer
 2 shall annually prepare a report of the county receipts and expenditures
 3 for the preceding year, stated separately under the heads prescribed by
 4 the director of accounts for keeping the treasurer's books. Such state-
 5 ment shall contain in detail the name of every person, except witnesses, by
 6 or to whom money has been paid, the amounts so paid or received under
 7 appropriate classifications and the objects of payment; also a table setting
 8 forth the appropriation made by the general court for each specific object,
 9 the amount expended therefrom, the unexpended balance thereof, and
 10 any excess of payments over said appropriation.

Annual report
 of county
 treasurer.
 1811, 74, § 2.
 1864, 280, § 6.
 P. S. 23, § 28.
 1890, 141, § 1.
 1897, 153, § 3.
 R. L. 21, § 24.
 1919, 350,
 § 52, 54.

1 SECTION 26. Immediately after January tenth, the county commis-
 2 sioners shall annually prepare a report on county affairs, showing their
 3 acts during the year preceding, so as to give the taxpayers of the county
 4 a full and clear understanding of its affairs and of the objects and methods
 5 of county expenditures. They shall state specifically what petitions
 6 relating to highways have been received, and what highways have been
 7 laid out, altered, relocated or discontinued, the manner of their alteration

Annual report
 of county
 commissioners.
 1853, 319, § 1.
 G. S. 17, § 20.
 P. S. 23, § 27.
 1890, 141, § 2.
 1897, 153, § 4.
 R. L. 21, § 25.
 1919, 350,
 § 111.
 1923, 334, § 1.

or new construction, the time of their intended completion, what have
 been completed, at what cost and at whose expense, and what remain
 to be completed, what damages or betterments have been awarded or
 estimated and to or against whom, what damages have been paid or
 betterments collected, and what suits are pending in relation thereto.
 They shall also state what highways have been laid out under orders
 stating that betterments are to be assessed, their action relative to public
 and private ways, what applications relative to state highways they have
 made to the department of public works, and, so far as ascertainable,
 what highways have been laid out within the county by said department,
 what have been constructed and at what expense, what sums expended
 by the commonwealth in the county for highways have been repaid by
 said county, what sums remain to be paid, and when. They shall also
 make a detailed statement of the repairs upon the several county build-
 ings, stating separately the work done by contract and by day, and the
 money paid, and the liabilities incurred in the construction of new build-
 ings, and shall also state what reservoirs, reservoir dams and mill dams
 have been examined by them under section forty-five of chapter two
 hundred and fifty-three. They shall present a table showing the salaries
 paid to county officers, stating separately those prescribed by law, a state-
 ment of the county debt, giving the date when each obligation will
 mature and the rate of interest, stating separately the loans made in
 anticipation of taxes and permanent loans, a statement of the amount of
 county taxes due and unpaid, and a list of the assets of the county, in-
 cluding land, buildings, law library, furniture in court houses, jails and
 other public buildings.

Publication and
 distribution of
 annual
 reports.
 1828, 18,
 R. S. 14, § 36.
 1853, 310, § 1.
 G. S. 17, § 20.
 P. S. 23, § 27.
 1880, 141, § 2.
 1897, 153, § 5.
 R. L. 21, § 26
 1919, 350,
 §§ 52, 54

SECTION 27. The county treasurer shall cause such report to be
 printed and bound with his own report in number sufficient to furnish a
 copy for every three hundred inhabitants of the county, and shall send
 a copy to the state library, to the director of accounts, and to the mayor
 of each city and the selectmen of each town in the county, and the remain-
 ing copies to the clerk of each city and town in the county, in proportion
 to its population, for the use of the inhabitants. He shall, at the close of
 each year, advertise in not more than three newspapers published in the
 same or an adjoining county an account of the county receipts and ex-
 penditures arranged under distinct heads, and a specific statement of the
 county debts, the purposes for which incurred and their dates of
 maturity.

Treasurers
 to act as
 treasurers and
 custodians
 of certain
 funds
 1930, 400, § 4.

SECTION 27A. The county treasurer of each county shall act as
 the treasurer and custodian of the funds of every institution, organ-
 ization, board, commission or other public body to the use of which funds
 of his county are contributed, provided that in case any such public
 body serves a district comprising more than one county, the county
 treasurer of the county in which such public body is chiefly located or
 has its headquarters, as determined by the director of accounts, shall
 so act.

COUNTY FINANCES.

Estimates
 of county
 expenses
 1781, 22, § 1.
 1792, 26.
 1811, 74, § 2.
 1834, 122, § 1.

SECTION 28. The county commissioners shall annually prepare esti-
 mates of county receipts and expenditures for the ensuing year, in the
 form prescribed by the director of accounts and upon blanks by him
 furnished, including estimates for construction and repair of county

5 buildings and for effecting insurance providing indemnity for or pro-
 6 tection to the officers and employees of the county against loss by reason
 7 of their liability to pay damages to others for bodily injuries, including
 8 death at any time resulting therefrom, caused by the operation, within
 9 the scope of their official duties or employment, of motor vehicles owned
 10 by the county, to an amount not exceeding five thousand dollars on
 11 account of injury to or death of one person, or for providing indemnity
 12 or protection as aforesaid without insurance, with a statement of the
 13 corresponding appropriations for the preceding year, and expenditures
 14 for each of the three preceding years, explaining any difference between
 15 the amount of an estimate and the latest appropriation for the same
 16 purpose, and citing the laws relating thereto. The clerk of the commis-
 17 sioners shall record the foregoing in a book kept therefor, and, on or before
 18 January twentieth, shall send a copy thereof, by him attested and signed
 19 by the chairman, to the said director, who shall analyze and classify
 20 said estimates, and report the same to the general court not later than
 21 February tenth. The director shall upon their request send a copy of
 22 said report to the mayor of each city and to the selectmen of each town
 23 in the commonwealth.

R. S. 14,
 §§ 31, 32, 35,
 1836, 137,
 G. S. 17, § 18
 P. S. 23, § 22,
 1895, 143,
 1896, 128,
 1897, 153, § 6,
 1898, 317,
 R. L. 21, § 27,
 1911, 447,
 1919, 350,
 §§ 52-54,
 1921, 336,
 1926, 58
 1931, 458, § 2,
 14 Gray, 138.

1 SECTION 29. The expenditure of money by the several counties shall
 2 be in accordance with annual appropriations of the general court, specify-
 3 ing as separate appropriations the several items of expenditure, as pre-
 4 scribed by the director of accounts. At the closing of the county treas-
 5 urer's books on January tenth, the balance to the credit of each annual
 6 appropriation shall become a part of the general unappropriated balance
 7 in the county treasury; but no special appropriation shall lapse until the
 8 work for which it was made has been completed, the bills paid and the
 9 account closed.

Expenditures
 authorized by
 general court.
 1895, 482, § 1.
 1896, 357, § 1.
 1897, 153, § 7.
 1898, 317.
 R. L. 21, § 28.
 1919, 350,
 §§ 52-54.

1 SECTION 30. The amount which the county commissioners shall levy
 2 as the county tax shall be as authorized annually by the general court,
 3 and as computed by adding together the amounts of the annual ap-
 4 propriation and of any new special appropriation, so far as the money
 5 therefor is to be raised by taxation, and deducting therefrom so much
 6 of the probable receipts from all sources, except loans, and of the un-
 7 appropriated balance in the county treasury at the closing of the treas-
 8 urer's books for the previous year as the general court deems advisable.
 9 The commissioners shall also levy annually as a county tax a sum suf-
 10 ficient to meet the debt and interest maturing in that year, if no other
 11 provision therefor has been made.

Amount of
 county tax
 regulated.
 1897, 153, § 8.
 R. L. 21, § 29.
 1922, 127.

1 SECTION 31. The county commissioners shall apportion and assess
 2 all county taxes among and upon the several towns according to the
 3 latest state valuation, and shall, by their clerk, certify the assessments
 4 to the assessors thereof, and prescribe the time of payment. The several
 5 amounts so apportioned and assessed shall be collected and paid like the
 6 state tax into the respective town treasuries, and the commissioners
 7 in their warrants shall require the selectmen or assessors of each town
 8 to pay, or to issue their warrants requiring the treasurer thereof to
 9 pay, to the county treasurer the amount so assessed, at such times as
 10 shall be fixed in the warrant of the commissioners. The selectmen or
 11 assessors of each town shall return a certificate of the name of the

Apportion-
 ment, assess-
 ment and
 collection of
 county taxes.
 1781, 22, § 2.
 R. S. 14,
 §§ 31, 33,
 G. S. 17, § 21.
 1877, 30,
 P. S. 23, § 24.
 1889, 255,
 R. L. 21,
 §§ 30, 31,
 1918, 257,
 § 140,
 1919, 5,
 1920, 2.

treasurer of such town, with the sum which he may be required to collect, to the county treasurer within the time fixed by the warrant of the county commissioners. 12
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Expenditures in excess of appropriations forbidden. Exceptions. 1895, 482, § 1. 1896, 357, § 1.

SECTION 32. No county expenditure shall be made or liability incurred, nor shall a bill be paid for any purpose, in excess of the appropriation therefor, except as provided in the two following sections and in section fourteen. 1
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1897, 153, § 9.

R. L. 21, § 32.

1 Op. A. G. 438.

Proceedings when appropriation is insufficient. 1895, 482, § 2. 1896, 357, § 2. 1897, 153, § 10. R. L. 21, § 33. 1 Op. A. G. 391, 509.

SECTION 33. If the appropriation for any purpose is insufficient to meet an expenditure required by law, the treasurer may, on the order of the county commissioners, pay the same from any money in the treasury. The commissioners shall place on their records a statement of all such payments with the reasons in detail therefor, and shall report fully and specifically thereon in their next annual report. 1
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Payments from unappropriated balances. 1895, 482, § 3. 1896, 357, § 4. 1897, 128, § 2; 153, § 11. R. L. 21, § 34.

SECTION 34. After December thirty-first and before the regular appropriations have been made by the general court, the county commissioners and other officers authorized to incur liabilities payable by the county may incur liability at a rate of expenditure not in excess of that authorized for the same purpose for the preceding year, but not exceeding one half the last annual appropriation therefor. Payments therefor may be made from any unappropriated balance in the county treasury, to be charged to the regular annual appropriation when made. No new or unusual expense shall be incurred or permanent contract made, or salary increased until an appropriation sufficient therefor has been made by the general court. 1
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Enforcement of duties of commissioners and treasurers. 1897, 153, § 12. R. L. 21, § 35.

SECTION 35. The supreme judicial court, upon the suit of the attorney general or petition of one or more taxable inhabitants of a county, may in law or in equity enforce sections eleven, thirteen, fifteen, sixteen, twenty-five to thirty, inclusive, and thirty-two to thirty-four, inclusive, of this chapter, and sections fourteen and seventeen of chapter thirty-four. 1
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Annual account. 1785, 76, § 2. R. S. 14, §§ 31, 35, 51.

SECTION 36. At the end of each year the treasurer shall render to the county commissioners an account of all county receipts and expenditures, and when approved and allowed by them, shall deliver it to their clerk. 1
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G. S. 17, §§ 17, 40.

P. S. 23, §§ 20, 21.

1897, 130, § 4.

R. L. 21, § 38.

Emergency loans to meet extraordinary expenditures. 1925, 74.

SECTION 36A. For the purpose of providing funds for the repair or reconstruction of any building, plant, structure or equipment of any county institution damaged or destroyed by fire or other catastrophe, or of any county building or other structure so damaged or destroyed, whenever such repair or reconstruction is necessary to prevent a discontinuance of the work or service conducted by such institution or inconvenience to the public, or for the purpose of providing funds for meeting any other emergency in the administration of the affairs of a county, the county commissioners, with the approval of a board composed of the attorney general, the state treasurer and the director of accounts, may, and in case of repairs or reconstruction at a county institution under the supervision of a board of trustees, at the request of said trustees, shall issue notes of the county maturing within one year from their respective 1
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14 dates. Said notes shall be signed by the treasurer and countersigned by a
 15 majority of the commissioners and may be sold at such discount as the
 16 commissioners may deem proper, the discount to be treated as interest
 17 paid in advance. The proceeds thereof shall be paid into the county
 18 treasury and shall be expended by the county commissioners in payment
 19 of bills contracted for the purposes of said repairs or reconstruction or to
 20 meet such emergency; provided, that in case of such repairs or recon-
 21 struction at a county institution under the supervision of a board of
 22 trustees, said proceeds shall be expended in payment of bills so con-
 23 tracted by said trustees.

1 SECTION 37. County commissioners may borrow money in anticipa-
 2 tion of, and to be repaid from, the county tax of the current year. If
 3 said tax has been granted, such loans shall not exceed its amount; other-
 4 wise they shall not exceed the amount of the previous annual tax. They
 5 may issue therefor county notes with or without interest, maturing within
 6 one year after the date when the debt for which they are issued was
 7 incurred. If without interest they may be sold at such discount as the
 8 commissioners may deem proper, otherwise at not less than par. Such
 9 notes shall be signed by the treasurer, countersigned by a majority of
 10 the commissioners, and shall expressly be made payable from the taxes of
 11 the current year, but shall nevertheless be negotiable. Except as other-
 12 wise expressly provided by law, neither county commissioners nor county
 13 treasurers, except in Suffolk and Nantucket counties, may borrow money
 14 or negotiate loans upon the credit of the county. Notes may also be
 15 issued between January first and January tenth, in accordance with this
 16 section, in anticipation of assessments payable to the county by cities,
 17 towns or corporations, under statutory provisions and unpaid at the end
 18 of the preceding year, in cases in which the total cost of the project for
 19 which the assessment is levied was paid by the county in the first instance.

Temporary
 loans
 regulated.
 1853, 310, § 2.
 1854, 238.
 1859, 231.
 G. S. 17, § 22.
 P. S. 23, § 26.
 1897, 128, § 3.
 1904, 153.
 R. L. 21, § 39.
 1914, 386.
 1919, 178.

1 SECTION 37A. Counties shall not issue any bonds or notes payable on
 2 demand, and they shall provide for the payment of all debts, except those
 3 incurred in anticipation of revenue or in anticipation of reimbursement
 4 from cities and towns, by such annual payments as will extinguish the
 5 same at maturity, and so that the first of such annual payments on
 6 account of any loan shall be made not later than one year after the date
 7 of the bond or note issued therefor, and so that the amount of such annual
 8 payment in any year on account of such debt, so far as issued, shall not
 9 be less than the amount of the principal payable in any subsequent year.
 10 The proceeds of any sale of bonds or notes, except premiums, shall be
 11 used only for the purposes specified in the original authorization of the
 12 loan; provided, that unexpended amounts may be applied to maturing
 13 annual payments of the same loan. Any premium received upon such
 14 bonds or notes, less the cost of preparing, issuing and marketing them,
 15 shall be applied to the payment of the principal of the first bond or note
 16 to mature.

County bonds
 and notes
 regulated.
 Use of
 proceeds, etc.
 1922, 122.

1 SECTION 38. Before issuing notes or securities increasing county in-
 2 debtedness, the county commissioners shall invite proposals for the pur-
 3 chase thereof by advertisements in two or more newspapers published
 4 in said county, if any, and by advertisements in at least three daily
 5 newspapers published in Boston. They shall reserve the right to re-
 6 ject any and all bids. The bids shall be publicly opened and noted in

Proposals for
 purchase of
 bonds, etc.,
 for county
 loans to be
 advertised.
 Exceptions.
 1895, 111.
 R. L. 21, § 40.
 1918, 257,
 § 142.

1919, 5.
1920, 2
1923, 428.

their records. If no proposal is made or accepted they may award the whole or any part of the loan to any person. Notes authorized by section thirty-seven, notes or bonds issued to renew or refund indebtedness existing at the time of issue thereof, notes or bonds in anticipation of reimbursement from cities, towns and others in connection with work temporarily financed by the county, including tuberculosis hospital maintenance notes under section eighty-five A of chapter one hundred and eleven, shall be excepted from the requirement of this section as to advertising for bids and may be sold at public or private sale.

Interest rate on county securities.
1920, 336
1921, 22.

SECTION 39. All bonds, notes and other securities issued by any county after April twenty-second, nineteen hundred and twenty, shall bear such rate of interest as the county treasurer, with the approval of the county commissioners, may fix, notwithstanding any general or special provision of law enacted prior to said date.

Returns of fines, etc.
C. L. 151, § 4.
1874, 394,
§§ 4, 5.
P. S. 23,
§§ 29, 30.
1891, 187.
1892, 430.
R. L. 21,
§§ 41, 43.
1916, 241, § 1.
1919, 350,
§§ 52, 54, 82,
83.

SECTION 40. The treasurer shall annually, in November, notify all officers required to account for and pay to him any fines, expenses, forfeitures, fees and money, to make the returns thereof, specifying the laws requiring the same. He shall annually, in January, return to the director of accounts a sworn statement of all such items received by him in criminal matters during the preceding year, from whom received, and the name of each magistrate or officer failing to comply, and what proceedings have been taken by reason thereof. He shall also, annually, on or before October fifteenth, make a return to the commissioner of correction, upon blanks to be provided by said commissioner, of all amounts paid or received by him on account of any jail or house of correction for the year ending on the preceding September thirtieth.

Sworn certificates of certain officers to accompany payments to treasurers.
1893, 270, § 2.
1901, 109.
R. L. 21, § 42.

SECTION 41. Public officers or agents shall accompany payments of public funds to county treasurers with a sworn statement, showing the date, amount and purpose thereof, and such other details as the director of accounts may prescribe, transmitting forthwith a duplicate to him.

1919, 350, §§ 52, 54.

Auditor of Boston to be auditor of Suffolk county.
1879, 256, § 1.
2.

SECTION 42. The auditor of Boston shall be the auditor of Suffolk county. No bill against said county shall be paid until audited and allowed by him.

P. S. 23, §§ 34, 35.

R. L. 21, § 44.

1930, 400, §§ 5, 7-9.

1931, 301, § 7.

Registration of bonds, etc., held by sinking fund commissioners. Penalty.
1912, 377,
§§ 1, 2
1916, 152
1917, 116,
§§ 1, 2.

SECTION 43. A county, city, town or district, or any domestic corporation, which shall have issued any bond, note or certificate of indebtedness payable to bearer, held by the sinking fund commissioners of a county, shall, at the request of such commissioners, issue in exchange therefor a bond, note or certificate to the same effect, payable to such commissioners by name; provided, that the county desiring such exchange shall, if requested, furnish the blank form for the bond, note or certificate therefor in the same general form as that furnished by the commonwealth under section thirty-nine of chapter twenty-nine. Any county, city, town, district or corporation neglecting or refusing to comply with this section shall be subject to a penalty of not more than fifty dollars.

1 SECTION 43A. Every officer or employee of a county required to
 2 furnish a fidelity bond with a surety or sureties shall furnish a bond
 3 with a surety company authorized to transact business in the common-
 4 wealth, as surety. The premium on such bond shall in every case,
 5 except in the case of the treasurer of Suffolk or Nantucket county, be
 6 paid by the county.

Certain county
 officers, etc.,
 to furnish
 surety com-
 pany bonds.
 Payment of
 premiums
 1924, 404, § 3.

SUPERVISION OF COUNTY ACCOUNTS.

1 SECTION 44. The director of accounts or his representative shall,
 2 unannounced, examine the books and accounts of each county treasurer
 3 and all original vouchers for the expenditures of each treasurer at least
 4 once a year, and if the same are correct, and if the accounts are accom-
 5 panied by sufficient vouchers stating in detail the items thereof, and if
 6 such vouchers confirm and sustain the same, and if in case of all pay-
 7 ments in excess of eight hundred dollars section seventeen of chapter
 8 thirty-four has been complied with, he shall so certify on the treasurer's
 9 cash book and shall set forth in words at length the balance existing
 10 when the examination is completed. If such accounts are incorrect or
 11 not accompanied by sufficient vouchers, the director shall, unless the
 12 irregularity is promptly rectified, notify in writing the county commis-
 13 sioners and attorney general, and shall make a full statement thereof in
 14 his next annual report.

Examination
 by director
 of accounts of
 county officers
 1879, 293, § 1
 1880, 161, § 2.
 P. S. 23, § 37.
 1887, 438, § 3.
 1890, 380, § 3.
 1897, 129.
 R. L. 21, § 47.
 1919, 350,
 §§ 52, 54.

1 SECTION 45. The said director or his representative shall also visit,
 2 unannounced, at least once a year, all other county officers receiving
 3 money payable to the county, clerks of the supreme judicial and superior
 4 courts in Suffolk county, the recorder and all assistant recorders of
 5 the land court, registers of probate and insolvency, registers of deeds,
 6 trial justices and clerks of district courts, probation officers, superin-
 7 tendents of training schools and of shops in houses of correction, and
 8 trustees and other officers receiving or disbursing funds of county
 9 tuberculosis hospitals, infirmaries or sanatoria, and shall examine their
 10 accounts and vouchers, and the items of receipts and expenditures. He
 11 shall ascertain the actual amount of money on hand with each of said
 12 officers. He shall require, so far as possible, uniformity and correctness
 13 in the method of keeping said accounts, and may prescribe the classifica-
 14 tion of receipts and expenditures and a uniform system of receipts,
 15 certificates, vouchers and exhibits. Said officers shall afford such assist-
 16 ance as the director may require in making said examination and shall
 17 make returns and exhibits on oath in such form and at such times as he
 18 shall prescribe. They shall keep an accurate account of all money
 19 charged to or received by them in their official capacities, and also of all
 20 expenditures made or liabilities incurred by them on account of the
 21 same, and shall annually, on or before January fifteenth, make a sworn
 22 return to said director of such receipts and expenditures for the preceding
 23 year.

Visitations.
 Accounts.
 Returns to
 director of
 accounts.
 1879, 293, § 1.
 1880, 161,
 §§ 1, 3.
 1881, 187; 217.
 P. S. 23,
 §§ 36, 38.
 1887, 438,
 §§ 3, 4, 6.
 1890, 306.
 1893, 270, § 1.
 1894, 183.
 1895, 493,
 §§ 4, 5.
 1900, 116.
 1901, 110
 R. L. 21, § 48
 1904, 448, § 10
 1908, 103, § 1
 1911, 35.
 1914, 216.
 1918, 153;
 229, § 2.
 1919, 350,
 §§ 52-54.
 1 Op. A. G.
 610.

1 SECTION 46. The commissioner of corporations and taxation shall
 2 annually, on or before February first, make a report to the general court,
 3 which shall include the material portions of the returns made under the
 4 preceding section, compiled in tabular form, with his suggestions and
 5 recommendations.

Annual report
 of commis-
 sioner of
 corporations,
 etc., to include
 certain
 material.

1880, 161, § 1.
 P. S. 23, § 36

1887, 438, § 6.
 1888, 275, § 1.

R. L. 21, § 49.
 1919, 350, §§ 8, 52-54.

Penalties on
county, etc.,
officers
1847, 196
1880, 161, § 3.
P. S. 23, § 38.
1887, 438,
§§ 4, 7.
1890, 216, § 2.
R. L. 21, § 50.

SECTION 47. An officer or person named in section forty-four or forty-five who refuses or neglects to comply with any provision thereof, or who, for more than ten consecutive days, refuses or neglects to enter in the cash book prescribed by the director of accounts all money received or expended by him in his official capacity or on account of the same, or refuses or neglects to give any information within his knowledge required by said director or his representative shall be reported by the director to the attorney general, and shall be punished by a fine of not more than one hundred dollars.

COUNTY PERSONNEL BOARD AND CLASSIFICATION OF COUNTY SALARIES,
OFFICES AND POSITIONS.

County per-
sonnel board
1930, 400, § 5.

SECTION 48. There is hereby established a county personnel board, in this and the eight following sections called the board, consisting of three county commissioners, one to be elected by and from the county commissioners of Berkshire, Franklin, Hampden and Hampshire counties; one to be elected by and from the county commissioners of Essex, Middlesex and Worcester counties; and one to be elected by and from the county commissioners of Barnstable, Bristol, Norfolk and Plymouth counties, provided that in the election of such member from the last named counties, the chairman of the county commissioners of each of the counties of Nantucket and Dukes County shall be entitled to one vote. The commissioner first elected from the county commissioners of Berkshire, Franklin, Hampden and Hampshire counties shall serve for a term of one year, the commissioner first elected from the county commissioners of Essex, Middlesex and Worcester counties shall serve for a term of two years, and the commissioner first elected from the county commissioners of Barnstable, Bristol, Norfolk and Plymouth counties shall serve for a term of three years. The members first elected as aforesaid shall be elected not later than the first day of September, nineteen hundred and thirty, and their several terms shall run from said date. Their successors shall be chosen in the same manner and shall serve for terms of three years from the first day of September in the year when elected. The retirement of any member of the board as a county commissioner shall thereupon create a vacancy in the board. All vacancies in the board shall be filled in the same manner as the original election for the unexpired term, and all commissioners elected to said board shall serve until the qualification of their respective successors. Each member of the board shall receive as compensation the sum of ten dollars for each day's attendance on board meetings, in addition to his salary as county commissioner, and shall be reimbursed for expenses actually incurred in the transaction of the business of the board; provided, that the total amount paid for compensation as aforesaid shall not exceed one thousand dollars annually.

Certain offices,
etc., to be
classified by
board
"Salary"
defined
1930, 400, § 5.
1931, 254, § 1;
301, § 8

SECTION 49. Every office and position whereof the salary is wholly payable from the treasury of one or more counties, or from funds administered by and through county officials, except the offices of county commissioners and associate county commissioners, justices and special justices of the district courts, clerks and assistant clerks of the district courts other than the municipal court of the city of Boston, trial justices, other offices and positions filled by appointment of the governor with the advice and consent of the council, and probation officers, shall be classified by the board in the manner provided by sections forty-eight to fifty-six,

10 inclusive, and every such office and position, now existing or hereafter
 11 established, shall be allocated by the board to its proper place in such
 12 classification. Offices and positions in the service of any department,
 13 board, school or hospital principally supported by the funds of the county
 14 or counties, or in the service of a hospital district established under sec-
 15 tions seventy-eight to ninety-one, inclusive, of chapter one hundred and
 16 eleven, shall likewise be subject to classification as aforesaid. The word
 17 "salary", as used in this section, shall include compensation, however
 18 payable; but nothing in sections forty-eight to fifty-six, inclusive, and
 19 nothing done under authority thereof, shall prevent any person from
 20 continuing to receive from a county such compensation as is fixed under
 21 authority of other provisions of law or as is expressly established by law.

1 SECTION 50. The director of accounts shall (a) prepare and submit to
 2 the board classification and compensation plans, together with such rules
 3 for the administration thereof as he may deem proper; (b) recommend to
 4 the board such amendments thereto as he deems expedient, and also
 5 advise and report to the board relative to amendments proposed under
 6 section fifty-three; (c) keep an official roster of the officers and em-
 7 ployees subject to sections forty-eight to fifty-six, inclusive, with such
 8 other relevant information as he may deem advisable, furnishing for each
 9 county a duplicate roster of such officers and employees of the county for
 10 filing in the office of the county commissioners; (d) advise and assist the
 11 several county commissioners and the board in carrying out the purposes
 12 of said sections; (e) perform such other duties as may be requested by
 13 the county commissioners of any county or the board in carrying out said
 14 purposes; (f) make a continuing study of personnel problems, employ-
 15 ment conditions and economic changes as affecting offices and positions
 16 subject to said sections; and (g) investigate and make report to the board
 17 on appeals as provided in section fifty-two.

Director of
 accounts.
 Duties, etc.
 1930, 400, § 5.

18 The director may employ a person skilled and experienced in public
 19 classification and compensation work to assist in the performance of the
 20 duties imposed upon him by said sections forty-eight to fifty-six, inclusive.
 21 Such employment shall not be subject to chapter thirty-one. All expenses
 22 incurred by the director under this section and the compensation and
 23 expenses payable under section forty-eight shall be paid in the first in-
 24 stance by the commonwealth, from such funds as may be appropriated
 25 by the general court; and the several counties, excluding Suffolk, shall
 26 reimburse the commonwealth therefor in proportion to their taxable
 27 valuations as determined by the director.

1 SECTION 51. The board shall (a) pass upon and finally adopt and put
 2 into effect, with such modifications, changes and additions as it shall
 3 deem proper, the classification and compensation plans and rules for their
 4 administration proposed by the director of accounts under section fifty;
 5 (b) pass upon, finally adopt and put into effect, with such modifications
 6 as it may deem proper, amendments to the classification and compensa-
 7 tion plans and the rules for their administration as may be proposed from
 8 time to time under the provisions of section fifty or fifty-three; provided,
 9 that no such amendment not proposed by the director of accounts under
 10 section fifty shall be adopted except after a report which shall be made
 11 by said director within thirty days after submission to him; (c) pass upon
 12 and finally determine appeals relative to classification, as provided in

Duties of
 board.
 1930, 400, § 5.

section fifty-two; and (d) perform such other functions and duties as may be imposed upon it by said sections forty-eight to fifty-six, inclusive.

Classification and allocation of offices, etc. 1930, 400, § 5.

SECTION 52. The classification and allocation of offices and positions required to be classified and allocated by section forty-nine shall be required to their respective duties and responsibilities. The classification shall be established by specifications defining for each office or position or class of offices or positions the title, duties and responsibilities thereof. The titles used in such classification shall be used for pay rolls, in the records of county commissioners, county treasurers, the director of accounts and of the board, and in all budget and appropriation records, but for working and administrative purposes within a department and for public convenience other titles may be used. Incumbents of offices and positions so classified shall perform, as far as practicable, the duties prescribed for the class to which they are assigned, but nothing in sections forty-eight to fifty-six, inclusive, shall be construed to limit or to restrict the county commissioners or other administrative authorities having charge of a department in assigning other work to such incumbents.

Any incumbent aggrieved by the allocation or classification of his office or position may, in writing, appeal to the board. Such appeal shall be filed with the appellant's board of county commissioners, who shall forward the appeal to the board, accompanied by a report and their recommendations thereon. The board shall refer the appeal to the director of accounts, who shall investigate the merits thereof and report to the board. The board shall then finally determine the appeal after hearing all persons interested.

Powers and duties of county commissioners. 1930, 400, § 5.

SECTION 53. The county commissioners of the several counties shall (1) keep on file in their respective offices the duplicate roster of officers and employees of their county, furnished by the director under section fifty; (2) receive and forward to the board, with their report and recommendations thereon, appeals, as provided in section fifty-two; (3) receive and act upon recommendations for salary increases, as provided in section fifty-four, and (4) perform such other functions and duties as may be imposed upon them by said sections forty-eight to fifty-six, inclusive. They may also recommend to the board amendments to the classification and compensation plans and to the rules relating thereto. They shall be entitled to be heard in the determination of questions of classification and allocation on appeal to the board, or otherwise.

Newly elected, etc., officers, etc., to receive minimum rate. Exceptions. Recommendations for promotions, transfers, etc. 1930, 400, § 5. 1931, 301, § 9.

SECTION 54. Newly elected or appointed officers or employees shall receive the minimum rate in the scale for the class to which the office or position has been allocated; provided (1) that where a person already in the service is transferred or demoted, or a former officer or employee is reinstated to an office or position in the class, he shall enter the office or position at the rate which he last received, except that, if the rate received in the former office or position is higher than the maximum of the class, he shall receive the maximum rate; and provided (2) that the board, upon recommendation of the proper county commissioners, supported by evidence of special fitness and exceptional circumstances satisfactory to them, may approve an entrance rate greater than the minimum rate; and provided (3) that less than the minimum rate may be paid in cases found by the board to be exceptional.

14 Recommendations for promotions, transfers and salary increases, sup-
 15 ported by such data as the case may require, shall be submitted to the
 16 county commissioners of the various counties by the proper authority,
 17 and such recommendations, if conforming to the classification and com-
 18 pensation plans and rules provided for in section fifty-one, may, in their
 19 discretion, be granted by the county commissioners; except that all
 20 cases involving more than one increment in the salary scale, an original
 21 appointment at a rate higher than a minimum rate, the creation of a new
 22 class, or other departure from the normal procedure as outlined in the
 23 classification and compensation plans and rules shall in each instance
 24 be referred by the county commissioners to the board, and the action by
 25 the board in relation thereto shall be final. Salary increases in counties,
 26 other than Suffolk and Nantucket, shall not become effective unless and
 27 until an appropriation sufficient to cover the same has been granted by
 28 the general court.

1 SECTION 55. Except as otherwise expressly provided, all salaries
 2 established under the authority of sections forty-eight to fifty-six, in-
 3 clusive, shall be in full compensation for all services rendered, and every
 4 officer or employee shall pay all fees and other moneys received directly
 5 or indirectly in the course of his public employment, into the county
 6 treasury; provided, that nothing contained in said sections shall pre-
 7 vent the reimbursement of actual and other expenses necessary for the
 8 transaction of public business or the payment of overtime approved
 9 by the county commissioners, upon evidence of necessity therefor.

Salaries to be
 full compensa-
 tion. Over-
 time payments.
 1930, 400, § 5.

1 SECTION 56. For Suffolk county, the duties prescribed for the board
 2 by section fifty-one, except clause (c) thereof, shall be performed by the
 3 city council of the city of Boston, subject to the provisions of the charter
 4 of said city; the duties prescribed by sections forty-nine to fifty-five,
 5 inclusive, for the director of accounts shall be performed by the budget
 6 commissioner of said city, and all other duties prescribed and powers
 7 conferred by said sections forty-nine to fifty-five shall be performed by
 8 the mayor of said city. Any other county is hereby authorized, subject
 9 in all respects to the approval of the governor and council, to establish
 10 agencies for the purpose of establishing and administering classification
 11 and compensation plans in accordance with the provisions of sections
 12 forty-nine to fifty-five, inclusive, and agencies so established shall have
 13 the powers granted by said sections to the board and the director of
 14 accounts. Upon the establishment of such agency, such county shall
 15 cease to be represented in the board or to participate in the election of
 16 its members, and its obligation to contribute toward the expenses in-
 17 curred by the board and by the director under section fifty shall ter-
 18minate.

Special pro-
 visions for
 Suffolk county
 Agencies for
 classification,
 etc., in other
 counties
 1930, 400, § 5.

CHAPTER 36.

REGISTERS OF DEEDS.

SECT.	SECT.
1. Registry districts in certain counties.	21. Marginal references on record of certain mortgages.
2. Election of registers of deeds.	22. Noting instruments affecting tax deeds.
3. Register to be sworn and give bond.	23. Certificate on deed of date and place of record.
4. Assistant registers.	24. Federal tax liens, and discharges thereof, free filing.
5. Second assistant register in Suffolk.	25. Indexes and form thereof.
6. Same, in certain other counties, etc.	26. Entries in indexes, when and how made.
7. Chief clerk in Worcester district.	27. Names to be entered in indexes in certain special cases.
8. Assistant register to act, when. Temporary registers.	28. Classified copies of indexes.
9. Removal of register.	29. New or printed indexes.
10. New register to record deeds unrecorded by his predecessor.	30. Estimates of expense of indexes.
11. Register's office hours.	31. Index commissioners in Suffolk county.
12. Place of record.	31A. Notice to commissioner of corporations, etc., of trust deeds and declarations of trust.
13. Record of certified copies of instruments relating to land lying in more than one county, etc.	32. Notice to department of public welfare of instruments creating charitable trusts, etc.
13A. Plans, filing in registries regulated.	33. Salaries.
14. Register to note receipt of papers in book to be kept for the purpose.	34. [Repealed.]
15. Manner of recording instruments, and notation of stamp.	35. [Repealed.]
16. Evidence of payments of succession taxes to be recorded.	36. [Repealed.]
17. Duplicate records; making, and fees for copies.	37. No compensation to registers or assistant registers for title work.
18. Attestation of records by volume.	38. Allowances for clerical assistance, etc.
19. Facsimile attestation.	39. Accounts and fees.
20. Noting instrument affecting mortgage, when recorded in different registries.	

Registry districts in certain counties.

In Berkshire county.
1788, 5.
1805, 42.
1812, 83
R. S. 14,
§§ 110-113.

1848, 4.
1857, 123, § 1.
G. S. 17, § 82.
1868, 325, § 5.

In Bristol county
1847, 186,
§§ 1-4
G. S. 17, § 83.
1861, 23
P. S. 24, § 2.
1891, 234, § 1.
R. L. 22, § 2.

In Essex county.
1869, 445,
§§ 1, 5.
P. S. 24, § 3.
R. L. 22, § 3.

In Middlesex county
1855, 79.

SECTION 1. The counties of Berkshire, Bristol, Essex, Middlesex and Worcester are for the registry of deeds severally divided into the following districts:

In Berkshire, the middle district, with its office in Pittsfield, comprising Pittsfield, Becket, Dalton, Hinsdale, Lee, Lenox, Otis, Peru, Richmond, Stockbridge, Tyringham and Washington; the northern district, with its office in Adams, that portion of the county lying north of the middle district; and the southern district, with its office in Great Barrington, that portion of the county lying south of the middle district.

1876, 127.

P. S. 24, § 1.

R. L. 22, § 1.

In Bristol, the southern district, with its office in New Bedford, comprising New Bedford, Acushnet, Dartmouth, Fairhaven and Westport, the Fall River district, with its office in Fall River, comprising Fall River, Freetown, Somerset and Swansea; and the northern district, with its office in Taunton, the remainder of said county.

In Essex, the northern district, with its office in Lawrence, comprising Lawrence, Andover, Methuen and North Andover; the southern district, with its office in Salem, the remainder of said county.

In Middlesex, the northern district, with its office in Lowell, comprising Lowell, Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Tewks-

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20 bury, Tyngsborough, Westford and Wilmington; the southern district, 1856, 116.
 21 with its office in Cambridge, the remainder of said county. G. S. 17, § 84.

1860, 162. P. S. 24, § 4. R. L. 22, § 4.

22 In Worcester, the northern district, with its office in Fitchburg, com- In Worcester
 23 prising Fitchburg, Ashburnham, Leominster, Lunenburg and West- county.
 24 minster; the Worcester district, with its office in Worcester, the re- 1884, 40, § 1.
 25 mainder of said county. R. L. 22, § 5.

26 Each of the other counties of the commonwealth shall have an office In other
 27 for the registry of deeds in a shire town thereof. counties.
 C. L. 33, § 4.

1715-16, 5, § 4. R. S. 14, § 103. P. S. 24, § 5.
 1783, 60, § 1. G. S. 17, § 85. R. L. 22, § 6.

1 SECTION 2. In each such district and in each county not divided into Election of
 2 districts, a register of deeds, who shall be a resident of such district or registers
 3 county, shall be elected, as provided in section one hundred and fifty- of deeds.
 4 seven of chapter fifty-four, for the term of six years, beginning with the 1783, 60, § 1.
 5 first Wednesday of January following his election, and until his successor R. S. 14, § 101.
 6 is qualified. 1837, 186.
 1855, 79, § 3;
 92, §§ 1, 5.

1856, 118, §§ 1, 2. R. L. 11, §§ 320, 1913, 835, §§ 386,
 G. S. 10, § 9. 325, 326. 391, 392.
 P. S. 10, § 9. 1906, 76. 1917, 255, § 1.
 1890, 453, § 196. 1907, 560, §§ 348, 1918, 114, § 2.
 1893, 417, §§ 253, 258. 353, 354. 1919, 269, §§ 21, 26.
 1898, 548, §§ 317,
 322, 323.

1 SECTION 3. Each register of deeds shall be sworn before the county Register to be
 2 commissioners, or in Suffolk county before the city council of Boston, sworn and give
 3 and shall give bond to the county for the faithful performance of his bond.
 4 official duties and those of his assistant registers, with such sureties and 1697, 21, § 5.
 5 in such sum as the commissioners or said council, respectively, shall 1715-16, 5, § 1.
 6 approve. 1783, 60, § 1.
 1825, 145, § 2.
 R. S. 14, § 102.
 G. S. 17, § 86.

P. S. 24, § 6. R. L. 22, § 7. 1918, 257, § 143. 1920, 2.
 1890, 308. 1902, 544, § 5. 1919, 5. 259 Mass. 310.

1 SECTION 4. Each register, with the approval of the superior court, Assistant
 2 may appoint an assistant register of deeds, removable at his pleasure, registers.
 3 for whose official acts he shall be responsible. The assistant shall give 1872, 34;
 4 bond in the same manner as the register, and may be a woman. Any 181, §§ 1, 2.
 5 document or paper certified or attested by such assistant or by a second 1873, 19,
 6 assistant register or by a chief clerk designated under section seven §§ 1, 2.
 7 shall be admissible evidence as if certified or attested by the register. P. S. 24,
 §§ 9, 10,
 1885, 7.
 R. L. 22,
 §§ 8, 9,
 1908, 612.

1912, 64. 1920, 569, § 3; 603, § 2.

1 SECTION 5. The register for Suffolk county may, by a writing re- Second assist-
 2 corded in his registry, designate one of the persons employed therein as ant register
 3 second assistant register, which designation he may at pleasure in like in Suffolk.
 4 manner revoke. 1908, 612.

1 SECTION 6. The registers for the southern district of Essex, the county Same, in
 2 of Hampden, the southern district of Middlesex and the Worcester dis- certain other
 3 trict may, with the approval of their respective county commissioners, counties, etc.
 4 appoint and at pleasure remove, a second assistant register. Such an 1920, 569; 603.
 5 assistant shall have all the powers and authority vested in an assistant 1926, 98, § 1.
 6 register, and shall receive such compensation as may be allowed by the
 7 county commissioners.

Chief clerk
in Worcester
district.
1912, 64

SECTION 7. The register for the Worcester district may, by a writing recorded in his registry, authorize a person employed in said registry to certify or attest, as chief clerk, records or copies of records recorded or filed therein, which authority the register may at pleasure in like manner revoke.

Assistant
register to act,
when Temp-
orary regis-
ters.
1863, 200, § 2.
P. S. 24, § 11.
R. L. 22, § 10.
1909, 213.
1913, 835.
§§ 340, 503.
1923, 569,
§ 2; 603, § 2.
1930, 400,
§§ 5, 7-9.
1931, 301, § 10.

SECTION 8. During the disability of a register, or if a vacancy occurs in the office, the assistant register, or second assistant register, or if none, the clerk, shall perform the register's duties. If the register is disabled and there is no assistant or clerk, or if they are both unable, by reason of illness or otherwise, to perform their official duties, the county commissioners, or in Suffolk county the superior court, may by reason of illness or otherwise, to perform their official duties, the county commissioners, or in Suffolk county the superior court, may appoint a temporary register of deeds. Notice of such appointment shall be recorded in the registry. Section three shall apply to temporary registers who shall exercise the same powers and duties as registers of deeds until the register or a qualified assistant is able to assume the same, or until the qualification of a new register.

Removal of
register
1785, 57, § 5.
R. S. 14, § 105.
G. S. 17, § 88.
P. S. 24, § 7.
R. L. 22, § 11.

SECTION 9. If a register, upon presentment of the grand jury, is found guilty of misconduct in his official duties, or if from bodily or mental infirmity he is incapable in person of rightly performing the same, the county commissioners, or in Suffolk county the superior court, shall, after reasonable notice, remove him from office, and may order delivery of the books, papers and other things belonging to the office to their clerk or to a new register when appointed or elected.

New register
to record
deeds unre-
corded by his
predecessor
1863, 200, § 1.
1871, 4.
P. S. 24, § 8.
R. L. 22, § 12.
1906, 67.

SECTION 10. If, upon the death, removal or expiration of the term of a register, deeds or other instruments entered in the registry are unrecorded, or recorded but unattested, or if records are unattested, his successor or any subsequent register shall record or attest such deeds, instruments or records agreeably to the facts and conformably with the records and books of entry.

Register's
office hours.
1783, 60, § 1.
R. S. 14, § 103.
G. S. 17, § 89.
P. S. 24, § 12.
1892, 121.
1900, 327, § 1.
1901, 383.
R. L. 22, § 13.
175 Mass. 193.

SECTION 11. Every register shall keep in his registry all books, records, deeds and papers belonging thereto, and shall keep the office open a fixed number of hours daily except on Sundays and legal holidays, for receiving and recording papers. Office hours heretofore fixed in the respective counties shall continue until changed by order of the county commissioners. Notice thereof shall be given by posting the same in conspicuous places upon or near the entrance door and upon the walls or counters in each registry.

Place of record.
1697, 21, § 5.
1783, 37, § 4.
R. S. 14, § 114;
59, § 22.
1856, 254.
G. S. 17, § 90.
P. S. 24, § 13.
R. L. 22, § 14.

SECTION 12. Every deed and other instrument required to be recorded in the registry of deeds shall be recorded in the registry of deeds for the district where the land lies to which such deed or instrument relates; and in all things relating to the register or registry of deeds, each district therefor shall be deemed a county.

Record of
certified
copies of in-
struments re-
lating to land
lying in more
than one
county, etc.

SECTION 13. If a deed or other writing affecting land has been recorded in a registry of deeds or registered in a registry district of the land court, a copy thereof, duly certified by a proper official, may be recorded or registered in any county or registry district wherein the original might

5 properly have been recorded or registered, and when so recorded or regis-
 6 tered shall have the same effect as a record or registration of the original
 7 instrument; provided, however, that no such certified copy of such a
 8 record or registration, except of a declaration of trust as provided for
 9 in section seventy-two of chapter one hundred and eighty-five, shall be
 10 entitled to registration in any registry district of the land court until
 11 the same has first been approved for the purpose by a judge of the land
 12 court.

1889, 448
 R. L. 22, § 15
 1926, 150
 1930, 267
 1931, 80

1 SECTION 13A. The registers of deeds, or a majority of them, may
 2 from time to time make and amend rules prescribing the size or sizes
 3 of plans which shall be received for record in registries of deeds in which
 4 copies of such rules are posted as hereinafter provided, the material on
 5 which the plans shall be made, and other requirements which will best
 6 effect the preservation for reference of the matter shown on such plans.
 7 No such rule or any amendment thereof shall take effect until after it
 8 has been approved by the attorney general. Any register of deeds may
 9 post a copy of the rules, approved as aforesaid, in a conspicuous place
 10 in his registry; and, after the expiration of thirty days from such post-
 11 ing, no plan which does not, in the opinion of the register, conform to
 12 such rules shall be received for record therein, except upon payment of a
 13 fee of three dollars for each such plan in addition to the fees provided by
 14 section thirty-eight of chapter two hundred and sixty-two.

Plans, filing
 in registries
 regulated
 1927, 150.

1 SECTION 14. Each register shall keep a book, each page of which
 2 shall be divided into six columns, with the following headings:

Register to
 note receipt of
 papers in book
 to be kept for
 the purpose.
 1830, 15.

Date of Reception.	Grantors.	Grantees.	Town where the Land lies.	To whom delivered after being recorded	Fees received.
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§§ 1, 2
 R. S. 59,
 §§ 23, 24
 G. S. 17,
 §§ 92, 93,
 P. S. 24,
 §§ 14, 15
 1901, 327, § 2.
 R. L. 22,
 §§ 16, 17
 140 Mass. 112
 146 Mass. 610.
 175 Mass. 193.

3 He shall enter therein, in the order of receipt, all deeds and instru-
 4 ments left for record, and all copies left as cautions, noting in the first
 5 column the day, hour and minute when received and the other items
 6 in the appropriate columns; and every deed or instrument shall be con-
 7 sidered as recorded at the time so noted. Papers received for record
 8 outside the hours fixed under section eleven shall be entered as of the
 9 first minute of the next succeeding business hour.

1 SECTION 15. He shall record all instruments upon the pages of the
 2 record books in fair and legible handwriting or in print, and in continuous
 3 successive lines, and shall note on the record, before attesting the same,
 4 all erasures and interlineations and the value of any stamp affixed thereto
 5 pursuant to federal law, and the cancellation thereof.

Manner of re-
 cording instru-
 ments, and
 notation of
 stamp
 1844, 104
 G. S. 17, § 94.
 1863, 225.

P. S. 24, §§ 16, 17. 4 Mass. 541. 23 Pick. 80. 2 Cush. 494
 R. L. 22, §§ 18, 19. 17 Pick. 361. 12 Met. 157. 3 Op. A. G. 241.

1 SECTION 16. He shall record receipts of federal revenue collectors for
 2 succession taxes, or other evidence of their payment, if the person apply-
 3 ing for such record first makes affidavit to the genuineness of such re-
 4 ceipt or evidence before a person qualified to take acknowledgment of
 5 deeds.

Evidence of
 payments of
 succession
 taxes to be
 recorded.
 1868, 132.

Duplicate records, making, and fees for copies. 1892, 253. R. L. 22, § 21.

SECTION 17. The register shall, at the expense of the county, procure and keep duplicate record books, in which he shall make fair and legible copies of the record of any deed or other instrument existing in the registry which has become worn, mutilated or indistinct, if so directed by the county commissioners, or if so requested by any person lawfully interested in preserving the same. He shall attest such copies, referring in his certificate of attestation to the book and page of the original record, and shall note on the margin of the first page of the original the volume and page of the duplicate records containing the copy. Such copies shall have the same force as the original records. He shall receive the same fees for copies and notations as for an original record, payable by the person requesting the same.

Attestation of records by volume. 1907, 225, § 1.

SECTION 18. He may attest the records by the volume, and the attestation shall be sufficient when the volume containing the same bears the attest, with the written signature of the register or other person lawfully authorized.

Facsimile attestation. 1907, 225, § 2; 1920, 569, § 3; 1929, 61.

SECTION 19. A facsimile of the signature of any register, imprinted by him, by an assistant register or by such office assistant as the register in writing may designate, upon any original instrument in attestation of the fact that the same has been recorded in his registry or upon any copy of the records or plans which the register is authorized by law to certify or attest as a true copy, shall have the same validity as his written signature.

Noting instrument affecting mortgage, when recorded in different registries. 1868, 197. P. S. 24, § 19; R. L. 22, § 22.

SECTION 20. If an assignment, extension, partial release, release or discharge of a mortgage of land, or a certificate of the taking or surrender of possession for foreclosure of such mortgage, or an affidavit of notice of sale under a power of sale therein, or an execution for possession of the premises conveyed thereby or any other instrument purporting to affect the same, has been recorded in the county where the land lies, and the original mortgage was not recorded in the same registry, the register of the county where such mortgage was originally recorded, upon exhibition to him at the registry of such instrument purporting to affect the same, shall enter upon the margin of the record of the mortgage a note of reference to the record of such instrument.

Marginal references on record of certain mortgages. 1909, 100.

SECTION 21. When an instrument described in the preceding section affecting a mortgage is recorded, and it refers by book and page to the record of the mortgage, the register shall enter upon the margin of such record, if in the same registry, a notation of the record of the instrument containing such reference.

Noting instruments affecting tax deeds. 1878, 206, § 11; P. S. 24, § 20; R. L. 22, § 23.

SECTION 22. If an assignment, release, partial release, discharge or disclaimer affecting title to land created by a sale or taking for payment of a tax or assessment is recorded, the register shall make a note of reference thereto on the margin of the record of the deed or instrument of sale or taking, if in his registry and referred to in such conveyance.

Certificate on deed of date and place of record. 1937, 21, § 5.

SECTION 23. He shall certify upon every instrument recorded by him the time when received and the number of the book and leaf or page where recorded.

1 SECTION 24. Notice of a federal tax lien on any property or rights
 2 thereto, or a certificate of discharge of such a lien, may be filed without
 3 the payment of any fee with the register of deeds of the county where the
 4 property is situated and shall be recorded.

Federal tax
 liens, and
 discharges
 thereof, free
 filing.

1915, 120, §§ 1, 2.

1927, 63, § 1.

1928, 386, § 1.

1 SECTION 25. He shall keep two indexes, each divided into six columns,
 2 with headings in one as follows:

Indexes and
 form thereof
 1845, 205, § 1
 G. S. 17, § 96.
 P. S. 24, § 22.
 1885, 29
 R. L. 22, § 25.

Date of Reception.	Grantors	Grantees.	Book.	Leaf or Page.	Town where the Land lies.
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3 And in the other as follows:

Date of Reception	Grantees.	Grantors.	Book	Leaf or Page.	Town where the Land lies.
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4 In Suffolk county neither index need contain the last column.

1 SECTION 26. He shall, within twenty-four hours after a deed or other
 2 instrument which he is by law required to record has been left for record,
 3 cause the name of each grantor, grantee or other party thereto to be
 4 entered at length and alphabetically in the appropriate index, and in
 5 the appropriate column, if any, the name of the town where the land
 6 described in the instrument lies, if the same is therein disclosed. Within
 7 a reasonable time after such instrument has been recorded, he shall
 8 affix to such entry the number of the book and leaf or page where recorded.

Entries in
 indexes, when
 and how made.
 1845, 205, § 2.
 G. S. 17, § 97.
 P. S. 24, § 23.
 1885, 29, § 1.
 R. L. 22, § 26.

1 SECTION 27. When an instrument by which a person transfers or
 2 conveys by authority of law the real estate of another is left for record,
 3 the register shall enter in the entry book and grantor index both the
 4 name of the nominal grantor and that of the real party in interest, if
 5 appearing therein, otherwise he shall enter such party as "unknown",
 6 under the letter U. When notice of the filing of a petition for partition
 7 or of amendment thereof, or a copy of a decree in partition is left for
 8 record, he shall enter in the entry book and in both the grantor and
 9 grantee indexes the names of all persons whose estates plainly appear to
 10 be affected thereby.

Names to be
 entered in
 indexes in cer-
 tain special
 cases.
 1845, 205, § 3.
 1856, 292, § 1.
 G. S. 17,
 §§ 98, 99.
 P. S. 24, § 24.
 R. L. 22, § 27.
 1917, 279,
 §§ 7, 16.

1 SECTION 28. Each register, except in Suffolk county, shall annually,
 2 at the expense of the county, cause competent persons to make copies of
 3 the indexes of the preceding year, in which the grantors and grantees
 4 shall be classified by their respective surnames in alphabetical order, and
 5 arranged thereunder in the order in which the deeds and other con-
 6 veyances to which they refer were left for record. He may also cause
 7 the Christian names of the grantors and grantees, as well as their sur-
 8 names, to be arranged in alphabetical order in such lists. Such copies
 9 shall in other respects be in the form required for the original indexes.

Classified
 copies of
 indexes.
 1856, 292, § 2.
 1857, 38, § 277.
 G. S. 17, § 103.
 P. S. 24, § 25.
 1896, 443, § 1.
 R. L. 22, § 28.
 1 Op. A. G. 308.

1 SECTION 29. A register may, with the consent of the county com-
 2 missioners, cause a competent person, at the expense of the county, to
 3 make copies of the indexes or new indexes to the records, or of any part
 4 thereof. Such copies may be printed at county expense and sold at a
 5 price not less than the cost of printing, paper and binding.

New or printed
 indexes.
 1856, 292,
 §§ 3, 4.
 G. S. 17, § 104.
 P. S. 24, § 26.
 1896, 443, § 2.
 R. L. 22, § 29.

Estimates of
expense of
indexing.
1896, 443.
§§ 3, 4
R. L. 22, § 30.

SECTION 30. Each register, except in Suffolk county, shall annually, before January first, file with the county commissioners an estimate in detail of the character, amount and cost of indexing which, in his judgment, may be required for the ensuing year, and the commissioners shall include in the estimates for county taxes so much thereof as in their judgment is necessary. The amount authorized by the general court may, under the direction of the register, be expended for the purposes specified in his said estimate, and shall be paid to the persons actually performing the work, on approval of the bills by the commissioners.

Index commis-
sioners in
Suffolk county.
1878, 129
P. S. 24, § 27.
1901, 401
R. L. 22, § 31.
1902, 422.

SECTION 31. In Suffolk county all the powers and duties exercised in other counties by the registers, with or without the consent of the county commissioners, under sections twenty-eight and twenty-nine, shall be exercised by an unpaid board of three index commissioners, of whom one shall annually, in March, be appointed by the justices of the superior court, for a term of three years beginning with the first day of April following. A commissioner may be removed by said justices for cause, and a vacancy shall be filled by them for the unexpired term.

Notice to
commissioner
of corporations,
etc., of trust
deeds and
declarations
of trust.
1921, 207.

SECTION 31A. Within sixty days after the recording of any deed in which the grantee is described as a trustee, or of any declaration of trust, the register in whose office such deed or declaration is recorded shall send by mail to the commissioner of corporations and taxation a notification of the recording thereof, stating the name of the grantor and of the grantee or the trustee, and the date of recording.

Notice to de-
partment of
public welfare
of instruments
creating chari-
table trusts,
etc.
1915, 14.
1919, 350, § 87.

SECTION 32. Whenever there is filed for record in a registry of deeds any deed of trust or other instrument creating or increasing an estate or fund for benevolent, charitable, humane or philanthropic purposes, the register shall forthwith send to the department of public welfare a statement noting the book and page of the record, with the name, if any, of the said estate or fund, and by whom the said estate or fund has been created or increased, and by whom it is to be administered.

Salaries.
P. S. 24, § 29.
1895, 493, § 1.
R. L. 22, § 32.
1904, 452, § 1.
1919, 361,
§§ 1, 3, 4.

SECTION 33. The salaries of registers of deeds and all assistant registers of deeds shall be paid by their respective counties; and the salaries of registers of deeds shall be in full for all services rendered as register and as assistant recorder of the land court.

1930, 400, §§ 5, 7-9.
1931, 301, § 11.

1 Op. A. G. 308.
3 Op. A. G. 360.

4 Op. A. G. 296.

SECTION 34. [REPEALED, 1931, 301, § 12.]

SECTION 35. [REPEALED, 1931, 301, § 12.]

SECTION 36. [REPEALED, 1931, 301, § 12.]

No compensa-
tion for
registers or
assistant
registers for
title work.

SECTION 37. No register or assistant register shall demand or receive, directly or indirectly, compensation for title work performed by him or under his direction, in his registry.

1919, 361, § 5.

Allowances for
clerical assist-
ance, etc.
1895, 493, § 2.
1896, 172.

SECTION 38. Registers shall annually be allowed for clerical assistance in their respective registries, to be paid by their respective counties, such amounts as shall be approved by the county commissioners.

R. L. 22, § 33.

1930, 400, §§ 5, 7-9.

1931, 301, § 13.

1 SECTION 39. Each register shall enter in a cash book, which shall be
 2 the property of the county, all fees received by him for all official acts
 3 and services; and he shall, on the first day of each month, pay to the
 4 county treasurer, or other officer entitled to receive the same, all fees
 5 received during the preceding month, and shall render to him a sworn
 6 account thereof.

Accounts
 and fees.
 1895, 493, § 3
 R. L. 22, § 34.

CHAPTER 37.

SHERIFFS.

SECT.

1. Election of sheriffs.
2. Oath and bond.
3. Appointment of deputies.
4. Special sheriff.
5. Duties of special sheriffs.
6. [Repealed.]
7. Penalty for neglect to give bond.
8. Suits on bonds of sheriffs.
9. State treasurer to furnish copies of sheriff's bonds.
10. Sheriffs not to be arrested in civil suits. Executions to run against their property only.
11. Sheriffs and their deputies to serve precepts, etc.

SECT.

12. Sheriffs and their deputies may serve demands, etc.
13. Sheriffs and their deputies may require aid.
14. Sheriffs and their deputies may serve writs after removal.
15. Service of writs for and against sheriffs.
16. Sheriffs or deputies to attend courts, etc.
17. Salaries, etc., of sheriffs.
18. [Repealed.]
19. [Repealed.]
20. [Repealed.]
21. Traveling expenses of sheriffs.
22. Sheriffs to account for fees, etc.
23. Annual return.

1 SECTION 1. A sheriff shall be elected in each county, as provided in
 2 section one hundred and fifty-nine of chapter fifty-four, for six years,
 3 beginning with the first Wednesday of January following his election,
 4 and until his successor is qualified.

Election of
 sheriffs.
 Const. amend.
 19
 (Const. Rev.
 art. 62.)

1856, 173, §§ 1, 5.	1893, 417, §§ 256, 258.	1913, 835, §§ 388, 391, 503.
G. S. 10, § 5.	1898, 548, §§ 319, 322.	1917, 255, § 1.
P. S. 10, § 5.	R. L. 11, §§ 322, 325.	1918, 114, § 2
1890, 423, § 192.	1907, 560, §§ 350, 353, 456.	1919, 269, §§ 23, 26.

1 SECTION 2. A sheriff, before performing any official act shall be
 2 sworn and shall give to the state treasurer a bond in such amount and
 3 with such sureties as the superior court shall order and approve, con-
 4 ditioned to perform faithfully his own duties and to be responsible for
 5 the official acts of his deputies. A default, malfeasance or misfeasance
 6 in office of a deputy sheriff or jailer after the death, removal or resigna-
 7 tion of the sheriff by whom he was appointed, shall be a breach of the
 8 bond of such sheriff.

Oath and bond.
 1699-1700,
 9, § 1.
 1783, 44, § 1.
 1794, 53, § 2.
 1808, 46, § 2.
 R. S. 14,
 §§ 58, 77.
 1853, 69.
 G. S. 17,
 §§ 51, 63.
 P. S. 25,
 §§ 1, 15.

R. L. 23, §§ 1, 11.	1920, 546, § 2.	217 Mass. 294.
1914, 615.	1924, 404, § 4.	259 Mass. 310.

1 SECTION 3. A sheriff may appoint deputies, who shall be sworn be-
 2 fore performing any official act.

Appointment
 of deputies.

1783, 44, § 1.	G. S. 17, § 53.	R. L. 23, § 2.
R. S. 14, § 59.	P. S. 25, § 2.	

1 SECTION 4. He shall appoint a special sheriff, who shall be sworn
 2 and shall give such bond to the sheriff as he may require for the faithful
 3 discharge of his duties. A special sheriff shall have the authority of a

Special sheriff.
 1880, 167, § 1.
 1881, 58.
 P. S. 25,
 §§ 3, 4.

R. L. 23,
§§ 3, 4
1918, 257, § 144.
1919, 5.
1920, 2.
1 Met. 508.

deputy sheriff. Upon his qualification, the sheriff shall send a written notice thereof, giving the name and residence of the appointee, to the state secretary, who shall record such notice in a book kept for the purpose.

Duties of
special sheriffs.
1877, 200,
§ 23.
1880, 167,
§§ 1, 2.
P. S. 25,
§§ 4, 5.
R. L. 23,
§§ 4, 5.
1918, 257, § 144.
1919, 5.
1920, 2.

SECTION 5. If, by reason of illness, absence, interest or otherwise, the sheriff is unable to perform his official duties, they shall be performed by the special sheriff, and compensation therefor, if not otherwise provided for, shall be paid by the sheriff. During a vacancy in the office of sheriff, the special sheriff, first giving bond as required of the sheriff, shall perform all the duties of the sheriff, and the deputies of the former sheriff shall continue to exercise the powers of deputy sheriffs.

SECTION 6. [REPEALED, 1924, 404, § 5.]

Penalty for
neglect to
give bond.
1794, 53, § 2.
1824, 25, § 2.
R. S. 14, § 63.
G. S. 17, § 56.
P. S. 25, § 8.
R. L. 23, § 7.
1918, 257,
§ 145.
1919, 5.
1920, 2.
1924, 404, § 6.

SECTION 7. A sheriff neglecting or refusing to give bond as required in section eighteen of chapter thirty shall forfeit one hundred and fifty dollars for each month's neglect, at the suit of the attorney general. The superior court shall forthwith certify the fact of such neglect or refusal to the governor and council and to the attorney general, and, unless the sheriff satisfies the governor and council that there was reasonable cause for such neglect and gives security to their satisfaction within twenty days after the receipt of such certificate, the governor, with the advice and consent of the council, shall remove him from office.

Suits on bonds
of sheriffs.
1805, 99, § 1.
R. S. 14,
§§ 64, 65.
G. S. 17, § 57.
P. S. 25, § 9.
R. L. 23, § 8.
17 Mass. 567.
13 Gray, 384.
195 Mass. 411.

SECTION 8. The holder of a judgment against a sheriff or his estate, for a cause which constitutes a breach of the condition of his official bond, or a person who has obtained an allowance of such claim against his estate, if settled as insolvent, may, at his own expense, prosecute a suit on such bond in the name of the state treasurer, and the proceedings shall be the same as in a suit by a creditor on an administration bond.

217 Mass. 294.

259 Mass. 310.

State treasurer
to furnish
copies of
sheriff's bonds.
1805, 99, § 3.
R. S. 14, § 67.
G. S. 17, § 59.
P. S. 25, § 11.
R. L. 23, § 9.

SECTION 9. The state treasurer shall deliver an attested copy of the official bond of any sheriff to any person applying and paying therefor, which shall be received as competent evidence in a case relating to the bond; but if the execution of the bond is disputed, the court may require the said treasurer to produce the original in court.

Sheriffs not to
be arrested in
civil suits.
Executions to
run against
their property
only.
1783, 44, § 4.
R. S. 14,
§§ 73-76.
G. S. 17,
§§ 60-62.
P. S. 25,
§§ 12-14.
R. L. 23, § 10.

SECTION 10. A sheriff shall not be arrested upon mesne process or execution in a civil action. If judgment is rendered against him, either in his official or private capacity, the execution shall issue against his goods, chattels and land, but not against his body. If such execution is returned unsatisfied, the creditor may file with the governor and council an attested copy of the execution and return, and notify the sheriff. If he does not, within thirty days after such notice, pay to the creditor the whole amount of his debt, with reasonable costs of the copies and notice, the governor, with the advice and consent of the council, shall remove him from office. After the appointment of his successor, the clerk of the court from which any execution against him has issued, upon the return thereof unsatisfied, shall issue alias executions in common form, as well against the body as against the goods, chattels and land.

1 SECTION 11. Sheriffs and their deputies shall serve and execute,
 2 within their counties, all precepts lawfully issued to them and all other
 3 process required by law to be served by an officer. They may serve
 4 process in cases wherein a county, city, town, parish, religious society
 5 or fire or other district is a party or interested, although they are inhab-
 6 itants or members thereof.

Sheriffs and
 their deputies
 to serve
 precepts, etc.
 1783, 44, § 1.
 1808, 19, § 2.
 1817, 13.
 R. S. 14,
 §§ 68, 69.

G. S. 17, § 65.
 P. S. 25, § 16.

R. L. 23, § 12.
 130 Mass. 113.

135 Mass. 191.
 191 Mass. 503.

1 SECTION 12. They may serve by copy, by them attested, demands,
 2 notices and citations not required by law to be served by an officer, and
 3 their returns of service thereof shall be prima facie evidence.

Sheriffs and
 their deputies
 may serve
 demands, etc.

G. S. 17, § 66.

P. S. 25, § 17.

R. L. 23, § 13.

1 SECTION 13. They may require suitable aid in the execution of their
 2 office in a criminal case, in the preservation of the peace, in the appre-
 3 hending or securing of a person for a breach of the peace and in cases
 4 of escape or rescue of persons arrested upon civil process.

Sheriffs and
 their deputies
 may require
 aid.
 C. L. 103, § 6.

1698, 20, § 1.
 1795, 68, § 1.

R. S. 14, § 72.
 G. S. 17, § 67.

P. S. 25, § 18.
 R. L. 23, § 14.

3 Op. A. G. 488,
 515.

1 SECTION 14. They may execute precepts in their hands at the time
 2 of their removal from office; and, upon a vacancy in the office of sheriff,
 3 every deputy in office under him, having a writ or precept in his hands,
 4 shall have the same authority to serve, execute and return the same,
 5 as if the sheriff had continued in office.

Sheriffs and
 their deputies
 may serve
 writs after
 removal.
 1783, 44, § 4.
 1808, 46, § 3.

R. S. 14, § 70.
 G. S. 17, § 68.

P. S. 25, § 19.
 R. L. 23, § 15.

13 Pick. 477.
 120 Mass. 143.

1 SECTION 15. If a sheriff is a party to a suit or other proceeding, any
 2 writ, precept or process therein, required to be served or executed by
 3 a sheriff or deputy sheriff, shall be served or executed by the sheriff of
 4 an adjoining county, or his deputy.

Service of
 writs for and
 against sheriffs.
 1877, 200, § 22.
 1881, 160.

P. S. 25, § 20.

1885, 75.

R. L. 23, § 16.

1 SECTION 16. Sheriffs, by themselves or by their deputies shall attend
 2 all sessions of the supreme judicial and superior courts in their respective
 3 counties, and, when required, meetings of the county commissioners.

Sheriffs or
 deputies to
 attend courts,
 etc.

1859, 257, § 3.
 G. S. 17, § 69.

P. S. 25, § 21.
 R. L. 23, § 17.

1931, 426, § 152.

1 SECTION 17. The salaries of sheriffs shall be paid by their respective
 2 counties and shall, except as hereinafter provided, be in full compensation
 3 for all services rendered both as sheriff and as master or keeper of the jail
 4 or house of correction. If a sheriff elects to act as master or keeper of the
 5 jail or house of correction and resides thereat, he shall be entitled to rent,
 6 heat and light, and such subsistence as he may desire out of the regular
 7 subsistence rations purchased for prisoners. The sheriff of Dukes and of
 8 Nantucket county may, in addition to his salary, retain to his own use the
 9 fees received by him for service of process.

Salaries, etc.,
 of sheriffs
 1699-1700,
 9, § 2.
 1830, 110,
 §§ 2, 4.
 R. S. 14,
 §§ 89, 91.
 1843, 75,
 §§ 1, 2.
 1859, 257, § 1.
 G. S. 17, § 70.
 1860, 92
 1861, 114.

1866, 298, § 11.
 1867, 345.
 1872, 350.
 1875, 137.
 1879, 269.
 1881, 158.
 P. S. 25, §§ 22, 23.
 1884, 209.

1886, 28.
 1887, 58; 164.
 1888, 95; 228;
 244.
 1889, 38.
 1891, 154.
 1894, 153; 415.
 1897, 454.

1898, 324.
 1900, 295.
 R. L. 23, §§ 18, 19.
 1902, 359; 436.
 1906, 233.
 1907, 254.
 1908, 397.
 442; 446.

1912, 548; 561.
 1913, 481; 637.
 1914, 534.
 1919, 287, §§ 1-5.
 1930, 400, §§ 5, 7-9.
 1931, 301, § 14.
 2 Op. A. G. 612.

1 SECTION 18. [REPEALED, 1931, 301, § 15.]

	SECTION 19. [REPEALED, 1931, 301, § 15.]	1
	SECTION 20. [REPEALED, 1931, 301, § 15.]	1
Traveling expenses of sheriffs. 1897, 454 R. L. 23, § 18.	SECTION 21. Except in Suffolk, Dukes and Nantucket counties sheriffs shall be entitled to receive from the county their actual traveling expenses incurred in the performance of their official duties.	1 2 3
	1902, 436. 1908, 397; 446. 1918, 257, § 146 1920, 2. 1907, 254. 1912, 115. 1919, 5; 287, §§ 4, 5.	
Sheriffs to account for fees, etc. 1830, 110, § 2. R. 8, 14, § 90. 1859, 257, § 2. G. S. 17, § 71. P. S. 25, § 24. R. L. 23, § 20.	SECTION 22. Each sheriff shall keep an account of all fees and money received by virtue of his office, and, except as otherwise provided, shall annually, on or before December fifteenth, render to the county treasurer a sworn account thereof and, except as provided in section nineteen, pay him the same.	1 2 3 4 5
Annual return. 1843, 75, §§ 4, 5. 1850, 31. 1859, 257. G. S. 17, §§ 72, 73. P. S. 25, §§ 25, 26. R. L. 23, § 21.	SECTION 23. Sheriffs shall annually, on or before October fifteenth, return to the state secretary on blanks provided by him a sworn account of all money received by them for the year ending on the preceding September thirtieth, designating the amounts received from the county treasurer and from all other sources, and specifying the amounts received for fees in civil and criminal processes. They shall also return the number of days of attendance upon the courts and upon the county commissioners, and also the number of days of attendance upon more than one of said tribunals simultaneously. If a sheriff neglects to make such return, he shall forfeit two hundred dollars.	1 2 3 4 5 6 7 8 9 10

CHAPTER 38.

MEDICAL EXAMINERS.

SECT.

1. Appointment of medical examiners and associate examiners in the several counties.
2. Duties of associate examiners.
3. Official bonds, etc.
4. Breach of condition of bond.
5. Salaries, fees, etc.
6. Duties of examiners. Autopsy, when authorized.
7. Report to district attorney and court. Certificate to town clerk.
8. Inquest.
9. Jurisdiction extended.
10. Appointment of officer to investigate.
11. Report of evidence and magistrate's report in certain cases to be sent to department of public utilities.
12. Report on inquest.

SECT.

13. Arrest of person charged with crime. Binding over of witnesses.
14. Use of embalming fluid restricted.
15. Delivery of body for burial.
16. View of body intended for cremation.
17. Compensation for landing body found in water.
18. Custody and delivery of personal property found upon or near body. Penalty.
19. Return, audit and payment of fees and expenses.
20. Returns to state secretary.
21. Fees for records and returns.
22. Secretary to provide record books, etc., bind and index returns, and insert tabulations thereof in annual report.

Appointment of medical examiners and associate examiners in the several counties.

SECTION 1. The governor, with the advice and consent of the council, shall appoint for terms of seven years able and discreet men, learned in the science of medicine, as medical examiners in and for their respective counties, and as associate medical examiners in and for their respec-

- 5 tive districts in counties divided into districts, otherwise in and for their
6 respective counties, in number as follows:
- 1877, 200,
 §§ 2, 4, 6.
 1880, 59, § 2.
- 1881, 295. P. S. 26, §§ 1-4. 1898, 318, § 1. R. L. 24, §§ 1, 2.
- 7 Two examiners and two associate examiners in Suffolk county, and
8 one examiner and one associate examiner in Nantucket county and in
9 each of the following districts, except in district two in Barnstable
10 county in and for which one examiner and two associate examiners shall
11 be so appointed:
- 12 Barnstable county, district one, comprising Harwich, Dennis, Yar-
13 mouth, Brewster, Chatham, Orleans and Eastham; district two, Barn-
14 stable, Bourne, Sandwich, Mashpee and Falmouth; and district three,
15 Provincetown, Truro and Wellfleet.
- 16 Berkshire county, district one, comprising North Adams, Williams-
17 town, Clarksburg, Adams, Florida, Savoy, New Ashford and Cheshire;
18 district two, Pittsfield, Lanesborough, Windsor, Dalton, Hinsdale,
19 Peru and Hancock; district three, Richmond, Lenox, Washington,
20 Becket, Lee, Stockbridge, Tyringham and Otis; and district four, West
21 Stockbridge, Alford, Great Barrington, Monterey, Sandisfield, New
22 Marlborough, Sheffield, Egremont and Mount Washington.
- 23 Bristol county, district one, comprising Attleboro, North Attle-
24 borough, Seekonk, Norton, Mansfield and Rehoboth; district two,
25 Taunton, Raynham, Easton, Berkley and Dighton; district three, Fall
26 River, Somerset, Swansea, Freetown and Westport; and district four,
27 New Bedford, Dartmouth, Fairhaven and Acushnet.
- 28 Dukes county, district one, comprising Edgartown and Oak Bluffs;
29 district two, Tisbury, West Tisbury and Gosnold; and district three,
30 Chilmark and Gay Head.
- 31 Essex county, district one, comprising Gloucester and Rockport;
32 district two, Ipswich, Rowley, Hamilton and Essex; district three,
33 Newburyport, Newbury, West Newbury, Amesbury and Salisbury;
34 district four, Haverhill and Merrimac; district five, Lawrence, Methuen,
35 Andover and North Andover; district six, Georgetown, Boxford, Tops-
36 field and Groveland; district seven, Beverly, Wenham and Manchester;
37 district eight, Peabody, Danvers, Middleton and Lynnfield; district
38 nine, Lynn, Saugus, Nahant and Swampscott; and district ten, Salem
39 and Marblehead.
- 40 Franklin county, the northern district, comprising Orange, Erving,
41 Warwick, New Salem and Wendell; the eastern district, Bernardston,
42 Gill, Greenfield, Leverett, Montague, Northfield, Shutesbury and
43 Sunderland; and the western district, Ashfield, Buckland, Charlemont,
44 Colrain, Conway, Deerfield, Hawley, Heath, Leyden, Monroe, Rowe,
45 Shelburne and Whately.
- 46 Hampden county, district one, comprising Brimfield, Holland, Palmer,
47 Monson and Wales; district two, Springfield, Agawam, East Long-
48 meadow, Longmeadow, West Springfield, Wilbraham and Hampden;
49 district three, Holyoke; district four, Blandford, Chester, Granville,
50 Montgomery, Russell, Southwick, Tolland and Westfield; and district
51 five, Chicopee and Ludlow.
- 52 Hampshire county, district one, comprising Northampton, Chester-
53 field, Cummington, Goshen, Hatfield, Plainfield and Williamsburg;
54 district two, Easthampton, Huntington, Middlefield, Southampton,
55 Westhampton and Worthington; district three, Amherst, Granby,
56 Hadley, Pelham and South Hadley; and district four, Belchertown,
57 Enfield, Greenwich, Prescott and Ware.
- Suffolk.
 1912, 466.
 1931, 222, § 1.
- Nantucket.
 Barnstable,
 district two.
- Barnstable.
 1884, 127.
- Berkshire.
- Bristol.
 1887, 412.
- Dukes.
 1892, 216.
 1907, 27.
- Essex.
 1896, 365.
- Franklin.
 1884, 321.
 1926, 12.
- Hampden.
 1890, 189.
 1894, 418.
 1911, 365.
- Hampshire.
 1883, 250.

Middlesex.
1884, 309.
1888, 374.
1890, 320.
1892, 324, 355.
1899, 162.

Middlesex county, district one, comprising Cambridge, Belmont and Arlington; district two, Malden, Somerville, Everett and Medford; district three, Melrose, Stoneham, Wakefield, Wilmington, Reading and North Reading; district four, Woburn, Winchester, Lexington and Burlington; district five, Lowell, Dracut, Tewksbury, Billerica, Chelmsford and Tyngsborough; district six, Concord, Carlisle, Bedford, Lincoln, Littleton, Acton and Boxborough; district seven, Newton, Waltham, Watertown and Weston; district eight, Framingham, Weyland, Natick, Sherborn, Holliston, Hopkinton and Ashland; district nine, Marlborough, Hudson, Maynard, Stow and Sudbury; district ten, Ayer, Groton, Westford, Dunstable, Pepperell, Shirley, Townsend and Ashby.

Norfolk.
1885, 37.
1888, 47, 347.
1897, 225.
1913, 335.
1931, 426.
§ 153.

Norfolk county, district one, comprising Dedham, Needham, Wellesley, Westwood, Norwood and Dover; district two, Cohasset; district three, Quincy, Milton and Randolph; district four, Weymouth, Braintree and Holbrook; district five, Avon, Stoughton, Canton, Walpole and Sharon; district six, Franklin, Foxborough, Plainville and Wrentham; district seven, Medway, Medfield, Millis, Norfolk and Bellingham; and district eight, Brookline.

Plymouth.
1886, 48, 74.
1888, 64.

Plymouth county, district one, comprising Brockton, West Bridgewater, East Bridgewater, Bridgewater and Whitman; district two, Abington, Rockland, Hanover, Hanson, Norwell and Pembroke; district three, Plymouth, Halifax, Kingston, Plympton and Duxbury; district four, Middleborough, Wareham, Mattapoisett, Carver, Rochester, Lakeville and Marion; and district five, Hingham, Hull, Scituate and Marshfield.

Worcester.
1885, 126.
1901, 173.
1908, 135.
1915, 278.
1916, Sp. 282.
1920, 178.

Worcester county, district one, comprising Athol, Dana, Petersham, Phillipston and Royalston; district two, Gardner, Templeton and Winchendon; district three, Fitchburg, Ashburnham, Leominster, Lunenburg, Princeton and Westminster; district four, Berlin, Bolton, Boylston, Clinton, Harvard, Lancaster and Sterling; district five, Grafton, Northborough, Southborough and Westborough; district six, Hopedale, Mendon, Milford and Upton; district seven, Blackstone, Douglas, Millville, Northbridge and Uxbridge; district eight, Charlton, Dudley, Oxford, Southbridge, Sturbridge and Webster; district nine, Brookfield, East Brookfield, North Brookfield, Spencer, Warren and West Brookfield; district ten, Barre, Hubbardston, Hardwick, New Braintree, Oakham and Rutland; and district eleven, Worcester, Auburn, Holden, Leicester, Millbury, Paxton, Shrewsbury, Sutton and West Boylston.

Duties of
associate
examiners.
1880, 59, § 1.
1881, 295.
P. S. 26, § 3.
1898, 318, § 2.
R. L. 24, § 3.
1912, 466, § 2.

SECTION 2. The associate medical examiners for Suffolk county shall, at the request of either of its medical examiners, perform the duties and have the powers of medical examiners. Each medical examiner shall in each year be entitled to two months' service in the aggregate from the associates. Associate examiners in the other counties shall, in the absence of the medical examiners or in case of their inability to act, perform in their respective districts all the duties of medical examiners.

Official bonds,
et c.
R. S. 14, § 95.
G. S. 17, § 76.
1877, 200.
§§ 3, 24.

SECTION 3. Each examiner and associate examiner, before entering upon his duties, shall be sworn and give bond for the faithful performance thereof, in the sum of five thousand dollars, to the county treasurer,

4 with sureties by him approved. Failure for three months after ap- 1880, 59, § 2.
 5 pointment to give such bond shall render his appointment void. P. S. 26,
 §§ 5, 7.
 R. L. 24, §§ 4, 5. 1924, 404, § 7. 2 Op. A. G. 115.
 1914, 637. 259 Mass. 310.

1 SECTION 4. Upon breach of the condition of such bond to the in- Breach of
 2 jury of any person, the principal may be removed from office and action bond.
 3 brought thereon in like manner as upon the bond of a sheriff. R. S. 14, § 96.
 G. S. 17, § 77.
 1877, 200, § 24. R. L. 24, § 6.
 P. S. 26, § 8. 259 Mass. 310.

1 SECTION 5. In Suffolk county each medical examiner shall receive Salaries,
 2 from the county a salary of six thousand dollars, and each associate fees, etc.
 3 medical examiner a salary of one thousand dollars; but if either associate 1877, 200, § 3.
 4 serves in any year more than two months, he shall for such additional 1881, 295.
 5 service be paid at the same rate, and the amount so paid shall be de- P. S. 26, § 9.
 6 ducted from the salary of the medical examiner at whose request he so 1885, 379, § 1.
 7 serves. The medical examiners for said county shall be provided with 1890, 213.
 8 rooms suitably furnished for the performance of their duties, the rent, 1892, 286.
 9 furnishing and office equipment of which shall be paid for by said county R. L. 24, § 7.
 10 upon approval of the mayor of Boston. Each of said medical examiners 1908, 424.
 11 may, in the name of the county, contract such bills for clerical service, 1918, 249.
 12 postage, stationery, printing, telephone, traveling, and for such other 1919, 216; 230.
 13 incidental expenses as may in his opinion be necessary for the proper 1923, 439, § 1.
 14 performance of his duty, to an amount not exceeding eighty-five hundred 1927, 200, § 1;
 15 dollars in any one year; and each associate may so contract bills for 277, § 1.
 16 the said purposes to an amount not exceeding one thousand dollars in
 17 any one year; and all such bills shall be paid by said county, upon a
 18 certificate by the contracting examiner that they were necessarily in-
 19 curred in the performance of his duty, and upon the approval of the
 20 auditor of Boston, as provided in section nineteen, and of the mayor.
 21 Medical examiners and associate medical examiners in other counties
 22 shall receive fees as follows: For a view without an autopsy, seven dol-
 23 lars; for a view and an autopsy, thirty dollars; and for travel, ten cents
 24 a mile to and from the place of view; for attendance as a witness at in-
 25 quests or in criminal cases in district courts, five dollars for each day
 26 of such attendance, and for travel, ten cents a mile to and from the place
 27 where such inquest or court trial is held.

1 SECTION 6. Medical examiners shall make examination upon the Duties of
 2 view of the dead bodies of only such persons as are supposed to have examiners.
 3 died by violence. If a medical examiner has notice that there is within Autopsy, when
 4 his county the body of such a person, he shall forthwith go to the place authorized.
 5 where the body lies and take charge of the same; and if, on view thereof 1877, 200,
 6 and personal inquiry into the cause and manner of death, he considers §§ 7, 8, 16.
 7 a further examination necessary, he shall, upon written authorization P. S. 26,
 8 of the district attorney, mayor or selectmen of the district, city or town §§ 10, 11, 19.
 9 where the body lies, make an autopsy in the presence of two or more 1885, 379, § 2.
 10 discreet persons, whose attendance he may compel by subpoena. Be- 1890, 440, § 9.
 11 fore making such autopsy he shall call the attention of the witnesses R. L. 24, §§ 8,
 12 to the appearance and position of the body. He shall then and there 9, 19.
 13 carefully record every fact and circumstance tending to show the con- 128 Mass. 422.
 14 dition of the body and the cause and manner of death, with the names 132 Mass. 261.
 15 and addresses of said witnesses, which record he shall subscribe. If a 214 Mass. 313.
 16 medical examiner or an associate examiner considers it necessary to have 219 Mass. 528.
 2 Op. A. G. 95.

a physician present as a witness at an autopsy, such physician shall receive a fee of five dollars. Other witnesses, except officers named in section fifty of chapter two hundred and sixty-two, shall be allowed two dollars each. A clerk may be employed to reduce to writing the results of a medical examination or autopsy, and shall receive two dollars a day.

The medical examiner may, if he considers it necessary, employ a chemist to aid in the examination of the body or of substances supposed to have caused or contributed to the death, and he shall receive such compensation as the examiner certifies to be just and reasonable.

Report to district attorney and court.
Certificate to town clerk.
1877, 200, § 9.
P. S. 26, § 12.
1885, 379, § 7.
1887, 310, § 2.
R. L. 24,
§§ 8, 10.
1909, 273,
1916, 114,
207 Mass. 259,
214 Mass. 313,
219 Mass. 528.

SECTION 7. He shall forthwith file with the district attorney for his district a report of each autopsy and view and of his personal inquiries, with a certificate that, in his judgment, the manner and cause of death could not be ascertained by view and inquiry and that an autopsy was necessary. The district attorney, if he concurs, shall so certify to the commissioners of the county where the same was held, or in Suffolk county, to the auditor of Boston. If upon such view, personal inquiry or autopsy, the medical examiner is of opinion that the death may have been caused by the act or negligence of another, he shall at once notify the district attorney and a justice of a district court or trial justice within whose jurisdiction the body was found, if the place where found and the place of the said act or negligence are within the same county, or if the latter place is unknown; otherwise, the district attorney and such a justice within whose district or jurisdiction the said act or negligence occurred. He shall also file with the district attorney thus notified, and with the justice or in his court, an attested copy of the record of the autopsy made as provided in the preceding section. He shall in all cases certify to the town clerk or registrar in the place where the deceased died his name and residence, if known; otherwise a description as full as may be, with the cause and manner of death.

Inquest.
1877, 200,
§§ 10, 15,
P. S. 26,
§§ 13, 18,
1894, 535, § 5.
1897, 376, § 2.
R. L. 24,
§§ 11, 18,
1904, 119,
1909, 273, § 2.
1912, 445,
1918, 257,
§ 147,
1919, 5; 350,
§§ 111, 115,
117,
1920, 2,
219 Mass. 528,
552,
2 Op. A. G. 95.

SECTION 8. The court or trial justice shall thereupon hold an inquest, from which all persons not required by law to attend may be excluded. The district attorney, or any person designated by him, may attend the inquest and examine the witnesses, who may be kept separate, so that they cannot converse with each other until they have been examined. Within sixty days after any case of death by accident upon a railroad, electric railroad, street railway or railroad for private use an inquest shall be held, and the court or justice shall give reasonable notice of the time and place thereof to the department of public utilities. Within a like period after any case of death in which a motor vehicle is involved, an inquest shall be held, and the court or justice shall give reasonable notice of the time and place thereof to the department of public works. The attorney general or the district attorney may, notwithstanding the medical examiner's report that a death was not caused by the act or negligence of another, direct an inquest to be held, and likewise in case of death by any casualty.

Jurisdiction extended.
1899, 207,
R. L. 24, § 12.
1918, 257,
§ 148,
1919, 5,
1920, 2.

SECTION 9. If it appears that the place where the supposed act or negligence occurred and the place where the body was found are both without the limits of the judicial district of the court or the jurisdiction of the trial justice notified by the medical examiner under section seven,

5 the court or justice shall nevertheless proceed with the inquest and have
6 continuous and exclusive jurisdiction thereof if either place is within the
7 commonwealth and within fifty rods of the boundary line of such dis-
8 trict or jurisdiction, unless a prior and like notice shall have been issued
9 by a medical examiner in another county in accordance with said section.

1 SECTION 10. A district court about to hold an inquest may appoint
2 an officer qualified to serve criminal process to investigate the case and
3 to summon the witnesses, and may allow him additional compensation
4 therefor, payable in like manner as the fees of officers in criminal cases.

Appointment
of officer to
investigate.
1898, 204, § 2.
R. L. 24, § 13.

1 SECTION 11. If a magistrate believes that an inquest to be held by him
2 relates to the accidental death of a passenger or employee upon a railroad
3 or electric railroad or a traveler upon a public or private way at a railroad
4 crossing, or to an accidental death connected with the operation of a
5 street railway or of a railroad for private use, he shall cause a verbatim
6 report of the evidence to be made and sworn to by the person making it;
7 and the report and the bill for services, after examination and written
8 approval by the magistrate, shall be forwarded to the department of
9 public utilities within thirty days after the date of the inquest, and, when
10 made, a copy of the magistrate's report on the inquest. The bill, when
11 approved by said department, shall be forwarded to the comptroller and
12 paid by the commonwealth, assessed on the person owning or operating
13 such railroad or railway, and shall be collected in the same manner as
14 taxes upon corporations. The magistrate may in his discretion refuse
15 fees to witnesses in the employ of the person upon whose railroad or
16 railway the accident occurred.

Report of
evidence and
magistrate's
report in
certain cases
to be sent to
department
of public
utilities.
1888, 305.
1889, 154.
1890, 440, § 9.
1896, 302.
R. L. 24, § 14.
1912, 496.
1917, 94.
1919, 350,
§ 117.
1923, 362, § 53.

1 SECTION 12. The magistrate shall report in writing when, where and
2 by what means the person met his death, his name, if known, and all
3 material circumstances attending his death, and the name, if known, of
4 any person whose unlawful act or negligence appears to have contrib-
5 uted thereto. He shall file his report in the superior court for the county
6 where the inquest is held.

Report on
inquest.
1877, 200, § 12.
P. S. 26, § 15.
R. L. 24, § 15.
134 Mass. 223.
219 Mass. 552.

1 SECTION 13. If a person charged by the report with the commission
2 of a crime is at large, the magistrate shall forthwith issue process for his
3 arrest, returnable before any court or magistrate having jurisdiction.
4 If he finds that murder, manslaughter or an assault has been committed,
5 he may bind over, for appearance in said court, as in criminal cases, such
6 witnesses as he considers necessary, or as the district attorney may
7 designate.

Arrest of
person charged
with crime.
Binding over
of witnesses.
1877, 200,
§ 13, 14.
P. S. 26,
§ 16, 17.
R. L. 24,
§ 16, 17.

1 SECTION 14. No embalming fluid, or any substitute therefor, shall
2 be injected into the body of any person supposed to have met his death
3 by violence, until a permit, signed by the medical examiner, has first been
4 obtained.

Use of em-
balming fluid
restricted.
1892, 152.
R. L. 24, § 20.

1 SECTION 15. After an autopsy or a view or examination without an
2 autopsy, the medical examiner shall deliver the body, upon application,
3 to the husband or wife, to the next of kin, or to any friend of the de-
4 ceased, who shall have priority in the order named. If the body is

Delivery of
body for
burial.
1877, 200, § 17.
P. S. 26, § 20.
1887, 310, § 1.
R. L. 24, § 21.

1931, 394, § 109.	unidentified or unclaimed for forty-eight hours after the view thereof, the medical examiner shall deliver it to the board of public welfare of the town where found, which shall bury it in accordance with section seventeen of chapter one hundred and seventeen.	5 6 7 8
View of body intended for cremation 1885, 265, § 4. R. L. 24, § 22. 1920, 188.	SECTION 16. Medical examiners and associate examiners within their respective districts shall, on application and payment or tender of seven dollars, view the body and make personal inquiry concerning the death of any person whose body is intended for cremation, and shall authorize such cremation only when of opinion that no further examina- tion or judicial inquiry concerning such death is necessary.	1 2 3 4 5 6
Compensation for landing body found in water. 1877, 200, § 18. P. S. 26, § 21. R. L. 24, § 23.	SECTION 17. The medical examiner may allow reasonable compen- sation, payable by the county in the manner provided in section nine- teen, for services rendered in bringing to land a human body found in any of the harbors, rivers or waters of the commonwealth, but this provi- sion shall not entitle any person to compensation for services rendered in searching for a dead body.	1 2 3 4 5 6
Custody and delivery of personal property found upon or near body. Penalty. 1877, 200, §§ 19, 20, P. S. 26, §§ 22, 23. R. L. 24, §§ 24, 25. 13 Allen, 465.	SECTION 18. The medical examiner shall take charge of any money or other personal property of the deceased found on or near the body, and deliver it to the person entitled to its custody or possession, or, if not claimed within sixty days, to a public administrator. For fraudulent neglect or refusal so to deliver such property within three days after demand, a medical examiner or an associate medical examiner shall be punished by a fine of not more than five hundred dollars or by imprison- ment for not more than two years.	1 2 3 4 5 6 7 8
Return, audit and payment of fees and expenses. 1877, 200, § 21. P. S. 26, § 24. 1885, 379, § 7. 1887, 310, § 2. R. L. 24, § 26.	SECTION 19. Every medical examiner shall return an account of the expenses of each view or autopsy, including his fees, to the commissioners of the county where held, or in Suffolk county to the auditor of Boston, and shall annex to his return the written authorization of the autopsy. The commissioners or auditor shall audit the same, and certify to the county treasurer what items therein are just and reasonable, and he shall pay the same to the person entitled thereto. No auditing officer shall certify any fee for an autopsy until he has received from the dis- trict attorney the certificate required by section seven.	1 2 3 4 5 6 7 8 9
Returns to state secretary. 1885, 379, §§ 3, 4. R. L. 24, § 27.	SECTION 20. Every medical examiner and associate examiner shall annually, on or before March first, transmit to the state secretary certi- fied copies of the records of all deaths by him investigated during the preceding year, and within sixty days after the expiration of his term shall make like returns for so much of the year as he held office. For a refusal or neglect so to do, he shall forfeit not less than ten nor more than fifty dollars.	1 2 3 4 5 6 7
Fees for records and returns. 1885, 379, § 4. R. L. 24, § 29.	SECTION 21. Each medical examiner and associate examiner, includ- ing those in Suffolk county, shall receive from the commonwealth twenty cents for each of the first twenty deaths recorded and returned by him in any year, as provided in the preceding section, and ten cents for each additional death so recorded and returned, as certified by the state secretary.	1 2 3 4 5 6

1 SECTION 22. The state secretary shall, at the expense of the com-
2 monwealth, prepare and furnish to the medical examiners blank record
3 books and blank forms for returns, and shall cause the returns for each
4 year to be bound together in one volume with indexes; and shall pre-
5 pare therefrom such tables as will render them of utility, and shall make
6 annual report thereof to the general court in connection with the report
7 required by section twenty-one of chapter forty-six.

Secretary to
provide record
books, etc.,
bind and index
returns, and
insert tabula-
tions thereof in
annual report.
1885, 379,
§§ 5, 6
R. L. 24, § 30.

TITLE VII.

CITIES, TOWNS AND DISTRICTS.

- CHAPTER 39. Municipal Government.
 CHAPTER 40. Powers and Duties of Cities and Towns.
 CHAPTER 41. Officers and Employees of Cities, Towns and Districts.
 CHAPTER 42. Boundaries of Cities and Towns.
 CHAPTER 43. City Charters.
 CHAPTER 43A. Standard Form of Representative Town Meeting Government.
 CHAPTER 44. Municipal Finance.
 CHAPTER 45. Public Parks, Playgrounds and the Public Domain.
 CHAPTER 46. Return and Registry of Births, Marriages and Deaths.
 CHAPTER 47. Infirmarys.
 CHAPTER 48. Fires, Fire Departments and Fire Districts.
 CHAPTER 49. Fences, Fence Viewers, Pounds and Field Drivers.

CHAPTER 39.

MUNICIPAL GOVERNMENT.

SECT.

CITY GOVERNMENT.

1. Allocation of powers.
2. Presiding officer of board of aldermen.
3. Election by municipal boards.
4. Presentation of orders to mayor. Veto power.
5. Vacancy in the office of mayor.
6. Vacancies.
7. Holding of other office.
8. Ineligibility to salaried offices.

TOWN MEETINGS.

9. Time of meeting.
10. Warrant.
11. In case of vacancies in office of selectmen.
12. In case of refusal by selectmen.

SECT.

13. Quorum.

14. Election of moderator.
15. Duties of moderator. By-laws for regulation of proceedings.
16. Appropriation, advisory or finance committees. Annual budget.
17. Moderator to preserve order.
18. Moderator to receive votes.
19. Ballots on question of granting beverage licenses.
20. Precinct voting.
21. Canvass of returns.
22. Designation of hour of annual town meeting, etc.
23. Election of town officers and vote on granting beverage licenses.
24. Effect of this chapter limited.

CITY GOVERNMENT.

Allocation of powers.
 G. S. 19, § 2.
 1876, 80.
 P. S. 28,
 §§ 2, 5.
 R. L. 26,
 §§ 2, 3, 8.
 140 Mass. 485.
 145 Mass. 384.
 187 Mass. 461.
 196 Mass. 220.
 300 Mass. 175.

SECTION I. Except as otherwise provided by law, city councils shall have the powers of towns; boards of aldermen shall have the powers, perform the duties and be subject to the liabilities of selectmen, except with respect to appointments, and the mayor shall have the powers, perform the duties and be subject to the liabilities of selectmen with respect to appointments, but all his appointments shall be subject to confirmation and rejection by the aldermen, and upon the rejection of a

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8 person so appointed the mayor shall within one month thereafter make
 9 another appointment. In cities having a single legislative board other
 10 than a board of aldermen, such board shall, so far as appropriate and
 11 not inconsistent with the express provisions of any general or special
 12 law, have the powers, perform the duties and be subject to the liabilities
 13 of the board of aldermen.

1 SECTION 2. If the mayor acts as presiding officer of the board of
 2 aldermen, he shall not vote in meetings of said board nor in conventions
 3 of the two branches of the city council. The board of aldermen may elect
 4 one of its number as president, who shall, in the absence of the mayor,
 5 preside at meetings of the board. This section shall apply to every city,
 6 notwithstanding any special law enacted prior to April twenty-ninth,
 7 eighteen hundred and eighty-two.

1 SECTION 3. No election of a city officer by a municipal body or board
 2 shall be valid unless made by a viva voce vote, each member present
 3 answering to his name when called by the clerk or other proper officer,
 4 stating the name of the person for whom he votes, or that he declines to
 5 vote. The clerk or other proper officer shall record every such vote.

1 SECTION 4. Every ordinance, order, resolution or vote requiring the
 2 concurrence of the board of aldermen and of the common council, except
 3 the question of a convention of the two branches or of the election of an
 4 officer, shall be presented to the mayor. If he approves it, he shall sign
 5 it; if he disapproves it, he shall return it, with his written objections, to
 6 the branch wherein it originated, which shall enter such objections at
 7 large on its records and again consider it; and if two thirds of the mem-
 8 bers present and voting pass it, notwithstanding such objections, it shall,
 9 if not originally requiring concurrent action, be in force; but if originally
 10 requiring concurrent action, it shall be sent, with the objections of the
 11 mayor, to the other branch, where it shall be again considered, and if
 12 passed by two thirds of the members present and voting, it shall be in
 13 force; but in all cases the vote shall be by yeas and nays. Such ordinance,
 14 order, resolution or vote shall be in force if not returned by the mayor
 15 within ten days after it has been presented to him. This section shall
 16 not apply to budgets submitted under section thirty-two of chapter
 17 forty-four, or to appropriations by a city council under section thirty-
 18 three of said chapter.

1 SECTION 5. Except as otherwise provided by city charters, upon the
 2 death, resignation or absence of the mayor, or his inability to perform
 3 the duties of his office, the president of the board of aldermen shall per-
 4 form them; and if there is no such officer, or if he also is absent or unable
 5 from any cause to perform them, they shall be performed by the president
 6 of the common council, or, if there is no such officer, or if he is absent
 7 or unable to perform such duties, by such alderman as the board of
 8 aldermen may from time to time elect, until the mayor or the president
 9 of the board of aldermen is able to attend to said duties or until the
 10 vacancy is filled. The person upon whom such duties devolve shall be
 11 called "acting mayor" and shall possess the powers of mayor only
 12 in matters not admitting of delay, and shall not make permanent
 13 appointments.

202 Mass. 402.
 203 Mass. 539.
 207 Mass. 341.
 219 Mass. 580.
 225 Mass. 104.
 233 Mass. 275.

Presiding
 officer of
 board of
 aldermen.
 1876, 193, § 2.
 P. S. 28, § 7.
 1882, 180.
 R. L. 26, § 11.
 233 Mass. 65.

Election by
 municipal
 boards.
 1809, 129; 170.
 R. L. 26, § 7.
 196 Mass. 220.
 205 Mass. 102.
 271 Mass. 515.

Presentation
 of orders to
 mayor. Veto
 power.
 1873, 139.
 1876, 193, § 1.
 P. S. 28, § 6.
 R. L. 26, § 9.
 132 Mass. 42.
 189 Mass. 513.
 191 Mass. 370.
 204 Mass. 202.
 227 Mass. 538.
 233 Mass. 65.
 236 Mass. 210.
 253 Mass. 314.

Vacancy in the
 office of mayor.
 1882, 182.
 §§ 1, 2.
 1806, 380.
 §§ 1, 2.
 R. L. 26,
 §§ 29, 30.
 204 Mass. 456.
 211 Mass. 165.

Vacuancies.
1845, 217,
§§ 1, 2, 4.
1854, 448, § 33.
G. S. 19, §§ 6-8,
10, 11, 17.
P. S. 28, §§ 17-
19, 21, 22,
1882, 164.
R. L. 8, § 5 (10);
26, §§ 31-34.

SECTION 6. If, at or after the time for the mayor and aldermen to enter upon the performance of their duties, it appears that the mayor or the full number of aldermen has not been elected, such of said officers as have been elected shall issue warrants for the election of a mayor or of aldermen as the case may be. If none of said officers has been elected, the president of the common council shall issue such warrants. If no mayor has been elected, the president of the board of aldermen shall perform the duties of the office until a mayor is chosen and sworn. If there is a vacancy in the board of aldermen, in the common council, or in a city or ward office which is to be filled by an election of the people, the board of aldermen shall issue their warrant for an election to fill such vacancy at a time and place designated by them. A city officer shall, notwithstanding his removal from one ward of the city to another, continue to perform his official duties during his term of office. This section shall not be in effect in any city unless the city council accepts it or has accepted corresponding provisions of earlier laws.

Holding of
other office.
1851, 70.
G. S. 19, § 12.
P. S. 28, § 23.
R. L. 26, § 35.

SECTION 7. The mayor or an alderman or a member of the common council of a city which adopts this section or has adopted corresponding provisions of earlier laws, may at the same time hold any other office under the city government to which he may be chosen, except one of emolument.

Ineligibility to
salaried offices.
1886, 117.
R. L. 26, § 36.
195 Mass. 173.
254 Mass. 384.
3 Op. A. G. 593.

SECTION 8. No member of the city council shall, during the term for which he was chosen, either by appointment or by election of the city council or of either branch thereof, be eligible to any office the salary of which is payable by the city.

TOWN MEETINGS.

Time of
meeting.
1785, 75, § 10.
R. S. 15, §§ 18,
25,
1837, 52.
G. S. 18, § 20.
P. S. 27, § 53.
1890, 423, § 209.

SECTION 9. Except as otherwise provided by special law, the annual meeting of each town shall be held in February, March or April; and other meetings may be held at such times as the selectmen may order. Meetings may be adjourned from time to time, and to any place within the town.

1893, 417, § 259.
1898, 548, § 324.

R. L. 11, § 327.
1907, 560, §§ 355, 456.

1913, 835, §§ 393, 503.
117 Mass. 384.

Warrant.
1785, 75, § 5.
R. S. 15, §§ 19-
22.
G. S. 18, §§ 21,
22.
P. S. 27, §§ 54,
55.
1890, 423,
§§ 210, 211.
1895, 417,
§ 260.
1898, 548,
§ 325.
R. L. 11, § 328.
1907, 560,
§§ 356, 456.
1913, 835,
§§ 394, 503.
1917, 221, § 1.
1920, 591, § 1.
10 Mass. 105.
4 Pick. 258.
13 Pick. 305.
21 Pick. 75.
5 Met. 35.
6 Met. 340, 497.
1 Cush. 496.

SECTION 10. Every town meeting, except as hereinafter provided, shall be called in pursuance of a warrant, under the hands of the selectmen, notice of which shall be given at least seven days before such meeting. The warrant shall be directed to the constables or to some other persons, who shall forthwith give notice of such meeting in the manner prescribed by the by-laws, or, if there are no by-laws, by a vote of the town. The warrant for all town meetings shall state the time and place of holding the meeting and the subjects to be acted upon thereat. The selectmen shall insert in the warrant for the annual meeting all subjects the insertion of which shall be requested of them in writing by ten or more registered voters of the town and in the warrant for every special town meeting all subjects the insertion of which shall be requested of them in writing by one hundred registered voters or by ten per cent of the total number of registered voters of the town. No action shall be valid unless the subject matter thereof is contained in the warrant. Two or

16 more distinct town meetings for distinct purposes may be called by the
17 same warrant.

3 Gray, 526.	117 Mass. 384.	131 Mass. 521.	165 Mass. 183.
11 Gray, 340.	118 Mass. 354.	132 Mass. 289.	173 Mass. 591.
11 Allen, 88.	122 Mass. 290.	138 Mass. 286.	192 Mass. 455.
99 Mass. 472.	127 Mass. 502.	143 Mass. 110.	272 Mass. 517.
110 Mass. 39.	130 Mass. 270.	145 Mass. 50.	273 Mass. 111.
111 Mass. 368.			

11 Cush. 294,
487.

1 SECTION 11. If a majority of the selectmen or any less number shall
2 vacate their offices, or if the full number shall fail to be elected or qualified,
3 the selectmen in office may call a town meeting. If there are no remaining
4 selectmen, the town clerk may call it; and, if there is no town clerk, a
5 justice of the peace may call it in the manner prescribed in the following
6 section.

1893, 417, § 261.	R. L. 11, § 329.	1913, 835, §§ 395, 503.
1898, 548, § 326.	1907, 560, §§ 357, 456.	1918, 291, § 24.

In case of
vacancies in
office of
selectmen.
1785, 75, § 5.
R. S. 15, § 24.
G. S. 18, § 24.
P. S. 27, § 57.
1890, 423, § 213.

1 SECTION 12. If the selectmen unreasonably refuse to call a town
2 meeting, a justice of the peace, upon written application of one hundred
3 registered voters or of ten per cent of the total number of registered
4 voters of the town, may call a meeting by a warrant under his hand,
5 stating the subjects to be acted upon, directed to the constables of the
6 town if there are any, otherwise to any of the persons applying therefor,
7 directing them to summon the inhabitants qualified to vote in town af-
8 fairs to assemble at the time and place and for the purposes expressed
9 in the warrant.

1913, 835, §§ 396, 503.	1917, 221, § 2.	198 Mass. 488.	219 Mass. 200.
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In case of
refusal by
selectmen.
1785, 75, § 5.
R. S. 15, § 23.
G. S. 18, § 23.
P. S. 27, § 56.
1890, 423, § 212.
1893, 417, § 262.
1898, 548,
§ 327.
R. L. 11, § 330.
1907, 560,
§§ 358, 456.

1 SECTION 13. Towns may prescribe by by-law the number of voters
2 necessary to constitute a quorum at town meetings; provided, that a
3 number less than a quorum may from time to time adjourn the same.
4 This section shall not apply to such parts of meetings as are devoted
5 exclusively to the election of town officers.

Quorum.
1912, 308
1921, 486, § 5.
1925, 66.

1 SECTION 14. At every town meeting when moderators are not
2 elected for the term of one year, a moderator shall first be chosen. The
3 election of a moderator at a meeting for the choice of town officers shall
4 be by ballot, and the voting list shall be used thereat.

Election of
moderator.
1785, 75, § 6.
1811, 9, § 2.
1831, 50.
R. S. 15, §§ 26,
27, 34.
1921, 486, §§ 25,
26, 32.
P. S. 27, §§ 58,
59, 80.

5 Any town or fire, water, light or improvement district which has so
6 voted or hereafter so votes may at any annual election of town or dis-
7 trict officers elect from the inhabitants thereof by ballot a moderator
8 to reside at all town or district meetings. His term of office shall begin
9 as soon as he is qualified, and shall continue until the next annual town
10 or district meeting and until his successor is qualified. Any town or dis-
11 trict which has elected a moderator for the term of one year shall there-
12 after elect a moderator at every annual election of town or district
13 officers, unless the town or district votes to discontinue the electing of
14 moderators for said term.

1887, 371, § 1.
1890, 423,
§§ 214, 216.
1893, 417,
§§ 263, 273.
1898, 548,
§§ 328, 338.
R. L. 11,
§§ 331, 342.
1902, 346,
§§ 1, 3.
1907, 560,
§§ 359, 370,
456.

15 If a vacancy in the said office occurs during any term, it may be filled
16 by the voters of the town or district. If a moderator so elected is
17 absent, a temporary moderator may be elected.

1913, 835,
§§ 397, 410,
503.
1917, 49
1918, 257,
§ 154.

18 In towns or districts where official ballots are used, the vote to elect
19 a moderator for the term of one year shall be taken at a meeting held
20 at least thirty days before the annual town or district meeting at which
21 the vote is to become operative; and at the first annual meeting after
22 the town or district has so voted a moderator shall be chosen as herein
23 provided to serve at that meeting, and the moderator elected on the

1919, 5.
1920, 2.
9 Mass. 262.
12 Pick 485.
103 Mass. 543.
111 Mass. 256.
120 Mass. 403.
138 Mass. 214.

official ballot at that meeting shall act at subsequent town or district meetings until his successor is qualified.

At every town or district meeting until a moderator or temporary moderator is elected, the clerk of the town or district shall preside; but if he is absent or if there is no clerk, the chairman of the selectmen or prudential committee or body exercising similar powers, if present, otherwise the senior member present in point of continuous service shall preside; but if no selectman or member of said committee or body is present, the justice of the peace calling such meeting, if the meeting is so called, shall preside. Such presiding officer shall have the powers and perform the duties of a moderator.

Duties of moderator. By-laws for regulation of proceedings. 1785, 75, § 6. R. S. 15, §§ 28, 32. G. S. 18, § 27. P. S. 27, § 60. 1890, 423, § 217. 1893, 417, § 264. 1898, 548, § 329. R. L. 11, § 332. 1907, 560, §§ 360, 456. 1912, 252. 1913, 835, §§ 398, 503. 1918, 291, § 25. 1919, 176. 182 Mass. 433.

SECTION 15. The moderator shall preside and regulate the proceedings, decide all questions of order, and make public declaration of all votes, and may administer in open meeting the oath of office to any town officer chosen thereat. If a vote so declared is immediately questioned by seven or more voters, he shall verify it by polling the voters or by dividing the meeting unless the town has by a previous order or by by-law provided another method. If a two thirds vote of a town meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the clerk; but if the vote is unanimous, a count need not be taken, and the clerk shall record the vote as unanimous.

A town may pass by-laws, subject to this section, for the regulation of the proceedings at town meetings. Such by-laws shall be approved and published in the manner prescribed by section thirty-two of chapter forty.

258 Mass. 139.

Appropriation, advisory or finance committees. Annual budget. 1910, 130, § 1. 1923, 388. 1929, 276.

SECTION 16. Every town whose valuation for the purpose of apportioning the state tax exceeds one million dollars shall, and any other town may, by by-law provide for the appointment and duties of appropriation, advisory or finance committees, who shall consider any or all municipal questions for the purpose of making reports or recommendations to the town; and such by-laws may provide that committees so appointed may continue in office for terms not exceeding three years from the date of appointment.

In every town having a committee appointed under authority of this section, such committee, or the selectmen if authorized by a by-law of the town, and, in any town not having such a committee, the selectmen, shall submit a budget at the annual town meeting.

Moderator to preserve order. 1785, 75, § 6. R. S. 15, §§ 29, 30. G. S. 18, §§ 28, 29. P. S. 27, §§ 61, 62. 1890, 423, §§ 218, 220. 1893, 417, § 265.

SECTION 17. No person shall address a town meeting without leave of the moderator, and all persons shall, at the request of the moderator, be silent. If a person, after warning from the moderator, persists in disorderly behavior, the moderator may order him to withdraw from the meeting, and, if he does not withdraw, may order a constable or any other person to remove him and confine him in some convenient place until the meeting is adjourned.

1898, 548, § 330. 1907, 560, §§ 361, 456. 1913, 835, §§ 399, 503. 16 Mass. 385.

Moderator to receive votes. 1822, 104, § 5. R. S. 3, § 10. G. S. 7, § 11.

SECTION 18. The moderator shall receive the vote of any person whose name is on the voting list or who presents a proper certificate from the registrars of voters.

P. S. 7, § 11. 1890, 423, § 223. 1893, 417, § 281. 1898, 548, § 346. R. L. 11, § 350. 1907, 560, §§ 378, 456. 1913, 835, §§ 418, 503.

1 SECTION 19. The state secretary shall, at least seven days before the
 2 annual meeting, send to the town clerk of each town not using official
 3 ballots ballots upon the question of granting licenses for the sale of
 4 certain non-intoxicating beverages, as defined in section one of chapter
 5 one hundred and thirty-eight, therein, which shall contain the words:
 6 "Shall licenses be granted for the sale of beverages containing not less
 7 than one half of one per cent nor more than two and three quarters per
 8 cent of alcohol in this town?" "Yes." or "No.", and no other words.
 9 Ballots of each kind shall be provided in number equal to at least the
 10 number of registered voters in such town. They shall be distributed
 11 to the voters at the polling place under the direction of the town clerk.

Ballots on
 question of
 granting bever-
 age licenses.
 1888, 434, § 1.
 1890, 423,
 §§ 81, 83.
 1893, 417,
 § 282.
 1898, 548,
 § 347.
 R. L. 11, § 351.
 1907, 560,
 §§ 379, 456.
 1913, 835,
 §§ 419, 503.
 Op. A. G.
 (1919) 109.

1 SECTION 20. Towns divided into voting precincts may, for their
 2 annual town election, establish precinct voting for all town officers to
 3 be chosen thereat and for voting on the question of granting licenses for
 4 the sale of certain non-intoxicating beverages, as defined in section one of
 5 chapter one hundred and thirty-eight, by accepting this section at a
 6 meeting held fourteen days at least before the annual town meeting.
 7 The acceptance of this section or corresponding provisions of earlier laws
 8 may be revoked by the town at a meeting held thirty days at least before
 9 the annual town meeting; and if so revoked this section shall cease to
 10 be in force therein. In towns in which this section or corresponding pro-
 11 visions of earlier laws are in force, all matters to be considered at the
 12 annual town meeting, other than the election of town officers, and the
 13 question of granting licenses for the sale of certain non-intoxicating
 14 beverages, as defined in section one of chapter one hundred and thirty-
 15 eight, shall be in order only at a town meeting held within thirty days
 16 after the date of the annual election, and not later than April thirtieth.
 17 The time and place of holding such subsequent meeting shall be stated
 18 in the warrant for the annual election, and said election, subsequent
 19 meeting and its adjournments shall be regarded as parts of the annual
 20 town meeting. The election of a moderator, except in towns where
 21 moderators are elected for the term of one year, shall be the first business
 22 in order at said subsequent meeting. Towns by vote or by-law may
 23 authorize voting by precincts at special elections of town officers.

Precinct voting.
 1894, 132,
 §§ 1, 2, 4.
 1898, 548,
 § 349.
 R. L. 11, § 353.
 1907, 560,
 §§ 381, 456.
 1913, 835,
 §§ 421,
 503.
 1918, 201, § 29.
 180 Mass. 155.
 202 Mass. 539.

See chapter 54,
 section 6.

1 SECTION 21. The town clerk and the board of registrars, upon receipt
 2 of the returns from the several precincts, shall forthwith canvass the
 3 same, and immediately declare the result.

1898, 548, § 350. R. L. 11, § 354. 1907, 560, §§ 382, 456. 1913, 835, §§ 422, 503.

Canvass of
 returns.
 1894, 132, § 2.
 1895, 89, § 1.

1 SECTION 22. A town may by by-law designate the hour at which the
 2 annual town meeting shall be called, and, subject to section sixty-four
 3 of chapter fifty-four, may by vote or by-law designate the hours during
 4 which the polls shall remain open; and may provide that all business,
 5 except the election of such officers and the determination of such matters
 6 as by law are required to be elected or determined by ballot, shall be
 7 considered after a certain hour, or by adjournment to another day.

Designation of
 hour of annual
 town meeting,
 etc.
 1912, 473.
 1913, 835,
 § 279.
 1914, 329.
 1919, 364, § 2.

1 SECTION 23. A town which accepts this section or has accepted cor-
 2 responding provisions of earlier laws may provide that the election of
 3 town officers and the vote on the question of granting licenses for the
 4 sale of certain non-intoxicating beverages, as defined in section one
 5 of chapter one hundred and thirty-eight, shall take place at any time

Election of
 town officers
 and vote on
 granting bever-
 age licenses.
 1915, 284.
 1916, 59.

within seven days before or after the annual meeting held for the transaction of other business. The time and place of holding such election and vote shall be stated in the warrant for the annual town meeting and such election and vote shall be deemed parts of the annual town meeting.

Effect of
this chapter
limited.

SECTION 24. The provisions of this chapter shall be in force only so far as they are not inconsistent with the express provisions of any general or special law.

CHAPTER 40.

POWERS AND DUTIES OF CITIES AND TOWNS.

SECT.

1. Powers to continue.
2. Towns may sue and be sued.
3. Power to hold and convey property.
4. Power to contract.

PURPOSES FOR WHICH TOWNS MAY APPROPRIATE MONEY.

5. Power to make appropriations.
6. Reserve funds.
- 6A. Municipal advertising.
- 6B. Uniforms for police and firemen.
7. Removal of snow and ice.
- 7A. Prevention of automobile accidents.
8. Enforcement of civil service law.
9. Armories, holidays, G. A. R., American Legion, etc., posts.
- 9A. Headquarters for camp of United Spanish War Veterans.
10. Markets and market places.
11. Prevention of forest fires. Replacing destroyed, etc., equipment.
12. Public baths or wash houses.
- 12A. Plants for purifying shellfish.
13. Municipal buildings insurance fund.
- 13A. Workmen's compensation insurance funds.
- 13B. Residence quarters for school physicians.

TAKING, PURCHASE AND ABANDONMENT OF LAND.

14. Taking or purchase of land, etc.
15. Abandonment of land or easements.

STREET SPRINKLING.

16. Sprinkling of public ways.
17. Assessments for street sprinkling.
18. Collection of assessment.

PROVIDING NECESSITIES.

19. Providing necessities in time of distress.
20. Articles to be sold at cost. Accounts.

SECT.

ORDINANCES, BY-LAWS AND REGULATIONS.

21. Town by-laws.
22. Regulation of carriages, etc.
23. City councils may regulate erection of balustrades, etc.
24. Inspection of ice.
25. Limitation of particular classes of buildings, etc., to specified districts or zones.
26. Notice and hearing.
27. Withholding of permits. Appeal.
- 27A. Variance.
28. Enforcement by injunction.
29. Exemption of existing structures and buildings of public service corporations.
30. Repeal and modification.
- 30A. Effect on permits issued prior to adoption or modification of zoning ordinances or by-laws.
31. Performance of duty imposed by by-laws.
32. Publication of by-laws.
- 32A. Publication of ordinances and proposed ordinances in certain cities.
33. Copy of rules to be filed with town clerk.

LOCKUP.

34. Maintenance of lockup.
35. Keeper of lockup.
36. Powers of keeper. Charges for keeping.
37. Lockup to be accessible to officers.

PUBLIC WATER SUPPLY.

38. Town may purchase water supply.
39. Pipes may be laid in another town. Damages.
40. Emergency water supply.
41. Protection of water supply.
42. Authorization of laying of pipes.

COLLECTION OF WATER RATES.

- 42A. Water rates, when to be lien upon real estate.

- SECT.
 42B. Lien, when to take effect. Dissolution.
 42C. Unpaid accounts, commitment to collectors. Powers and duties of collectors.
 42D. Unpaid accounts to bear interest and be added to tax bill.
 42E. Abatements. Appeals.
 42F. Recovery from tenants by owners paying charges.

HOT WATER AND STEAM.

43. Pipes for hot water and steam.

IMPROVEMENT DISTRICTS.

44. Establishment of improvement districts.

RECOGNIZANCE.

45. Recognizances by towns.

SECT.

OATH OF CLAIMANT.

46. Oaths may be required of persons bringing demand for payment.

SEAL.

47. Seal.

RECORDS AND REPORTS.

48. Custody of books.
 49. Annual town report.
 50. Town clerks to forward copies of reports to state library.
 51. Names of persons assisted by board of public welfare not to be published.
 52. Size of official letters.

ILLEGAL APPROPRIATIONS.

53. Restraint of illegal appropriations.

1 SECTION 1. Cities and towns shall be bodies corporate, and, except
 2 as otherwise expressly provided, shall have the powers, exercise the
 3 privileges and be subject to the duties and liabilities provided in the
 4 several acts establishing them and in the acts relating thereto. Except
 5 as otherwise expressly provided, cities shall have all the powers of towns
 6 and such additional powers as are granted to them by their charters or
 7 by general or special law, and all laws relative to towns shall apply to
 8 cities.

Powers to continue
 1785, 75, § 9.
 R. S. 2, § 6,
 cl 17, 15,
 §§ 8, 86.
 G. S. 3, § 7,
 cl. 17, 18, § 1;
 19, § 1, 2.
 P. S. 3, § 3,
 cl. 23; 27, § 1;
 28, §§ 1, 2.

- | | | |
|---------------------|----------------|------------------|
| R. L. 26, §§ 1, 2. | 200 Mass. 175. | 219 Mass. 580. |
| 140 Mass. 381, 485. | 202 Mass. 402. | 233 Mass. 275. |
| 148 Mass. 148. | 203 Mass. 539. | 1 Op. A. G. 463. |
| 187 Mass. 150, 461. | 207 Mass. 341. | 4 Op. A. G. 540. |
| 191 Mass. 78. | | |

1 SECTION 2. A town may in its corporate capacity sue and be sued by
 2 its name, and may appoint necessary agents therefor.

Towns may sue and be sued.

- | | | |
|----------------------|-----------------|---------------------|
| 1694-5, 15, §§ 1, 2. | P. S. 27, § 8. | 113 Mass. 67. |
| 1783, 39, § 4. | R. L. 25, § 12. | 122 Mass. 268, 344. |
| 1785, 75, § 8. | 1 Met. 473. | 127 Mass. 272. |
| R. S. 15, § 10. | 11 Allen, 149. | 199 Mass. 527. |
| G. S. 18, § 8. | | |

1 SECTION 3. A town may hold real estate for the public use of the in-
 2 habitants and may convey the same by a deed of its selectmen thereto
 3 duly authorized, or by a deed of a committee or agent thereto duly author-
 4 ized; may by its selectmen let or lease for not more than five years, on
 5 such terms as the selectmen determine, a public building or part thereof,
 6 except schoolhouses in actual use as such; may hold personal estate for
 7 the public use of the inhabitants, and alienate and dispose of the same;
 8 may hold real and personal estate in trust for the support of schools,
 9 and for the promotion of education, within the limits of the town; may
 10 receive, hold and manage any devise, bequest or gift for the establish-
 11 ment or equipment of memorials for properly commemorating the
 12 services of the soldiers, sailors and marines who have served the country
 13 in war, and for the establishment or maintenance of any reading room
 14 for which it may grant money under the provisions of section five; and
 15 may make such orders as it may deem necessary or expedient for the
 16 disposal or use of its corporate property. All real estate or personal
 17 property of the town, not by law or by vote of the town placed in the

Power to hold and convey property.
 R. S. 15, § 11.
 G. S. 18, § 9.
 1880, 111, § 1.
 P. S. 27, § 9.
 1885, 60.
 1891, 218.
 1901, 152.
 R. L. 25, § 13.
 1907, 232, § 1.
 1919, 61, § 1;
 352.
 1920, 292, § 1;
 591, § 11
 3 Mass. 352.
 10 Mass. 146.
 12 Mass. 415.
 2 Pick. 345.
 8 Cush. 21.
 12 Cush. 103.
 5 Allen, 575.
 8 Allen, 11.
 10 Allen, 169.
 113 Mass. 433.
 122 Mass. 344.
 127 Mass. 1.
 250 Mass. 114.
 256 Mass. 550.
 273 Mass. 468.

charge of any particular board, officer or department, shall be under the control of the selectmen, except as is otherwise provided in section nine.

Power to contract.
 R S 15, § 11.
 G S 18, § 9.
 P S 27, § 9.
 1889, 377.
 1890, 119.
 1895, 217.
 R L 25, § 14.
 1902, 544, § 6.
 1918, 291, § 1.
 1926, 67.
 1928, 155, § 1.
 1929, 323.
 197 Mass 115.
 182 Mass 39.
 191 Mass 291.
 217 Mass 381.
 219 Mass 580.
 233 Mass. 275.

SECTION 4. A town may make contracts for the exercise of its corporate powers and for the following purposes: For the disposal of its garbage, refuse and offal by contract for a term of years. Contracts for such disposal may be made by the selectmen, board of health or other officers having charge thereof.

For the reception, care and treatment by hospitals established in or near the town, if it maintains and manages no hospital, of persons who by misfortune or poverty require relief during temporary illness; but this provision shall not add to the compensation now required from the commonwealth or from any town for the care and treatment of any person chargeable to them respectively, nor diminish the right of the commonwealth to require the removal to the state infirmary of a person who has no legal settlement. Contracts for such reception, care and treatment may be made by the board of public welfare or by the board of health.

For the furnishing of transportation of school children. Contracts for such transportation may be made by the school committee for periods not exceeding three years.

For the installation and maintenance, subject to such laws as may be applicable, of mechanical traffic signal light systems for the control and regulation of traffic on ways within its control, including poles, wires and other necessary apparatus upon, over or under such ways. Such a contract may provide for payments by such town over a period not exceeding five years.

To pay interest at a rate not exceeding four per cent per annum, during the lives of any persons in being at the time of entering into such contract, upon any cash gift which it may lawfully receive.

PURPOSES FOR WHICH TOWNS MAY APPROPRIATE MONEY.

Power to make appropriations.
 1785, 75, § 7.

SECTION 5. A town may at any town meeting appropriate money for the following purposes:

- | | | | |
|-------------------------------|------------------------------|----------------|-----------------------|
| R. S. 15, §§ 12, 16; 25, § 8. | R L. 25, § 15, 13 Mass. 272. | 11 Gray, 340. | 134 Mass. 555. |
| G. S. 18, § 10. | 6 Pick. 101. | 10 Allen, 570. | 137 Mass. 171. |
| P. S. 27, §§ 10, 12. | 21 Pick. 64. | 11 Allen, 108. | Op. A. G. (1919) 30. |
| 1897, 132. | 10 Cush. 56, 252. | 108 Mass. 408. | Op. A. G. (1920) 108. |

1898, 45.
 R. L. 26, § 23.
 1924, 404, § 8.
 1931, 458, § 3.

(1) To pay a proper charge of an insurance company for acting as surety on the official bond of any town officer, or to pay a proper charge for effecting insurance providing indemnity for or protection to any officer or employee of the town against loss by reason of his liability to pay damages to others for bodily injuries, including death at any time resulting therefrom, caused by the operation, within the scope of his official duties or employment, of motor vehicles owned by the town, to an amount not exceeding five thousand dollars on account of injury to or death of one person.

1826, 143, § 4.
 R S 23, § 9.
 1869, 132.
 1894, 456, § 4.
 1898, 496, § 3.
 10 Met. 508.
 103 Mass. 94.
 104.
 183 Mass. 74.
 187 Mass. 436.
 199 Mass. 112.

(2) For the support of public schools authorized or required by law, and for conveying pupils to and from the public schools, or, if it maintains no high school or public school of corresponding grade, but affords high school instruction by sending pupils to other towns, for the necessary transportation expenses of such pupils, the same to be expended by the school committee in its discretion.

- 18 (3) For the relief, support, maintenance and employment of the poor. 1692-3, 28, § 6.
1793, 59, § 1. R. S. 46, § 1.
- 19 (4) For laying out, discontinuing, making, altering and repairing 1786, 67, § 2.
20 public ways, and for materials used and labor employed thereon. 1818, 121.
R. S. 24, §§ 70, 78; 25, § 9.
- 21 (5) For the purchase and improvement of parks laid out under chap- 1882, 154, § 8.
22 ter forty-five.
- 23 (6) For the printing and publishing of town records. 1899, 171.
- 24 (7) For procuring the writing and publishing of town histories. 1854, 429.
- 25 (8) For burial grounds. 103 Mass. 94.
- 26 (9) For encouraging the destruction of noxious animals. R. S. 54, § 3.
1817, 144. 1838, 38.
- 27 (10) For planting shade trees in accordance with section seven of 1869, 381.
28 chapter eighty-seven. P. S. 27, § 12.
1885, 123, § 1. 1899, 330, § 2. 1915, 145, §§ 7, 13.
- 29 (11) For necessary aid to soldiers and sailors and their families, and 1872, 324, § 2.
30 to the families of the slain, and, by special vote, may intrust such amount 1885, 189,
31 or any part thereof to any post of the Grand Army of the Republic in 55 § 1, 2.
32 such town, to be disbursed under its direction to any such persons residing 1901, 76.
33 therein; but the treasurer or other financial officer of such post shall, 1913, 62, § 1.
34 before receiving such money, give bond to the town for the faithful dis-
35 bursement thereof in a sum and with sureties to the satisfaction of the
36 selectmen, and annually return to the town an itemized and specific
37 statement under oath of the disbursement of such amounts during the
38 preceding year, and exhibit his vouchers therefor to a committee of the
39 town for examination. Such special vote may also include such amount
40 as the town may consider necessary to pay the rent of a suitable place
41 for the post of the Grand Army of the Republic situated in the town in
42 which to hold its meetings.
- 43 (12) For erecting headstones or other monuments at the graves of 1864, 100.
44 persons who served in the war of the revolution, the war of eighteen 1870, 169.
45 hundred and twelve, the Seminole war, the Mexican war or the war of the 1884, 42.
46 rebellion or who served in the military or naval service of the United 1886, 76.
47 States in the Spanish American war or in the World war; for acquiring 1896, 291; 455
48 land by purchase or by eminent domain under chapter seventy-nine, 1901, 287.
49 purchasing, erecting, equipping or dedicating buildings, or constructing 1902, 286.
50 or dedicating other suitable memorials, for the purpose of properly com- 1903, 116.
51 memorating the services and sacrifices of persons who served as aforesaid; 1910, 90.
52 for the decoration of the graves, monuments or other memorials of 1914, 122.
53 soldiers, sailors and marines who served in the army, navy or marine 1919, 61, § 1.
54 corps of the United States in time of war or insurrection and the proper 1920, 218.
55 observance of Memorial Day and other patriotic holidays under the 202, § 1; 528.
56 auspices of the local posts of the Grand Army of the Republic, United 1921, 486, § 6.
57 Spanish War Veterans, The American Legion and the Veterans of Foreign 1923, 202; 401.
58 Wars of the United States and under the auspices of the Kearsarge 1927, 16.
59 Association of Naval Veterans, Inc. and of local garrisons of the Army 1928, 9.
60 and Navy Union of the United States of America and of local chapters 1929, 9; 108.
61 of the Massachusetts Society of the Sons of the American Revolution and 1931, 41, § 2;
62 of local detachments of the Marine Corps League, and of a local camp 63, § 2; 348.
63 of the Sons of Union Veterans of the Civil War or a local tent of The
64 Daughters of Union Veterans of the Civil War in the case of a town in

- which there is no post of the Grand Army of the Republic; or for keeping in repair graves, monuments or other memorials erected to the memory of such persons or of its firemen and policemen who died from injuries received in the performance of their duties in the fire or police service or for decorating the graves of such firemen and policemen or for other memorial observances in their honor. Money appropriated in honor of such firemen may be paid over to, and expended for such purposes by, any veteran firemen's association or similar organization.
- 1896, 477. (13) For marking historic spots within its limits. 73
 1870, 118. (14) For necessary and convenient drinking troughs, wells and foun- 74
 1872, 84. tains in the public ways, public squares and commons. 75
 P. S. 27, § 50. 125 Mass. 526. 197 Mass. 199.
- 1889, 380. (15) For the employment of counsel, if authorized by a two thirds 76
 151 Mass. 437. vote, to represent the town at any hearing in which it is interested 77
 183 Mass. 232. before a committee of the general court; but no expense is hereby author- 78
 ized except such as would be incurred in presenting a case before the 79
 judicial courts, and a detailed account of all expenses incurred shall be 80
 filed with the town clerk and be open to the inspection of all the taxpayers 81
 of the town. 82
- 1916, 23. (16) For prosecuting or defending proceedings, however instituted, 83
 1919, 350. before a court, the department of public utilities, or any other public 84
 § 117. board or commission exercising the same or similar powers, in all matters 85
 relative or incidental to the prescribing of rates or fixing of charges by 86
 public service corporations or the exercise of rights under their franchises. 87
- 1869, 206. (17) For procuring the detection and apprehension of any person com- 88
 mitting a felony therein. 89
- 1851, 305, § 2 (18) For the establishment, maintenance or increase of a public library 90
 1859, 25. therein, and for the erection or provision of suitable buildings or rooms 91
 G. S. 33, § 9. therefor, or for maintaining a library therein to which the inhabitants 92
 1866, 222. have free access and of which they have the use, and for establishing and 93
 1872, 217, § 4. maintaining a public reading room in connection with and under the 94
 1875, 306. control of the managers of such library. 95
 1880, 111, § 1. (19) For the performance of the duties of the board of health and for 96
 P. S. 40, § 10. the establishment and maintenance of hospitals, or of beds therein, 97
 10 Allen, 169. sanitary stations, clinics, dispensaries and quarantine grounds, and for 98
 183 Mass. 80. the care of indigent persons suffering from disease, in accordance with the 99
 2 Op. A. G. 316. provisions of chapter one hundred and eleven. 100
- 1873, 192. (20) For the erection and maintenance of a hospital for the reception 101
 P. S. 84, § 20. of persons requiring relief during temporary sickness. Such hospitals 102
 R. L. 81, § 25. shall be managed by trustees or other officers and agents appointed in 103
 1915, 143. accordance with ordinances, rules or regulations made by the city council 104
 or the selectmen. 105
- 1911, 72. (21) For the employment of district or other nurses. 106
 1921, 371, § 1. (21A) For the purchase or hire and for the maintenance of ambulances. 107
- 1921, 371, § 2. (22) For reimbursing persons for the use of property loaned to, or 108
 1918, 291, § 2. seized or requisitioned by, the police or fire department for the proper 109
 256 Mass. 37. performance of its duty in cases of emergency, or for damage to or loss 110
 of such property. 111
- 1893, 78. (23) For destroying and suppressing gypsy, brown tail and leopard 112
 1899, 330, § 4. moths, tent caterpillars and elm beetles, under chapter one hundred 113
 R. L. 25, § 16. and thirty-two. 114
- 1869, 457, § 1. (24) For constructing telegraph lines for the use of the town upon, 115
 P. S. 27, § 44. along and under the public ways and squares within its limits, sub- 116
 R. L. 25, § 51.

- 117 ject to the provisions of chapter one hundred and sixty-six, so far as
118 applicable.
- 119 (25) For establishing and maintaining public gymnasiums, swimming 1908, 392, § 1.
120 baths and such other means of instruction or exercise as the town may
121 authorize. Every such public place shall be managed under the direc-
122 tion of the selectmen of the town.
- 123 (26) For public band concerts, or for music furnished for public 1930, 46.
124 celebrations, a sum not exceeding one thousand dollars.
- 125 (27) For the celebration of the fourth day of July, or for the observ- 1874, 112.
126 ance of an old home week or day, to take place during any week or 1881, 88.
127 upon any day of the year in which the appropriation is made, during P. S. 27, § 11.
128 which the town may conduct appropriate celebrations in honor of return- 1889, 21.
129 ing residents and other invited guests and hold exercises of historical 1892, 156.
130 interest; and, by a two thirds vote, for the celebration of the anniversary 1895, 152.
131 of its settlement or of its incorporation at the end of a period of fifty, or R. L. 25, § 18.
132 of any multiple of fifty, years therefrom, and of publishing the proceed- 1902, 109.
133 ings thereof. If there is a question as to the date of the settlement, the 1907, 311.
134 date shall be determined by the selectmen, subject to the approval of 1908, 91.
135 the voters. The celebration of the anniversary may be held at any time 1915, 164.
136 during the year. 208 Mass. 190.
- 137 (28) For carrying out sections seventy-three to eighty-one, inclusive, 1907, 191, § 6.
138 of chapter forty-one. Such appropriation shall be expended by the 1916, 190, § 6.
139 board of survey.
- 140 (29) For erecting and maintaining forest fire observation towers, as 1919, 120.
141 provided by section twenty-three of chapter forty-eight.
- 142 (30) For contributions to the cost of street railway service under 1931, 426,
143 section one hundred and sixty-one of chapter one hundred and sixty-one. § 154.
- 144 (31) For the establishment and maintenance of children's health 1924, 248, § 1.
145 camps, as provided by sections sixty-two A to sixty-two G, inclusive, 1925, 17, § 1.
146 of chapter one hundred and eleven or for the care and treatment of under-
147 weight and undernourished children of school age by contract as provided
148 by section sixty-two H of said chapter one hundred and eleven.
- 149 (32) For the payment of the reasonable hospital, medical and surgical 1924, 504, § 4.
150 expenses incurred by any member of its police force or by any person duly
151 assigned to police duty therein when temporarily or permanently dis-
152 abled by reason of injuries sustained through no fault of his own while
153 actually performing useful police service for such town.
- 154 (33) For acquiring land for public parking places and maintaining the 1926, 116.
155 same.
- 156 (34) For the necessary expenses of municipal officers and employees 1928, 36.
157 of any particular department incurred outside the commonwealth in
158 securing information upon matters in which the city or town is interested
159 or which may tend to improve the service in such department, if such
160 appropriation is specified to be and is limited to such expenses incurred
161 as aforesaid. Such expenses may also be incurred anywhere within the
162 commonwealth and in such case shall be chargeable against any appro-
163 priation made for the ordinary maintenance of the department incurring
164 the same.
- 165 (35) For the establishment, maintenance and operation of public air- 1928, 350, § 1.
166 ports within or without the limits of the town. Such an airport may be
167 established, maintained and operated jointly by two or more towns.
- 168 (36) For the improvement of low lands and swamps and the eradication 1929, 288, § 6.
169 of mosquitoes under chapter two hundred and fifty-two, or for the eradica- 1930, 96.
170 tion of mosquitoes by the board of health in a town not then included

within an area described by an identifying name for the purposes of section five A of said chapter two hundred and fifty-two. 171
172

1930. 277. (37) For providing proper facilities for public entertainment in connection with the holding of conventions in the town, for paying expenses incidental to such entertainment and/or for the entertainment of distinguished guests, a sum not exceeding in any one year one two-hundredth of one per cent of the assessed valuation of the preceding year, but in no event more than seventy-five thousand dollars. 173
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1907. 186, § 1. For the compensation of all town officers whose election or appointment is authorized or required by law, and for all other necessary charges arising in such town. 179
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G. L. (ed. of 1920) 40, § 5 (el. 30).

1931. 426, § 154.

13 Mass. 272.	1 Allen, 103.	130 Mass. 272, 528.
6 Pick. 101.	3 Allen, 9.	131 Mass. 521.
12 Pick. 227.	6 Allen, 152.	132 Mass. 436.
19 Pick. 485.	10 Allen, 570.	134 Mass. 555.
23 Pick. 71.	11 Allen, 108.	139 Mass. 341.
3 Met. 163.	108 Mass. 408.	153 Mass. 129.
3 Cush. 530.	109 Mass. 311.	172 Mass. 286.
10 Cush. 56.	112 Mass. 1.	183 Mass. 232.
12 Cush. 103.	114 Mass. 592.	196 Mass. 220, 267.
4 Gray, 502.	122 Mass. 270.	198 Mass. 221.
11 Gray, 340.	127 Mass. 275.	

Reserve funds.
1912, 347.
1913, 645.
262 Mass. 214.

SECTION 6. To provide for extraordinary or unforeseen expenditures, a town may at an annual town meeting appropriate a sum not exceeding five per cent of the tax levy of the preceding year, to be known as the reserve fund. No direct drafts against this fund shall be made, but transfers from the fund may from time to time be voted by the finance or appropriation committee of the town, in towns having such a committee, and in other towns by the selectmen; and the town accountant in towns having such an official, and in other towns the auditor or board of auditors, shall make such transfers accordingly. 1
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Municipal advertising.
1930, 223.

SECTION 6A. A city or town which accepts this section may appropriate annually a sum not exceeding one two-hundredths of one per cent of the assessed valuation of the preceding year, but in no event more than fifty thousand dollars in any one year, for the purpose of advertising its resources, advantages and attractions; provided, however, that as to each such appropriation a sum at least equal to the amount thereof shall previously have been contributed by public subscription, or by donation or legacy, and paid into the city or town treasury to be expended for the aforesaid purposes, and provided, further that no such city or town shall in any year appropriate money for such purposes under authority hereof and also under any special act authorizing appropriations for municipal advertising. The money so appropriated and so contributed shall be expended under the direction of the mayor and city council of the city or the selectmen of the town. Two or more municipalities having resources, advantages or attractions in common may join in advertising the same hereunder. 1
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Uniforms for police and firemen.
1930, 351.

SECTION 6B. A city or town which accepts this section may appropriate money for the purchase of uniforms for members of its police and fire departments. 1
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Removal of snow and ice.
1902, 205, § 1.
1917, 344, V.
§ 7, VIII, § 1.

SECTION 7. Any town which accepts this section or has accepted corresponding provisions of earlier laws may appropriate money for the removal of snow and ice from its sidewalks, in accordance with the provisions of section six of chapter eighty-five. This section shall not apply to cities. 1
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1 SECTION 7A. Cities and towns may appropriate money for the
2 purpose of conducting and maintaining a specific program of safety
3 activities designed to prevent automobile accidents; and such appropri-
4 ations shall be expended under the direction of the mayor in a city or
5 the selectmen in a town.

Prevention
of automobile
accidents.
1930, 365.

1 SECTION 8. A city, or a town which accepts chapter thirty-one or
2 has accepted corresponding provisions of earlier laws, may appropriate
3 money for the enforcement therein of the laws relating to its civil service.

1902, 544, § 3.

201 Mass. 506.

Enforcement
of civil
service law.
1887, 345
R. L. 26, § 24.

1 SECTION 9. A city or town may for the purpose of providing suitable
2 headquarters for a post or posts of The American Legion and of the
3 Veterans of Foreign Wars of the United States, lease for a period not
4 exceeding five years buildings or parts of buildings which shall be under
5 the direction and control of such post or posts, subject to regulations
6 made in cities by the mayor with the approval of the council and in
7 towns by vote of the town, and for said purposes a town with a valu-
8 ation of less than five million dollars may annually appropriate not more
9 than one thousand dollars; a town with a valuation of five million dollars
10 but not more than twenty million dollars may annually appropriate not
11 more than fifteen hundred dollars; a town with a valuation of twenty
12 million dollars but not more than seventy-five million dollars may
13 annually appropriate not more than two thousand dollars; a town with
14 a valuation of seventy-five million dollars but not more than one hun-
15 dred fifty million dollars may annually appropriate not more than
16 twenty-five hundred dollars; and a town with a valuation of one hundred
17 fifty million dollars or more may annually appropriate twenty-five hun-
18 dred dollars for each one hundred fifty million dollars of valuation, or
19 fraction thereof. The city council of a city may, by a two thirds vote,
20 appropriate money for armories for the use of the state militia, for the
21 celebration of holidays, for the purpose of providing or defraying the
22 expenses of suitable quarters for posts of the Grand Army of the Republic,
23 including the heating and lighting of such quarters, and for other like
24 public purposes to an amount not exceeding in any one year one fiftieth
25 of one per cent of its valuation for such year.

Armories,
holidays,
G. A. R.,
American
Legion, etc.,
posts.
1861, 165.
P. S. 28, § 13.
R. L. 26, § 28.
1915, 2.
1920, 254.
1921, 80.
1923, 122.
1 Allen, 103.
98 Mass. 219.
137 Mass. 171.
140 Mass. 467.
172 Mass. 286.

1 SECTION 9A. A city or town may, for the purpose of providing suit-
2 able headquarters for a camp of the United Spanish War Veterans, lease
3 for a period not exceeding five years a building or part of a building,
4 which shall be under the direction and control of such camp subject to
5 regulations made in cities by the mayor with the approval of the council
6 and in towns by vote of the town, and for such purpose may annually
7 appropriate a sum not exceeding, in any one year, one fiftieth of one per
8 cent of its valuation.

Headquarters
for camp of
United Spanish
War Veterans.
1921, 227.

1 SECTION 10. A city, or a town having a population of not less than
2 ten thousand, may provide and maintain one or more public markets,
3 with suitable buildings and grounds, and for this purpose may acquire
4 land by gift or purchase or lease the same, with or without buildings, and
5 may make alterations in buildings and construct new buildings on land
6 so acquired or leased. Any city or town which does not so maintain a
7 public market shall upon a petition signed by not less than five per cent
8 of its voters designate one or more streets or squares or other public

Markets and
market places.
1915, 119.
1916, 79.
1919, 350.
§§ 34, 35.
1920, 580.

places, suitably situated and approved by the department of agriculture, 9
to be used by farmers as public market places. Such a petition shall be 10
filed with the city or town clerk, and he shall determine whether it con- 11
tains a sufficient number of signatures and whether such signatures are 12
genuine, and when satisfied that the petition meets the requirements of 13
this section, he shall so certify to the mayor or the chairman of the board 14
of selectmen and shall also notify the commissioner of agriculture that 15
the petition has been filed and state to him the date of filing. Any city 16
or town which maintains a public market or market place in accordance 17
with this section may, subject to the approval of the commissioner of 18
agriculture, make rules and regulations for the management and use 19
thereof, and may prescribe penalties for their violation, and may also 20
designate a market master, who may be a police officer or other mu- 21
nicipal officer or employee, and who shall have charge of such markets 22
or market places and shall conduct them in the interest of the market 23
men and their customers, shall enforce said rules and regulations, and 24
shall maintain order within the market limits. 25

Prevention of
forest fires.
Replacing
destroyed, etc.,
equipment.
1897, 254, § 11
R. L. 25, § 17.
1910, 398.
1914, 262.
1919, 350, § 42.
1921, 252.

SECTION 11. A town which accepts this section, or has accepted cor- 1
responding provisions of earlier laws, may appropriate money for the 2
prevention of forest fires to an amount not exceeding one tenth of one 3
per cent of its valuation. Every such town with a valuation of one 4
million seven hundred and fifty thousand dollars or less which appro- 5
priates and expends money, with the approval of the state forester, for 6
apparatus to be used in preventing or extinguishing forest fires, or for 7
making protective belts or zones as a defence against forest fires, shall, 8
upon the recommendation of the state forester, approved by the governor, 9
receive from the commonwealth a sum equal to one half of the said 10
expenditure; but no town shall receive more than two hundred and fifty 11
dollars. A sum not exceeding five thousand dollars may annually be 12
expended by the commonwealth for this purpose. Whenever it has been 13
demonstrated to the satisfaction of the state forester that such equipment 14
has been destroyed or has become unfit for use, the town shall be reim- 15
bursed by the commonwealth one half the cost of replacing the same; 16
provided that the amount paid to any one town in any one year shall not 17
exceed fifty dollars. All equipment purchased under this section shall be 18
in the custody and care of the town forest warden. The state forester or 19
his deputies may inspect such equipment at such times as they may deem 20
necessary. 21

Public baths
or wash
houses.
1874, 214.
§§ 1-3.
P. S. 27,
§§ 13, 14.
1898, 125,
§§ 1, 2.
R. L. 25,
§§ 20, 21.
225 Mass. 387.

SECTION 12. A town which accepts this section, or has accepted cor- 1
responding provisions of earlier laws, by a two thirds vote at an annual 2
meeting, may purchase or lease land, and erect, alter, enlarge, repair 3
and improve buildings for public baths and wash houses, either with or 4
without open drying grounds, and may make open bathing places, pro- 5
vide them with the requisite furniture, fittings and conveniences and 6
provide instruction in swimming. Such town may establish rates for 7
the use of such baths and wash houses, and appoint officers therefor, 8
and may make by-laws for the government of such officers, and au- 9
thorize them to make regulations for the management thereof and for 10
the use thereof by non-residents of said town. 11

Plants for
purifying
shellfish.
1928, 51.

SECTION 12A. A city or town may establish and maintain a plant for 1
the purpose of purifying shellfish taken in such city or town. Such plant 2

3 shall be established and maintained under the direction of the mayor or
 4 board of selectmen or a person designated by him or it. Said mayor or
 5 board shall also establish fees sufficient to cover the cost of maintaining
 6 and operating the plant, which shall be collected for service rendered
 7 thereby and be paid into the city or town treasury.

1 SECTION 13. A town which at a meeting or a city which by its city
 2 council accepts this section, or has in like manner accepted corresponding
 3 provisions of earlier laws, may appropriate an amount not exceeding in
 4 any one year one twentieth of one per cent of its assessed valuation to
 5 establish and maintain a municipal buildings insurance fund, from which
 6 any municipal buildings or other municipal property damaged or de-
 7 stroyed by fire, lightning or otherwise may be repaired, rebuilt or replaced
 8 by other buildings or property to be used in place thereof; but no money
 9 shall be appropriated for such purpose while the fund equals or exceeds
 10 one per cent of such assessed valuation. Such fund shall be managed
 11 and administered by the sinking fund commissioners of the town, if any,
 12 otherwise by the commissioners of trust funds of the town.

Municipal
 building-
 insurance
 fund.
 1905, 191,
 §§ 1-4
 1907, 576,
 §§ 102-105,
 122.

1 SECTION 13A. Any city or town which has accepted chapter eight
 2 hundred and seven of the acts of nineteen hundred and thirteen and
 3 which accepts this section, by vote of the city council or of the voters in
 4 town meeting, may appropriate an amount not exceeding in any one
 5 year one twentieth of one per cent of its assessed valuation to establish
 6 and maintain an insurance fund to pay workmen's compensation, from
 7 which any compensation payable under the provisions of sections sixty-
 8 nine to seventy-five, inclusive, of chapter one hundred and fifty-two shall
 9 be paid; but no money shall be appropriated for such purpose while the
 10 fund equals or exceeds one per cent of such assessed valuation. Such
 11 fund shall be managed and administered by the sinking fund commis-
 12 sioners of the city or town, if any, otherwise by the commissioners of trust
 13 funds of said city or town.

Workmen's
 compensation
 insurance
 fund.
 1923, 234.

1 SECTION 13B. A town of not exceeding three thousand inhabitants
 2 which accepts this section by vote in town meeting may appropriate for
 3 free residence quarters for a school physician a sum not exceeding five
 4 hundred dollars.

Residence
 quarters for
 school
 physician.
 1925, 303, § 1.

TAKING, PURCHASE AND ABANDONMENT OF LAND.

1 SECTION 14. The aldermen of any city, except Boston, or the select-
 2 men of a town may purchase, or take by eminent domain under chapter
 3 seventy-nine, for any municipal purpose any land, easement or right
 4 therein within the town not already appropriated to public use, including
 5 an easement in land adjoining the location of a public way consisting of a
 6 right to have the land of the location protected by having the surface of
 7 such adjoining land slope from the boundary of the location; but no
 8 land, easement or right therein shall be taken or purchased under this
 9 section unless the taking or purchase thereof has previously been author-
 10 ized by the city council or by vote of the town, nor until an appropriation
 11 of money, to be raised by loan or otherwise, has been made for the purpose
 12 by a two thirds vote of the city council or by a two thirds vote of the
 13 town, and no lot of land shall be purchased for any municipal purpose by

Taking or
 purchase
 of land, etc.
 1848, 257, § 1.
 1851, 186.
 1855, 318.
 G S 38, § 38.
 1869, 411, § 1.
 1874, 342
 P. S. 27, § 43;
 44, § 49.
 1894, 145.
 1897, 299,
 §§ 1, 4.
 1899, 379,
 §§ 1, 4.
 1900, 437.
 R. L. 25,
 §§ 45, 47.
 1915, 143; 263.
 1918, 291,
 §§ 6, 8.
 1921, 486, § 7.

1923, 266.
1925, 272.
227 Mass. 538.

any city subject to this section for a price more than twenty-five per cent 14
in excess of its average assessed valuation during the previous three years. 15

233 Mass. 592.
247 Mass. 46.

238 Mass. 111, 115.
272 Mass. 161, 457.

Abandonment
of land or
easements.
1901, 294.
R. L. 25, § 50.

SECTION 15. If any officer of a city or town having charge of any 1
land, easement or right taken for such city or town, otherwise than by 2
purchase, notifies the city council or the selectmen that, in his opinion, 3
such land, easement or right, or part thereof, is no longer required for 4
public purposes, and if thereafter the city council or the inhabitants of 5
the town by a two thirds vote authorize the conveyance of such land, or of 6
part thereof, or the abandonment of such easement or right, or part 7
thereof, and specify the minimum amount to be paid for such convey- 8
ance or abandonment, the mayor or the selectmen may, for such amount 9
or a larger amount, and upon such other terms as the mayor or selectmen 10
shall consider proper, convey said land, or part thereof, by deed, or declare 11
said easement or right, or part thereof, to be abandoned. Such declara- 12
tion, being recorded in the registry of deeds for the district where the 13
land is situated, shall extinguish the easement or right. 14

STREET SPRINKLING.

Sprinkling of
public ways.
1890, 365.
1891, 179,
§§ 1, 4.
1895, 186.
1897, 419, § 1.
R. L. 25, § 22;
26, § 25.
1908, 452.
1909, 289.

SECTION 16. A town may sprinkle or spread upon its public ways, 1
or parts thereof, any liquid or material suitable for laying or preventing 2
dust and preserving the surface of such ways or for sanitary purposes, 3
may appropriate money therefor, and determine that with respect to the 4
whole or any part of such ways the whole or any part of such expense 5
shall be assessed upon the estates abutting thereon. 6

1917, 344, IV, § 6, VIII, § 1.
173 Mass. 71.

175 Mass. 118.
183 Mass. 353.

Assessments
for street
sprinkling.
1890, 365.
1891, 179,
§§ 2-4.
1895, 186.
1897, 419,
§§ 2, 3.
R. L. 25, § 22;
26, § 26.
1908, 452.
1909, 440, § 2.
1914, 198, § 3.
173 Mass. 71.
175 Mass. 118.
183 Mass. 353.
193 Mass. 327.
199 Mass. 5.
218 Mass. 339.

SECTION 17. If a city determines that the public ways or any portion 1
thereof shall be sprinkled in whole or in part at the expense of the 2
abutters, such expense for a municipal year, and the proportion thereof 3
to be borne by abutters, and the rate to be assessed upon each linear foot 4
of frontage upon such ways, shall be estimated and determined by the 5
board of aldermen and assessed upon the estates abutting on such ways 6
in proportion to the number of linear feet of each estate upon such ways 7
or portion thereof sprinkled. The amount of such assessments upon each 8
estate shall be determined by said board, or, if said board so designates, by 9
the board of public works, board of street commissioners, superintendent 10
of streets or other officer; and such board or officer shall, as soon as may 11
be after the first day of April, cause a list of such ways or portions thereof 12
to be made, specifying each estate and the number of linear feet thereof 13
abutting thereon, the amount per linear foot, and the amount on each 14
estate of such assessment, and certify and commit said list to the assess- 15
ors of taxes. In a town such assessment shall be made by the assessors. 16

Collection of
assessment.
1891, 179,
§§ 3, 4.
1895, 186.
1897, 419,
§§ 3, 4.
R. L. 25, § 22;
26, § 27.
1908, 452.
175 Mass. 118.
183 Mass. 353.
193 Mass. 327.

SECTION 18. The assessors shall include such assessment in the 1
tax list and warrant committed by them to the collector of taxes for 2
that municipal year, and it shall be included in the next annual tax 3
bill, or if the estate so assessed is otherwise exempt from taxation, it 4
shall be rendered as a tax bill. Such assessment shall be a lien upon 5
the estate, and shall be levied, collected, reassessed, paid, apportioned, 6
and bear interest and become payable, in the same manner as, and shall 7

8 be a part of, the tax for that year on such estate; but in cities the as-
9 sessors shall make no abatement thereof except upon the recommenda-
10 tion of the board or officer by whom the list was certified to them.

199 Mass. 5
218 Mass. 339.

PROVIDING NECESSITIES.

1 SECTION 19. For the purpose of maintaining, distributing and pro-
2 viding at reasonable rates during time of war, public exigency, emer-
3 gency or distress a sufficient supply of food, other common necessities
4 of life and temporary shelter for their inhabitants, towns may raise
5 and appropriate money outside of any limit imposed by law upon their
6 tax rate or debt; but any bond, note or certificate of indebtedness issued
7 therefor shall be payable in not more than two years from the date of
8 its issue. The receipts from any undertaking or service authorized by
9 this section shall not be applied to municipal purposes, other than those
10 herein described, so long as there are any obligations outstanding issued
11 on account of any such undertaking or service. The expenditure of
12 all money so appropriated shall be under the direction of the mayor,
13 or of an officer appointed by the mayor, with the approval of the city
14 council in cities other than Boston, and in towns shall be under the
15 direction of the selectmen or of an officer appointed by them.

Providing
necessities
in time of
distress
1918, 205,
§§ 1, 4, 5,
1931, 426,
§ 155.

1 SECTION 20. Articles furnished or services rendered under the pre-
2 ceding section shall be charged for, so far as practicable, at rates calcu-
3 lated to cover all costs and charges connected with the particular under-
4 taking or service, and shall be paid for in cash at the time of delivery
5 or performance. Any town acting under said section shall keep ac-
6 counts, in the form prescribed by the director of accounts, covering
7 separately, so far as practicable, the cost of the particular undertaking
8 or service in respect to each commodity included therein; and a report
9 in detail of receipts and expenditures connected with such undertaking
10 or service shall be included in the annual report of the town treasurer.

Articles to be
sold at cost.
Accounts.
Const. amend.
47
(Const. Rev.
art. 69.)
1918, 205,
§§ 2, 3
1919, 350, § 54.

ORDINANCES, BY-LAWS AND REGULATIONS.

1 SECTION 21. Towns may, for the purposes hereinafter named, make
2 such orders and by-laws, not repugnant to law, as they may judge most
3 conducive to their welfare, which shall be binding upon all inhabitants
4 thereof and all persons within their limits. They may, except as herein
5 provided, affix penalties for breaches thereof, not exceeding twenty
6 dollars for each offence, which may be recovered by indictment or on
7 complaint before a district court or trial justice, and shall enure to the
8 town or to such uses as it may direct:

Town by-laws.
C. L. 147.
1692-3, 28, § 5
1785, 75, § 7.
1801, 62.
1854, 81.
R. S. 15,
§§ 13, 14,
1847, 166.
G. S. 18,
§§ 11, 12, 15.
P. S. 27,
§§ 15, 19, 22.

1898, 190, § 1.	2 Cush. 562.	183 Mass. 491.
R. L. 25, § 23.	12 Gray, 161.	190 Mass.-442, 504.
1920, 591, § 3.	14 Gray, 52.	206 Mass. 380.
3 Pick. 462.	9 Allen, 206.	219 Mass. 580.
6 Pick. 187.	97 Mass. 221.	238 Mass. 9
12 Pick. 227.	121 Mass. 356.	239 Mass. 540.
23 Pick. 71.	145 Mass. 384.	248 Mass. 165.
1 Met. 130.	155 Mass. 531.	253 Mass. 344.
1 Cush. 493.	172 Mass. 58.	

9 (1) For directing and managing their prudential affairs, preserving
10 peace and good order, and maintaining their internal police.

174 Mass. 578.

219 Mass. 580.

Prudential
affairs and
internal police.

11 (2) For preventing the fall of snow and ice from roofs and securing
12 the removal thereof in such portions of their limits and to such extent
13 as they deem expedient. The penalty for violation of such by-laws

Removal of
snow from
roofs.
1863, 86.

	shall apply to the owner of such building or to his agent having the care thereof.	14	15
Removal of snow from sidewalks. 1898, 190, § 1.	(3) For providing for the removal of snow and ice from the sidewalks within the limits of the public ways therein to such extent as they deem expedient. The penalty for the violation of such by-laws shall apply to the owner of abutting property or his agent having charge thereof.	16	17
Erection of barriers. 1878, 91.	(4) For requiring owners of buildings near the line of public ways to erect barriers, or to take other suitable measures to prevent the fall of snow and ice therefrom upon persons traveling on such ways, and to protect such persons from other dangers incident to the maintenance, occupation or use thereof.	18	19
Establishment of common sewers. 1895, 227. 126 Mass. 431.	(5) For declaring any sewer or drain laid in any land or way, public or private, opened or proposed to be opened for public travel, to be a common sewer, and that it shall not be laid or connected with any existing common sewer except by the board or officers authorized to lay and maintain common sewers.	21	22
Regulation of the use of sewers. 1897, 116, § 1.	(6) For regulating, under a penalty not exceeding fifty dollars for each offence, the use of the common sewers and the connections which may be made therewith.	22	23
Regulating water supply pipes. 1875, 105, §§ 1, 2. P. S. 27, §§ 16, 17.	(7) For regulating throughout the town or within a limited portion thereof, by any designated board or commission, the inspection, materials, construction, alteration or use of pipes and fixtures through which water is supplied by public water works; and to prohibit the use of such water by persons neglecting or refusing to comply with such by-laws.	24	25
Use of reservoirs. 1876, 139. P. S. 27, § 18.	(8) For regulating, under a penalty not exceeding fifty dollars for each offence, the use of reservoirs connected with its water supply and land and driveways appurtenant thereto.	25	26
Regulating width of tires. 1827, 106.	(9) For regulating the width of tires of vehicles owned in such town and used on the highways thereof.	26	27
	1829, 29. 1832, 148. 1834, 29. 1895, 296.	27	28
Regulating numbering of buildings. 1918, 291, § 3.	(10) For requiring and regulating the numbering of buildings on or near the line of public or private ways and prescribing by whom and the method in which it shall be done.	28	29
Regulating disposal of personal property.	(11) For regulating the disposal by town boards, officers or departments of personal property belonging to the town.	29	30
	1918, 291, § 3.	30	31
Regulating making of certain annual reports.	(12) For regulating the making of annual reports by boards, officers or departments not required by law to make such reports.	31	32
	1918, 291, § 3.	32	33
Requiring payment, etc., of fees of town officers. 1920, 591, § 5.	(13) For requiring all town officers to pay all fees received by them by virtue of their office into the town treasury, or to report the amount thereof from time to time to the selectmen, who shall publish the same in the annual town report.	33	34
Prohibiting, etc., leaving of vehicles in certain private ways. 1928, 319.	(14) For prohibiting or regulating the leaving of vehicles unattended within the limits of private ways furnishing means of access for fire apparatus to any part of a tenement house or apartment house as defined in section two of chapter one hundred and forty-five.	34	35
Use, etc., by clubs, etc., of dwellings used in common by members. 1931, 159.	(15) For regulating the use, occupation and maintenance, by clubs or associations, whether or not incorporated, of dwelling houses used in common by any or all of their members. In addition to any other	35	36
		36	37

63 remedy provided by law for violation of any ordinance or by-law made
 64 under authority of this paragraph, the superior court shall have juris-
 65 diction in equity to restrain any such violation.

1 SECTION 22. Except as otherwise provided in section eighteen of
 2 chapter ninety and subject, so far as applicable, to section two of chapter
 3 eighty-five and sections eight and nine of chapter eighty-nine, a city or
 4 town may make ordinances or by-laws, or the board of aldermen or the
 5 selectmen may make rules and orders, for the regulation of carriages
 6 and vehicles used therein, with penalties for the violation thereof not
 7 exceeding twenty dollars for each offence; and may annually receive one
 8 dollar for each license granted to a person to use any such carriage or
 9 vehicle therein. Such rules and orders shall not take effect until they
 10 have been published at least once in a newspaper published in the city,
 11 town or county.

Regulation of
 carriages, etc.
 1847, 224.
 § 1, 2.
 1850, 275.
 G. S. 19, § 14.
 P. S. 28, § 25.
 1885, 197.
 R. L. 25, § 24.
 1920, 591, § 9.
 1928, 357, § 6.
 2 Cush. 562.
 98 Mass. 1.
 114 Mass. 328.
 122 Mass. 60.
 139 Mass. 195.
 155 Mass. 227.
 187 Mass. 221.

188 Mass. 79.	203 Mass. 529.	231 Mass. 386.
191 Mass. 439.	205 Mass. 344.	233 Mass. 535.
194 Mass. 14.	210 Mass. 240.	261 Mass. 340.
199 Mass. 490, 542.	217 Mass. 18.	4 Op. A. G. 7.

1 SECTION 23. A city council may make rules and regulations for the
 2 erection and maintenance of balustrades or other projections upon the
 3 roofs or sides of buildings therein, with penalties for the violation thereof
 4 of not more than twenty dollars for each offence; but no such rule
 5 or regulation shall take effect until sixty days after its publication in
 6 a newspaper published in the city or in the county where the city is
 7 situated.

City councils
 may regulate
 erection of
 balustrades,
 etc.
 1848, 278.
 G. S. 19, § 13.
 P. S. 28, § 24.
 R. L. 26, § 38.
 12 Gray, 161.

117 Mass. 114.	122 Mass. 173.	128 Mass. 330.
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1 SECTION 24. A city may make ordinances to secure the inspection
 2 of ice sold therein and to prevent the sale of impure ice, and affix penal-
 3 ties of not more than twenty dollars for each violation thereof.

Inspection
 of ice.
 1895, 338.
 R. L. 26, § 18.
 219 Mass. 121.

1 SECTION 25. A city or town may by ordinance or by-law restrict
 2 buildings, structures and premises to be used for particular industries,
 3 trades, manufacturing, commercial or other purposes to specified parts
 4 of the city or town, or may exclude them from or prohibit any of such
 5 uses in specified parts of the city or town, or may provide that such
 6 buildings, structures or premises, if situated in certain parts of the city
 7 or town, shall be subject to special regulations as to their construction
 8 or use. A city or town may also by ordinance or by-law provide that
 9 certain kinds of dwelling houses and tenement houses shall be restricted
 10 to specified parts of the city or town, or shall be excluded from specified
 11 parts of the city or town, or that dwelling houses or tenement houses
 12 situated in specified parts of the city or town shall conform to certain
 13 regulations in respect to their construction or use which do not apply to
 14 such buildings in other parts of the city or town. For the above purpose
 15 the city or town may be divided into districts or zones, and the construc-
 16 tion and use of buildings and structures and the use of premises in each
 17 district or zone may be regulated as above provided. The provisions of
 18 this section shall be carried out in such manner as will best promote the
 19 health, safety, convenience and welfare of the inhabitants, will lessen
 20 the danger from fire, will tend to improve and beautify the city or town,
 21 will harmonize with its natural development, and will assist the carrying
 22 out of any scheme for municipal improvement put forth by any munic-

Limitation of
 particular
 classes of
 buildings, etc.,
 to specified
 districts or
 zones.
 1920, 601.
 § 1, 2.
 1925, 116, § 1.
 250 Mass. 52,
 63, 73.
 260 Mass. 441.
 294 Mass. 85.
 272 Mass. 547.

ipal planning board or board of survey or other like authority. Due regard shall be paid to the characteristics of the different parts of the city or town, and the ordinances or by-laws established hereunder in any city or town shall be the same for zones, districts or streets having substantially the same character.

Notice and hearing.
1920, 601, § 3.
250 Mass. 52,
63, 73.
272 Mass. 547.

SECTION 26. No ordinance shall be enacted under the preceding section in any city until after a public hearing thereon has been held, notice of which shall be published, at least thirty days before the hearing in a newspaper published in such city, or in the county if no newspaper is published in the city. The hearing shall be given by the city council or by such officer, board, commission or committee as may be designated or appointed for the purpose by the city council.

Withholding of permits.
Appeal.
1920, 601,
§§ 4, 5.
1925, 116, § 2.
250 Mass. 52,
63, 73.

SECTION 27. The superintendent of buildings, or the officer or board having supervision of the construction of buildings or the power of enforcing the municipal building laws, or if in any town there is no such officer or board, the selectmen, shall withhold a permit for the construction or alteration of any building or structure if the building or structure as constructed or altered would be in violation of any ordinance or by-law enacted under section twenty-five; and municipal officers shall refuse any permit or license for the use of a building, structure or premises which use would be in violation of any ordinance or by-law enacted under said section. Any person aggrieved by the refusal of a permit under this section may appeal to the municipal officer or board to which a right of appeal lies from decisions under the building laws of the city or town, and if there is no such officer or board, then the appeal shall lie to the city council or to the selectmen, or to such officer, board, commission or committee as shall be designated or appointed by the city council or by the selectmen to act as a board of appeals hereunder.

Variance.
1924, 133.
268 Mass. 419.
273 Mass. 97.

SECTION 27A. A board of appeals designated or appointed under the preceding section may vary the application of any by-law or ordinance adopted under section twenty-five in specific cases wherein its enforcement would involve practical difficulty or unnecessary hardship and wherein desirable relief may be granted without substantially derogating from the intent and purpose of such by-law or ordinance, but not otherwise. No such variance shall be authorized except by the unanimous decision of the entire membership of the board, rendered upon a written petition addressed to the board and after a public hearing thereon, of which notice shall be mailed to the petitioner and to the owners of all property deemed by the board to be affected thereby as they appear on the most recent local tax list and also advertised in a newspaper published in the city or town. The board shall cause to be made a detailed record of all its proceedings relative to such petition, which record shall set forth the reasons for its decision, the vote of each member participating therein, and the absence of a member or his failure to vote. Such record, immediately following the board's final decision, shall be filed in the office of the city or town clerk and shall be open to public inspection, and notice of such decision shall be mailed forthwith to each party in interest as aforesaid. Any person aggrieved by a decision of the board of appeals, whether previously a party to the proceeding or not, or any municipal officer or board, may, within fifteen days after the entry of such decision, bring a petition in the supreme judicial court for a writ of certiorari to

24 correct errors of law therein, and the provisions of section four of chapter
 25 two hundred and forty-nine shall, except as herein provided, apply to
 26 said petition. No costs shall be allowed against the board unless the
 27 court finds that it acted with gross negligence or in bad faith.

1 SECTION 28. The superior court shall have jurisdiction to enforce the
 2 provisions of section twenty-five and may restrain by injunction any
 3 violations thereof.

Enforcement
 by injunction.
 1920, 601, § 6.

250 Mass. 52, 63, 73.

255 Mass. 84.

272 Mass. 547.

1 SECTION 29. An ordinance or by-law enacted under section twenty-
 2 five shall not apply to existing buildings or structures nor to the existing
 3 use of any building, structure or premises, but it shall apply to any alter-
 4 ation of a building or structure to provide for its use for a purpose, or in a
 5 manner, substantially different from the use to which it was put before
 6 alteration. A building, structure or premises used or to be used by a
 7 public service corporation may be exempted from the operation of an
 8 ordinance or by-law enacted under section twenty-five if, upon a petition
 9 of the corporation, the department of public utilities shall, after a public
 10 hearing, decide that the present or proposed situation of the building,
 11 structure or premises in question is reasonably necessary for the con-
 12 venience or welfare of the public.

Exemption of
 existing struc-
 tures and
 buildings of
 public service
 corporations.
 1920, 601,
 §§ 7, 8.
 1925, 116, § 3.
 250 Mass. 52,
 63, 73
 257 Mass. 346.
 272 Mass. 547.

1 SECTION 30. No ordinance or by-law enacted under section twenty-
 2 five shall be repealed or modified except after reasonable notice of the
 3 proposed repeal or modification and an opportunity to the objectors
 4 to be heard thereon, and, in a town, notification as provided by law of
 5 a town meeting duly called in pursuance of a warrant warning that
 6 such proposed repeal or modification is to be acted upon thereat shall be
 7 sufficient notice for the purposes hereof. In a city, such a hearing shall
 8 be before the city council or any committee designated or appointed for
 9 the purpose by the city council. If in a city any owner of real estate
 10 which would be affected by the proposed repeal or modification objects
 11 thereto by a writing filed with the city clerk, the ordinance shall not be
 12 repealed or modified except by a unanimous vote of all the members of
 13 a city council of less than nine members or by a three fourths vote of
 14 all the members of a city council of nine or more members; and in no
 15 case shall such an ordinance be repealed or modified except by a two
 16 thirds vote of all the members of the city council. If in a town any
 17 person shall, prior to the day named in the warrant for the town meet-
 18 ing at which such proposed repeal or modification is to be acted upon,
 19 file with the town clerk his objections thereto in writing, together with
 20 his name and address, the town clerk shall give notice of such fact to the
 21 town meeting which shall not act on such proposed repeal or modification
 22 until it has referred the objections to a committee thereof to hear the
 23 objecting party and report to said meeting or an adjournment thereof
 24 or has referred the same to the town planning board for such purpose
 25 and has received a report made in pursuance of such reference after
 26 giving the objector an opportunity to be heard. If no objections are
 27 filed as aforesaid the meeting may consider and act upon the proposed
 28 repeal or modification without further notice. In no case shall such a
 29 by-law be repealed or modified except by a two thirds vote of a town
 30 meeting.

Repeal and
 modification.
 1920, 601, § 9.
 1922, 40.
 1925, 59; 216.
 1929, 39.
 250 Mass. 52,
 63, 73.
 272 Mass. 547.

Effect on permits issued prior to adoption or modification of zoning ordinances or by-laws. 1927, 247.

SECTION 30A. No ordinance or modification thereof enacted under section twenty-five or thirty shall affect any permit issued in a city before notice of hearing on the question of enactment or modification as aforesaid is first given, and no by-law or modification thereof so enacted or modified shall affect any permit issued in any town before notice of hearing on the question of enactment or modification as aforesaid or before expiration of the time for inserting articles in the warrant for the town meeting at which such by-law or modification is enacted, whichever occurs first; provided, that construction work under any such permit is commenced within six months after its issue.

Performance of duty imposed by by-laws. 1855, 287, G. S. 18, § 13, P. S. 27, § 20, R. L. 25, § 25, 166 Mass. 133.

SECTION 31. If a town by-law imposes a duty and affixes a penalty for the neglect or violation thereof, it may also provide that upon such neglect or violation the duty may be performed by officers therein named, at the expense of the person liable to perform the same; and such expense, to an amount not exceeding the penalty, may be recovered in contract by the town.

Publication of by-laws. 1692-3, 28, § 5, 1695-6, 9, § 5, 1785, 75, § 7, R. S. 15, §§ 13, 15, 1847, 166, 1855, 222, § 1, 2, 1857, 82, G. S. 18, § 14, 16, P. S. 21, §§ 21, 23, R. L. 25, § 26, 1904, 344, § 1, 2, 1905, 144.

SECTION 32. Before a by-law takes effect it shall be approved by the attorney general, and shall be published at least three times in one or more newspapers, if any, published in the town, otherwise in one or more newspapers published in the county; or instead of such publication, notice of the by-law shall be given by delivering a copy thereof at every occupied dwelling or apartment in the town, and affidavits of the persons delivering the said copies, filed with the town clerk, shall be conclusive evidence of proper notice hereunder; provided, that any by-law in force upon May sixteenth, nineteen hundred and four, shall not be subject to this section.

1919, 275,
2 Cush. 335.

140 Mass. 485,
141 Mass. 81.

260 Mass. 594,
265 Mass. 41.

Publication of ordinances and proposed ordinances in certain cities. 1929, 369.

SECTION 32A. The provisions in the charter of a city which accepts this section by vote of its city council, requiring newspaper advertising of certain ordinances and proposed ordinances shall, in case of any ordinance or proposed ordinance, or codification thereof, exceeding in length eight octavo pages of ordinary book print, be deemed to be complied with if the same is published by the city council in a municipal bulletin or printed pamphlet, but otherwise in conformity with said provisions.

Copy of rules to be filed with town clerk. 1920, 591, § 4.

SECTION 33. A copy of all rules or regulations made by town boards or officers for which a penalty is provided by law shall be filed with the town clerk within ten days after they take effect.

LOCKUP.

Maintenance of lockup. 1862, 216, § 16, 1873, 175, § 3, 1874, 159, § 1, P. S. 27, §§ 32, 35, R. L. 25, §§ 39, 42, 1918, 291, § 5.

SECTION 34. Each town containing more than three thousand inhabitants shall, and any town may, maintain a secure and convenient lockup to which persons arrested without a warrant may be committed; and a magistrate may commit, for further examination, a prisoner charged with a bailable offence and not recognizing, to the lockup in the town where the prisoner was arrested or to the lockup in a town where the court is held, if he considers it safe and commodious and that expense may be charged thereby. If a town neglects to provide and maintain a lockup as herein required, it shall forfeit ten dollars for each month during which such neglect continues.

1 SECTION 35. The mayor of each city, except Boston, and in Boston
 2 the police commissioner, and the selectmen of each town required to
 3 maintain a lockup shall annually, by a writing recorded with the town
 4 clerk, appoint a keeper of the lockup, who shall have the care and
 5 custody thereof and of persons committed thereto. He shall accept
 6 the appointment within three days after notice thereof, shall be sworn
 7 and shall hold office for one year unless sooner removed. If the select-
 8 men neglect to appoint a keeper, each selectman shall forfeit ten dol-
 9 lars for each month during which such neglect continues; and if the
 10 mayor, except in Boston, or in Boston the police commissioner, neglects
 11 for three months to appoint a keeper, he shall forfeit thirty dollars and
 12 ten dollars additional for each subsequent month of such neglect.

Keeper of
 lockup.
 1873, 175,
 §§ 1, 3.
 1881, 136, § 7.
 P. S. 27,
 §§ 33, 35;
 28, § 27
 1885, 323, § 2.
 R. L. 25,
 §§ 40, 42;
 26, § 40.
 1906, 291, § 10.

1 SECTION 36. Such keeper shall have the power of a police officer
 2 and shall receive the compensation to be fixed by the selectmen upon
 3 his appointment. For the expenses of detention and support of each
 4 person committed, shown by the officer's return to have been actually
 5 detained in the lockup, there may be charged upon the precept, if any,
 6 and paid to the town, fifty cents for each day or fraction thereof.

Powers of
 keeper.
 Charges for
 keeping.
 1874, 216, § 17.
 1873, 175, § 2.
 1876, 159, § 2.
 1881, 69.
 P. S. 27, § 34.
 1890, 190.
 R. L. 25, § 41.

1 SECTION 37. Such lockups shall at all reasonable hours be ac-
 2 cessible to the state police, sheriffs, constables and police officers for
 3 any legal and proper use; and a keeper thereof neglecting to keep it
 4 so accessible, or refusing to said officers the use of the same, shall be
 5 punished by a fine of not less than five nor more than twenty dollars.

Lockup to be
 accessible to
 officers.
 1873, 175, § 4.
 1879, 305, § 2.
 P. S. 27, § 36.
 R. L. 25, § 43.

PUBLIC WATER SUPPLY.

1 SECTION 38. A town, by the action of its selectmen, ratified by a
 2 majority of its voters present and voting thereon at a town meeting
 3 at which the voting list shall be used, or a city, by two thirds vote of
 4 its city council, ratified by a majority of the voters thereof at an elec-
 5 tion called therefor, may, for the purpose of supplying water to its
 6 inhabitants, purchase of any municipal or other corporation the right
 7 to take water from its sources of supply or from its pipes; or may pur-
 8 chase its whole water rights, estates, franchises and privileges, and
 9 thereby become entitled to all its rights and privileges and subject to
 10 all its duties and liabilities; or may contract therewith for a supply of
 11 water. All purchase money received under this section by a town owing
 12 a water debt shall be applied to the payment thereof.

Town may
 purchase
 water supply.
 1870, 93,
 §§ 1, 5.
 1873, 255.
 P. S. 27,
 §§ 27, 31;
 28, § 3.
 R. L. 25,
 §§ 31, 34;
 26, § 5.
 126 Mass. 416
 144 Mass. 177.
 235 Mass. 18.

1 SECTION 39. If the water is conveyed through another town, pipes
 2 may be laid through any public ways therein which the board of alder-
 3 men or selectmen thereof may designate; and the town laying such pipes
 4 shall be liable for damages caused thereby.

P. S. 27, § 30.

R. L. 25, § 33.

Pipes may be
 laid in another
 town.
 1870, 93, § 4.

1 SECTION 40. The metropolitan district commission in cities or towns
 2 using the metropolitan water supply, the city council in other cities, the
 3 selectmen or water commissioners in other towns, water commissioners
 4 of water supply and fire and water districts, officers having control of
 5 county institutions having water works, and water companies supplying
 6 any communities in the commonwealth may, in cases of emergency, take
 7 by eminent domain under chapter seventy-nine the right to draw water

Emergency
 water supply.
 1901, 313,
 §§ 1, 4.
 R. L. 25,
 §§ 35, 38.
 1902, 361.
 1919, 350,
 §§ 96, 123.
 1926, 318.
 1931, 235.

from any stream, pond or reservoir or from ground sources of supply by means of driven, artesian or other wells not already appropriated to uses of a municipal or other public water supply, or may purchase water from any city, town or water company, or county institution having water works, for a period of not more than six months in any year in quantities necessary to relieve the emergency; but no such taking or purchase shall be made until after the department of public health has approved the water as a proper source of water supply and unless and until, in the case of towns and water supply and fire and water districts, the selectmen or water commissioners have first been authorized so to take or purchase by a vote of the voters at a town meeting or a district meeting, as the case may be, or, in the case of water companies, said companies have first been so ordered in writing by said department. They may also take by eminent domain under said chapter seventy-nine the right to use any land for the time necessary to use such water; provided, that, in the case of such a taking by a water company, said department shall first prescribe the limits within which such rights shall be taken. The vote of a city council or of the voters of a town or of a water supply or water and fire district or the action of county officers as aforesaid or of the metropolitan district commission or the written order of said department of public health to a water company to make or authorize such taking or purchase as aforesaid shall be conclusive evidence of the existence of the emergency. Any city, town or water company or the officers having control of any county institution having water works may, for a period of not more than six months in any year, sell to the metropolitan district commission, to any city, town, water supply or fire and water district or water company or to any county institution having water works such quantities of water as may be available at the time and the approval of said department of public health shall be conclusive evidence that such quantities are safely available for sale. In such emergencies the said parties interested may agree to install for the purpose temporary pipes and other works in any city or town; provided, that the installation or repair of such pipes or other works in or along any highway shall be done with the least possible hindrance to public travel, and shall be subject to the direction and approval of the officers or departments having charge of the maintenance of said highways.

Protection of
water supply.
1888, 160.
R. L. 25, § 14.
1908, 499,
§§ 1, 2, 4,
1911, 135,
§§ 1, 2,
1919, 350, § 96.

SECTION 41. Towns and water supply and fire districts duly established by law may, with the consent and approval of the department of public health, given after due notice and a hearing, take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, and hold, lands, buildings, rights of way and easements within the watershed of any pond, stream, reservoir, well or other water used by them as a source of water supply, which said department may deem necessary to protect and preserve the purity of the water supply. All lands taken, purchased or otherwise acquired under this section shall be under the control of the board of water commissioners of the town or district acquiring the same, who shall manage and improve them in such manner as they shall deem for the best interest of the town or district. All damages to be paid by a town or district by reason of any act done under authority hereof may be paid out of the proceeds of the sale of any bonds authorized by law to be issued by such town or district for water supply purposes or from any surplus income of the water works available therefor. A town may also make a contract to contribute to the cost of building, by

18 any other town situated in the watershed of its water supply, a sewer or
19 system of sewers to aid in protecting such water supply from pollution.

1 SECTION 42. The board of aldermen or the selectmen may, upon
2 terms and conditions prescribed by them, authorize the laying of pipes
3 and conduits for the conveyance of water under any public way in their
4 town; provided, that this section shall not authorize any person to
5 supply water to any other person in any town where municipal water
6 works are established except with the consent of the board or authority
7 having charge of such water works therein.

Authorization
of laying
of pipes
1903, 359.
4 Op. A. G. 342.

COLLECTION OF WATER RATES.

1 SECTION 42A. If the rates and charges due to a city or town or water
2 district which accepts this and the five following sections by vote of its
3 city council or of the voters in town or district meeting for supplying
4 water to any real estate at the request of the owner or tenant, including
5 interest and costs thereon, as established by local regulations, ordinances
6 or by-laws, are not paid within sixty days after their due date, the same
7 shall be a lien upon such real estate in the manner hereinafter provided.
8 This and the five following sections shall not take effect in a city or town
9 or water district accepting the same as aforesaid until the city, town or
10 district clerk files in the proper registry of deeds a certificate that said
11 sections have been so accepted. Each register of deeds shall record such
12 certificate in a book to be kept for the purpose, which shall be placed in
13 an accessible location in the registry. The five following sections shall
14 also apply to a water district which has accepted sections forty-two A to
15 forty-two F, inclusive, and whose clerk has so filed the certificate of
16 acceptance, and wherever in said sections the word "town" and the
17 phrase "board or officer in charge of the water department" or "board
18 or officer having control of the water department" appear, they shall
19 also mean and include such water district and its water commissioners or
20 officers exercising similar powers, respectively. A fire district authorized
21 to supply water shall, for the purposes of said sections, be deemed a
22 water district.

Water rates,
when to be lien
upon real estate.
1923, 391.
1924, 107,
1927, 56,
264 Mass. 460.

1 SECTION 42B. Such lien shall take effect upon the filing for record
2 in the registry of deeds for the county where the real estate lies of a
3 statement by the board or officer in charge of the water department
4 that the rates and charges for water supplied to the real estate therein
5 described, including interest and costs, to an amount therein specified,
6 have remained unpaid for sixty days after the due date, and said lien
7 shall continue for one year from the first day of October next following.
8 Such statement shall contain the name of the owner of record of such
9 real estate and a description thereof sufficiently accurate for identifica-
10 tion. The register of deeds shall receive and record or, in case of regis-
11 tered land, file and register, said statement. Such lien may be dissolved
12 by filing for record in such registry of deeds a certificate from the col-
13 lector of taxes of the city or town in which such real estate is situated
14 that all rates and charges for which such lien attached, together with
15 interest and costs thereon, have been paid or legally abated.

Lien, when to
take effect.
Dissolution.
1923, 391.
1924, 413.

1 SECTION 42C. Within a reasonable time after filing such statement
2 for record or registration, the board or officer in charge of the water

Unpaid ac-
counts, com-
mitment to
collectors.

Powers and duties of collectors. 1923, 391.

department shall commit the unpaid account with his warrant to the collector of taxes of the city or town, and such collector shall forthwith send notice in accordance with section three of chapter sixty to the person designated in such warrant as the owner of record, and any demand for the payment of such account shall be made upon such person. The collector shall have the same powers and be subject to the same duties with respect to such unpaid accounts as in the case of the annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale of land for the non-payment thereof and the redemption of land so sold shall apply to unpaid accounts charged upon real estate under sections forty-two A to forty-two F, inclusive.

Unpaid accounts to bear interest and be added to tax bill. 1923, 391.

SECTION 42D. Unpaid accounts under sections forty-two A to forty-two F, inclusive, shall bear interest at the rate of six per cent per annum from the time demand is made under the preceding section, or from such earlier time after their due date as the city or town may by ordinance or by-law provide. Any such account committed to the collector under said section and remaining unpaid shall be added by the collector to the annual tax bill next to be issued, and the total amount of such bill shall be subject to interest under the provisions of section fifty-seven of chapter fifty-nine.

Abatements. Appeals. 1923, 391.

SECTION 42E. An owner of real estate aggrieved by a charge imposed thereon under sections forty-two A to forty-two F, inclusive, in addition to such remedy as he may have under section ten of chapter one hundred and sixty-five, may apply for an abatement thereof by filing a petition with the board or officer having control of the water department within thirty days after demand under section forty-two C, and if such board or officer finds that such charge is more than is properly due, a reasonable abatement shall be made; and except as otherwise provided herein, the provisions of chapter fifty-nine relative to the abatement of taxes by assessors shall apply, so far as applicable, to abatements hereunder. If such petition is denied in whole or in part, the petitioner may appeal to the superior court for the county where the real estate lies upon the same terms and conditions as a person aggrieved by the refusal of the assessors of a city or town to abate a tax.

Recovery from tenants by owners paying charges. 1923, 391.

SECTION 42F. An owner of real estate who, in order to prevent the imposition of a lien thereon or to discharge the same, has paid charges for water furnished to a tenant or other person who was bound to pay the same, may recover from such tenant or other person in an action of contract the amount of the charges so paid with all incidental costs and expenses.

HOT WATER AND STEAM.

Pipes for hot water and steam. 1909, 103.

SECTION 43. The board of aldermen or the selectmen may, upon terms and conditions prescribed by them, authorize the laying of pipes and conduits for the transmission of steam or hot water for heating, cooking and mechanical power, for private use, under any public way in their town, may regulate and control the same, may at any time require the persons using such pipes and conduits to make alterations in the location or construction thereof, and may, after notice and hearing, order the removal thereof. Any use of such pipes and conduits other

9 than herein authorized shall terminate the authority to maintain the
10 same. Sections twelve, thirteen and fourteen of chapter one hundred
11 and fifty-eight shall apply to proceedings hereunder so far as applicable.

IMPROVEMENT DISTRICTS.

1 SECTION 44. A town may, at a town meeting, authorize a village
2 or district therein, if it contains not less than one thousand inhabitants,
3 to organize under a name approved by the town for the purpose of
4 erecting and maintaining street lamps, establishing and maintaining
5 libraries, building and maintaining sidewalks, or for employing and
6 paying police officers, and shall accurately define the limits of such vil-
7 lage or district. Such village or district shall have a clerk and a pru-
8 dential committee, and may have a treasurer and such other officers
9 as it determines, each of whom shall hold office for one year and until
10 another is qualified. Such village or district may adopt by-laws to
11 define the manner of calling its meetings and the duties of its officers,
12 may sue and be sued in the name of its inhabitants, and, so far as
13 appropriate, shall be subject to sections sixty-two, sixty-three, sixty-six,
14 sixty-nine, seventy-one, seventy-two, seventy-three, seventy-seven and
15 seventy-nine of chapter forty-eight.

Establishment
of improvement
districts.
1870, 332.
P. S. 27.
§§ 37-40.
R. L. 25, § 44.
153 Mass. 129.
205 Mass. 54.

RECOGNIZANCE.

1 SECTION 45. The selectmen of a town required to enter into a
2 recognizance may by an order or vote authorize any person to enter
3 into the recognizance in its name and behalf. No surety shall be re-
4 quired thereon.

Recognizances
by towns.
1833, 216.
R. S. 15,
§§ 88, 89.

G. S. 18, § 18.

P. S. 27, § 51.

R. L. 25, § 58.

OATH OF CLAIMANT.

1 SECTION 46. Any person authorized to approve a claim against a
2 town for labor, materials or service may, before approval thereof, re-
3 quire the claimant to certify under oath that all the articles for which
4 claim is made have been furnished, or that all the labor or service has
5 been performed, and that no commission, discount, bonus, reward or
6 present of any kind has been received by, or promised to, or is expected
7 by, any person on account of the same.

Oaths may be
required of
persons
bringing
demand for
payment.
1862, 101, § 3.
P. S. 27, § 111.
1893, 423, § 40.
R. L. 25, § 98.

SEAL.

1 SECTION 47. Each town shall have a seal, established at a town
2 meeting, to be kept by the town clerk. Papers or documents issued from
3 any office or board of the town may be attested therewith. Cities which
4 had an authorized seal in use on May tenth, eighteen hundred and ninety-
5 nine, may continue to use such seal until changed by ordinance, and other
6 cities shall by ordinance establish a seal of the city and designate the
7 custodian thereof.

Seal.
1898, 389, § 2.
1899, 256,
§§ 1, 2.
R. L. 25, § 28;
26, § 4.

RECORDS AND REPORTS.

1 SECTION 48. Every town shall provide suitable places, to be approved
2 by the supervisor of public records, for the preservation and convenient
3 use of all books, reports and laws received from the commonwealth;
4 and for every month's neglect so to do shall forfeit ten dollars. Said

Custody of
books.
1858, 106,
§§ 1, 2.
G. S. 18, § 17.
P. S. 27, § 24.
R. L. 25, § 27.

1907, 417.
1908, 142,
§§ 1, 2.
1919, 350, § 24.
4 Op. A. G. 212.

books, reports and laws shall be in the custody or control of the town clerk, unless the city council or selectmen shall by vote designate some other person to have said custody or control of all or part of the same.

Annual town report.

R. L. 25, § 29.
1918, 291, § 4.

SECTION 49. The selectmen, before the annual town meeting, shall at the expense of the town print the annual town report, for the use of the inhabitants, containing the report of the selectmen for the financial year preceding said meeting, the report of the school committee, and, except as otherwise provided by vote or by-law of the town, of such other officers and boards as consider it expedient to make a report, the jury list as required by chapter two hundred and thirty-four, and such other matters as the law, or the town by vote or by-law, requires, or as the selectmen consider expedient. If the selectmen neglect or refuse to make the annual town report, they shall severally forfeit fifty dollars.

Town clerks to forward copies of reports to state library.
1866, 195,
§§ 1, 2.
P. S. 27,
§§ 25, 26.
R. L. 25, § 30.

SECTION 50. One copy or more of the annual report and of any special report of a town shall annually, on or before the last day of April, be transmitted by the town clerk to the state library, and until such transmission the publications distributed by the commonwealth shall be withheld from the town.

Names of persons assisted by board of public welfare not to be published.
1910, 412.
1919, 290, § 2.

SECTION 51. No town or officer thereof shall publish in any report for general distribution to the public or to its citizens the names of persons assisted in any way by the board of public welfare of the town, or the names of any persons residing in such town who received aid under chapter one hundred and fifteen.

1931, 394, § 110.

Size of official letters.
1913, 702.

SECTION 52. All official letters from officers of towns shall be written or printed, so far as practicable, on paper eight and one half inches wide and eleven inches long.

ILLEGAL APPROPRIATIONS.

Restraint of illegal appropriations.
1847, 37.
G. S. 18, § 79.
P. S. 27, § 129.
1855, 312, § 5.
1891, 293.
1898, 490.
R. L. 25, § 100.
3 Cush. 530
10 Cush. 252.
1 Allen, 103,
166.
6 Allen, 152.
11 Allen, 108.
99 Mass. 525.

SECTION 53. If a town or any of its officers or agents are about to raise or expend money or incur obligations purporting to bind said town for any purpose or object or in any manner other than that for and in which such town has the legal and constitutional right and power to raise or expend money or incur obligations, the supreme judicial or superior court may, upon the petition of not less than ten taxable inhabitants of the town, determine the same in equity, and may, before the final determination of the cause, restrain the unlawful exercise or abuse of such corporate power.

103 Mass. 94, 141.	196 Mass. 220, 267.	231 Mass. 252.	254 Mass. 50.
116 Mass. 88.	198 Mass. 221, 248.	238 Mass. 9.	255 Mass. 220.
139 Mass. 341.	201 Mass. 453.	239 Mass. 95.	260 Mass. 255.
140 Mass. 459.	203 Mass. 146.	241 Mass. 325.	262 Mass. 214.
148 Mass. 285.	206 Mass. 129.	245 Mass. 543.	266 Mass. 503.
153 Mass. 129.	207 Mass. 172.	246 Mass. 279.	267 Mass. 567.
154 Mass. 410.	212 Mass. 583.	247 Mass. 417.	268 Mass. 288, 480.
160 Mass. 36.	216 Mass. 422.	248 Mass. 165.	269 Mass. 585.
166 Mass. 347.	217 Mass. 336.	251 Mass. 468.	271 Mass. 495.
185 Mass. 142.	223 Mass. 109.	252 Mass. 213, 258.	272 Mass. 130.
193 Mass. 406.	224 Mass. 176.	253 Mass. 247, 408.	273 Mass. 468, 536.

CHAPTER 41.

OFFICERS AND EMPLOYEES OF CITIES, TOWNS AND DISTRICTS.

SECT.

ELECTION OF TOWN OFFICERS.

1. Officers to be elected.
2. New board of officers. Increase or decrease in membership of board.
3. Officers of cities.
4. Penalty for not choosing selectmen or assessors.
- 4A. Appointment by town boards of their members to other town offices, etc.
5. Voting list.
6. Towns may provide for use of official ballots.
7. Determination of officers to be chosen by official ballot.
8. Deposit of ballots.
9. Sealing of ballots.
10. Failure to elect, and vacancies.
11. Appointment to fill vacancy.

CLERK.

12. Term of office in cities.
13. To give bond to town.
14. Temporary clerk.
15. Duties of clerk.
- 15A. Certification of appropriation orders.
16. Return of certificate of oath.
17. Copies of city contracts.
18. Assistant city clerk.
19. Assistant town clerk.

SELECTMEN.

20. Duties and oaths.
21. Vote authorizing selectmen to act as or appoint other officers.
22. Term of office and salary of appointees.
23. Rescission of vote.

ASSESSORS.

24. Term and number to be chosen.
- 24A. Election, etc., of assistant assessors in cities.
25. Appointment, etc., by selectmen in certain towns.
- 25A. Appointment, etc., of assistant assessors by assessors in certain towns.
26. Appointment, etc., by selectmen if town so votes.
27. Appointment by county commissioners.
28. Assistant assessors. Powers and duties.
29. Oath of office.
30. Penalty for false valuation.

SECT.

BOARD OF PUBLIC WELFARE.

31. Vote authorizing selectmen to act as board of public welfare.
32. Agent.
- 32A. Designating school physician as agent in certain towns.
33. Organization of board.
34. Records.
- 34A. [Repealed.]

TREASURER AND COLLECTOR.

35. Treasurer. Bond. Duties.
36. Prosecution of certain actions on behalf of town.
37. Collection of taxes by treasurer.
38. Collector may be given powers of treasurer.
- 38A. Collection by collector of accounts due to city, etc.
39. Constable collector of taxes, when.
40. Temporary treasurer or collector.
41. Oath to pay rolls and bills required.
42. Contents of pay roll.
43. Penalty.

SINKING FUND COMMISSIONERS.

44. Appointment. Terms. Treasurer and secretary.

COMMISSIONERS OF TRUST FUNDS.

45. Appointment of commissioners.
46. Duties of town treasurer.
47. Duties of commissioners.

AUDITOR.

48. Term of office in cities.
49. Vacancy in town.
50. Powers and duties.
51. Notice to creditor of amount payable.
52. Approval of bills.
53. Auditing of public trusts.
54. Notice to auditor of payment to treasurer.
- 54A. Annual notification as to receipts by auditor, etc., to assessors.

ACCOUNTANT.

55. Appointment and qualifications.
56. Warrants for expenditures.
57. Shall keep books of account.
58. Notice to town officers of condition of their appropriations.
59. Annual estimates to be furnished to accountant.

SECT.	SECT.
60. Table of estimated appropriations.	CONSTABLES.
61. Annual report.	91. Appointment and removal in cities.
TEMPORARY AUDITOR, TREASURER, COLLECTOR OF TAXES, ACCOUNTANT AND CLERK OF A TOWN AND TEMPORARY HEADS OF CITY DEPARTMENTS.	91A. Appointment of constables in towns.
61A. Temporary auditor, treasurer, etc. Appointment, term, duties.	92. Service of civil process.
OFFICERS IN CHARGE OF ROADS, SEWERS AND WATER WORKS.	93. Remedy on bond.
62. Duties of highway surveyor.	94. Powers and duties.
63. Road commissioners and sewer commissioners.	95. Jurisdiction outside town limits.
64. Road commissioners. Powers and duties.	POLICE OFFICERS.
65. Sewer commissioners. Powers and duties.	96. Appointment and tenure of office.
66. Superintendent of streets. Appointment and term.	97. Police departments of certain towns.
67. One superintendent for two or more towns.	98. Powers and duties of police officers.
68. Duties of superintendent of streets.	99. Service in other places on requisition.
69. Superintendent of water or sewer department.	100. Indemnification of police officers, firemen and certain persons assisting police officers.
PLANNING BOARD.	100A. Indemnification of officers or employees for damages, etc., incurred on account of injuries arising out of their operation of publicly owned motor vehicles.
70. Appointment and duties.	101. Commissioner of public safety.
71. Annual reports.	INSPECTOR OF HEALTH.
72. Ordinances and by-laws.	102. Appointment and duties.
BOARD OF SURVEY.	102A. Appointment of school physician as inspector of health in certain towns.
73. Appointment and terms.	PURCHASING AGENT.
74. Filing of plans by private persons.	103. Duties and salary.
75. Preparation of plans by board.	104. Acceptance of preceding section.
76. Substitution of new plans.	TRUSTEES OF SOLDIERS' MEMORIALS.
77. Construction of ways not in accordance with plans forbidden.	105. Duties and manner of selection.
78. Plans not to be recorded unless approved by board.	TOWNSHIP WARDEN.
79. Monuments and marks.	106. Appointment.
80. Establishment of exterior lines.	TOWN PHYSICIAN.
81. Damages.	106A. Appointment of school physician as town physician in certain towns.
ART COMMISSION.	TERM OF OFFICE AND COMPENSATION OF TOWN OFFICERS.
82. Acceptance of statute.	107. Oath of office. Time of entering upon duties.
83. Appointment and removal.	108. Compensation.
84. Approval of municipal buildings and works of art in public places.	109. Resignation. Effect of removal from town.
WEIGHERS, MEASURERS AND SURVEYORS OF COMMODITIES.	109A. Surety company bonds.
85. Appointment, qualification and term of office.	HOLIDAYS AND VACATIONS.
86. Duties and obligations.	110. Half holidays to employees.
87. Not to affect weighers of particular commodities.	111. Vacations of laborers.
88. Weighers of fish.	111A. Vacations for members of regular or permanent police and fire forces in towns.
89. Deputy weighers.	
90. Penalty for violating oath of office.	

<p>SECT.</p> <p>EMPLOYMENT OF VETERANS.</p> <p>112. Employment of veterans in labor service.</p> <p>DISTRICT OFFICERS.</p> <p>113. District may vote to use official ballots. Certain districts to be subject to laws relative to such ballots.</p>	<p>SECT.</p> <p>114. Election laws to apply.</p> <p>115. Filing of nomination papers, etc.</p> <p>116. Duties of prudential committee and clerk.</p> <p>117. Town to provide polling place, ballot box, etc.</p> <p>118. State secretary to supply blank forms, tally sheets, etc.</p> <p>119. Time of holding election and meeting, etc.</p>
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ELECTION OF TOWN OFFICERS.

1 SECTION 1. Every town at its annual meeting shall in every year
 2 when the term of office of any incumbent expires, and except when other
 3 provision is made by law, choose by ballot from its inhabitants the follow-
 4 ing town officers for the following terms of office:

Officers to be elected.
 1785, 52, § 1;
 75, § 2
 1826, 143, § 5.

<p>R. S. 15, § 33; 19, § 16; 23, § 10. 1857, 270, §§ 1, 2, 4. 1859, 204. G. S. 18, § 31; 38, §§ 16, 21. 1871, 158. 1874, 389. 1877, 186. 1878, 235. 1879, 223, § 4. P. S. 27, § 78; 44, §§ 21, 26.</p>	<p>1886, 150; 295, § 1. 1888, 221, § 1. 1893, 304, § 1; 417, § 266. 1894, 16; 218; 473, § 1. 1895, 374, § 1; 506, §§ 2, 3. 1896, 190, § 1; 319. 1898, 548, §§ 331, 332, 334 1899, 330, § 1. 1901, 482. R. L. 11, §§ 334-336, 338. 1907, 560, §§ 362-364, 366, 456.</p>	<p>1911, 222. 1913, 835, §§ 400, 403, 405, 503 1918, 257, §§ 151, 152; 291, § 26. 1919, 5. 1920, 2; 591, §§ 33, 35. 1923, 66. 1925, 178. 1931, 394, § 111. 202 Mass. 127. Op. A. G. (1918) 115.</p>
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- 5 A town clerk for the term of one or more years.
- 6 A town treasurer for the term of one or three years.
- 7 One or more collectors of taxes for the term of one or three years, unless
- 8 the town votes otherwise or votes to authorize its treasurer to act as
- 9 collector.
- 10 Three or five selectmen for the term of one or three years. 168 Mass. 562.
- 11 Three or five assessors for the term of three years. 6 Met 497.
206 Mass. 380.
- 217 Mass. 520.
- 12 Three or five members of the board of public welfare for the term of one
- 13 or three years unless the town votes to authorize its selectmen to act as
- 14 such board.
- 15 One or three auditors for the term of one year, unless a town accountant 203 Mass. 539.
- 16 is appointed.
- 17 One or more highway surveyors for the term of one or three years; or
- 18 A road commissioner for the term of one year; or 15 Gray, 486.
115 Mass. 431.
- 19 Three road commissioners for terms of three years, as the town may
- 20 vote.
- 21 A sewer commissioner for the term of one year; or
- 22 Three sewer commissioners for the terms of three years if the town has
- 23 provided for such officers, unless the town by vote authorizes its road
- 24 commissioners to act as sewer commissioners.
- 25 A tree warden for the term of one year. 207 Mass. 460.
- 26 One or more constables, unless the town by vote provides that they
- 27 shall be appointed.
- 28 Three, five, six, seven or nine members of the school committee for
- 29 terms of three years.
- 30 Three or more assistant assessors, if the town so votes, for the term of
- 31 three years.
- 32 Three members of the board of health for the term of three years if the
- 33 town provides for such board, otherwise the selectmen shall act as a board
- 34 of health.

All other town officers shall be appointed by the selectmen unless other provision is made by law or by vote of the town. 35 36

Women shall be eligible to all town offices, notwithstanding any special law to the contrary. 37 38

In any case where three or more members of a board are to be elected for terms of more than one year, as nearly one third as may be shall be elected annually. 39 40 41

New board of officers. Increase or decrease in membership of board.
 1878, 255.
 P. S. 27,
 §§ 61-69, 73.
 1893, 417,
 §§ 267-270.
 1895, 374, § 2.
 1898, 548,
 §§ 333, 335, 336.
 R. L. 11,
 §§ 337, 339, 340.
 1907, 560,
 §§ 365, 367, 368,
 456.
 1913, 835,
 §§ 401, 406, 407,
 503.
 1920, 591,
 §§ 33, 35; 633.
 185 Mass. 85,
 221 Mass. 223.

SECTION 2. Where the town elects a new board or officer to perform the duties of an existing board or officer, the office of such existing board or officer shall terminate upon the qualification of the new board or officer. Where official ballots are used, the establishment of a new board or office, or the fixing of the term of office of town officers where such term is optional, or the increase or reduction of the number of members of a board, shall be determined at a meeting held at least thirty days before the annual meeting. In towns not using official ballots the matter may be determined by vote at the annual meeting. Such vote shall continue in effect until rescinded. If a town votes to increase the number of members of any board, such increase shall be made by adding one or more to each class, to hold office according to the tenure of the class to which they are severally chosen, as will within three years effect it, and such vote to increase shall remain in force until the increase under it is accomplished. If a town votes to diminish the number of members of any board, such diminution shall be made by choosing annually such number as will within three years effect it, and a vote to diminish shall remain in force until the diminution under it is accomplished. If a town votes to reduce a board of three members to a single officer, such vote shall take effect at the following annual town meeting, and upon the election and qualification of such officer the term of said board shall terminate; provided, that in towns where official ballots are used, unless the vote thus passed is more than thirty days prior to the annual town meeting, it shall not take effect until the succeeding annual town meeting. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

Officers of cities.
 R. S. 2, § 6,
 ch. 17.
 G. S. 19, § 2.
 P. S. 28, § 2.
 1882, 164.
 R. L. 26, § 2.
 1920, 633.

SECTION 3. Officers of cities shall have the powers and be subject to the liabilities of the corresponding town officers, if no other provisions are made relative to them. Women shall be eligible to city offices to the same extent as to town offices, notwithstanding any special law or charter to the contrary. 1 2 3 4 5

103 Mass. 443.

219 Mass. 580.

1 Op. A. G. 463.

Penalty for not choosing selectmen or assessors.
 1699-1700,
 26, § 5.
 1785, 50, § 3.

SECTION 4. A town which does not choose selectmen or assessors shall forfeit such amount, not less than one hundred nor more than five hundred dollars, as the county commissioners of the county where the town is situated may order. 1 2 3 4

R. S. 15, § 35.
 G. S. 18, § 34.

P. S. 27, § 82.
 1893, 423, § 38.

R. L. 25, § 96.

Appointment by town boards of their members to other town offices, etc.
 1929, 36.

SECTION 4A. Except as otherwise expressly provided, a town board may, if authorized by vote of the town, appoint any member thereof to another town office or position for the term provided by law, if any, otherwise for a term not exceeding one year. The salary of any such appointee shall be fixed by vote of the town, notwithstanding the provisions of section one hundred and eight. In this section, the word "town" shall not include city. 1 2 3 4 5 6 7

1 SECTION 5. The voting list shall be used and the name of every
 2 person voting shall be checked thereon, in the election of all town officers
 3 whose election is by law required to be by ballot, and in voting upon
 4 the question of granting licenses for the sale of certain non-intoxicating
 5 beverages, as defined in section one of chapter one hundred and thirty-
 6 eight; but in the election of other town officers, the meeting shall deter-
 7 mine whether the voting list shall be used.

1907, 560, §§ 372, 456,
 1913, 835, §§ 412, 503.

12 Pick. 485.
 103 Mass. 543.

111 Mass. 256.

Voting list,
 1874, 376, § 23.
 P. S. 7, § 9.
 1890, 123,
 § 216.
 1893, 417,
 § 275.
 1898, 548,
 § 340.
 R. L. 11, § 344.

1 SECTION 6. A town may, at a town meeting, vote that official ballots
 2 as defined in section one of chapter fifty shall thereafter be used therein;
 3 and may, at the annual town meeting or at a meeting held at least thirty
 4 days before the annual town meeting, by a two thirds vote rescind such
 5 action. In town elections at which official ballots are used, nominations
 6 for town officers elected by ballot shall be made, ballots and other ap-
 7 paratus therefor provided, and elections of such officers conducted, in
 8 accordance with chapters fifty to fifty-six, inclusive, so far as applicable.

Towns may
 provide for
 use of official
 ballots.
 1860, 386, § 1.
 1893, 87, § 17.
 § 293.
 1898, 548,
 § 360.
 R. L. 11, § 364.
 1907, 560,
 §§ 392, 456.
 1913, 835,
 §§ 432, 503.

1 SECTION 7. If a town votes that official ballots shall be used for the
 2 election of town officers, it shall at the same meeting determine what
 3 officers, in addition to those required to be elected by ballot, shall there-
 4 after be chosen by official ballot, and determine the number and terms
 5 of office, if not already fixed. No change shall thereafter be made in the
 6 officers to be chosen by official ballot, or in the number or terms of office
 7 thereof, except at a meeting held at least thirty days before the annual
 8 meeting at which such change is to become operative.

Determination
 of officers to be
 chosen by
 official ballot.
 1890, 386, § 2.
 1891, 10, § 1.
 1893, 417,
 § 294.
 1898, 548,
 § 361.
 R. L. 11, § 365.
 1907, 560,
 §§ 393, 456.

1913, 835, §§ 433, 503.

1 SECTION 8. At any meeting for the choice of town officers in a town
 2 not using official ballots, no ballots shall be received by the moderator
 3 unless presented for deposit in the ballot box, open and unfolded, by the
 4 voter in person, and so that the moderator can know that only one ballot
 5 is presented. No moderator or other election officer shall, before the
 6 polls are closed, read, examine, or permit to be read or examined, the
 7 names contained upon any ballot.

Deposit of
 ballots
 1798, 31, § 3.
 1811, 9, § 3.
 R. S. 4, § 4;
 15, § 31.
 1830, 42, § 4.
 G. S. 7, § 12;
 18, § 30.
 P. S. 7, § 12;
 27, § 63.

1890, 423, §§ 221, 224.
 1893, 417, § 280.
 1898, 548, § 345.

R. L. 11, § 349.
 1907, 560, §§ 377, 456.

1913, 835, §§ 417, 503.
 23 Pick. 308.

1 SECTION 9. If the town clerk, selectmen, assessors, treasurer, col-
 2 lector of taxes and school committee are voted for on one ballot, the
 3 moderator shall cause all such ballots, when canvassed and counted, and
 4 record thereof has been made, publicly to be enclosed in envelopes, which
 5 shall be sealed and endorsed, and certified in the manner required by sec-
 6 tion one hundred and seven of chapter fifty-four.

Sealing of
 ballots.
 1893, 417,
 § 276.
 1898, 548,
 § 341.
 R. L. 11, § 345.
 1907, 560,
 §§ 373, 456.

1913, 835, §§ 413, 503.

1 SECTION 10. If there is a failure at an election to choose a town
 2 officer, or if a person chosen shall not accept such office, or if a vacancy
 3 shall occur, the town may at any meeting elect a person to such office.
 4 If, at an election of town officers for which official ballots are used,
 5 there is a failure to elect a town officer, he may be elected at an adjourned
 6 or succeeding meeting; and ballots shall be prepared and furnished for

Failure to
 elect, and
 vacancies
 1783, 75, § 4.
 R. S. 15, § 42.
 1855, § 8.
 G. S. 18, § 43.
 1864, 174.
 P. S. 27, § 93.
 1890, 386, § 15.

1891, 336.
 §§ 1, 2.
 1893, 417.
 §§ 284, 292.
 1898, 548.
 §§ 351, 359.
 R. L. 11.
 §§ 355, 363.

such meeting, containing the nominations already made and such as may 7
 subsequently be made for the office. 8

The proceedings in such election and the qualifications of a person to 9
 be elected or appointed in case of failure to elect, refusal to accept or 10
 vacancy shall be the same as in an original election. 11

1907, 560, §§ 383, 1913, 835, §§ 423, 1918, 291, § 30.
 391, 456. 431, 503. 1920, 561, § 33.

Appointment to fill vacancy.
 1864, 174.
 P. S. 27, § 86.
 1891, 336, § 1.
 1893, 417, § 290.
 1898, 548, § 357.
 R. L. 11, § 361.
 1907, 560, §§ 380, 456.
 1913, 835, § 429, 503.
 1918, 291, § 31.

SECTION 11. If there is a failure to elect, or if a vacancy occurs in any 1
 town office, other than the offices of selectmen, town clerk, treasurer, 2
 collector of taxes or auditor, the selectmen shall in writing appoint a 3
 person to fill such vacancy. If there is a vacancy in a board consisting of 4
 two or more members, the remaining members shall give written notice 5
 thereof to the selectmen, who, with the remaining member or members of 6
 such board shall, after one week's notice, fill such vacancy by ballot. A 7
 majority of the ballots of the officers entitled to vote shall be necessary 8
 to such election. The person so appointed or elected shall perform the 9
 duties of the office until the next annual meeting or until another is 10
 qualified. 11

CLERK.

Term of office in cities.
 1901, 332.
 R. L. 26, § 15.
 225 Mass. 372.

SECTION 12. In cities which accepted chapter three hundred and 1
 thirty-two of the acts of nineteen hundred and one, the term of office of 2
 the city clerk shall be three years from the date of his election or appoint- 3
 ment, except that in cities required to elect a city clerk in December his 4
 term shall be three years from the beginning of the next municipal year. 5
 In either case the clerk shall serve until the qualification of his successor 6
 unless sooner removed; and a person appointed to fill a vacancy in the 7
 office of city clerk shall hold the office until the end of the unexpired term 8
 of his predecessor. 9

To give bond to town.
 1888, 320, § 1, 3.
 R. L. 102, § 134.
 1910, 319.
 1918, 291, § 10, 21.
 1931, 94.
 259 Mass. 310.

SECTION 13. Every town clerk shall, within ten days after his quali- 1
 fication and thereafter, at intervals of not more than one year, so long as 2
 he continues to hold said office, give bond to the town for the faithful 3
 performance of his duties, in such sum as the selectmen shall approve. 4
 If he does not give bond as herein required the selectmen may declare the 5
 office vacant and fill the vacancy in the manner prescribed in the follow- 6
 ing section. 7

Temporary clerk.
 1829, 54.
 R. S. 15, §§ 49-51.
 G. S. 48, §§ 47, 48.
 P. S. 27, §§ 97, 98.
 1890, 423, § 164.
 1893, 417, §§ 117, 285.
 1898, 548, §§ 181, 352.
 R. L. 11, §§ 184, 356.
 1907, 560, §§ 213, 384, 456.
 1913, 835, §§ 239, 424, 503.
 1918, 257, § 155.
 1919, 5.
 1920, 2.

SECTION 14. If the office of city clerk is vacant, or if a city clerk is 1
 unable to perform the duties required by chapters fifty to fifty-six, in- 2
 clusive, the mayor shall appoint a temporary clerk to perform such duties. 3
 If at a town meeting the office of town clerk is vacant, or if the town clerk 4
 is absent, the meeting shall elect by ballot a temporary clerk. The select- 5
 men, or in their absence three persons chosen at the meeting in such 6
 manner as the voters present shall determine, shall receive and count the 7
 votes and declare the election of such clerk. If in case of a vacancy other 8
 duties than those required of a town clerk at a town meeting are to be 9
 performed, or if he is unable to perform such duties, the selectmen may 10
 in writing under their hands appoint a clerk for the performance thereof, 11
 who shall be sworn and shall, in the performance of such duties, have the 12
 same powers and be subject to the same requirements and penalties as 13
 the town clerk, and he shall immediately make a record of his election or 14
 appointment. 15

1 SECTION 15. The town clerk shall record all votes passed at town
 2 meetings held during his term of office. He shall administer the oaths of
 3 office to all town officers who apply to him to be sworn, and shall make a
 4 record thereof and of the oaths of office taken before justices of the peace
 5 of which certificates are filed. He shall, immediately after every annual
 6 election of town officers, transmit to the state secretary, on blanks to be
 7 furnished by him, a complete list of all town officers elected and qualified
 8 and shall promptly report to the secretary any changes in such officers.
 9 He shall, except in the county of Suffolk, within seven days after the
 10 qualification of a constable make return of his name to the clerk of the
 11 courts and to the sheriff of the county. He shall make and keep an index
 12 of instruments entered with him required by law to be recorded, which
 13 shall be divided into five columns, with appropriate headings for record-
 14 ing the date of reception, the names of parties and the book and page on
 15 which each instrument is recorded. It shall be open to public inspection.

Duties of clerk,
 1692-3, 28, § 1,
 1756-7, 26, § 3,
 1785, 75, § 23,
 R. S. 15, §§ 11,
 45,
 G. S. 18, §§ 45,
 46,
 P. S. 27, §§ 95,
 96,
 1885, 190,
 1889, 384,
 1893, 423,
 §§ 2, 3,
 R. L. 25, §§ 59,
 60, 63, 64,
 1920, 591, § 16,
 1924, 109,
 13 Pick. 305,
 3 Allen, 409,
 110 Mass. 214,
 117 Mass. 469,
 125 Mass. 553,
 135 Mass. 553,
 138 Mass. 214,
 139 Mass. 384,
 228 Mass. 205.

1 SECTION 15A. City and town clerks shall, as soon as an order or vote
 2 appropriating money becomes effective, certify, in a city to the treasurer,
 3 assessors and auditor or similar officer, and in a town to the assessors
 4 and the town accountant, if any, otherwise to the treasurer, each appro-
 5 priation in detail, and the provision made for meeting the same, if speci-
 6 fied in the appropriation order or vote.

Certification of
 appropriation
 orders.
 1922, 86,
 1923, 17.

1 SECTION 16. A justice of the peace administering the oath of office
 2 to any town officer shall, within seven days thereafter, return to the
 3 town clerk a certificate thereof.

Return of
 certificate of
 oath.
 1756-7, 26, § 3,
 R. L. 25, § 61.

1 SECTION 17. Every officer of a city who makes or executes a contract
 2 on behalf of the city shall furnish said contract or a copy thereof to the
 3 city clerk within one week after its execution; and the city clerk shall
 4 keep such contract or copy on file, open to public inspection during
 5 business hours. Such contracts or copies shall be kept in a book by
 6 themselves or in several books, arranged according to the subject of the
 7 contract, or in other convenient form, and an index to the subject matter
 8 of the contracts and to the names of the contractors shall be made semi-
 9 annually, and shall also be open to public inspection in some convenient
 10 form. All allowances under and additions to such contracts, or copies
 11 thereof, shall be filed with the city clerk, together with a sworn state-
 12 ment of the officer making such allowances or additions that the same
 13 are correct and in accordance with the contract. A city clerk or other
 14 city officer failing to comply with this section shall be punished by a
 15 fine of not less than ten nor more than one hundred dollars.

Copies of city
 contracts.
 1907, 343,
 1909, 201.

1 SECTION 18. A city may by ordinance establish the office of assistant
 2 city clerk, and prescribe the manner of his appointment and his powers
 3 and duties. His certificate or attestation shall have the same effect as
 4 that of the city clerk.

Assistant
 city clerk.
 1869, 72,
 P. S. 28, § 10,
 R. L. 26, § 16,
 203 Mass. 539.

1 SECTION 19. The town clerk may in writing appoint an assistant
 2 clerk, who shall be sworn to the faithful performance of his duties;
 3 and a record shall be made of the appointment and oath. The assistant
 4 town clerk may, in the absence of the clerk, perform his duties and
 5 have the powers and be subject to the requirements and penalties
 6 applicable to him, unless a temporary clerk is elected or appointed

Assistant,
 town clerk.
 1829, 54,
 §§ 2, 3,
 R. S. 15, §§ 50,
 51,
 G. S. 18, § 48,
 P. S. 27, § 98,
 1893, 60; 417,
 § 285; 423, § 4
 1895, 142.

R. L. 25, § 62.
1918, 291, § 11.
1920, 633.

pursuant to section fourteen. The assistant clerk shall not receive a salary from the town, but his compensation, if any, shall be paid by the clerk, to whom all fees received by the assistant shall be paid.

SELECTMEN.

Duties and oaths.
1699-1700,
26, § 4.
1785, 50, §§ 1,
2; 75, § 2.
R. S. 15,
§§ 52-54.
G. S. 18,
§§ 49, 50.
1879, 157, § 1.
P. S. 27,
§§ 92, 100, 101.
1893, 423,
§§ 6, 8, 9.

SECTION 20. Selectmen shall, upon the receipt and approval of the bond of a collector of taxes or treasurer, give written notice thereof to the assessors. The selectmen shall be assessors of taxes and the board of public welfare in towns which have not authorized the election of such officers; and before acting as assessors they shall take the oath required of assessors. A person elected a selectman who enters upon the performance of his duties before taking the oath of office shall forfeit not more than one hundred dollars.

R. L. 25, §§ 65-67.

1931, 394, § 112.

145 Mass. 50.

Vote authorizing selectmen to act as of appoint other officers.
1920, 591,
§§ 36, 46, 47.
1921, 130.
1931, 394, § 113.

SECTION 21. Ten per cent of the registered voters in any town may file a petition with the selectmen thirty days or more before the annual town meeting asking that the selectmen act as a water and sewer board, water commissioners, water and municipal light commissioners, municipal light board, sewer commissioners, park commissioners, board of health, assessors or board of public welfare, or perform the duties of such boards or officers or any of them, or that cemetery commissioners, assessors, a superintendent of streets, a chief of the police and fire departments or a tree warden be thereafter appointed by the selectmen. The selectmen shall thereupon direct the town clerk to cause the question whether the petition shall be granted to be printed upon the official ballot used for the election of town officers at the next annual election in substantially the following form:

Shall the town vote to have its selectmen act as ?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

Shall the town vote to have its selectmen appoint ?

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

If the vote is in the affirmative it shall be valid and binding and the town shall, at the next annual meeting, unless the selectmen are then so elected, provide for their election for three year terms in the manner provided in section one. Upon the election and qualification of the selectmen at such next annual meeting, and upon the appointment and qualification by oath of the officers herein authorized to perform the duties of any existing town board or officer, the term of office of such existing board or officer shall thereupon terminate, and all the duties, powers and obligations of said boards and officers shall be transferred to and imposed upon their successors; and if the town votes to have a superintendent of streets appointed, the office of highway surveyor or road commissioner shall terminate.

Term of office and salary of appointees.
1920, 591, § 44.

SECTION 22. Officers appointed by authority of a vote under the preceding section shall hold office until removed by the selectmen, and shall receive such salary as the selectmen may determine, subject to the appropriations of the town therefor; and any vacancies existing in any of said offices under the supervision and control of the selectmen shall be filled in the manner of an original appointment.

1 SECTION 23. A town may, after a vote under section twenty-one has
 2 been in effect therein for a period of not less than three years, by a vote
 3 at a meeting held at least thirty days before the annual town meeting,
 4 rescind such action in whole or in part, and thereupon said town shall, at
 5 the next town meeting, nominate and elect such officers as are necessary
 6 to carry out the duties exercised in accordance with section twenty-one
 7 by the board of selectmen or officers appointed by them. Such officers,
 8 when to be elected for three year terms, if members of a board of three or
 9 more, shall be nominated and elected for one, two or three years re-
 10 spectively, and thereafter for the term of three years, and upon their
 11 election and qualification shall have all the duties and obligations im-
 12 posed upon them by law.

Rescission of
 vote.
 1920, 591, § 45.

ASSESSORS.

1 SECTION 24. Each assessor in every city or town except Boston shall
 2 be elected or appointed to hold office for three years, or until his successor
 3 is duly elected or appointed.
 4 There shall be three, five, seven or nine assessors in each city, and as
 5 nearly one third of the number as may be shall be elected or appointed
 6 annually.

Term and
 number to be
 chosen.
 1907, 579.
 1913, 835,
 §§ 408, 503.
 1920, 591, § 34
 201 Mass. 107
 206 Mass. 129.

1 SECTION 24A. If in the case of any city there is no provision of law
 2 for the election or appointment of assistant assessors and, in the judg-
 3 ment of the assessors, assistant assessors are necessary, or if, in the judg-
 4 ment of the assessors, the provisions of law with regard to the election or
 5 appointment of assistant assessors in any city, or action taken thereunder,
 6 have not provided in any year for a sufficient number of assistant asses-
 7 sors, the mayor subject to confirmation by the city council, or the asses-
 8 sors, as the city council may determine, may appoint as assistant assessors
 9 such number of registered voters of the city as the appointing authority
 10 may deem necessary. Such appointments shall expire at the end of the
 11 year in which they are made; provided, that if an assistant assessor is
 12 nominated in any year by the mayor but fails of confirmation, the city
 13 council may designate one of the assistant assessors who served in the
 14 preceding year to serve in his stead during the then current year until a
 15 successor is nominated and confirmed as aforesaid.

Election, etc.,
 of assistant
 assessors in
 cities.
 1921, 208.
 1928, 287.

1 SECTION 25. In towns which accept this section or have accepted
 2 corresponding provisions of earlier laws, the selectmen shall appoint
 3 suitable citizens of the town assessors and assistant assessors for a term
 4 of not more than three years, and may remove them at any time for
 5 cause after a hearing. Upon the qualification of persons so appointed
 6 the term of existing assessors or assistant assessors of such town shall
 7 terminate.

Appointment,
 etc., by
 selectmen in
 certain towns.
 1920, 591,
 §§ 31, 32.

1 SECTION 25A. In towns which accept this section the assessors may
 2 appoint and remove citizens of the town as assistant assessors, who shall,
 3 subject to the supervision of the assessors, act as assistant assessors of
 4 the town and shall have all necessary powers therefor. In this section,
 5 the word towns shall not include cities.

Appointment,
 etc., of assist-
 ant assessors
 by assessors in
 certain towns.
 1921, 14.

1 SECTION 26. If a town votes under section twenty-one to have its
 2 selectmen appoint a board of assessors, the selectmen shall thereupon
 3 appoint three or five suitable persons as assessors and may appoint one

Appointment,
 etc., by select-
 men if town
 so votes.
 1920, 591, § 37.

or more assistant assessors, who, subject to the supervision of the selectmen, shall act as assessors and assistant assessors of the town and shall have all necessary powers therefor.

Appointment by county commissioners.
1785, 50, § 3.
R. S. 15, § 36, 37.
G. S. 18, § 36.
P. S. 27, § 84.
1893, 417, § 287.
1898, 548, § 554.
R. L. 11, § 358.

SECTION 27. If assessors, or selectmen acting as such, shall in any year fail to perform their duties, the county commissioners may appoint three or more inhabitants of the county to be assessors for such town, who shall be sworn, shall hold office until the offices of assessors are filled by the town, and shall receive from the town the compensation of assessors.

1907, 560, §§ 386, 456.

1913, 835, §§ 426, 503.

Assistant assessors.
Powers and duties.
1899, 127.
R. S. 15, § 56.
G. S. 18, § 52.
P. S. 27, § 103.
1893, 423, § 11.
R. L. 25, § 70.

SECTION 28. Assistant assessors shall, in their respective districts, assist the assessors in making lists of persons liable to be assessed for poll taxes in such districts, in publishing and transmitting lists of persons so assessed, in estimating the value of the real and personal estate in such districts, and in the performance of such other duties as the assessors require.

Oath of office.
1699-1700, 26, § 1, 2.
1785, 50, § 1.
1809, 127.
R. S. 15, § 55-57.
G. S. 18, § 51-53.
P. S. 27, § 102-104.
1885, 355, § 1, 2.
1893, 423, § 10.
R. L. 25, § 68.
206 Mass. 380.

SECTION 29. Any person chosen to assess taxes or to determine or to assist in determining the value of property for the purpose of taxation shall, before entering upon the performance of his duties, take the following oath:

I, having been chosen to assess taxes and estimate the value of property for the purpose of taxation for the town (or city) of _____ for the year (or years) ensuing, do swear that I will truly and impartially, according to my best skill and judgment, assess and apportion all such taxes as I may during that time assess; that I will neither overvalue nor undervalue any property subject to taxation, and that I will faithfully perform all the duties of said office.

If he neglects to take such oath before entering upon the performance of his duties, he shall forfeit not more than fifty dollars.

Penalty for false valuation.
1885, 335, § 3.
R. L. 25, § 69.
1909, 517, § 3.
233 Mass. 190.

SECTION 30. Any person chosen to determine the valuation of property for the purpose of taxation who, in order that the taxpayers may escape payment of their just proportion of any state or county tax or in order to evade any law limiting municipal indebtedness or the rate of taxation to a percentage of valuation or for any other fraudulent or corrupt purpose, knowingly fixes the valuation of any property at a smaller or greater amount than its full and fair cash value, or who causes an abatement to be made otherwise than is provided by law, shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than six months, or both.

BOARD OF PUBLIC WELFARE.

Vote authorizing selectmen to act as board of public welfare.
1785, 75, § 2.
1893, 417, § 274.
1898, 548, § 339.
R. L. 11, § 343.
1907, 560, § 371, 456.
1913, 835, § 411, 503.

SECTION 31. A town which chooses the members of its board of public welfare for one year may, instead of electing such members, provide by vote that the selectmen shall act also as such board. Such vote shall, in any town using official ballots, be passed at a meeting held at least thirty days before the annual meeting at which such selectmen are to be chosen, and thereafter the selectmen shall continue to act as such board until the town rescinds such action by a vote passed at a meeting held at least thirty days before the annual meeting.

1920, 591, §§ 33, 35.

1931, 426, § 156.

1 Op. A. G. 617.

1 SECTION 32. If a town votes under section twenty-one to have its
 2 selectmen act as the board of public welfare, they may appoint an agent
 3 who shall assist the selectmen in the performance of their duties as such
 4 board.

Agent.
 1920, 591, § 39.
 1931, 426, § 156.

1 SECTION 32A. In any town of not exceeding three thousand inhabit-
 2 ants which votes under section twenty-one to have its selectmen act as
 3 the board of public welfare and which accepts this section by vote in
 4 town meeting, the selectmen, instead of appointing an agent under
 5 section thirty-two, may designate the school physician to act as such
 6 agent. Such designation shall not bar the school physician from the
 7 general practice of his profession.

Designating
 school phy-
 sician as agent
 in certain
 towns.
 1925, 303, § 2.
 1931, 426, § 156.

1 SECTION 33. The board of public welfare shall, within seven days
 2 after the annual town election, choose a chairman, and a secretary who
 3 need not be one of its members.

Organization
 of board.
 1877, 186, § 3.

P. S. 27, § 71. R. L. 25, § 71. 1931, 426, § 156. 195 Mass. 173.

1 SECTION 34. The board of public welfare shall keep books so arranged
 2 as to readily furnish information required by law relative to all needy
 3 persons aided by them, and all further information as to relief applied
 4 for, whether given or refused, the preservation of which may be of im-
 5 portance to the town or to the commonwealth, stating the amount and
 6 kind of aid given and the reasons for giving or refusing it.

Records.
 1877, 186, § 4.
 P. S. 27, § 92.
 1893, 423, § 12.
 R. L. 25, § 71.
 1931, 426, § 156.
 145 Mass. 535.

1 SECTION 34A. [INSERTED, 1923, 26; REPEALED, 1931, 426, § 156.]

TREASURER AND COLLECTOR.

1 SECTION 35. The town treasurer shall give bond annually for the
 2 faithful performance of his duties in a form approved by the commis-
 3 sioner of corporations and taxation and in such sum, not less than the
 4 amount established by the said commissioner, as shall be fixed by the
 5 selectmen or mayor and aldermen, shall receive and take charge of all
 6 money belonging to the town, and pay over and account for the same
 7 according to the order of the town or of its authorized officers. No other
 8 person shall pay any bill of any department. He shall have the author-
 9 ity given to an auditor by section fifty-one, and shall annually render a
 10 true account of all his receipts and disbursements and a report of his
 11 official acts.

Treasurer.
 Bond.
 Duties.
 1699-1700, 12.
 R. S. 15,
 §§ 58, 64.
 G. S. 18,
 §§ 54, 59.
 P. S. 27,
 §§ 105, 110.
 1893, 423, § 13.
 1899, 394,
 §§ 3, 4.
 R. L. 25, § 72.
 1920, 591, § 6.
 1926, 65, § 1.
 6 Cush. 229.
 12 Cush. 112.

109 Mass. 214. 209 Mass. 126. 250 Mass. 559.
 206 Mass. 129. 232 Mass. 341. 259 Mass. 310.

1 SECTION 36. He may in his own name and official capacity prosecute
 2 actions upon bonds, notes or other securities given to him or to his prede-
 3 cessors in office; and unless otherwise provided, he or the chief or super-
 4 intendent of police or other police officer of the town may prosecute for
 5 trespasses committed in or on any public building or enclosure belonging
 6 to or within the town. If a public building or enclosure is owned in
 7 part by the town and in part by the county, such prosecution may be
 8 instituted by the treasurer of either the town or the county.

Prosecution
 of certain
 actions on
 behalf of town.
 1715-16,
 14, § 2.
 1785, 28, § 1.
 1797, 14.
 R. S. 14, § 54;
 15, §§ 59, 62,
 63.
 1854, 87, 419.

G. S. 18, §§ 55, 56; 1893, 423, §§ 14, 15. 111 Mass. 407.
 19, § 15. R. L. 25, §§ 73, 74; 153 Mass. 211.
 1870, 227. 26, § 39. 157 Mass. 407.
 P. S. 27, §§ 106, 107; 1904, 277. 183 Mass. 491.
 28, § 26.

Collection of taxes by treasurer. 1815, 130, § 1. 1817, 69. R. S. 15, §§ 60, 61. G. S. 18, §§ 57, 58. P. S. 27, §§ 108, 109. 1893, 423, § 16. R. L. 25, § 75. S. Met. 102.

SECTION 37. A town treasurer acting as collector of taxes may appoint deputies, who shall give bond to the satisfaction of the selectmen for the faithful performance of their duties; and such collector and deputies shall have the powers of collectors of taxes. A treasurer acting as collector may issue his warrant to the sheriff of the county or his deputy, or to any constable of the town, directing them to distrain the property or take the body of any person delinquent in the payment of taxes, and may proceed in the same manner as collectors.

99 Mass. 472.

100 Mass. 172.

259 Mass. 310.

Collector may be given powers of treasurer. 1850, 57.

SECTION 38. A town may authorize its collector of taxes to use all means of collecting taxes which a town treasurer may use when appointed a collector of taxes.

G. S. 18, § 73.
P. S. 27, § 125.
1893, 423, § 19.

R. L. 25, § 78.
99 Mass. 472.

100 Mass. 172.
145 Mass. 50.

Collection by collector of accounts due to city, etc. 1924, 16. 1926, 269, § 3.

SECTION 38A. A city or town may by ordinance or by-law, notwithstanding any charter provision, provide that the collector of taxes shall collect, under the title of city or town collector, all accounts due the city or town, and may in like manner define his powers and duties in relation to the collection of such accounts. This section shall not apply to the collection of interest on investments of sinking or trust funds. All bills for accounts due the city or town shall state that all checks, drafts or money orders shall be made payable to or to the order of the city or town and not to or to the order of any officer, board or commission.

Constable collector of taxes, when. 1699-1700, 26, § 10.

SECTION 39. If a person appointed to collect taxes in a town refuses to serve, or if no person is elected or appointed a collector of taxes, the constables of the town shall be the collectors of taxes.

1785, 70, § 1.
R. S. 15, § 78.
G. S. 18, § 71.

P. S. 27, § 123.
1893, 423, § 17.

R. L. 25, § 76.
6 Gray, 387.

Temporary treasurer or collector. 1818, 43. G. S. 18, § 42. 1865, 234. P. S. 27, §§ 90, 91. 1893, 417, § 288. 1898, 548, § 355. R. L. 11, § 359. 1907, 560, § 387, 456.

SECTION 40. If the office of treasurer or collector of taxes is vacant, or if the treasurer or collector is unable to perform his duties, the selectmen may in writing appoint a temporary treasurer or collector, who shall be sworn, give bond in like manner as the treasurer or collector chosen by the town, and hold such office until another is qualified or the disability is removed. If a treasurer or collector does not, within ten days after his election or appointment, give bond, the selectmen may declare the office vacant and appoint another.

1913, 835, §§ 427, 503.
4 Gray, 250.

140 Mass. 386.
259 Mass. 310.

Oath to pay rolls and bills required. 1913, 520, § 1; 825. 1918, 23.

SECTION 41. No treasurer or other fiscal officer of any city other than Boston shall pay any salary or compensation to any person in the service or employment of the city unless the pay roll, bill or account for such salary or compensation shall be sworn to by the head of the department or the person immediately responsible for the appointment, employment, promotion or transfer of the persons named therein, or, in case of the absence or disability of the head of the department or of such person, then by a person designated by the head of the department and approved by the mayor. A city council, board of aldermen, common council, commission, committee or board of trustees may for the purposes of this section designate any one of its members to make oath to a pay roll, bill or account for salary or compensation of its members or employees, but

13 this provision shall not limit the responsibility of each member of any
 14 such body in the event of a non-compliance with this section.

1 SECTION 42. Every such pay roll, bill or account shall contain the
 2 following information: First, full name of each employee; second, title
 3 of his office, or specific nature of the labor which he was originally en-
 4 gaged to perform; third, kind of work in which he has actually been en-
 5 gaged since the submission of the last previous pay roll; fourth, salary,
 6 wages or other compensation; fifth, dates of employment.

Contents of
 pay roll.
 1913, 520, § 2.

1 SECTION 43. Each appointing, employing or other officer, who wil-
 2 fully refuses or neglects to comply with any provision of the two preced-
 3 ing sections shall be punished by a fine of not less than twenty-five nor
 4 more than one hundred dollars.

Penalty.
 1913, 520, § 3.

SINKING FUND COMMISSIONERS.

1 SECTION 44. A city or town having a sinking fund as provided in
 2 section forty-seven of chapter forty-four shall elect each year for terms
 3 of three years the number of sinking fund commissioners equal to the
 4 number whose term then expires. In towns they shall be elected by
 5 ballot at town meeting, and in cities by concurrent vote of both branches
 6 of the city council. In case of a vacancy the remaining member or mem-
 7 bers shall exercise the powers of the board until the vacancy is filled.
 8 The city or town treasurer shall not be eligible as a commissioner, and
 9 the acceptance by a commissioner of the office of treasurer shall render
 10 his former office vacant. The foregoing provisions as to the mode of
 11 electing commissioners shall not apply to boards of sinking fund com-
 12 missioners which were established before the thirteenth day of June in
 13 the year eighteen hundred and seventy-five. The commissioners shall
 14 choose a treasurer, who may be the city or town treasurer; and if the
 15 city or town treasurer is chosen his bond shall apply to and include duties
 16 performed as treasurer of the sinking fund. If any other person is chosen
 17 treasurer he shall give a bond, with sureties, to the satisfaction of the com-
 18 missioners, for the proper performance of his official duties. The com-
 19 missioners may also choose a secretary.

Appointment.
 Towns.
 Treasurer and
 secretary.
 1875, 209, § 5.
 P. S. 29, § 10.
 R. L. 27, § 14.
 1913, 719, § 13.

COMMISSIONERS OF TRUST FUNDS.

1 SECTION 45. Any city or town, except Boston, may create a board
 2 of commissioners of trust funds, consisting of three persons who shall have
 3 the management of all trust funds given or bequeathed for the benefit of
 4 the town or the inhabitants thereof, unless the donor in making the gift
 5 or bequest shall otherwise provide. In cities the commissioners shall be
 6 appointed by the mayor and confirmed by the council. In towns they
 7 shall be elected in the same manner as other town officers. At the time of
 8 creating said board there shall be appointed or elected one member for
 9 one year, one member for two years, and one member for three years;
 10 and there shall be appointed or elected annually thereafter one member
 11 for three years. Vacancies shall be filled by the mayor, with the approval
 12 of the council, or by the selectmen.

Appointment of
 commis-
 sioners
 1907, 576,
 § 104.
 1915, 282,
 §§ 1, 6.

1 SECTION 46. The town treasurer shall be the custodian of all funds
 2 and securities of such trust funds, and shall invest and reinvest them,
 3 and expend therefrom moneys as directed by the commissioners. The

Duties of
 town treasurer.
 1915, 282, § 2.
 259 Mass. 310.

treasurer shall furnish a bond satisfactory to them for the faithful performance of his duties. 4 5

Duties of commissioners. 1915, 282, § 3.

SECTION 47. The said board of commissioners shall, so far as consistent with the terms of the trusts, manage and control the same, and distribute the income in accordance with the terms of the respective trusts. The board shall keep a record of its doings, and at the close of each financial year shall make a report to the town, showing the total amount of the funds, and their investments, receipts and disbursements on account of the same, setting forth in detail the sources of the receipts and the purposes of the expenditures. 1 2 3 4 5 6 7 8

AUDITOR.

Term of office in cities. 1905, 373, 203 Mass. 530.

SECTION 48. In cities which accepted chapter three hundred and seventy-three of the acts of nineteen hundred and five, the auditor shall hold office for three years from the date of his election or appointment and until his successor is qualified, unless sooner removed. A person chosen to fill a vacancy shall hold the office until the end of the unexpired term of his predecessor. 1 2 3 4 5 6

Vacancy in town. 1890, 254, 1895, 417, § 289, 1898, 548, § 356.

SECTION 49. If the office of an auditor in a town is vacant, the remaining auditors, if any, may perform the duties thereof and may appoint a person to aid them. If there is no remaining auditor, the selectmen shall appoint an auditor to serve until another is qualified. 1 2 3 4

R. L. 11, § 360.

1907, 560, §§ 388, 456.

1913, 835, §§ 428, 503.

Powers and duties 1886, 295, 1888, 221, 1893, 423, § 20, R. L. 25, § 79, 1924, 33, § 1, 203 Mass. 539, 270 Mass. 185.

SECTION 50. The auditors of a town shall examine the books and accounts of all its officers and committees intrusted with the receipt, custody or expenditure of money, and all original bills and vouchers on which money has been or may be paid from its treasury. They shall have free access to such books, accounts, bills and vouchers as often as once a month for the purpose of examination, and shall examine the same at least once in each year, and annually report in writing the result of their examinations. They shall, at least once in each year, verify the cash balance of each of such officers and committees by actual count of the cash and by reconciliation of bank balances, and shall insert in their annual report their certificate under oath of the facts so found. 1 2 3 4 5 6 7 8 9 10 11

Notice to creditor of amount payable. 1890, 394, § 3, 4, R. L. 25, § 80, 270 Mass. 185.

SECTION 51. An auditor may notify a person to whom money is due from the town that a certain designated amount, which may be either the whole or a part of the money so due, is payable to him upon application to an officer named in the notice, and, unless payment is refused upon such application, no interest shall accrue on said designated amount after the giving of the notice. A part payment authorized by this section shall not affect a right of tender, lien or other provision of law for the recovery of the amount of the debt, or interest or costs thereon, remaining due; but if the part payment is more than the debt as finally determined, the excess, without interest, shall be repaid to the town. 1 2 3 4 5 6 7 8 9 10 11

Approval of bills. 1913, 669, § 1, 2, 270 Mass. 185.

SECTION 52. All accounts rendered to or kept in the departments of any city shall be subject to the inspection of the city auditor or officer having similar duties, and in towns they shall be subject to the inspec- 1 2 3

4 tion of the selectmen. The auditor or officer having similar duties, or
 5 the selectmen, may require any person presenting for settlement an
 6 account or claim against the city or town to make oath before him or
 7 them, in such form as he or they may prescribe, as to the accuracy of
 8 such account or claim. The wilful making of a false oath shall be pun-
 9 ishable as perjury. The auditor or officer having similar duties in cities,
 10 and the selectmen in towns, shall approve the payment of all bills or
 11 pay rolls of all departments before they are paid by the treasurer, and
 12 may disallow and refuse to approve for payment, in whole or in part,
 13 any claim as fraudulent, unlawful or excessive; and in that case the
 14 auditor or officer having similar duties, or the selectmen, shall file with
 15 the city or town treasurer a written statement of the reasons for the
 16 refusal; and the treasurer shall not pay any claim or bill so disallowed.
 17 This section shall not abridge the powers conferred on town accountants
 18 by sections fifty-five to sixty-one, inclusive.

1 SECTION 53. Town auditors shall at least once every year, and so
 2 much oftener as they deem necessary, audit the accounts of the trustees
 3 of any property the principal or income of which, in whole or in part,
 4 was bequeathed or given in trust for public uses for the benefit of the
 5 town or any part thereof, or for the benefit of the inhabitants of the
 6 town or of any part thereof, and examine and estimate the funds, secur-
 7 ities and evidences of property held by such trustees. Said trustees
 8 shall give said auditors free access to their accounts, funds, securities
 9 and evidences of property; and any such trustee refusing to exhibit the
 10 same shall be punished by a fine of not less than fifty nor more than two
 11 hundred dollars. Town auditors shall include in their annual reports
 12 a report of such auditing and investigation; and if they discover any
 13 fraud or irregularity they shall immediately report the same to the
 14 mayor and city treasurer or to the selectmen and town treasurer. They
 15 shall, at least once in each year, verify the cash balance of such trustees
 16 by actual count of the cash and by reconciliation of bank balances, and
 17 shall insert in their annual report their certificate under oath of the
 18 facts so found.

Auditing of
 public trusts.
 1904, 322.
 1924, 35, § 2.
 270 Mass. 185.

1 SECTION 54. Whenever any officer of the commonwealth, or of a
 2 county, city or town, makes a payment of public money to the treasurer
 3 of a city or town in the commonwealth, he shall furnish at the same time
 4 to the auditor of such city or town, or to the town accountant, if there is
 5 no auditor, a written statement of the amount of the payment, and the
 6 date and purpose thereof.

Notice to
 auditor of
 payment to
 treasurer.
 1912, 357.
 270 Mass. 185.

1 SECTION 54A. The auditor or similar officer in cities and the town
 2 accountant, if any, otherwise the town treasurer in towns, shall notify
 3 the assessors, not later than May first in each year, of the total receipts of
 4 the preceding financial year, except from taxes, loans and trust funds, and
 5 shall specify in detail the source of such receipts.

Annual noti-
 fication as to
 receipts by
 auditor, etc.,
 to assessors.
 1922, 135.

ACCOUNTANT.

1 SECTION 55. Any town may authorize the selectmen to appoint a
 2 town accountant, who shall perform the duties and possess the powers of
 3 town auditors as defined in sections fifty to fifty-three, inclusive. In
 4 towns so authorizing the appointment of a town accountant the office of

Appointment
 and qualifi-
 cations.
 1910, 624, § 1.
 1916, 252.
 1921, 486, § 8.

town auditor may, if the town so vote, be abolished. In towns which have accepted chapter thirty-one or corresponding provisions of earlier laws, the appointment of the town accountant shall be subject to the civil service rules. The town accountant shall be sworn to the faithful performance of his duties, shall hold no other town office involving the receipt or disbursement of money, and shall hold office for three years and until his successor is qualified; provided, that the town clerk, if he holds no other office involving the receipt or disbursement of money, may be appointed town accountant.

Warrants for expenditures. 1910, 624, § 2. 1922, 84.

SECTION 56. The selectmen and all boards, committees, heads of departments and officers authorized to expend money shall approve and transmit to the town accountant as often as once each month all bills, drafts and orders chargeable to the respective appropriations of which they have the expenditure. The town accountant shall examine all such bills, drafts or orders, and, if found correct and approved as herein provided, shall draw a warrant upon the treasurer for the payment of the same, and the treasurer shall pay no money from the treasury except upon such warrant approved by the selectmen.

Shall keep books of account. 1910, 624, § 3. 1919, 350, §§ 52, 54.

SECTION 57. The town accountant shall keep a complete set of books wherein shall be entered the amount of each specific appropriation, the amounts and purposes of expenditures made therefrom, the receipts from each source of income, the amount of each assessment levied, and the abatements made; and he shall keep his accounts, so far as practicable, in conformity with the classifications and forms prescribed by the director of accounts in accordance with section forty-three of chapter forty-four. The town accountant shall have custody of all contracts of the town, shall keep a register of the sureties on all bonds of indemnity given to the town, shall keep a detailed record of the town debt, showing the purpose for which it was incurred, when incurred, when due, the rate of interest and the provisions made for the payment of the debt.

Notice to town officers of condition of their appropriations. 1910, 624, § 4.

SECTION 58. Whenever any appropriation shall have been expended or whenever, in the judgment of the town accountant, it appears that the liabilities incurred against any appropriation may be in excess of the unexpended balance thereof, he shall immediately notify the selectmen and the board, committee, head of department or officer authorized to make expenditures therefrom, and no claim against such appropriation shall be allowed nor any further liability incurred until the town makes provision for its payment. The town accountant shall, at regular intervals and as often at least as once each month, send to the selectmen and to each board, committee, head of department or officer having the disbursement of an appropriation a statement of the amount of orders approved and warrants drawn on behalf of said board, department or officer during the preceding month, and a statement of the balance of such appropriation remaining subject to draft. Each head of a department, board or committee authorized to expend money shall furnish the town accountant, at the close of the financial year, a list of bills remaining unpaid, showing to whom and for what due, and their amounts; and the town accountant shall incorporate the same in his annual report covering the financial transactions of the town, as provided by section sixty-one.

1 SECTION 59. The selectmen and all boards, committees, heads of
 2 departments or other officers of a town authorized by law to expend
 3 money shall furnish to the town accountant, not less than ten days
 4 before the end of the town financial year, detailed estimates of the
 5 amounts necessary for the proper maintenance of the departments
 6 under their jurisdiction for the ensuing year, with explanatory state-
 7 ments as to any changes from the amounts appropriated for the same
 8 purposes in the preceding year, and an estimate of amounts necessary
 9 for outlays or permanent improvements. They shall also prepare esti-
 10 mates of any income likely to be received by the town during the ensuing
 11 year in connection with the town's business or property intrusted to their
 12 care. The selectmen shall include in their estimates the salaries and
 13 expenses connected with their own office, and the salaries of all other
 14 town officers shall be included in the estimates for the office, department
 15 or branch of the public service of which they are in charge. The treasurer
 16 shall, in addition to his estimate of the amount required for the mainte-
 17 nance of his own office, prepare a separate statement indicating the
 18 amounts required for the payment of interest on the town debt and for
 19 the payment of such portions of the town debt as may become due during
 20 the succeeding year.

Annual estimates to be furnished to accountant. 1910, 624, § 5.

1 SECTION 60. The town accountant shall immediately upon the close
 2 of the financial year compile statements in tabulated form showing the
 3 amounts appropriated and the amounts expended from each appropria-
 4 tion during the preceding year, and the estimates for the current year,
 5 and shall forthwith furnish a copy thereof to the selectmen, or to such
 6 committee as the town may appoint to consider and report on proposed
 7 appropriations. The selectmen, or said committee when so appointed,
 8 shall after due consideration designate the amounts which in their
 9 opinion should be appropriated for the ensuing year, and shall accom-
 10 pany the same with such explanations and suggestions in relation thereto
 11 as they may deem desirable for the proper information of the inhabit-
 12 ants. The selectmen shall print and distribute this document at or
 13 before the annual town meeting, and the town clerk shall transmit a
 14 copy thereof and of all town reports to the director of accounts.

Table of estimated appropriations. 1910, 624, § 6. 1911, 207. 1919, 350, §§ 52, 54.

1 SECTION 61. The town accountant shall make an annual report,
 2 to be published as a town document, giving a statement of all receipts
 3 and expenditures of the town for the past financial year, including
 4 those of funds managed by trustees or commissioners for the town and
 5 showing also the amount of each specific appropriation, the expenditures
 6 therefrom, and the purpose for which money has been spent; and said
 7 statement shall be arranged in accordance with the classifications pre-
 8 scribed by the director of accounts. Such report shall contain a state-
 9 ment of any change in the amount of the town debt during the year
 10 and a list of indebtedness incurred and unpaid at the end of the financial
 11 year.

Annual report. 1910, 624, § 7. 1919, 350, §§ 52, 54.

TEMPORARY AUDITOR, TREASURER, COLLECTOR OF TAXES, ACCOUNTANT AND CLERK OF A TOWN AND TEMPORARY HEADS OF CITY DEPARTMENTS.

1 SECTION 61A. In case of the incapacity, death or resignation of a
 2 city auditor, city treasurer, city collector of taxes or any other officer

Temporary auditor, treasurer, etc.

Appointment.
term, duties.
1928, 207.
1930, 172.

having charge of a city department, or of a town treasurer, town collector 3
of taxes, town accountant, town clerk or of the auditor in a town having 4
only one, the mayor, without confirmation by the city council, or the 5
selectmen, as the case may be, shall appoint a temporary officer to serve 6
until a successor to such incapacitated, deceased or resigned officer is 7
duly appointed or elected in accordance with law or, in case such an 8
incapacitated officer sooner recovers from such incapacity, until his 9
return to duty, but no such temporary officer shall in any event be 10
appointed hereunder to serve for a period longer than sixty days. Any 11
temporary officer so appointed shall during the time he fills the position 12
to which he is appointed under this section exercise all the powers and 13
perform all the duties of the officer in whose place he serves. The pro- 14
visions of this section shall apply notwithstanding any provision of a 15
city charter to the contrary. 16

OFFICERS IN CHARGE OF ROADS, SEWERS AND WATER WORKS.

Duties of
highway
surveyor.
1786, §1, § 2.
1796, 58, § 4.
R. S. 25, § 7.
G. S. 44, § 6.
P. S. 52, § 1.
1895, 374, § 1.
R. L. 25,
§ 51; 54, § 4.

SECTION 62. If a highway surveyor be chosen, he shall have the 1
exclusive control of the ordinary repair of public ways in his town with- 2
out being subject to the authority of the selectmen. If more than one 3
highway surveyor be chosen, the selectmen shall annually, before May 4
first, assign to each surveyor the limits and divisions of the ways to be 5
kept in repair by him. 6

1917, 344, IV, §§ 10, 11, VIII, § 1.

262 Mass. 214.

Road commis-
sioners and
sewer commis-
sioners.
1871, 158, § 1.
P. S. 27, § 74.
1893, 417,
§ 271.
1898, 548,
§ 337.
R. L. 11, § 341.
1907, 560,
§ 369, 456.
1913, 835,
§ 409, 503.
1918, 257,
§ 153.
1919, 5.
1920, 2.

SECTION 63. A town may at an annual meeting if official ballots 1
are not used, otherwise at a meeting held at least thirty days before 2
the annual meeting, vote to elect in the following manner three road 3
commissioners or three sewer commissioners, or both. 4

It shall, at the annual meeting when such vote is passed or at the 5
annual meeting next succeeding the meeting at which the vote was 6
passed, elect one for one year, one for two years and one for three years; 7
and at each annual meeting thereafter it shall elect one for three years. 8
A town which has voted to elect said officers as herein provided may 9
in like manner rescind such action; and thereupon, if at an annual 10
meeting, the offices of road commissioners or sewer commissioners or 11
both shall be abolished. If such vote is taken at a meeting held at 12
least thirty days before the annual meeting, such abolition shall take 13
effect at the next annual meeting. Upon the election of road commis- 14
sioners as herein provided, the office of highway surveyor shall be 15
abolished. 16

Road
commissioners.
Powers and
duties.
1871, 158, § 2.
1873, 51.
P. S. 27, § 75.
1893, 423, § 23.
R. L. 25, § 83.
1917, 344, IV,
§ 12, VIII, § 1.

SECTION 64. If road commissioners be chosen, they shall exclusively 1
have the powers, perform the duties and be subject to the liabilities 2
and penalties of selectmen and surveyors of highways relative to public 3
ways, monuments at the termini and angles thereof, guide posts, side- 4
walks and shade trees, and, if sewer commissioners be not chosen, rela- 5
tive to sewers and drains. 6

128 Mass. 570.
146 Mass. 43.

164 Mass. 263.
174 Mass. 430.

268 Mass. 185.

Sewer
commissioners.
Powers and
duties.
1863, 304, § 2;
423, § 24.
R. L. 25, § 84.

SECTION 65. If sewer commissioners be chosen, they shall, as to 1
sewers and drains, exclusively have the powers, perform the duties 2
and be subject to the liabilities and penalties of selectmen and road 3
commissioners. 4

1 SECTION 66. In a town which has not authorized the election of
 2 road commissioners or surveyors of highways, the selectmen shall, as
 3 soon after the annual town meeting as may be, appoint in writing a
 4 superintendent of streets, who shall receive such compensation as they
 5 or the town determine and shall be removable by them when the public
 6 interest requires. He shall be sworn to the faithful performance of his
 7 duties, and shall hold office until the next annual town meeting or until
 8 his successor is qualified.

223 Mass. 485.

229 Mass. 563.

240 Mass. 118.

262 Mass. 127.

Superintendent
of streets
Appointment
and term.
1889, 98, §§ 1,
4-6; 178,
1893, 423, § 25.
1894, 17
R. L. 25, § 85,
1917, 344, IV,
§ 13; VIII, § 1.
188 Mass. 301
205 Mass. 493.

1 SECTION 67. The selectmen of two or more towns may unitedly,
 2 subject to the approval of the department of public works, appoint and
 3 fix the compensation of a superintendent of streets who shall exercise the
 4 same powers and duties and be otherwise subject to the same provisions
 5 of law as if appointed in each of such towns. His compensation shall be
 6 paid by said towns in such proportions as the selectmen may unitedly
 7 determine.

One superin-
tendent for
two or more
towns.
1917, 24; 344,
IV, § 13.
1919, 350,
§§ 111, 113.
1931, 394, § 6.
262 Mass. 127.

1 SECTION 68. The superintendent of streets shall, under the direction
 2 of the selectmen, have full charge of all repairs and labor upon public
 3 ways and sidewalks, and, if no other provision is made, of repairs upon
 4 sewers and drains; and in relation to such matters he shall have the
 5 powers, perform the duties and be subject to the liabilities and penalties
 6 of surveyors of highways and road commissioners.

Duties of
superintendent
of streets.
1889, 98,
§§ 2, 3.
1893, 423, § 26.
1899, 330, § 1.
R. L. 25, § 86.
1917, 344, IV,
§ 14, VIII, § 1.

188 Mass. 301.
205 Mass. 493.

223 Mass. 485.
229 Mass. 563.

261 Mass. 407.
262 Mass. 127.

1 SECTION 69. If a town votes under section twenty-one to have its
 2 selectmen act as water and sewer boards, water commissioners or sewer
 3 commissioners, the selectmen may appoint a suitable person to act as
 4 superintendent of the water or sewer department or designate the super-
 5 intendent of streets so to act if the town has voted to have its selectmen
 6 appoint such officer, who, subject to the control of the selectmen, shall
 7 have all necessary powers therefor.

Superintend-
ent of water
or sewer de-
partment.
1920, 591, § 40.

PLANNING BOARD.

1 SECTION 70. Every city and every town having a population of
 2 more than ten thousand at the last preceding national or state census
 3 shall, and towns having a population of less than ten thousand may,
 4 create a planning board, which shall make careful studies of the resourees,
 5 possibilities and needs of the town, particularly with respect to conditions
 6 injurious to the public health or otherwise in and about rented dwellings,
 7 and make plans for the development of the municipality, with special
 8 reference to proper housing of its inhabitants. In cities the said board
 9 shall be appointed by the mayor, subject to confirmation by the council,
 10 and in towns shall be elected at the annual town meeting.

Appointment
and duties.
1913, 494, § 1.
1914, 283, § 1.
4 Op. A. G. 153.

1 SECTION 71. Every planning board shall make a report annually to
 2 the city council or to the annual town meeting, giving information regard-
 3 ing the condition of the town and any plans or proposals for its develop-
 4 ment and estimates of the cost thereof. Every such planning board shall
 5 file with the department of public welfare a copy of each report made by
 6 it.

Annual
reports.
1913, 494, § 2.
1919, 350, § 87.

Ordinances
and by-laws.
1913, 494, § 4.
1915, 165.

SECTION 72. Cities and towns may make ordinances and by-laws for carrying out the purposes of section seventy, and they may appropriate money therefor. The planning board of a town may be authorized by vote of the town to act as park commissioners therein, and may be vested with all the powers and duties of park commissioners in towns.

BOARD OF SURVEY.

Appointment
and terms.
1907, 191.
§§ 1, 9.
1916, 190,
§§ 1, 9.

SECTION 73. In cities which accept this section by vote of the city council or have accepted corresponding provisions of earlier laws, the mayor, with the approval of the city council, may in January in any year appoint three inhabitants thereof to be a board of survey. Of the members first appointed one shall serve for one year, one for two years, and one for three years from the first day of the following February, and thereafter, in January of each year, one member of said board shall be appointed to serve for three years from the first day of February after his appointment, or until his successor is qualified. If a vacancy occurs a member shall be appointed in the manner provided herein to serve for the remainder of the term. The city engineer shall act as clerk of the board. The compensation of the members of the board shall be fixed by the city council. In towns which accept this section or have accepted corresponding provisions of earlier laws, the selectmen shall constitute a board of survey.

Filing of
plans by
private persons.
1907, 191, § 2.
1916, 190, § 2.

SECTION 74. After the establishment of a board of survey no person shall open a private way for public use without first submitting to said board suitable plans thereof in accordance with such rules and regulations as the board may prescribe. In cities such plans shall be so prepared as to show the profiles of such way and the method of drainage of the adjacent or contiguous territory. Upon the receipt of said plans, with a petition for their approval, the board shall give a public hearing thereon, after giving notice of the same by publication once in each of two successive weeks in a newspaper published in the city or town, the last publication to be at least two days before the hearing; and after the hearing, the board may alter such plans, and may determine where such ways shall be located and the width and grades thereof, and shall indicate any modifications on said plans. The plans as approved or modified by the board shall then be signed by the board, and in cities shall be filed in the office of the city engineer, and in towns in the office of the town clerk; and the officer with whom they are filed shall attest thereon the date of filing; and thereafter no way in the territory to which the plans relate shall be laid out or constructed except in accordance therewith, or with further plans subsequently approved by the board.

Preparation
of plans by
board.
1907, 191, § 3.
1916, 190, § 3.

SECTION 75. The board of survey may, and in cities, upon the vote of the planning board and the city council, shall, from time to time cause plans to be made of such territory or sections of lands in the city or town as the board of survey or the planning board may deem necessary, showing thereon the location of such ways, whether already laid out or not, as, in the opinion of the board, the interest of the public may or will require in such territory, showing clearly the direction, width and grades of each way, and in cities a plan of drainage, and

9 said board may incur such expenses as it may deem necessary therefor,
 10 not exceeding the amount appropriated for the purpose. In cities such
 11 plans shall be prepared by the city engineer, under the direction of
 12 the board. Before causing such plans to be made, the board shall give
 13 a public hearing thereon, which shall be advertised in the manner pre-
 14 scribed in the preceding section, and shall, after the making of any
 15 such plan, give a hearing thereon, advertised in like manner, and keep
 16 the plan open to public inspection for one month after the first ad-
 17 vertisement of the hearing. After the hearing, and after any altera-
 18 tions deemed necessary by said board have been made, the same shall
 19 be approved, signed, marked, filed and attested as provided in respect
 20 to the plans mentioned in the preceding section.

1 SECTION 76. The board of survey may from time to time make new
 2 plans in place of plans filed in accordance with the two preceding sec-
 3 tions, or make changes on plans so filed; provided, that any action
 4 involving new plans or changes in plans already duly attested and filed
 5 shall be made only after the notice and hearing, and in all other respects
 6 in the manner specified in section seventy-four; and the last plan so
 7 made, or the plan with the changes last made thereon and duly attested
 8 and filed, shall be the plan governing the future development of the
 9 territory affected.

Substitution
 of new plans.
 1916, 190, § 4.
 1922, 297.

1 SECTION 77. The powers of the city council or of the selectmen in
 2 regard to highways shall not be abridged by sections seventy-three to
 3 eighty-one, inclusive, in any manner, except as provided herein, and
 4 the powers conferred by said sections shall be in addition to other powers
 5 possessed by cities and towns. No public way shown on any plan filed
 6 as aforesaid shall hereafter be laid out, located anew, altered or widened,
 7 and no such way, whether already or hereafter laid out, shall be con-
 8 structed by any public authority except in accordance with the plan
 9 duly attested and recorded under said sections. If any person shall
 10 open for public travel any private way the location, direction, width,
 11 grades and in cities the plan of drainage of which have not previously
 12 been approved in writing by the board of survey in the manner provided
 13 in said sections, neither the city or town nor other public authority shall
 14 place any public sewer, drain, water pipe or light in, or do any public
 15 construction work of any kind, or make repairs, on such private way;
 16 provided, that this section shall not prevent the laying of a trunk sewer,
 17 drain, water or gas main if required by engineering necessities for the
 18 accommodation of other territory.

Construction
 of ways not in
 accordance
 with plans
 forbidden.
 1907, 191, § 4.
 1916, 190, § 5.
 1921, 486, § 9.

1 SECTION 78. No register of deeds shall record any plan showing
 2 thereon proposed ways in any town having a board of survey, unless
 3 there is endorsed thereon a certificate of said board, or other proper
 4 officer by it designated, that all laws applicable to such plan have been
 5 complied with. The clerk of each town shall notify the register of
 6 deeds of the district where such town is situated of the acceptance by
 7 such town of section seventy-three or corresponding provisions of earlier
 8 laws, or of any special act establishing a board of survey therein, and
 9 also the name of the officer designated by said board to approve plans
 10 hereunder.

Plans not to be
 recorded unless
 approved by
 board.
 1917, 185.

Monuments and marks. 1907, 191, § 7. 1916, 190, § 7.

SECTION 79. Boards of survey, their officers and agents may, so far as they deem it necessary in carrying out sections seventy-three to eighty-one, inclusive, enter upon any lands and there make examinations and surveys, and place and maintain monuments and marks.

Establishment of exterior lines. 1907, 191, § 5. 1918, 135.

SECTION 80. A town which accepts section seventy-three or has accepted corresponding provisions of earlier laws or has accepted any special act authorizing the creation of a board of survey therein may establish, in the manner provided for the laying out of town ways, the exterior lines of any way, the plan of which is approved under section seventy-four or seventy-five or under such special act; and thereafter no structure shall be erected or maintained between the exterior lines of the way so established, except that buildings or parts of buildings existing at the time of the establishment of said lines may remain and be maintained to such extent and under such conditions as may be prescribed by the board of survey of such town. Lines established under this section may be discontinued in the manner provided for the discontinuance of a highway or a town way. This section shall not apply to cities.

Damages. 1907, 191, §§ 7, 8. 1916, 190, § 8. 1918, 135.

SECTION 81. Sections seventy-three to seventy-nine, inclusive, shall not authorize the taking of land nor authorize a town to lay out or construct any way which may be indicated on any plan until such way has been laid out as a highway; nor shall said sections render a town liable for damages except such as may be sustained under section seventy-six by reason of the making and filing of any new plan or by reason of changes made in any plan already duly attested and filed, and for such damages as may be sustained by reason of the acts of the board of survey, its officers and agents under section seventy-nine. Any person injured in his property as aforesaid or by the establishment or discontinuance of exterior lines under section eighty may recover the damages so caused under chapter seventy-nine.

ART COMMISSION.

Acceptance of statute. 1911, 146, §§ 1, 7.

SECTION 82. Cities and towns which accept this section or have accepted corresponding provisions of earlier laws may, except where their charters make special provisions therefor, establish art commissions in accordance with the two following sections. In cities such acceptance shall be by the city council and in towns at an annual town meeting.

Appointment and removal. 1911, 146, §§ 2, 6.

SECTION 83. Within sixty days after the acceptance of the preceding section, the school committee, the board of trustees of the public library and the board of park commissioners, or the members of three similar boards designated by the town at the time of such acceptance, shall each send in writing to the mayor or the selectmen the names of two citizens of the town, and the mayor or selectmen shall, as soon as may be, appoint from the persons so nominated an art commission of three members to serve without compensation, one to serve until the first day of May succeeding the appointment, one to serve until one year from said first of May, and one to serve until two years from said first of May. Thereafter, prior to the first day of April in each year, the several boards designated shall each send in writing to the mayor or selectmen the name of one citizen of the town, and the mayor or selectmen

14 shall, from the persons so nominated, appoint one member to serve for
 15 three years from the first day of May in that year or until a successor is
 16 qualified. The members so appointed may be removed in cities by a vote
 17 of two thirds of the city council and in towns by a vote of two thirds of
 18 the voters at an annual town meeting; and thereafter section eighty-two
 19 shall not apply to such city or town unless again accepted as provided
 20 therein.

1 SECTION 84. In any town which has accepted section eighty-two
 2 or corresponding provisions of earlier laws, no municipal structure
 3 shall be erected, and no work of art or ornament or object of utility,
 4 except authorized structures of public service corporations and public
 5 watering troughs or drinking fountains not constituting works of art
 6 or ornament, shall be placed on any public ways or on any public lands
 7 other than cemeteries, and no work of art or object of decoration shall
 8 be placed in or upon any public or municipal building or be removed,
 9 relocated or altered, unless the design thereof or the action to be taken
 10 therewith shall have been approved in writing by the art commission,
 11 or unless said commission shall have failed to disapprove the same in
 12 writing within thirty days after its submission. Whoever violates the
 13 provisions of this section shall be punished by a fine of not more than two
 14 hundred dollars.

Approval of
 municipal
 buildings and
 works of art
 in public
 places.
 1911, 146,
 §§ 3-5.

WEIGHERS, MEASURERS AND SURVEYORS OF COMMODITIES.

1 SECTION 85. The mayor or the selectmen, on the written request of
 2 any person engaged in buying, selling or transporting goods or com-
 3 modities which require weighing, surveying or measuring, shall appoint
 4 weighers, measurers or surveyors of such goods or commodities, who
 5 shall be sworn before entering upon their duties, shall serve for one
 6 year, and may be removed at any time by the appointing authority.
 7 At least one such weigher, measurer and surveyor in each town shall
 8 not be engaged in the business of buying, selling or transporting the
 9 goods or commodities weighed, measured or surveyed by him, but no
 10 person shall be ineligible for appointment because of sex or because of
 11 residence elsewhere than in the town where appointed, notwithstanding
 12 any provisions to the contrary in any general or special act.

Appointment,
 qualification
 and term of
 office.
 1918, 65, § 1.

1 SECTION 86. All persons appointed under the preceding section
 2 shall keep accurate records, in the form prescribed by the director of
 3 standards, of all weighings, measurements or surveys made by them,
 4 which shall at all reasonable times be open to inspection by said director
 5 and his inspectors and by the local sealer of weights and measures. If
 6 any person so appointed shall wilfully misrepresent the weight, quantity
 7 or measurements of any goods weighed, measured or surveyed by him,
 8 he shall be punished by a fine of not more than one hundred dollars.

Duties and
 obligations.
 1918, 65,
 §§ 2, 3;
 218, § 1,
 1919, 350,
 §§ 69, 77.

1 SECTION 87. The two preceding sections shall not affect the pro-
 2 visions of law for the appointment of weighers, measurers or surveyors
 3 of particular commodities.

Not to affect
 weighers of
 particular
 commodities.

1918, 65, § 4.

1 SECTION 88. The mayor of each city, and the selectmen of each
 2 town, where salt water fish are landed from vessels, shall annually
 3 appoint a public weigher of fish, to hold office for one year from the

Weighers
 of fish.
 1888, 163, § 1.
 R. L. 56, § 29.

time of his appointment and until his successor is appointed, who shall be sworn to the faithful performance of his official duties and shall give bond, with sureties, in the sum of five thousand dollars.

Deputy
weighers.
1888, 163, § 2.
R. L. 56, § 30.

SECTION 89. A public weigher of fish may appoint, subject to the approval of the mayor or the chairman of the selectmen, deputy weighers, for whose official conduct he shall be answerable, who shall be sworn, and from each of whom such weigher shall require a bond, with sureties, in the sum of one thousand dollars. The weigher and his deputies shall not be interested directly or indirectly in the buying or selling of fish.

Penalty for
violating oath
of office.
1888, 163, § 6.
R. L. 56, § 34.

SECTION 90. A weigher or any of his deputies who violates his oath of office shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit his office.

CONSTABLES.

Appointment
and removal
in cities.
1859, 294.
G. S. 19, § 3.
P. S. 28, § 8.
1898, 208.

SECTION 91. In a city in which the city council accepts this section, or has accepted corresponding provisions of earlier laws, constables shall be appointed by the mayor. The mayor may, with the consent of the board of aldermen, remove a constable from office for gross misconduct.

R. L. 26, §§ 12, 13.

Appointment
of constables
in towns.
1924, 82, § 1.

SECTION 91A. The selectmen in any town may from time to time appoint, for terms not exceeding one year, as many constables as they deem necessary.

Service of
civil process.
1845, 70, § 1.
1847, 98, § 2.
1851, 94,
§§ 1, 2.
G. S. 18, § 61.
1870, 149
1872, 268.
P. S. 27,
§§ 113, 114.
1893, 423,
§§ 27, 28,
1900, 213.
R. L. 25,
§§ 88, 89.
13 Met. 302.
2 Gray, 208.
1 Allen, 461.
8 Allen, 398.
116 Mass. 371.
120 Mass. 143.
129 Mass. 143.
159 Mass. 432.
164 Mass. 209.
172 Mass. 303.
174 Mass. 367.

SECTION 92. A constable who has given bond to the town in a sum of not less than one thousand dollars, with sureties approved by the selectmen, conditioned for the faithful performance of his duties in the service of all civil processes committed to him, and has filed the same, with the approval of the selectmen endorsed thereon, with the town clerk, may within his town serve any writ or other process in a personal action in which the damages are not laid at a greater sum than two hundred dollars, and in replevin in which the subject matter does not exceed in value two hundred dollars, and any writ or other process under chapter two hundred and thirty-nine. A constable who has filed such bond, in a sum of not less than three thousand dollars may, within his town, also serve any such writ or other process in which the damages are laid at a sum not exceeding three hundred dollars, and any process in replevin in which the subject matter does not exceed in value three hundred dollars.

175 Mass. 451.
189 Mass. 457.

191 Mass. 503.
195 Mass. 411.

217 Mass. 294.
226 Mass. 332.

Remedy on
bond.
1845, 70,
§§ 1-3.
1851, 94, § 2.
G. S. 18, § 62.
P. S. 27, § 115.
1893, 423, § 29.
R. L. 25, § 90.
10 Met. 309.
13 Gray, 384.
3 Allen, 126.
5 Allen, 409.
7 Allen, 387.
103 Mass. 280.
104 Mass. 376.

SECTION 93. The town clerk shall note upon every bond given by a constable the time of filing. Any person injured by a breach of the condition thereof may, at his own expense, sue thereon in the name of the town, and the proceedings shall be the same as in an action by a creditor on an administrator's bond. The writ shall be endorsed by him and, if he is not a resident of the commonwealth, it shall also be endorsed by a responsible resident thereof. If judgment is for the defendant, execution shall issue for costs against the endorser as if he were a plaintiff of record.

129 Mass. 62, 143.
137 Mass. 191.

138 Mass. 336.
187 Mass. 461.

195 Mass. 411.
217 Mass. 71, 294.

1 SECTION 94. Constables may serve the writs and processes described
 2 in section ninety-two and warrants and processes in criminal cases,
 3 although their town, parish, religious society or district is a party or
 4 interested. They shall have the powers of sheriffs to require aid in the
 5 execution of their duties. They shall take due notice of and prosecute
 6 all violations of law respecting the observance of the Lord's day, pro-
 7 fane swearing and gaming. They shall serve all warrants and other
 8 processes directed to them by the selectmen of their town for notifying
 9 town meetings or for other purposes. They may serve by copy, attested
 10 by them, demands, notices and citations, and their returns of service
 11 thereof shall be prima facie evidence; but this provision shall not
 12 exclude the service thereof by other persons.

1893, 423, §§ 30-34. R. L. 25, § 91. 135 Mass. 191. 151 Mass. 212.

Powers and
 duties
 C. L. 31, § 2;
 130
 1692, 3, 22, § 6;
 28, § 11.
 1711-12, 6, § 2.
 1723-6, 3.
 1783, 75, § 2.
 1791, 58, § 12.
 1793, 41, § 3;
 68, § 1.
 1798, 20, § 4;
 33, § 2.
 R. S. 15, §§ 70,
 72, 76, 77.
 G. S. 18,
 §§ 63-67.
 P. S. 27,
 §§ 116-120.

1 SECTION 95. A constable, in the execution of a warrant or writ
 2 directed to him, may convey prisoners and property in his custody
 3 under such process beyond the limits of his town, either to the justice
 4 who issued it or to the jail or house of correction of his county. If a
 5 warrant is issued against a person for an alleged crime committed within
 6 any town, any constable thereof to whom the warrant is directed may
 7 apprehend him in any place in the commonwealth.

1893, 423, §§ 35, 36. 98 Mass. 4. 164 Mass. 209.
 R. L. 25, §§ 92, 93. 137 Mass. 233. 191 Mass. 503.

Jurisdiction
 outside town
 limits.
 1725-6, 3.
 1795, 68, § 4.
 R. S. 15, § 75.
 1847, 98, § 1.
 G. S. 18,
 §§ 68, 69.
 P. S. 27,
 §§ 121, 122.

POLICE OFFICERS.

1 SECTION 96. Selectmen may appoint police officers, who shall hold
 2 office during their pleasure.

1851, 162. R. L. 25, § 94. 103 Mass. 443.
 G. S. 18, § 38. 4 Gray, 34. 165 Mass. 183.
 P. S. 27, § 85. 98 Mass. 4. 253 Mass. 400, 408.
 1893, 423, § 7. 99 Mass. 592. 256 Mass. 37.

Appointment
 and tenure of
 office.

1 SECTION 97. In towns which accept this section or have accepted
 2 corresponding provisions of earlier laws there shall be a police depart-
 3 ment established under the direction of the selectmen, who shall appoint
 4 a chief of police and such other police officers as they deem necessary, and
 5 fix their compensation in an amount not in the aggregate exceeding the
 6 annual appropriation therefor. The selectmen may make suitable regu-
 7 lations governing the police department and the officers thereof, and in
 8 towns which are not subject to provisions of chapter thirty-one to the
 9 contrary may remove the chief and other officers at pleasure. The chief
 10 of police shall be in immediate control of all town property used by the
 11 department, and of the police officers, who shall obey his orders.

Police depart-
 ments of certain
 towns.
 1920, 591,
 §§ 22, 23, 25, 26,
 253 Mass. 400,
 404,
 264 Mass. 221.

1 SECTION 98. The chief and other police officers of all cities and towns
 2 shall have all the powers and duties of constables except serving and
 3 executing civil process. They shall suppress and prevent all disturbances
 4 and disorder. They may when on duty carry such weapons as the
 5 mayor or selectmen shall determine. During the night time they may
 6 examine all persons abroad whom they have reason to suspect of unlaw-
 7 ful design, and may demand of them their business abroad and whither
 8 they are going; may disperse any assembly of three or more persons,
 9 and may enter any building to suppress a riot or breach of peace therein.
 10 Persons so suspected who do not give a satisfactory account of them-
 11 selves, persons so assembled and who do not disperse when ordered, and
 12 persons making, aiding and abetting in a riot or disturbance may be

Powers and
 duties of police
 officers.
 1851, 162.
 G. S. 18, § 38.
 P. S. 27, § 85.
 1893, 423, § 7.
 R. L. 25, § 94.
 1920, 591, § 24.
 264 Mass. 221.

arrested by the police, and may thereafter be safely kept by imprisonment or otherwise unless released in the manner provided by law, and taken before a district court or trial justice to be examined and prosecuted.

Service in other places on requisition. 1880, §2. P. S. 28, § 11. R. L. 26, § 20. 1920, 591, § 13.

SECTION 99. A mayor or selectmen may, upon the requisition of the mayor or selectmen of another city or town, provide police officers, who shall have the authority of constables and police officers within the limits of such city or town, except as to the service of civil process; and the city or town providing said officers shall be entitled to receive from such city or town the amount paid to them for their services, including their necessary traveling expenses.

Indemnification of police officers, firemen and certain persons assisting police officers. 1888, 379. 1893, 186. 1900, 220. R. L. 26, § 21. 1910, 264. 1920, 591, § 14. 1927, 157. 1929, 192.

SECTION 100. A city, town, fire or water district may indemnify a police officer, fireman or a member of the fire department or a person required to assist a police officer in the discharge of his duties, to an amount not more than the amount recommended by the board or officer authorized to appoint police officers, firemen or members of the fire department of such city, town or district, for expenses or damages sustained by him while acting as a police officer, fireman or member of the fire department or as such assistant, or incurred by him in the defence or settlement of an action brought against him for acts done by him while so acting, and such damages may include loss of pay by reason of absence from duty on the part of such officer, fireman or member because of temporary incapacity caused by injury suffered through no fault of his own while in the actual performance of duty; and, if such officer, fireman, member or person be dead, such expenses or damages shall be payable to his widow, or, if he leaves no widow, then to his next of kin who, at the time of his death, were dependent upon his wages for support. This section shall be construed to authorize a city or town to pay compensation, in the manner herein provided, for damages for personal injuries, whether or not death results, and for property damage sustained by a person while assisting a police officer thereof in the discharge of his duty upon his requirement.

Indemnification of officers or employees for damages, etc., incurred on account of injuries arising out of their operation of privately owned motor vehicles. 1931, 458, § 4.

SECTION 100A. A city which accepts this section by vote of its council subject to the provisions of its charter, or a town which accepts the same by vote of its inhabitants at an annual town meeting, may, after an appropriation has been made therefor, indemnify an officer or employee thereof for expenses or damages incurred by him in the defence or settlement of a claim against him for bodily injuries, including death at any time resulting therefrom, arising out of the operation of a motor vehicle owned by such city or town, to an amount not exceeding five thousand dollars; provided, that after investigation it shall appear to the mayor or selectmen that such officer or employee was at the time the claim arose acting within the scope of his official duties or employment, and provided, further, that the defence or settlement of such claim shall have been made by the city solicitor or the town counsel, or, if the town has no town counsel, by an attorney employed for the purpose by the selectmen, upon the request of said officer or employee and at the direction of the mayor or selectmen. This section shall not apply in respect to a claim against an officer or employee which is covered by a policy of insurance effected by the city or town under clause (1) of section five of chapter forty.

1 SECTION 101. If a town so votes under section twenty-one the select-
 2 men shall appoint a suitable person as chief of the police and fire depart-
 3 ments who may be designated as commissioner of public safety. He shall
 4 have authority, subject to the approval of the selectmen, to appoint a
 5 deputy as chief of the police and one or more deputy chiefs of the fire
 6 department. He shall have all the authority of constables and police
 7 officers in towns and also the powers and duties of fire engineers, and,
 8 subject to the approval of the selectmen, shall fix the compensation of
 9 police officers and permanent and call members of the fire department.
 10 Such compensation shall not exceed, however, in the aggregate the
 11 amount appropriated therefor by the town. The deputy chiefs of the fire
 12 department shall under him have the powers of fire engineers relative to
 13 the extinguishing of fires in the town and the protection of life and prop-
 14 erty in case of fire.

Commissioner
 of public
 safety
 1920, 591, § 41.

INSPECTOR OF HEALTH.

1 SECTION 102. If a town votes under section twenty-one to have its
 2 selectmen act as a board of health, the selectmen may appoint an inspec-
 3 tor of health, who shall assist the selectmen in the performance of their
 4 duties as such board.

Appointment
 and duties
 1920, 591, § 38.

1 SECTION 102A. In any town of not exceeding three thousand inhabit-
 2 ants which votes under section twenty-one to have its selectmen act as a
 3 board of health and which accepts this section by vote in town meeting,
 4 the selectmen may appoint the school physician to be inspector of health,
 5 with the duties set forth in section one hundred and two. Such appoint-
 6 ment shall not bar the school physician from the general practice of his
 7 profession.

Appointment
 of school
 physician as
 inspector of
 health in
 certain towns.
 1925, 303, § 3.

PURCHASING AGENT.

1 SECTION 103. A city which accepts this section in the manner pro-
 2 vided in the following section or has accepted corresponding provisions
 3 of earlier laws, or a town which accepts this section or has accepted
 4 corresponding provisions of earlier laws, may establish a purchasing
 5 department, to consist of a purchasing agent and such assistants as
 6 the city council or selectmen may determine. In cities the salaries of
 7 the purchasing agent and assistants shall be determined by the city
 8 council. In cities the agent and assistants shall be appointed by the
 9 mayor for such terms of office as may be prescribed by ordinance, and
 10 in towns they shall be appointed and may be removed by the selectmen.
 11 The purchasing agent shall purchase all supplies for the city or town
 12 and for every department thereof except in case of emergency. All
 13 purchases or contracts for purchases exceeding one hundred dollars in
 14 amount shall be based upon competition. A record shall be kept by the
 15 department of the prices paid for the supplies, and shall be open to the
 16 inspection of any citizen.

Duties and
 salary.
 1916, 223, § 1.
 1920, 591, § 30.

1 SECTION 104. A city council, with the approval of the mayor, may
 2 vote to submit the preceding section to the qualified voters of the city
 3 at any annual city election, in the form of the following question to be
 4 placed upon the official ballot: "Shall section one hundred and three of
 5 chapter forty-one of the General Laws, authorizing the estab-
 6 lishment of purchasing departments in cities, be accepted?"

YES.	<input type="checkbox"/>
NO.	<input type="checkbox"/>

 7 If a majority of the voters voting thereon shall vote in the affirmative,
 8 said section shall take effect in that city.

Acceptance
 of preceding
 section
 1916, 223, § 2.

TRUSTEES OF SOLDIERS' MEMORIALS.

Duties and manner of selection. 1919, 61, § 3. 1920, 292, § 3.

SECTION 105. Towns which accept gifts or bequests or appropriate money for the purpose of properly commemorating the services and sacrifices of the soldiers, sailors and marines who have served the country in war may provide for a board of trustees to have charge and control of the construction of any such memorial, and to have the custody and care thereof after its construction. In cities the board shall consist of the mayor, and five members appointed by him and approved by the council, two of whom shall not be veterans of any war; two members shall be appointed for one year, two for two years, and one for three years, and as the term of each member expires, a successor shall be appointed for three years. Any vacancy shall be filled in the same manner for the unexpired term. In towns the said board shall consist of the chairman of the board of selectmen, and five members elected by the town in the same manner as other town officers, two of whom shall not be veterans of any war; two members shall be elected for one year, two for two years and one for three years, and as the term of each member expires, a successor shall be elected for three years; but until such board is elected, the selectmen may appoint a temporary board to serve until the next annual town meeting. Any vacancy occurring in the town board shall be filled for the unexpired term by the remaining members. Such boards may make such rules and regulations relative to the use of said memorials as they deem necessary.

TREE WARDEN.

Appointment. 1920, 591, § 42.

SECTION 106. If a town so votes under section twenty-one, the selectmen shall appoint a tree warden.

TOWN PHYSICIAN.

Appointment of school physician as town physician in certain towns. 1925, 363, § 4.

SECTION 106A. In any town of not exceeding three thousand inhabitants which accepts this section by vote in town meeting, the selectmen may appoint the school physician to be the town physician. Such appointment shall not bar the school physician from the general practice of his profession.

TERM OF OFFICE AND COMPENSATION OF TOWN OFFICERS.

Oath of office. Time of entering upon duties. 1785, 75, § 2. R. S. 15, § 33. G. S. 18, § 31. P. S. 27, §§ 78, 79. 1803, 417, §§ 277, 278, 1808, 548, §§ 342, 343. R. L. 11, §§ 546, 547. 1907, 560, §§ 374, 375, 456. 1913, 835, §§ 414, 415, 569. 1918, 291, § 27. 1927, 18. 1929, 130.

SECTION 107. A person who is elected town clerk shall be sworn either by the moderator or by a justice of the peace, and shall enter upon the performance of his duties on the seventh day succeeding his election or as soon thereafter as he is qualified and shall hold office during the term fixed by law, which shall begin on the seventh day succeeding his election, and until another person is qualified in his stead. Every person elected to any other town office designated by name in section one, before entering upon his official duties shall be sworn to the faithful performance thereof, either by the moderator in open town meeting or by the town clerk, and, unless other provision is specifically made by law, shall enter upon the performance of his duties on the day after his election, or as soon thereafter as he is qualified, and shall hold office during the term fixed by law, which shall begin on the day after said election, and until another person is qualified in his stead.

1 SECTION 108. The salary and compensation of all elected officers of
 2 a town shall be fixed by vote of the town. Except as provided in section
 3 four A, all boards or heads of departments of a town shall fix the salary
 4 or compensation of all officers or employees appointed or employed by
 5 them, subject to the provisions of section thirty-one of chapter forty-
 6 four. A city may by ordinance prescribe that all fees, charges or com-
 7 missions allowed by law to any officer thereof shall be paid into the city
 8 treasury and belong to the city, and in such case shall pay such officer
 9 such compensation as the city council may determine.

Compensation.
 1888, 308, § 1.
 1893, 423, § 37.
 R. L. 25, § 95;
 26, § 17.
 1920, 591, § 8.
 1931, 426, § 157.
 206 Mass. 129.
 208 Mass. 51.

1 SECTION 109. A town officer may resign his office by filing a resigna-
 2 tion thereof in the office of the town clerk, and such resignation shall be
 3 effective forthwith unless a time certain is specified therein when it
 4 shall take effect. If a person removes from a town he shall thereby
 5 vacate any town office held by him.

Resignation.
 Effect of
 removal from
 town.
 P. S. 27, § 89.
 1893, 417,
 § 291.

1898, 548, § 358.
 R. L. 11, § 362.

1907, 560, §§ 390, 456.
 1913, 835, §§ 430, 503.

1918, 291, § 32.
 1 Pick. 129.

1 SECTION 109A. Every officer or employee of a city, town or district
 2 required to furnish a fidelity bond with a surety or sureties shall furnish
 3 a bond with a surety company authorized to transact business in the
 4 commonwealth, as surety. The premium on such bond shall in every
 5 case be paid by the city, town or district.

Surety com-
 pany bonds.
 1924, 404, § 9.

HOLIDAYS AND VACATIONS.

1 SECTION 110. The city council of a city may provide that the em-
 2 ployees, including laborers, mechanics and all other classes of workmen
 3 employed by the city, shall be allowed one half holiday in each week
 4 without loss of pay during such portion of the year as the city council
 5 determines. The selectmen of a town, upon the recommendation in
 6 writing of the head of any town department, may provide that the em-
 7 ployees of such department in the town, including laborers, mechanics
 8 and all other classes of workmen employed by the town, shall be allowed
 9 one half holiday in each week without loss of pay during such part of
 10 the year as the selectmen determine.

Half holidays
 to employees.
 1898, 367,
 § 1, 3.
 R. L. 25, § 99;
 26, § 22.
 1920, 591, § 12.

1 SECTION 111. In any town which accepted chapter two hundred and
 2 seventeen of the acts of nineteen hundred and fourteen, all persons classi-
 3 fied as laborers, or doing the work of laborers, regularly employed by such
 4 town, shall be granted a vacation of not less than two weeks during each
 5 year of their employment, without loss of pay. In any city which ac-
 6 cepted said chapter the city council may determine that a vacation of
 7 two weeks without loss of pay shall be granted to every person regularly
 8 employed by such city as a common laborer, skilled laborer, mechanic
 9 or craftsman. If such vacations are authorized, they shall be granted by
 10 the heads of the executive departments of the city at such times as in
 11 their opinion will cause the least interference with the performance of the
 12 regular work of the city. A person shall be deemed to be regularly em-
 13 ployed, within the meaning of this section, if he has actually worked for
 14 the city or town for thirty-two weeks in the aggregate during the preced-
 15 ing calendar year. The department of labor and industries shall enforce
 16 this section, and shall have all necessary powers therefor.

Vacations of
 laborers
 1914, 217.
 1915, 60.
 1917, 16.
 1919, 350, § 65.
 1920, 143
 1921, 486, § 10.
 1923, 346.
 1927, 131.

Vacations for members of regular or permanent police and fire forces in towns.

SECTION 111A. In any town which accepts this section, all members of its regular or permanent police or fire force may be granted a vacation of not less than two weeks during each year of their employment, without loss of pay. The provisions of this section shall not apply in cities.

1929, 206.

EMPLOYMENT OF VETERANS.

Employment of veterans in labor service. 1896, 517, § 6. R. L. 19, § 24. 1919, 150, § 3. 166 Mass. 14, 589. 170 Mass. 58. 192 Mass. 299. 193 Mass. 537.

SECTION 112. In towns in which the provisions of chapter thirty-one and the rules governing the civil service have not been applied to the labor service, the selectmen and the city councils shall take any necessary action to secure the employment of veterans in the labor service of their respective cities and towns in preference to all other persons except women.

195 Mass. 370.

DISTRICT OFFICERS.

District may vote to use official ballots. Certain districts to be subject to laws relative to such ballots. 1915, 182, §§ 1, 7.

SECTION 113. A fire, improvement or water district situated in one or more towns where official ballots are used may, at the annual meeting or at a meeting called for the purpose, vote that official ballots shall thereafter be used therein. Sections one hundred and fourteen to one hundred and nineteen, inclusive, shall apply to all such districts and to all districts which are now subject to the corresponding provisions of earlier laws; but any of said districts may, at the annual meeting or at a meeting called for the purpose at least thirty days before the annual meeting, by a two thirds vote discontinue the use of official ballots, and cease to be subject to said sections.

Election laws to apply. 1915, 182, § 1.

SECTION 114. Where official ballots are used nominations for district officers elected by ballot shall be made, ballots and other apparatus therefor provided, and the elections of such officers conducted in accordance with chapters fifty to fifty-six, inclusive, so far as applicable, except as otherwise provided in sections one hundred and fourteen to one hundred and seventeen, inclusive, of this chapter.

Filing of nomination papers, etc. 1915, 182, § 2.

SECTION 115. Every nomination paper of a candidate for office in said districts shall, before being filed, be submitted, on or before five o'clock in the afternoon of the Saturday preceding the day on which it must be filed, to the registrars of voters of the town where the district is situated, who shall forthwith certify thereon the number of signatures which are names of voters qualified to vote in the district. All nomination papers and certificates of nomination shall be filed with the clerk of the district within the time allowed by the general laws relating to filing nomination papers and certificates of nomination with the town clerk in town elections. In a district composed of parts of two or more towns the prudential committee of the district shall act as registrars of voters for the purpose of certifying the signatures on nomination papers.

Duties of prudential committee and clerk. 1915, 182, § 3.

SECTION 116. In carrying out the provisions of sections one hundred and thirteen to one hundred and nineteen, inclusive, the prudential committee of a district shall perform all the duties required to be performed by the selectmen in town elections where official ballots are used, and the clerks of said districts shall perform all the duties required to be per-

6 formed by the town clerk in elections of town officers where official ballots
7 are used.

1 SECTION 117. The town where a district is situated shall provide for
2 said district an official ballot box and other necessary election parapher-
3 nalia when they are required for use in elections in that district, but all
4 expense incurred in any election in the district shall be borne by the
5 district. In districts composed of parts of two or more towns the ballot
6 box and election paraphernalia shall be furnished by the town where the
7 election is actually held.

Town to
provide polling
place, ballot
box, etc.
1915, 182, § 4.

1 SECTION 118. Upon request of the clerk of a town wherein any such
2 district uses the official ballot, the state secretary shall supply for use of
3 such district or districts such blank forms, tally sheets and total vote
4 sheets as are supplied to towns for use in town elections.

State secretary
to supply
blank forms,
tally sheets,
etc.
1915, 182, § 5.

1 SECTION 119. Said districts may hold the meeting for the election of
2 officers and the business meeting on the same day, or they may hold the
3 election and the business meeting on different days. The election and
4 business meeting may be held in the evening; provided, that the polls
5 shall be kept open for the election of officers at least two hours.

Time of
holding
election and
meeting, etc.
1915, 182, § 6.

CHAPTER 42.

BOUNDARIES OF CITIES AND TOWNS.

SECT.

1. Seaward boundary of towns.
2. Perambulation of town lines.
3. Notice of perambulation.
4. Monuments to be erected.
5. Perambulations of towns adjoining other states.
6. Penalty.
7. Changes in boundary of contiguous towns.

SECT.

8. Plan of boundary formed by stream or highway.
9. Triangulation points to be evidence of location of lines.
10. Obliteration of monuments forbidden.
11. Penalties.
12. Determination of doubtful or disputed boundaries.

1 SECTION 1. The boundary line of towns bordering upon the sea
2 shall coincide with the marine boundary of the commonwealth as defined
3 in section three of chapter one.

Seaward
boundary of
towns.

1881, 196, § 1.
P. S. 27, § 2.

R. L. 25, § 1.
114 Mass. 214.

152 Mass. 230.
139 U. S. 240.

1 SECTION 2. The boundary lines of every town shall be perambulated
2 and run and the marks renewed, once in every five years, by two or more
3 of the selectmen of each town or by substitutes appointed by them in
4 writing, and the proceedings shall be recorded in the records of each town.

Perambulation
of town lines.
C. L. 10, § 1.
1692-3, 28, § 1.
1785, 75, § 1.
R. S. 15, § 2.
G. S. 18, § 3.

P. S. 27, § 3.
R. L. 25, § 2.

15 Pick. 44.
2 Cush. 406.

100 Mass. 58.
102 Mass. 148.

183 Mass. 189.

1 SECTION 3. Ten days before a perambulation of the boundary be-
2 tween two contiguous towns the selectmen of the older of such towns
3 shall give written notice to the selectmen of the other town of the time

Notice of
perambulation.
1692-3, 28, § 1.
1734-5, 7.
1785, 75, § 1.

R. S. 15, § 3. and place of meeting therefor; and selectmen neglecting to give such 4
 G. S. 18, § 4. notice or to attend personally or by their substitutes shall severally forfeit 5
 P. S. 27, § 4. twenty dollars. 6
 R. L. 25, § 3. 6

Monuments to be erected.

C. L. 10, § 1. SECTION 4. The selectmen of contiguous towns shall, at the joint 1
 1826, 117, § 1. and equal expense of such towns, erect permanent stone monuments at 2
 R. S. 15, § 4. every angle of their respective boundary lines and wherever a highway 3
 G. S. 18, § 5. crosses such lines, unless such monument, two feet high from the ground, 4
 1861, 84. already exists or unless such lines are bounded by the sea or by a per- 5
 P. S. 27, § 5. manent stream. The monuments shall be well set in the ground, at 6
 R. L. 25, § 4. least four feet high from its surface, and shall have the initial letters 7
 of the respective names of such towns legibly cut thereon. 8

Perambulations of towns adjoining other states.

1826, 117, § 2. SECTION 5. The selectmen of towns bordering on another state, if 1
 R. S. 15, § 6. the lines between the states have been established, shall once in every 2
 G. S. 18, § 6. five years give notice to the selectmen or other proper officers of adjoining 3
 P. S. 27, § 6. towns in the other state of their intention to perambulate such lines. 4
 R. L. 25, § 5. If such proposals are accepted, a perambulation shall be made as above 5
 provided. No bound erected by the commonwealth and an adjoining 6
 state shall be removed by such selectmen or other officers. 7

Penalty.

1826, 117, § 3. SECTION 6. A selectman who refuses or neglects to perform any 1
 R. S. 15, §§ 4-7. duty required of him by the two preceding sections shall forfeit twenty 2
 G. S. 18, § 7. dollars. 3
 P. S. 27, § 7. 3
 R. L. 25, § 6. 3

Changes in boundary of contiguous towns.

1888, 336, § 1. SECTION 7. The department of public works may, with the concur- 1
 1901, 469, § 1. rence of towns at town meetings, propose changes, by straightening or 2
 R. L. 25, § 7. otherwise, in the boundary lines of contiguous towns. Such proposed 3
 1919, 350. changes shall be submitted to the next regular session of the general 4
 § 113. court, and, if ratified and accepted by it, said department shall locate 5
 1931, 394, § 7. and define such changes by determining by triangulation the position 6
 of each angle and corner in such new boundary line; and the selectmen 7
 of such contiguous towns shall thereafter place such monuments at 8
 the new points determined, and place such marks on them, in addition 9
 to initials, as the department may prescribe and in the manner required 10
 by section four. Monuments marking angles and corners in town 11
 boundaries, the position of which has not been changed, shall be re- 12
 marked in the manner indicated by said department so as to establish a 13
 uniform system of designating the angles and corners of town boundary 14
 lines. 15

Plan of boundary formed by stream or highway.

1888, 336, § 2. SECTION 8. If the boundary line between towns is formed wholly 1
 R. L. 25, § 8. or partly by a stream or by a highway, a survey and plan of such stream 2
 1919, 350, or highway shall be made by said department, based on the triangulation 3
 § 113. common to the other town boundary lines, and the plan shall be filed 4
 1931, 394, § 8. in the office of said department. 5

Triangulation points to be evidence of location of lines.

1888, 336, § 3. SECTION 9. The triangulation points established by said department 1
 R. L. 25, § 9. shall be regarded as a part of the evidence of the location of town bound- 2
 1919, 350, § 113. ary lines, and a description of the position and marks of such points shall 3
 1931, 394, § 9. be communicated in writing by said department to the selectmen of the 4

5 TOWNS where such points are located, and shall be filed with the perambu-
6 lation records of such towns.

1 SECTION 10. No person, except as hereinafter provided, shall re-
2 move, obliterate or cover up any monument or mark designating a
3 boundary line of a town. The county commissioners of the county
4 where any such monument or mark is wholly or partly situated may
5 grant to any person making written application permission to remove,
6 cover up or obliterate the same, first making provision for preserving the
7 exact location of the original boundary or mark by causing proper wit-
8 ness marks to be set up, or other means taken, which shall, with proper
9 designation and measurement, indicate the position of the original mark
10 or monument. The commissioners shall cause a full description and
11 designation of such witness marks and monuments so made and set
12 up to be recorded in the office of the town clerk of the contiguous towns,
13 and a copy of such description to be forwarded to the state secretary.
14 This section shall not apply to monuments and marks designating
15 boundary lines of the commonwealth.

Obliteration
of monuments
forbidden.
1888, 336, § 4.
R. L. 25, § 10.
1923, 103.

1 SECTION 11. Whoever violates any provision of the preceding section,
2 or wilfully or maliciously disturbs or injures the monuments or marks
3 aforesaid, shall be punished by a fine of not more than fifty dollars or by
4 imprisonment for not more than six months.

Penalties.
1888, 336, § 5.
R. L. 25, § 11.

1 SECTION 12. If the true boundary between two or more adjacent
2 counties, cities, towns or districts is doubtful or in dispute, the land court
3 may determine the location thereof upon the petition of one or more of
4 such counties, cities, towns and districts and after such notice to all other
5 counties, cities, towns and districts interested as the court shall order,
6 and the court may make such order as to the setting of durable bounds to
7 perpetuate the lines the location of which is so determined, and as to the
8 costs and expenses of the proceedings, as law and justice may require.

Determination
of doubtful
or disputed
boundaries.
1919, 262, § 1.

CHAPTER 43.

CITY CHARTERS.

SECT.

GENERAL PROVISIONS.

1. Certain terms defined.
2. Certain cities may adopt one of the plans of government provided.
3. Legislative powers not abridged.
4. Ordinances, etc., in effect until repealed, etc.
5. Existing organization to continue until superseded.
6. Number of wards to continue until changed according to law.
7. Filing of petition calling for vote on adoption of plan.
8. Form of petition.
9. Proceedings after filing. Submission at state election.

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10. One plan only may be considered at an election.
11. Majority vote required. Election of officers.
12. Vote on other plans.
13. Four year period for plan adopted.
14. Certain officials to carry out provisions, etc.
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16. No primaries or caucuses to be held.
17. Certain officials to be sworn, time, etc.
18. Legislative powers, proceedings, city clerk, etc.
19. Information by mayor to city council, attendance at meetings, etc.
20. Ordinances, passage, etc.

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21. Amendments, etc.
22. Passage at one session.
23. Ordinances, etc., to be published.
24. Obligations, actions, legal acts, etc., to continue.
25. Civil service laws not to apply to certain employees.
26. Certain vacancies, how filled. Acting mayor.
27. Officials and employees prohibited from making or sharing in contracts. Penalty.
28. Proposals to be asked for certain contracts.
29. Mayor to approve certain contracts. Surety bond, etc.
30. Purchase or taking of land for municipal purposes.
31. School committee, number, term, etc.
32. To appoint superintendent, etc. Members not to hold other offices.
33. Powers and duties.
34. Sites, plans, etc., for school buildings.
35. Meetings to be public. Yea and nay vote.
36. May fill vacancy in their own body.
37. Initiative petition.
38. Signatures to initiative petitions. Certification. Transmission.
39. Action by city council or school committee if initiative petition is fully signed. Referendum.
40. Proceedings if petition not fully signed.
41. Ballots to state nature of measure.
42. Referendum petition.
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- 44A. Preliminary elections. Nominations.
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- 44C. Candidates for nomination, persons eligible. Statement and petition.
- 44D. List of candidates. Official ballots.
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- 44F. Candidates for election, how determined.
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- 44H. Acceptance of §§ 44A-44G, submission to voters, when.
45. Certain provisions to apply to any plan adopted.

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46. Plan A.
47. When plan takes effect.
48. Mayor, election, term, etc.
49. Party or political designations abolished.

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50. City council, number, election, etc.
51. Salaries.
52. Mayor may make appointments without confirmation.
53. Certificates of appointment.
54. Removals. Certain officers exempted.
55. Approval and veto by mayor of orders, etc.

PLAN B. — GOVERNMENT BY MAYOR AND COUNCIL ELECTED BY DISTRICTS AND AT LARGE.

56. Plan B.
57. When plan takes effect.
58. Mayor, election, term, etc.
59. City council, election, number, terms of office, etc.
60. Appointments by mayor subject to confirmation.
61. Removals, etc.
62. Salaries.
63. Approval by mayor of orders, etc.

PLAN C. — COMMISSION FORM OF GOVERNMENT.

64. Plan C.
65. When plan takes effect.
66. City council to be governing body.
67. Members to act as departmental commissioners.
68. Terms of office.
69. Organization, etc.
70. Meetings.
71. Meetings to be public. City clerk, duties, etc.
72. Powers.
73. Methods of action.
74. Mayor to be chief executive officer, etc. Acting mayor.
75. Distribution of executive powers by council. Determination of policies.
76. Heads of departments, etc., appointments and removals.
77. Records of departments to be kept.
78. Salaries.

PLAN D. — MAYOR, CITY COUNCIL AND CITY MANAGER.

79. Plan D.
80. When plan takes effect.
81. City council and mayor to be governing body.
82. Members, election, term, etc.
83. Organization, etc.
84. Time for meetings.
85. Meetings to be public. Records, etc.
86. Vacancies.
87. Mayor, powers.
88. Salaries.
89. City manager.
90. Powers and duties of city manager.
91. Appointments and removals.
92. Regulations.

GENERAL PROVISIONS.

1 SECTION 1. The following words as used in this chapter shall, unless
 2 the context otherwise requires, have the following meanings:
 3 "Officer", "officers" and "administrative officers", when used with-
 4 out further qualification or description, any person or persons in charge
 5 of any department or division of the city. The said words when used
 6 in contrast with a board or members of a board, or with division heads,
 7 shall mean any of the persons in sole charge of a department of the
 8 city.
 9 "Ordinance", a vote or order of the city council entitled "ordinance"
 10 and designed for the permanent regulation of any matter within the
 11 jurisdiction of the city council as laid down in this chapter.
 12 "Plan A", a city government and legislative body composed of the
 13 mayor and a city council, the councillors being elected at large.
 14 "Plan B", a city government and legislative body composed of a
 15 mayor and city council, the councillors being elected partly at large and
 16 partly from districts or wards of the city.
 17 "Plan C", a city government and legislative body composed of a
 18 mayor and commissioners as hereinafter specified.
 19 "Plan D", a city government and legislative body composed of a
 20 mayor and four councillors, and an administrative officer, called the
 21 city manager, whose powers and duties are defined in sections eighty-
 22 nine to ninety-two, inclusive.
 23 "Regular municipal election", the annual or biennial election of
 24 municipal officers for which provision is made in this chapter.

Certain terms defined.
 1915, 267.
 I, § 1
 1922, 237, § 1.
 222 Mass. 574.
 299 Mass. 67
 270 Mass. 185.

1 SECTION 2. Any city, except Boston, which shall adopt, in the man-
 2 ner hereinafter prescribed, one of the plans of government provided in
 3 this chapter shall thereafter be governed by the provisions thereof;
 4 and the inhabitants of such city shall continue to be a municipal cor-
 5 poration under the name existing at the time of such adoption, and shall
 6 have, exercise and enjoy all the rights, immunities, powers and privi-
 7 leges, and be subject to all the duties, liabilities and obligations provided
 8 for in this chapter, or otherwise pertaining to or incumbent upon said
 9 city as a municipal corporation.

Certain cities may adopt one of the plans of government provided.
 1915, 267,
 I, § 2.

1 SECTION 3. None of the legislative powers of a city shall be abridged
 2 or impaired by this chapter; but all such legislative powers shall be
 3 possessed and exercised by such body as shall be the legislative body of
 4 the city under this chapter.

Legislative powers not abridged.
 1915, 267,
 I, § 3
 270 Mass. 185.

1 SECTION 4. Ordinances, resolutions, orders or other regulations of
 2 a city or of any authorized body or official thereof, existing at the time
 3 when such city adopts a plan of government set forth in this chap-
 4 ter, shall continue in full force and effect until repealed, modified or
 5 superseded.

Ordinances, etc., in effect until repealed, etc.
 1915, 267,
 I, § 4
 228 Mass. 249.

242 Mass. 599.

270 Mass. 185.

1 SECTION 5. Until superseded under this chapter, the organization of
 2 the executive and administrative departments, and the powers and
 3 duties of the officers and employees of any city adopting any of the plans
 4 provided for in this chapter, and the fiscal year of such city shall remain

Existing organization to continue until superseded.
 1915, 267,
 I, § 5.

222 Mass. 574. as constituted at the time of the adoption of such plan; but the city 5
 253 Mass. 193. council or other legislative body may at any time by ordinance, con- 6
 255 Mass. 220. sistent with general laws, reorganize, consolidate or abolish departments, 7
 264 Mass. 158. in whole or in part; transfer the duties, powers and appropriations of 8
 270 Mass. 185. one department to another, in whole or in part; establish new depart- 9
 ments; and increase, reduce, establish or abolish salaries of heads of 10
 departments or members of boards. This section shall not authorize 11
 any action in conflict with chapter thirty-one. 12

Number of wards to continue until changed according to law. 1915, 267, l. § 6. SECTION 6. The territory of a city adopting any of the plans of 1
 government provided for in this chapter shall continue to be divided 2
 into the same number of wards existing at the time of such adoption, 3
 which shall retain their boundaries until changed in accordance with 4
 general law. 5

Filing of petition calling for vote on adoption of plan. 1915, 267, l. § 7. SECTION 7. A petition addressed to the city council, in the form and 1
 signed and certified as provided in the following section, may be filed 2
 with the city clerk, who shall present the same to the city council. The 3
 petition shall be signed by qualified voters of the city to a number equal 4
 at least to ten per cent of the registered voters at the state election next 5
 preceding the filing of the petition. 6

Form of petition. 1915, 267, l. § 8. 1922, 237, § 2. SECTION 8. The petition shall be in substantially the following form: 1
To the city council (or other legislative body) of the city of

We, the undersigned, qualified voters of the city, respectfully petition your honorable body to cause to be submitted to a vote of the voters the following question: "Shall the city of _____ adopt the form of government defined as Plan (A, B, C, or D, as it is desired by petitioners), and consisting of (describe plan briefly, as government by mayor and nine councillors elected at large, or government by a mayor and councillors elected partly at large and partly from wards or districts, or government by five commissioners, one of whom shall be the mayor, or government by a mayor and four councillors, with a city manager), with elections to be held (annually, biennially in every even numbered year, or biennially in every odd numbered year) according to chapter forty-three of the General Laws relating to city charters?"

Separate sheets may be used. The petition may be in the form of separate sheets, each sheet contain- 2
 ing at the top thereof the heading above set forth, and when attached 3
 together and offered for filing the several papers shall be deemed to con- 4
 stitute one petition, and there shall be endorsed thereon the name and 5
 address of the person presenting the same for filing. 6

Proceedings after filing. Submission at state election. 1925, 188. SECTION 9. Within thirty days after the petition has been filed with 1
 him, the city clerk shall, except as provided by the following section, 2
 transmit a certified copy thereof to the city council, except that the sig- 3
 natures upon the petition need not be copied but in place thereof 4
 the city clerk shall state the number of signatures of registered voters 5
 thereon, certified as such by the registrars of voters. If any question 6
 arises as to the validity or sufficiency of the petition or of the signatures 7
 thereon, any registered voter of the city may appeal to the state ballot 8
 law commission for a determination of said question, upon filing a notice 9
 of such appeal with the city council and with said commission within 10
 forty-five days after the filing of the petition. The decision of the com- 11
 mission shall be final, and it shall forthwith send notice thereof to the 12

13 city council. Immediately upon the expiration of said period of forty-
 14 five days if no appeal has been taken as aforesaid and if it appears that
 15 said petition bears the required number of signatures of registered
 16 voters, certified as aforesaid, and is otherwise valid and sufficient, or
 17 forthwith after all proceedings relative to such petition have been decided
 18 in favor of the validity or sufficiency of such petition or signatures, as
 19 the case may be, said city council shall transmit said certified copy to
 20 the state secretary, but not otherwise. The question proposed by the
 21 petition shall be duly submitted upon the official ballot to a vote of the
 22 registered voters of said city at the next biennial state election if said
 23 certified copy is transmitted to the state secretary as hereinbefore pro-
 24 vided at least thirty days before said election, otherwise it shall be so
 25 submitted at the biennial state election next following the aforesaid
 26 election.

1 SECTION 10. The question of the adoption of not more than one plan
 2 may be submitted at an election. If, pending the determination of the
 3 question proposed by petition already filed, another petition presenting
 4 the question of the adoption of a different plan shall be presented for
 5 filing with the city clerk, no action shall be taken upon the later petition,
 6 except to file it, until after the submission to a vote of the question pro-
 7 posed by the earlier petition. Should the result of such vote be adverse
 8 thereto, proceedings shall then be had upon the later petition as though
 9 it had been filed upon the day when such vote on the earlier petition
 10 was cast.

One plan
only may be
considered
at an election.
1915, 267,
I, § 10.

1 SECTION 11. If a majority of the total number of votes cast at a
 2 regular state election for and against the adoption of one of the plans of
 3 government provided for in this chapter shall be in favor of its adoption,
 4 this chapter, so far as applicable to the form of government under the
 5 plan adopted by the city, shall supersede the provisions of its charter and
 6 of the general and special laws relating thereto and inconsistent herewith,
 7 but not, however, until officers provided for under such plan shall have
 8 been duly elected and their terms of office shall have begun. The officers
 9 provided for under the plan so adopted shall be elected in accordance
 10 with the provisions of this chapter relating to such plan and in accordance
 11 with section fifteen, and their terms of office shall begin at ten o'clock in
 12 the forenoon of the first Monday of January following their election.

Majority
vote required.
Election of
officers.
1915, 267,
I, § 11.
222 Mass. 574.
267 Mass. 438.
270 Mass. 185.

1 SECTION 12. Should a majority of the votes cast be against the
 2 adoption of the plan proposed, no petition proposing the same plan
 3 shall be filed within one year thereafter; but a petition proposing the
 4 adoption of one of the other plans provided for in this chapter may be
 5 filed at any time thereafter, and, subject to section ten, proceedings
 6 thereon shall be had as though no prior petition under this chapter had
 7 been filed.

Vote on
other plans.
1915, 267,
I, § 12.

1 SECTION 13. Should any plan provided for in this chapter be adopted,
 2 it shall continue in force for at least four years from the beginning of the
 3 terms of office of the officials elected thereunder; and no petition pro-
 4 posing a different plan shall be filed until after three years and six months
 5 from such adoption.

Four year
period for
plan adopted.
1915, 267,
I, § 13.

Certain officials to carry out provisions, etc.
1915, 267, l. § 14.

SECTION 14. The mayor, the aldermen and the common council, the city council or other legislative body, and the city clerk in office when any plan set forth in this chapter has been adopted, or is proposed for adoption, shall comply with all requirements of this chapter relating to such proposed adoption and to the election of the officers specified in said plan, in order that all things necessary for the nomination and election of the officers first to be elected under the provisions of this chapter and of the plan so adopted may be done.

Dates of elections
1915, 267, l. § 15.
1922, 237, § 3
243 Mass 288.

SECTION 15. Except as provided in this section, the first city election next succeeding the adoption of any plan provided for by this chapter shall take place on the third Tuesday of December next succeeding such adoption, and thereafter the city election shall take place annually on the Tuesday next following the first Monday of December, and the municipal year shall begin and end at ten o'clock in the morning of the first Monday of January in each year. If the plan adopted provides for elections to be held biennially in every even numbered year, then the regular municipal election next succeeding the adoption of such plan shall take place on the third Tuesday of December succeeding such adoption, and thereafter said election shall take place biennially on the Tuesday next following the first Monday of December, in every even numbered year.

If the plan adopted provides for elections to be held biennially in every odd numbered year, then the regular municipal election held under the provisions of such plan shall take place on the Tuesday next following the first Monday of December in every odd numbered year.

No primaries or caucuses to be held.
1915, 267, l. § 16.
1916, 68, § 1.

SECTION 16. No primary or caucus for municipal officers shall be held. Candidates for mayor, city council and school committee, and assessors, if elected by the people, shall be nominated in accordance with section six of chapter fifty-three.

Certain officials to be sworn, time, etc.
1915, 267, l. § 17.
1916, 68, § 2.
1922, 237, § 4.

SECTION 17. On the first Monday in January, following a regular municipal election, at ten o'clock in the forenoon, the mayor-elect and the councillors-elect, and assessors-elect if elected by the people, shall meet and be sworn to the faithful discharge of their duties. The oath may be administered by the city clerk or by a justice of the peace, and a certificate thereof shall be entered on the journal of the city council. At any meeting thereafter the oath may be administered in the presence of the city council to the mayor, or to any councillor absent from the meeting on the first Monday in January.

Legislative powers, proceedings, city clerk, etc.
1915, 267, l. § 18.
Quorum, etc.

SECTION 18. Except as otherwise provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. Every member of the council may vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.

Proceedings, etc.

2. The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. All legislative sessions shall be open to the public, and every matter coming before the council for action shall be put to a vote, the result of which shall be duly recorded. A full and

13 accurate journal of the proceedings of the council shall be kept, and
 14 shall be open to the inspection of any registered voter of the city.

15 3. The council shall, by a majority vote, elect a city clerk to hold office
 16 for three years and until his successor is qualified. He shall have such
 17 powers and perform such duties as the council may prescribe, in addition
 18 to such duties as may be prescribed by law. He shall keep the records of
 19 the meetings of the council.

City clerk,
 election, etc.

20 The person holding the office of city clerk at the time when any of the
 21 plans set forth in this chapter has been adopted by such city shall con-
 22 tinue to hold office for the term for which he was elected and until his
 23 successor is qualified.

City clerk to
 hold office
 until suc-
 cessor is
 qualified.

1 SECTION 19. The city council at any time may request from the
 2 mayor specific information on any municipal matter within its jurisdic-
 3 tion, and may request him to be present to answer written questions
 4 relating thereto at a meeting to be held not earlier than one week from
 5 the date of the receipt by the mayor of said questions. The mayor shall
 6 personally, or through a head of a department or a member of a board,
 7 attend such meeting and publicly answer all such questions. The person
 8 so attending shall not be obliged to answer questions relating to any other
 9 matter. The mayor may attend and address the city council in person
 10 or through the head of a department, or a member of a board, upon any
 11 subject.

Information
 by mayor to
 city council,
 attendance at
 meetings, etc.
 1915, 267,
 l. § 19.

1 SECTION 20. No ordinance shall be passed finally on the date on
 2 which it is introduced, except in cases of special emergency involving the
 3 health or safety of the people or their property.

Ordinances,
 passage, etc.
 1915, 267,
 l. § 20.

4 No ordinance shall be regarded as an emergency measure unless the
 5 emergency is defined and declared in a preamble thereto separately
 6 voted on and receiving the affirmative vote of two thirds of the members
 7 of the city council.

8 No ordinance making a grant, renewal or extension, whatever its
 9 kind or nature, of any franchise or special privilege shall be passed as
 10 an emergency measure, and except as provided in sections seventy and
 11 seventy-one of chapter one hundred and sixty-four and in chapter one
 12 hundred and sixty-six, no such grant, renewal or extension shall be made
 13 otherwise than by ordinance.

1 SECTION 21. No ordinance shall be amended or repealed except by
 2 an ordinance adopted in accordance with this chapter.

Amendments,
 etc.

1915, 267, l. § 21.

1 SECTION 22. Any ordinance, order or resolution may be passed
 2 through all its stages of legislation at one session, provided that no
 3 member of the council objects thereto; but if any member of the council
 4 objects, the measure shall be postponed for that meeting.

Passage at
 one session.
 1915, 267,
 l. § 22.

1 SECTION 23. Every proposed ordinance or loan order, except emer-
 2 gency measures as hereinbefore defined, shall be published once in full
 3 in at least one newspaper of the city, and in any additional manner that
 4 may be provided by ordinance, at least ten days before its final passage.
 5 After such final passage, it shall, in the same manner as before, again be
 6 published once, as amended and completed, except in the case of an
 7 emergency ordinance which may be passed as hereinbefore provided

Ordinances,
 etc., to be
 published.
 1915, 267,
 l. § 23.
 1917, 162.

and which shall take effect on its passage, and shall be so published at the earliest practicable moment; provided, that if any ordinance or proposed ordinance, or codification of ordinances or proposed ordinances, shall exceed in length eight octavo pages of ordinary book print, then, in lieu of the advertising required by this section, the same may be published by the city council in a municipal bulletin or printed pamphlet, and if so published in full at least ten days before its final passage, and thereafter, as amended and completed, again published in such bulletin or pamphlet, said publications shall be deemed sufficient without the newspaper publication as herein required.

Obligations, actions, legal acts, etc., to continue, 1915, 267, 1, § 24.

SECTION 24. All official bonds, recognizances, obligations, contracts and other instruments entered into or executed by or to the city before its adoption of a plan provided by this chapter, and all taxes, special assessments, fines, penalties, forfeitures incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by this chapter; and no legal act done by or in favor of the city shall be rendered invalid by its adoption of a plan provided by this chapter.

Civil service laws not to apply to certain employees, 1915, 267, 1, § 25.

SECTION 25. The civil service laws shall not apply to the appointment of the mayor's secretaries or of the stenographers, clerks, telephone operators and messengers connected with his office, and the mayor may remove such appointees without a hearing and without making a statement of the cause of their removal.

Certain vacancies, how filled. Acting mayor, 1915, 267, 1, § 26.

SECTION 26. If a vacancy occurs in the office of the mayor or city council before the last six months of the term of office, the city council shall order an election for a mayor or a member of the council to serve for the unexpired term; and if such vacancy occurs in the last six months of said term, the president of the city council shall succeed to the office of mayor for the unexpired term. If the mayor is absent or unable from any cause temporarily to perform his duties they shall be performed by the president of the city council. The person upon whom such duties shall devolve shall be called "acting mayor", and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

Whenever, under Plan C, any councillor shall be temporarily unable for any cause to perform the duties of his office, the council may appoint one of its members to exercise his powers and perform his duties during such disability. Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the council or the mayor, having the power of original appointment, may make a temporary appointment of some person to act until such official resumes his duties.

Officials and employees prohibited from making or sharing in contracts. Penalty, 1915, 267, 1, § 27.

SECTION 27. No mayor or member of the city council or school committee and no officer or employee of the city shall directly or indirectly make a contract with the city, or receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person making or performing such contract, unless the mayor, such member, officer or employee, immediately upon learning of the existence of such contract, or that such contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of his interest

9 in such contract, and shall abstain from doing any official act on behalf
 10 of the city in reference thereto. In case of such interest on the part of
 11 an officer whose duty it is to sign such contract on behalf of the city,
 12 the contract may be signed by any other officer of the city duly au-
 13 thorized thereto by the mayor, or if the mayor has such interest, by the
 14 city clerk; provided, that when a contractor with the city is a corpora-
 15 tion or a voluntary stock association, the ownership of less than five
 16 per cent of the stock or shares actually issued shall not be considered as
 17 involving an interest in the contract within the meaning of this section,
 18 and such ownership shall not affect the validity of the contract unless the
 19 owner of such stock or shares is also an officer or agent of the corporation
 20 or association, or solicits or takes part in the making of the contract.
 21 A violation of any provision of this section shall render the contract
 22 in respect to which such violation occurs voidable at the option of the
 23 city. Any person violating the provisions of this section shall be punished
 24 by a fine of not more than one thousand dollars, or by imprisonment
 25 for not more than one year, or both.

1 SECTION 28. No contract for construction work or for the purchase
 2 of apparatus, supplies or materials, whether for repairs or original con-
 3 struction, the estimated cost of which amounts to five hundred dollars
 4 or more, except in cases of special emergency involving the health or
 5 safety of the people or their property, shall be awarded unless proposals
 6 for the same have been invited by advertisements in at least one news-
 7 paper published in the city once a week for at least two consecutive
 8 weeks, the last publication to be at least one week before the time speci-
 9 fied for the opening of said proposals. Such advertisements shall state
 10 the time and place where plans and specifications of proposed work or
 11 supplies may be had and the time and place for opening the proposals in
 12 answer to said advertisements, and shall reserve to the city the right
 13 to reject any or all of such proposals. All such proposals shall be
 14 opened in public. No bill or contract shall be split or divided for the
 15 purpose of evading any provision of this chapter.

Proposals to be asked for certain contracts. 1915, 267, I, § 28. 1928, 300, § 1 251 Mass. 468. 255 Mass. 220.

1 SECTION 29. All contracts made by any department, board or com-
 2 mission where the amount involved is five hundred dollars or more shall
 3 be in writing, and no such contract shall be deemed to have been made
 4 or executed until the approval of the mayor and of the department or
 5 board making the contract is affixed thereto. Any contract made as
 6 aforesaid may be required to be accompanied by a bond with sureties
 7 satisfactory to the board or official having the matter in charge, or by a
 8 deposit of money, certified check or other security for the faithful per-
 9 formance thereof, and such bonds or other securities shall be deposited
 10 with the city treasurer until the contract has been carried out in all
 11 respects; and no such contract shall be altered except by a written
 12 agreement of the contractor, the sureties on his bond, and the officer,
 13 department or board making the contract, with the approval of the
 14 mayor affixed thereto.

Mayor to approve certain contracts. Surety bond, etc. 1915, 267, I, § 29. 1928, 300, § 2.

1 SECTION 30. At the request of any department, and with the approval
 2 of the mayor and the city council, the city council may, in the name of
 3 the city, purchase, or take under chapter seventy-nine, any land within
 4 its limits for any municipal purpose. Whenever the price proposed to
 5 be paid for a lot of land for any municipal purpose is more than twenty-

Purchase or taking of land for municipal purposes. 1915, 267, I, § 30. 272 Mass. 457.

five per cent higher than its average assessed valuation during the previous three years, the land shall not be purchased, but shall be taken as aforesaid. No land shall be taken or purchased until an appropriation by loan or otherwise for the general purpose for which land is needed has been made by the city council, by a two thirds vote of all its members; nor shall a price be paid in excess of the appropriation, unless a larger sum is awarded by a court of competent jurisdiction. All proceedings in the taking of land shall be under the advice of the law department, and a record thereof shall be kept by that department.

School committee, number, term, etc. 1915, 267, 1, § 31. 1922, 237, § 5.

SECTION 31. The school committee shall consist of the mayor, who shall be the chairman, and six members elected at large. At the first regular municipal election held in any city after its adoption of one of the plans provided in this chapter, there shall be elected, except as provided in this section, two members to serve for one year, two for two years and two for three years, and annually thereafter there shall be elected two members to serve for three years. If the plan adopted provides for elections to be held biennially, there shall be elected at the first regular municipal election held under the provisions of such plan, three members to serve for two years and three members to serve for four years, and biennially thereafter three members to serve for four years.

To appoint superintendent, etc. Members not to hold other offices. 1915, 267, 1, § 32. 1918, 257, § 157. 1919, 5, 1920, 2. 244 Mass. 296. 269 Mass. 67.

SECTION 32. The school committee shall elect a superintendent of schools annually, except as provided in section forty-one of chapter seventy-one, and may, under chapter thirty-one, appoint, suspend or remove at pleasure such subordinate officers or assistants, including janitors of school buildings, as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee, except the mayor, shall, during the term for which he is elected, hold any other office or position the salary or compensation for which is payable out of the city treasury. The committee shall organize annually on the first Monday in January, and shall elect one of its members as vice chairman, who shall preside at all meetings of the committee at which the mayor is not present.

Powers and duties. 1915, 267, 1, §§ 33, 35. 244 Mass. 296.

SECTION 33. Except as otherwise provided in this chapter and subject to any laws which limit the amount of money that may be appropriated in any city for school purposes, the school committee, in addition to the powers and duties conferred and imposed by law on school committees, may provide, when necessary, temporary accommodations for school purposes, may make all repairs, the expenditures for which are made from the regular appropriation for the school department, shall have control of all school buildings and grounds connected therewith and shall make all reasonable rules and regulations, consistent with law, for the management of the public schools of the city and for conducting the business of the committee.

Sites, plans, etc., for school buildings. 1915, 267, 1, § 34.

SECTION 34. No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first obtained. No plans for the construction of or alterations in a school building shall be accepted, and no work shall be begun on the construction or alteration of a school building, unless the approval of the school

6 committee and the mayor is first obtained. This section shall not require
7 such approval for the making of ordinary repairs.

1 SECTION 35. All meetings of the school committee shall be open to
2 the public, except that, when requested by four members, any particular
3 meeting shall be private. The vote on any particular measure shall be
4 by yeas and nays, when requested by two members.

Meetings
to be public.
Yea and nay
vote
1915, 267,
I, § 36.

1 SECTION 36. If a vacancy occurs in the school committee by failure
2 to elect, or otherwise, the city council and the remaining members of
3 the school committee shall meet in joint convention and elect a suitable
4 person to fill the vacancy until the first Monday in January following
5 the next regular municipal election; and, if there would be a vacancy
6 on said first Monday, it shall be filled at such regular municipal election
7 for the balance of the unexpired term. The mayor, if present, shall
8 preside at the convention.

May fill
vacancy in
their own
body.
1915, 267,
I, § 37.
1922, 237, § 6.

1 SECTION 37. A petition conforming to the requirements hereinafter
2 provided and requesting the city council to pass a measure, except an
3 order granted under section seventy or seventy-one of chapter one hun-
4 dred and sixty-four or chapter one hundred and sixty-six, or requesting
5 the school committee to pass a measure, therein set forth or designated,
6 shall be termed an initiative petition, and shall be acted upon as herein-
7 after provided. In this and the eight following sections, "measure" shall
8 mean an ordinance, resolution, order or vote passed by a city council,
9 or a resolution, order or vote passed by a school committee, as the case
10 may be.

Initiative
petition.
1915, 267,
I, § 38.
242 Mass. 599.

1 SECTION 38. Signatures to initiative petitions need not be all on
2 one paper. All such papers pertaining to any one measure shall be
3 fastened together and shall be filed in the office of the city clerk as one
4 instrument, with the endorsement thereon of the names and addresses
5 of three persons designated as filing the same. With each signature to
6 the petition shall be stated the place of residence of the signer, giving the
7 street and number, if any.

Signatures to
initiative
petitions.
Certification.
Transmission.
1915, 267,
I, § 39.
257 Mass. 287.

8 Within five days after the filing of said petition the registrars of voters
9 shall ascertain by what number of registered voters the petition is signed,
10 and what percentage that number is of the total number of registered
11 voters, and shall attach thereto their certificate showing the result of
12 such examination.

13 The city clerk shall forthwith transmit the said certificate with the
14 said petition to the city council or to the school committee, according
15 as the petition is addressed, and at the same time shall send a copy of
16 said certificate to one or more of the persons designated on the petition
17 as filing the same.

1 SECTION 39. If any initiative petition is signed by registered voters
2 equal in number to at least twenty per cent of the whole number of
3 registered voters, the city council or the school committee shall, within
4 twenty days after the date of the certificate of the registrars to that
5 effect:

Action by city
council or
school com-
mittee if
initiative
petition is
fully signed.
Referendum.
1915, 267,
I, § 40.

6 1. Pass said measure without alteration, subject to the referendum
7 vote provided by this chapter, or

2. The city council shall call a special election to be held on a Tuesday fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; provided, that if any city election is otherwise to occur within ninety days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election.

Proceedings if petition not fully signed.
1915, 267, l, § 41.
1922, 237, § 7.
1931, 426, § 158.

SECTION 40. If an initiative petition is signed by registered voters equal in number to at least eight per cent but less than twenty per cent of the total number of registered voters, and said measure be not passed without alteration within twenty days by the city council or the school committee, as provided in the preceding section, such proposed measure, without alteration, shall be submitted by the city council to a vote of the registered voters of the city at the next regular municipal election. A measure proposed under this section or section thirty-nine shall become effective if it shall be approved by registered voters of the city equal in number to one third of the whole number thereof and also by a majority of the voters voting on such measure, but not otherwise.

Ballots to state nature of measure.
1915, 267, l, § 46.
1931, 426, § 159.

SECTION 41. The ballots used when voting upon a proposed measure under section thirty-nine or forty, or a measure or part thereof protested against under the following section, shall state the nature of the measure, in terms sufficient to show the substance thereof.

Referendum petition.
1915, 267, l, § 42.
224 Mass. 176.
242 Mass. 599.
257 Mass. 287.

SECTION 42. If, within twenty days after the final passage of any measure by the city council or by the school committee, a petition signed by registered voters of the city, equal in number to at least twelve per cent of the total number of registered voters, is presented to the city council or to the school committee, as the case may be, protesting against such measure, or any part thereof, taking effect, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city council shall submit the same, by the method herein provided, to a vote of the registered voters of the city, either at the next regular city election, or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the registered voters voting on the same at such election vote in favor thereof.

Procedure, etc.

The petition described in this section shall be termed a referendum petition and section thirty-eight shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section wherever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

City council may submit questions to voters.
1915, 267, l, § 44.

SECTION 43. The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the registered voters of the city for adoption or rejection at a

5 general or special city election any proposed measure, or a proposition
6 for the repeal or amendment of any measure, in the same manner and with
7 the same force and effect as are hereby provided for submission on
8 petition.

1 SECTION 44. If two or more proposed measures passed at the same
2 election contain conflicting provisions, only the one receiving the greater
3 number of affirmative votes shall take effect.

Measures with
conflicting
provisions.
1915, 267,
1, § 45.

1 SECTION 44A. In every city, governed on September first, nineteen
2 hundred and twenty-two, by any plan provided by this chapter, which
3 accepts sections forty-four A to forty-four G, inclusive, in the manner
4 provided by section forty-four H, and in every city, except Boston, which,
5 after said date adopts any such plan in the manner provided in this
6 chapter, the provisions of sections forty-four A to forty-four G, inclusive,
7 shall apply. On the third Tuesday preceding every regular and special
8 election at which any office mentioned in this chapter is to be filled, there
9 shall be held, except as otherwise provided in section forty-four G, a pre-
10 liminary election for the purpose of nominating candidates therefor, and
11 section sixteen shall not apply. The first regular election, if occurring in
12 the year in which sections forty-four A to forty-four G, inclusive, are
13 accepted, shall be held on the third Tuesday of December. At every
14 regular, preliminary and special election, the ballots used shall be gov-
15 erned by the provisions of section forty-nine and the polls shall be open
16 during such hours, in accordance with general law, as the city council may
17 prescribe. No vote of the city council changing such hours shall take
18 effect unless accepted by a majority of the voters of the city voting
19 thereon at a biennial state election, and the state secretary, upon the
20 receipt at least thirty days before such an election of a copy of the vote
21 of the city council proposing such a change, certified by the city clerk,
22 shall cause the question of its acceptance to be placed upon the ballot to
23 be used in said city at such election.

Preliminary
elections.
Nominations.
1922, 282, § 1.

1 SECTION 44B. Except as otherwise provided in section forty-four G,
2 there shall not be printed on the official ballot to be used at any regular or
3 special election the name of any person as a candidate for any office
4 unless such person has been nominated as such at a preliminary election
5 for nomination, held as provided in sections forty-four A to forty-four G,
6 inclusive. There shall not be printed on the official ballot for use at such
7 preliminary election the name of any candidate for nomination at such
8 election, unless he shall have filed, within the time limited by section
9 forty-four C, the statement and petition therein described.

Prerequisites
for inclusion
of name on
official ballot.
1922, 282, § 1.

1 SECTION 44C. Any person who is qualified to vote for a candidate for
2 any elective municipal office and who is a candidate for nomination
3 thereto, shall be entitled to have his name as such candidate printed on
4 the official ballot to be used at a preliminary election; provided, that at
5 least ten days prior to such preliminary election he shall file with the city
6 clerk a statement in writing of his candidacy, and with it the petition of
7 at least fifty voters, qualified to vote for a candidate for the said office.
8 Said statement and petition shall be in substantially the following
9 form:—

Candidates for
nomination,
persons
eligible
Statement
and petition.
1922, 282, § 1.

STATEMENT OF CANDIDATE.

Form of
statement.

I (), on oath declare that I reside at (number if any) on (name of street) in the city of ; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for the office of (name of office) for (state the term) to be voted for at the preliminary election to be held on Tuesday, the day of , nineteen hundred and , and I request that my name be printed as such candidate on the official ballot for use at said preliminary election.

(Signed)

Commonwealth of Massachusetts,

ss.

Subscribed and sworn to on this day of , nineteen hundred and before me,

(Signed)

*Justice of the Peace,
or (Notary Public).*

PETITION ACCOMPANYING STATEMENT OF CANDIDATE.

Form of
petition.

Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we, the undersigned, voters of the city of , duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the Tuesday of , nineteen hundred and .

We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by the candidate for nomination named in the said petition shall be necessary to its validity or its filing, and the petition, which may be on one or more papers, need not be sworn to.

List of
candidates.
Official
ballots.
1922, 282, § 1.

SECTION 44D. On the first day, other than Sunday or a legal holiday, following the expiration of the time for filing the above described statement and petition, the city clerk shall post in a conspicuous place in the city hall the names and residences of the candidates for nomination who have duly qualified as candidates for nomination, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names, and shall cause the ballots which shall contain said names, in their order as drawn by the clerk, and no others, with a designation of residence, and of the office and term of service, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election. In drawings for position on the ballot the candidates shall have an opportunity to be present in person or by one representative each. Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on such ballots such directions as will aid the voter, as, for example: "vote for one", "vote for two", and the like, and the ballots shall be headed as follows:—

OFFICIAL PRELIMINARY BALLOT.

Candidates for nomination for the offices of () in the city
of at a preliminary election to be held on the
day of in the year nineteen hundred and .

21 (The heading shall be varied in accordance with the offices for which
22 nominations are to be made.)

1 SECTION 44E. The election officers shall, immediately upon the
2 closing of the polls at preliminary elections, count the ballots and ascer-
3 tain the number of votes cast in the several voting places for each candi-
4 date, and forthwith make return thereof upon blanks to be furnished,
5 as in regular elections, to the city clerk who shall canvass said returns
6 and shall forthwith determine the result thereof, insert the same in one
7 or more newspapers published in the city, and post the same in a con-
8 spicuous place in the city hall.

Counting,
etc., of votes.
Duties of
election officers
and clerk.
1922, 282, § 1.

1 SECTION 44F. The two persons receiving at a preliminary election
2 the highest number of votes for nomination for an office shall, except as
3 provided by section forty-four G, be the sole candidates for that office
4 whose names may be printed on the official ballot to be used at the regular
5 or special election at which such office is to be filled, and no acceptance
6 of a nomination at a preliminary election shall be necessary to its validity.
7 If two or more persons are to be elected to the same office at such
8 regular or special election the several persons in number equal to
9 twice the number so to be elected receiving at such preliminary election
10 the highest number of votes for nomination for that office shall, except
11 as provided by section forty-four G, be the sole candidates for that
12 office whose names may be printed on the official ballot.
13 If the preliminary election results in a tie vote among candidates for
14 nomination receiving the lowest number of votes, which, but for said tie
15 vote, would entitle a person receiving the same to have his name printed
16 upon the official ballot for the election, all candidates participating in said
17 tie vote shall have their names printed upon the official ballot, although in
18 consequence there be printed thereon candidates to a number exceeding
19 twice the number to be elected.

Candidates for
election, how
determined.
1922, 282, § 1.

1 SECTION 44G. If at the expiration of the time for filing statements
2 of candidates to be voted for at any preliminary election not more than
3 twice as many such statements have been filed with the city clerk for an
4 office as are to be elected to such office, the candidates whose statements
5 have thus been filed shall be deemed to have been nominated to said
6 office, and their names shall be voted on for such office at the succeeding
7 regular or special election, as the case may be, and the city clerk shall
8 not print said names upon the ballot to be used at said preliminary
9 election and no other nomination to said office shall be made. If in
10 consequence it shall appear that no names are to be printed upon the
11 official ballot to be used at any preliminary election in any ward or wards
12 of the city, no preliminary election shall be held in any such ward or wards.

Candidates for
nomination,
when deemed
nominated.
Preliminary
election, when
unnecessary.
1922, 282, § 1.

1 SECTION 44H. If, in a city governed on September first, nineteen
2 hundred and twenty-two, by one of the plans provided by this chapter,
3 there is filed with the city clerk, not later than one month before a regular

Acceptance of
§§ 44A-44G,
submission to
voters, when.
1922, 282, § 1.

state election, a petition conforming so far as possible to the provisions of sections eight and nine, requesting that such city accept the provisions of sections forty-four A to forty-four G, inclusive, and bearing the signatures of registered voters thereof, duly certified by the registrars of voters, to a number equal to at least ten per cent of the registered voters thereof at the regular state election next preceding such filing, the following question shall be placed upon the official ballot to be used in such city at the next regular state election: — “Shall sections forty-four A to forty-four G, inclusive, relative to the nomination preliminary elections of candidates for elective municipal offices in cities governed under a standard form of city charter, be accepted by the city of _____?” If a majority of the voters voting thereon in such city vote in the affirmative, said sections shall take effect therein.

Certain provisions to apply to any plan adopted.

SECTION 45. Sections one to forty-four G, inclusive, shall, upon the adoption by any city of any of the plans hereinafter set forth, apply to the plan so adopted, except as is otherwise provided in such plan.

1915, 267, 1, § 47.

1922, 282, § 2.

PLAN A. — GOVERNMENT BY MAYOR AND CITY COUNCIL ELECTED AT LARGE.

Plan A, 1915, 267, II, § 1.

SECTION 46. The method of city government provided for in the nine following sections shall be known as Plan A.

When plan takes effect 1915, 267, II, § 2.

SECTION 47. Upon the adoption of Plan A, it shall become operative as provided in sections one to forty-five, inclusive.

Mayor, election, term, etc. 1915, 267, II, § 3. 251 Mass. 468. 270 Mass. 185.

SECTION 48. There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of the city. He shall hold office for the term of two years from the first Monday of January following his election, and until his successor is qualified.

Party or political designations abolished 1915, 267, II, § 4. 1931, 394, § 213.

SECTION 49. No ballot used at any annual, biennial or special city election shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything showing how he was nominated or indicating his views or opinions.

City council, number, election, etc. 1915, 267, II, § 5. 1922, 237, § 8. 270 Mass. 185.

SECTION 50. The legislative powers of the city shall be vested in a city council, consisting of nine persons, elected at large by and from the qualified voters of the city. One of its members shall be elected by the council annually as its president. At the first election held in a city after its adoption of Plan A, except as otherwise provided in this section, the five candidates receiving the largest number of votes shall hold office for two years, and the four receiving the next largest number of votes shall hold office for one year. Thereafter, as these terms expire, there shall be elected at each annual city election a sufficient number of members to fill the vacancies created by the expiration of said terms, each member so elected to serve for two years.

If the plan adopted provides for elections to be held biennially, at the first regular municipal election held under the provisions of such plan and at each biennial election thereafter, there shall be elected nine members of

15 the city council to serve for two years from the first day of January
16 following their election and until their successors are qualified.

1 SECTION 51. The mayor shall receive for his services such salary as
2 the city council shall by ordinance determine, not exceeding five thou-
3 sand dollars, and shall receive no other compensation from the city. His
4 salary shall not be increased or diminished during the term for which he
5 is elected. The council may, by a two thirds vote of all its members taken
6 by yeas and nays, establish a salary for its members not exceeding five
7 hundred dollars each. Such salary may be reduced, but no increase
8 therein shall be made to take effect during the year in which the increase
9 is voted.

Salaries
1915, 267,
II, § 6.

1 SECTION 52. Upon the adoption of Plan A, all heads of departments
2 and members of municipal boards, except the school committee, officials
3 appointed by the governor, and assessors if elected by vote of the people,
4 as their terms of office expire, shall be appointed by the mayor without
5 confirmation by the city council.

Mayor may
make ap-
pointments
without con-
firmation.
1915, 267,
II, § 7.
270 Mass. 185.

1 SECTION 53. In making his appointments the mayor shall sign and
2 file with the city clerk a certificate in the following form:

Certificates of
appointment.
1915, 267,
II, § 8.

CERTIFICATE OF APPOINTMENT.

I appoint (name of appointee) to the position of (name of office), and I certify
that in my opinion he is a recognized expert in the work which will devolve upon
him, and that I make the appointment solely in the interest of the city.

Mayor.

3 or in the following form, as the case may be:

CERTIFICATE OF APPOINTMENT.

I appoint (name of appointee) to the position of (name of office), and I certify
that in my opinion he is a person specially fitted by education, training or ex-
perience to perform the duties of said office, and that I make the appointment
solely in the interest of the city.

Mayor.

1 SECTION 54. The mayor may remove the head of a department or
2 member of a board by filing a written statement with the city clerk setting
3 forth in detail the specific reasons therefor, a copy of which shall be de-
4 livered or mailed to the person thus removed, who may make a written
5 reply, which, if he desires, may be filed with the city clerk; but such
6 reply shall not affect the action taken unless the mayor so determines.
7 This section shall not apply to the school committee, or to officials ap-
8 pointed by the governor, or to assessors if elected by the people.

Removals.
Certain
officers
exempted.
1915, 267,
II, § 9.

1 SECTION 55. Every order, ordinance, resolution and vote relative to
2 the affairs of the city, adopted or passed by the city council, shall be
3 presented to the mayor for his approval. If he approves it he shall sign
4 it; if he disapproves it he shall return it, with his written objections,
5 to the city council, which shall enter the objections at large on its records,
6 and again consider it. If the city council, notwithstanding such disap-
7 proval of the mayor, shall again pass such order, ordinance, resolution
8 or vote by a two thirds vote of all its members, it shall then be in force,
9 but such vote shall not be taken for seven days after its return to the

Approval and
veto by mayor
of orders, etc.
1915, 267,
II, § 10.

city council. Every such order, ordinance, resolution and vote shall be in 10
force if not returned by the mayor within ten days after it has been pre- 11
sented to him. This section shall not apply to budgets submitted under 12
section thirty-two of chapter forty-four or to appropriations by a city 13
council under section thirty-three of said chapter. 14

PLAN B. — GOVERNMENT BY MAYOR AND COUNCIL ELECTED BY DISTRICTS
AND AT LARGE.

- Plan B.
1915, 267,
III, § 1. SECTION 56. The method of city government provided for in the 1
seven following sections shall be known as Plan B. 2
229 Mass. 147.
- When plan
takes effect.
1915, 267,
III, § 2. SECTION 57. Upon the adoption by a city of Plan B, it shall become 1
operative as provided in sections one to forty-five, inclusive. 2
231 Mass. 322.
- Mayor,
election,
term, etc.
1915, 267,
III, § 3. SECTION 58. There shall be a mayor, elected by and from the qualified 1
voters of the city, who shall be the chief executive officer of the city. He 2
shall hold office for the term of two years from the first Monday in Janu- 3
ary following his election and until his successor is qualified. 4
- City council,
election,
number, terms
of office, etc.
1915, 267,
III, § 4,
1922, 237, § 9. SECTION 59. The legislative powers of the city shall be vested in a 1
city council. One of its members shall be elected by the council annually 2
as its president. In cities having more than seven wards, the city 3
council shall be composed of fifteen members, of whom one shall be 4
elected from each ward by and from the qualified voters of that ward, 5
and the remaining members shall be elected by and from the qualified 6
voters of the city. In cities having seven wards or less, the city council 7
shall be composed of eleven members, of whom one shall be elected 8
from each ward by and from the qualified voters of that ward, and the 9
remaining members shall be elected by and from the qualified voters of 10
the city. 11
At the first regular municipal election held in a city after its adoption 12
of Plan B, except as otherwise provided in this section, the councillors 13
elected from each ward shall be elected to serve for one year, and those 14
elected at large shall be elected to serve for two years, from the first 15
Monday in January following their election and until their successors 16
are qualified; and at each regular municipal election thereafter the 17
councillors elected to fill vacancies caused by the expiration of the terms 18
of councillors shall be elected to serve for two years. 19
If the plan adopted provides for elections to be held biennially, at the 20
first regular municipal election held under the provisions of such plan 21
and at each biennial election thereafter, all the councillors whether elected 22
at large or by wards shall be elected to serve for two years from the first 23
day of January following their election and until their successors are 24
qualified. 25
- Appointments
by mayor
subject to
confirmation.
1915, 267,
III, § 5
1916, 99, § 2. SECTION 60. Upon the adoption of Plan B, all heads of departments 1
and members of municipal boards, except the school committee, officials 2
appointed by the governor, and assessors if elected by the people, as 3
their terms of office expire, shall be appointed by the mayor, subject to 4
confirmation by the city council; but the city solicitor shall be appointed, 5
and may be removed, by the mayor, without confirmation by the city 6

7 council. This section shall apply to the city solicitor in office when
8 Plan B becomes operative.

1 SECTION 61. The mayor may, with the approval of a majority of the
2 members of the city council, remove the head of a department or mem- Removals, etc
3 ber of a board before the expiration of his term of office, except members 1915, 267,
4 of the school committee, officials appointed by the governor, and assessors III, § 6,
5 if elected by the people. The person so removed shall receive a copy 222 Mass. 574,
6 of the reasons for his removal, and he may, if he desires, contest the 229 Mass. 147.
7 same before the city council. He may be represented by counsel at
8 the hearing.

1 SECTION 62. The mayor shall receive for his services such salary as Salaries
2 the city council by ordinance shall determine, not exceeding five thousand 1915, 267,
3 dollars, and shall receive no other compensation from the city. His salary III, § 7
4 shall not be increased or diminished during the term for which he is 1923, 232,
5 elected. 228 Mass. 249,
6 The council may, by a two thirds vote of all its members, taken by 241 Mass. 575,
7 call of the yeas and nays, establish a salary for its members not exceed- 269 Mass. 67.
8 ing five hundred dollars each. Such salary may be reduced, but no in-
9 crease therein shall be made to take effect during the year in which the
10 increase is voted; provided, that the initial establishment of such salary
11 after the adoption of Plan B may take effect in the year when established
12 and in accordance with the vote establishing the same.

1 SECTION 63. Section fifty-five shall apply to cities which adopt Approval by
2 Plan B. mayor of
orders, etc.
1915, 267, III, § 8. 225 Mass. 104. 231 Mass. 322.

PLAN C. — COMMISSION FORM OF GOVERNMENT.

1 SECTION 64. The method of city government provided for in the Plan C.
2 fourteen following sections shall be known as Plan C. 1915, 267,
IV, § 1.

1 SECTION 65. Upon the adoption by a city of Plan C, it shall become When plan
2 operative as provided in sections one to forty-five, inclusive. takes effect.

1 SECTION 66. The government of the city and the general manage- City council
2 ment and control of all of its affairs shall be vested in a city council, to be govern-
3 which shall be elected and shall exercise its powers in the manner herein- ing body.
4 after set forth; except that the general management and control of the 1915, 267,
5 public schools of the city and of the property pertaining thereto shall IV, § 2.
6 be vested in the school committee.

1 SECTION 67. The city council shall consist of the following five mem- Members to
2 bers: a mayor, who shall be the commissioner of administration; a com- act as de-
3 missioner of finance; a commissioner of health; a commissioner of public partmental
4 works and a commissioner of public property. Each commissioner commissioners.
5 shall have charge of the department of city affairs indicated by his official 1915, 267,
6 title, except as to the affairs and property of the city which are within IV, § 3.
7 the jurisdiction of the school committee. All of these officers shall be
8 elected by and from the qualified voters of the whole city for terms of
9 two years, except as hereinafter provided.

In case of a difference of opinion as to the departments to be in charge of any one or more of the commissioners, the matter shall be determined by vote of a majority of all the commissioners.

Terms of
office.
1915, 267,
IV, § 4.
1922, 237, § 10.

SECTION 68. The terms of office of the members of the council shall commence at ten o'clock in the forenoon of the first Monday in January following their election and shall be for two years each, and until their successors are qualified; provided, that, if the plan adopted provides for elections to be held annually, the terms of office of the commissioner of administration, of the commissioner of finance and of the commissioner of health elected at the first regular election held under such plan shall be for two years, and the terms of office of the commissioner of public works and of the commissioner of public property so elected shall be for one year.

Organization,
etc.
1915, 267,
IV, § 5.

SECTION 69. The city council elected as aforesaid shall meet at ten o'clock in the forenoon on the first Monday of January in each year, and the members of the city council whose terms of office then begin shall severally make oath, before the city clerk or a justice of the peace, to perform faithfully the duties of their respective offices. The city council shall thereupon be organized by the choice of a president, who shall hold his office during the pleasure of the city council. The president of the city council shall be any member thereof, except the mayor. The organization of the city council shall take place as aforesaid, notwithstanding the absence, death, refusal to serve, or non-election of the mayor or of one or more of the four other members; provided, that at least three of the persons entitled to be members of the city council are present and make oath as aforesaid. Any member-elect, not present at the time fixed therefor, may make oath at any time thereafter.

Meetings,
1915, 267,
IV, § 6.

SECTION 70. The city council shall fix suitable times for regular meetings. The mayor, the president of the city council or any two members thereof may at any time call a special meeting by causing a written notice, stating the time of holding such meeting and signed by the person calling the same, to be delivered in hand to each member, or left at his usual dwelling place, at least six hours before the time of such meeting. Meetings of the city council may also be held at any time when all the members of the council are present and consent thereto.

Meetings to
be public.
City clerk,
duties, etc.
1915, 267,
IV, § 7.

SECTION 71. A majority of the members of the city council shall constitute a quorum. Its meetings shall be public, and the mayor, if present, shall preside and may vote. In the absence of the mayor the president of the city council shall preside, and in the absence of both, a temporary chairman shall be chosen. The city clerk shall be, ex officio, clerk of the city council, and shall keep records of its proceedings; but in case of his temporary absence, or of a vacancy in the office, the city council may elect by ballot a temporary clerk, who shall be sworn to the faithful discharge of his duties and may act as clerk of the city council until a city clerk is qualified. All final votes of the city council involving the expenditure of fifty dollars or more shall be by yeas and nays and be entered upon the records. On the request of one member any vote shall be by yeas and nays and be entered upon the records. The affirmative vote of at least three members shall be necessary for the passage of any order, ordinance, resolution or vote.

1 SECTION 72. The city council shall have and exercise all the legisla-
 2 tive powers of the city, except as such powers are reserved to the school
 3 committee and to the qualified voters of the city herein and in sections
 4 one to forty-five, inclusive, and the city council and its members shall,
 5 severally or collectively, have and possess, and shall themselves or
 6 through such officers as they may elect or appoint, exercise all the other
 7 powers, rights and duties had, possessed or exercised, immediately prior
 8 to the adoption of this plan, by the mayor, board of aldermen, common
 9 council, and all other boards, commissions and committees of the city
 10 and their members, severally or collectively, except such as are in sec-
 11 tions one to forty-five, inclusive, conferred upon the school committee,
 12 or are otherwise provided for in sections sixty-four to seventy-eight,
 13 inclusive.

Powers
 1915, 267,
 IV, § 8.

1 SECTION 73. In legislative session, the city council shall act by ordi-
 2 nance, resolution, order or vote.
 3 The yeas and nays shall be taken upon the passage of all ordinances
 4 and resolutions, and entered upon the journal of its proceedings. Upon
 5 request of any member, the yeas and nays shall be taken and recorded
 6 upon any order or vote. Every ordinance, resolution, order or vote
 7 passed by the city council shall, except as is hereinafter provided, require
 8 on final passage the affirmative vote of a majority of the members of the
 9 city council.

Methods of
 action.
 1915, 267,
 IV, § 9
 Yeas and nays
 vote.

10 All votes making appropriations of money or authorizing loans shall
 11 be in itemized form.

Appropriations,
 etc., to be
 itemized.

1 SECTION 74. The mayor shall be the chief executive officer of the
 2 city, commissioner of administration and, ex officio, chairman of the
 3 school committee. When present, he shall preside at all meetings of
 4 the city council and of the school committee and at all joint conventions
 5 thereof.

Mayor to be
 chief execu-
 tive officer,
 etc. Acting
 mayor.
 1915, 267,
 IV, § 10.

6 He may vote on all questions coming before the city council, but shall
 7 have no power of veto.

8 He shall have such other duties, rights and powers as may be provided
 9 by ordinance, not in conflict with this chapter.

10 During the absence or inability of the mayor to act, the commissioner
 11 of finance shall, as acting mayor, assume the duties and exercise all the
 12 rights and powers of the mayor. In the absence or inability so to act of
 13 the commissioner of finance the city council may select another com-
 14 missioner from their number to perform the duties of acting mayor.

1 SECTION 75. All executive and administrative powers, authorities
 2 and duties, not otherwise provided for in this chapter, shall be assigned
 3 to a suitable department by the city council by ordinance, and changes
 4 in the assignments may be made by ordinance by the affirmative vote
 5 of three members of the city council, or by the qualified voters of the
 6 city upon initiative petition.

Distribution
 of executive
 powers by
 council.
 Determination
 of policies.
 1915, 267,
 IV, § 11.

7 The city council shall determine the policies to be pursued and the
 8 work to be undertaken in each department, but each commissioner shall
 9 have full power to carry out the policies or to have the work performed in
 10 his department as directed by the city council.

1 SECTION 76. Each commissioner may, except as is otherwise pro-
 2 vided herein, appoint a qualified person to serve as the head of each of

Heads of
 departments,
 etc., appoint-

ments and removals. 1915, 267, IV, § 12.

the departments under his charge and may remove him for cause stated in the order of removal. All appointments and removals so made shall be subject to confirmation by the city council. The employees in each department shall be appointed and removed by the head of that department. This section shall not affect the laws governing the civil service.

Records of departments to be kept. 1915, 267, IV, § 13.

SECTION 77. Each of said commissioners shall keep a record book in which shall be recorded a brief but clear and comprehensive record of all affairs of the department under his charge as soon as performed, and shall quarterly render to the city council a full report of all operations of his department, and shall annually, and oftener if required by the city council, make a synopsis thereof for publication. All such records shall be open to public inspection. The city council shall provide for the publication of such annual or other reports, and of such parts of the quarterly reports, or of such other information regarding city affairs as it may deem advisable.

Salaries. 1915, 267, IV, § 14.

SECTION 78. The mayor shall receive for his services such salary as the city council shall by ordinance determine, not exceeding five thousand dollars, and he shall receive no other compensation from the city. His salary shall not be increased or diminished during the term for which he is elected. The council may, by a vote of not less than three members taken by yeas and nays, establish a salary for its members, not exceeding four thousand dollars each. Such salary may be reduced, but no increase therein shall be made to take effect until the municipal year succeeding that in which the vote establishing the salary is passed.

PLAN D. — MAYOR, CITY COUNCIL AND CITY MANAGER.

Plan D. 1915, 267, V, § 1.

SECTION 79. The method of city government provided for in the thirteen following sections shall be known as Plan D.

When plan takes effect. 1915, 267, V, § 2. 1920, 337, § 4.

SECTION 80. Upon the adoption by a city of Plan D, it shall become operative as provided in sections one to forty-five, inclusive; provided, that any city government under the provisions of Plan D on April twenty-second, nineteen hundred and twenty, which did not accept chapter three hundred and thirty-seven of the acts of nineteen hundred and twenty at its next municipal election, shall continue to be governed under said provisions, as existing on said date, until its method of government is changed in accordance with law.

City council and mayor to be governing body. 1915, 267, V, § 3. 1920, 337, § 1.

SECTION 81. The government of the city and the general management and control of all its affairs shall be vested in a mayor and a city council, who shall be elected and shall exercise their powers in the manner hereinafter set forth, subject to sections one to forty-five, inclusive; except that the city manager shall have the authority hereinafter specified, and that the general management and conduct of the public schools of the city and of the property pertaining thereto shall be vested in the school committee.

Members, election, term, etc. 1915, 267, V, §§ 4, 9. 1920, 337, §§ 2, 3. 1922, 337, § 11.

SECTION 82. The city council shall consist of four members and the mayor, to be elected by and from the qualified voters of the city for terms of two years and until their successors are elected and qualified; provided, that if the plan adopted provides for elections to be held annually, the two

5 candidates for the city council having the highest number of votes at the
6 first regular election held under such plan shall serve for two years and the
7 two candidates for the city council having the next highest number of
8 votes shall serve for one year. If the office of mayor becomes vacant, the
9 remaining members of the council shall choose from their own number his
10 successor for the unexpired term.

1 SECTION 83. All the legislative powers of the city shall be vested
2 in the city council. The city council elected as aforesaid shall meet
3 at ten o'clock in the forenoon on the first Monday of January in each
4 year, and the members of the city council whose terms of office then
5 begin shall severally make oath before the city clerk, or a justice of the
6 peace, to perform faithfully the duties of their respective offices. The
7 city council shall thereupon be organized by the choice of a president,
8 who shall hold his office during the pleasure of the city council. The
9 president of the city council shall be any member thereof, except the
10 mayor. The organization of the city council shall take place as afore-
11 said, notwithstanding the absence, death, refusal to serve, or non-election
12 of one or more of the members; provided that at least three of the
13 persons entitled to be members of the city council are present and
14 qualified. Any member-elect, not present at the time fixed therefor,
15 may make oath at any time thereafter.

Organization,
etc.
1915, 267,
V, § 5.

1 SECTION 84. The city council shall fix suitable times for its regular
2 meetings. The mayor, the president of the city council or any two
3 members thereof may at any time call special meetings by causing written
4 notices, stating the time of holding such meetings and signed by the
5 persons calling the same, to be delivered in hand to each member, or left
6 at his usual dwelling place, at least six hours before the time of such
7 meetings. Meetings of the city council may also be held at any time
8 when all the members of the council are present and consent thereto.

Time for
meetings.
1915, 267,
V, § 6.

1 SECTION 85. A majority of the members of the city council shall
2 constitute a quorum. Its meetings shall be public, and the mayor, if
3 present, shall preside and may vote. In the absence of the mayor the
4 president of the city council shall preside, and in the absence of both,
5 a temporary president shall be chosen. The city clerk shall be, ex officio,
6 clerk of the city council, and shall keep records of its proceedings; but
7 in case of his temporary absence, or of a vacancy in the office, the city
8 council may elect by ballot a temporary clerk, who shall be sworn to the
9 faithful discharge of his duties and may act as clerk of the city council
10 until a city clerk is qualified. All final votes of the city council involving
11 the expenditure of fifty dollars or more shall be by yeas and nays and be
12 entered on the records. On the request of one member any vote shall
13 be by yeas and nays and be entered upon the records. The affirmative
14 vote of at least three members shall be necessary for the passage of any
15 order, ordinance, resolution or vote.

Meetings to
be public.
Records, etc.
1915, 267,
V, § 7.

1 SECTION 86. Vacancies in the city council shall be filled by the coun-
2 cil for the remainder of the unexpired term.

Vacancies.
1915, 267,
V, § 8.

1 SECTION 87. The mayor shall be the official head of the city. He
2 shall have no power of veto, but shall have the same power as the other
3 members of the council to vote upon all measures coming before it.

Mayor,
powers.
1915, 267,
V, § 9.
1920, 337, § 3.

Salaries.
1915, 267,
V, § 10.
1929, 309.

SECTION 88. The mayor shall receive for his services such salary as the city council shall by ordinance determine, not exceeding three thousand dollars, and shall receive no other compensation from the city. His salary shall not be increased or diminished during the term for which he is elected.

The council may by a vote of not less than three members, taken by yeas and nays, establish a salary for its members, not exceeding seven hundred and fifty dollars each. Such salary may be reduced, but no increase therein shall be made to take effect during the year in which the increase is voted. Notwithstanding the foregoing provisions of this section, the initial establishment of the salaries of the mayor and other city councillors after the adoption of Plan D may take effect in the year when established and in accordance with the vote establishing the same.

City manager.
1915, 267,
V, § 11.

SECTION 89. The city council shall appoint a city manager, who shall be the administrative head of the city government and shall be responsible for the administration of all departments. He shall be appointed with regard to merit only, and need not be a resident of the city when appointed. He shall hold office during the pleasure of the city council and shall receive such compensation as it shall fix by ordinance.

Powers and
duties of city
manager.
1915, 267,
V, § 12.

SECTION 90. The city manager shall be the administrative head of the city government, see that within the city the laws of the commonwealth and the ordinances, resolutions and regulations of the council are faithfully executed, attend all meetings of the council, and recommend for adoption such measures as he shall deem expedient, make reports to the council from time to time upon the affairs of the city, keep the council fully advised of the city's financial condition and its future financial needs and appoint and remove all heads of departments, superintendents and other employees of the city.

Appointments
and removals.
1915, 267,
V, § 13.

SECTION 91. Such city officers and employees as the council shall determine are necessary for the proper administration of the city shall be appointed and may be removed by the city manager, who shall report every such appointment and removal to the council at the next meeting thereof following any such appointment or removal.

Regulations.
1915, 267,
V, § 14.

SECTION 92. The officers and employees of the city shall perform the duties required of them by the city manager, under general regulations of the city council.

CHAPTER 43A.

STANDARD FORM OF REPRESENTATIVE TOWN MEETING GOVERNMENT.

SECT.
 GENERAL PROVISIONS.
 1. Standard form, adoption by certain towns authorized.
 2. Procedure.
 STANDARD FORM.
 3. Voting precincts. Establishment; revision; procedure. Meetings of voters regulated. Certain laws applicable.
 4. Elected town meeting members.
 5. Representative town meetings. Procedure. Resignations, etc., of members.

SECT.
 6. Nominations.
 7. Action on articles in warrant.
 8. Moderator; moderator pro tempore.
 9. Vacancies in membership, how filled.
 10. Certain votes subject to referendum. Procedure.
 11. Authority to continue to act by representative town meetings. Effect of such action.
 12. Right to hold general meetings not abridged. Limitation upon powers of representative town meetings.

GENERAL PROVISIONS.

1 SECTION 1. Any town in which there has been constituted and estab-
 2 lished a form of representative town meeting government under a special
 3 statute, enacted in conformity with the provisions of the constitution
 4 of the commonwealth, may in substitution therefor adopt the standard
 5 form of representative town meeting government provided by sections
 6 three to twelve, inclusive.

Standard form, adoption by certain towns authorized. 1931, 314.

1 SECTION 2. Five per cent of the registered voters of any such town
 2 may, not less than ninety days before its annual town meeting, file with
 3 the selectmen a petition that there be submitted to the voters of the
 4 town the matter of the acceptance of such standard form of representa-
 5 tive town meeting government. The selectmen shall thereupon direct
 6 the town clerk to cause to be printed on the official ballot used for the
 7 election of town officers at such meeting substantially the following
 8 question: Shall the town adopt the standard form of represe-
 9 tive town meeting government provided by chapter forty-
 10 three A of the General Laws? If a majority of the votes
 11 cast thereon are in the affirmative such standard form shall thereupon
 12 become effective in such town, and the acceptance by the town of the
 13 special statute under which it was theretofore governed shall be deemed
 14 to be revoked by such vote; provided, that the town meeting members
 15 elected at such election or in office under the provisions of such special
 16 statute shall, except as otherwise provided therein, remain in office
 17 until the next annual town election.

Procedure. 1931, 314.

YES.	_____
NO.	_____

STANDARD FORM.

1 SECTION 3. Upon the adoption as aforesaid of such standard form
 2 of representative town meeting government by a town, its selectmen
 3 shall forthwith divide the territory thereof into voting precincts, each of
 4 which shall be plainly designated and shall contain not less than four
 5 hundred registered voters. The precincts shall be so established as

Voting precincts. Establishment; revision; procedure. Meetings of voters regulated.

Certain laws
applicable.
1931, 314.

to consist of compact and contiguous territory to be bounded, as far as possible, by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed, and, if need be, wholly or partly revised, by the selectmen in December, once in five years, or in December of any year when so directed by a vote of a representative town meeting held not later than November twentieth of that year.

The selectmen shall, within ten days after any establishment or revision of the precincts, file a report of their doings with the town clerk, the registrars of voters and the assessors, with a map or maps or description of the precincts and the names and residences of the registered voters therein. The selectmen shall also cause to be posted in the town hall a map or maps or description of the precincts as established or revised from time to time, with the names and residences of the registered voters therein; and they shall also cause to be posted in at least one public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein. The division of the town into voting precincts and any revision of such precincts shall take effect upon the date of the filing of the report thereof by the selectmen with the town clerk. Whenever the precincts are established or revised, the town clerk shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts. Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all the registered voters of the town, shall be held on the same day and at the same hour and at such place or places within the town as the selectmen shall in the warrant for such meeting direct. The provisions of chapters fifty to fifty-six, inclusive, relating to precinct voting at elections, so far as the same are not inconsistent with this chapter, shall apply to all elections and primaries in the town upon the establishment of voting precincts as hereinbefore provided.

Elected town
meeting
members.
1931, 314.

SECTION 4. Other than the officers designated in the by-laws of the town as town meeting members at large, the representative town meeting membership shall in each precinct consist of the largest number divisible by three which will admit of a representation thereof in the approximate proportion which the number of registered voters therein bears to the total number of registered voters in the town, and which will cause the total membership to be as nearly two hundred and forty as may be.

The registered voters in every precinct shall, at the first annual town election held after the establishment of such precinct, and the registered voters of any precinct affected by any revision of precincts at the first annual town election following such revision, conformably to the laws relative to elections not inconsistent with this chapter, elect by ballot the number of registered voters in the precinct, other than the officers designated in the by-laws as town meeting members at large, provided for in the first sentence of this section, to be town meeting members of the town. The first third, in the order of votes received, of members so elected shall serve three years, the second third in such order shall serve two years, and the remaining third in such order shall serve one year, from the day of the annual town meeting; in case of a tie vote affecting the division into thirds, as aforesaid, the members elected from the precinct shall by ballot determine the same; and thereafter, except as is

23 otherwise provided herein, at each annual town election the registered
 24 voters of each precinct shall, in like manner, elect, for the term of three
 25 years, one third of the number of elected town meeting members to
 26 which such precinct is entitled, and shall at such election fill for the
 27 unexpired term or terms any vacancy or vacancies then existing in the
 28 number of elected town meeting members in such precinct.

29 The terms of office of all elected town meeting members from every
 30 precinct revised as aforesaid shall cease upon the election as herein-
 31 before provided of their successors. The town clerk shall, after every
 32 election of town meeting members, forthwith notify each such member
 33 by mail of his election.

1 SECTION 5. Any representative town meeting held under the provi-
 2 sions of this chapter, except as otherwise provided herein, shall be limi-
 3 ted to the town meeting members elected under section four, together
 4 with such town meeting members at large as may be provided for by
 5 the by-laws of the town.

Representative
 town meetings.
 Procedure,
 Resignation,
 etc., of
 members.
 1931, 314.

6 The town clerk shall notify the town meeting members of the time
 7 and place at which representative town meetings are to be held, the
 8 notices to be sent by mail at least seven days before the meeting. The
 9 town meeting members, as aforesaid, shall be the judges of the election
 10 and qualifications of their members. A majority of the town meeting
 11 members shall constitute a quorum for doing business; but a less num-
 12 ber may organize temporarily and may adjourn from time to time, but
 13 no town meeting shall adjourn over the date of an election of town meet-
 14 ing members. All town meetings shall be public. The town meeting
 15 members as such shall receive no compensation. Subject to such condi-
 16 tions as may be determined from time to time by the members of the
 17 representative town meeting, any registered voter of the town who is
 18 not a town meeting member may speak at any representative town
 19 meeting, but shall not vote. A town meeting member may resign by
 20 filing a written resignation with the town clerk, and such resignation
 21 shall take effect on the date of such filing. A town meeting member
 22 who removes from the town shall cease to be a town meeting member,
 23 and a town meeting member who removes from the precinct from which
 24 he was elected to another precinct may serve only until the next annual
 25 town meeting.

1 SECTION 6. Nomination of candidates for town meeting members to
 2 be elected under this chapter shall be made by nomination papers, which
 3 shall bear no political designation, shall be signed by not less than ten
 4 voters of the precinct in which the candidate resides, and shall be filed
 5 with the town clerk at least ten days before the election; provided, that
 6 any town meeting member may become a candidate for re-election by
 7 giving written notice thereof to the town clerk at least thirty days before
 8 the election. No nomination papers shall be valid in respect to any
 9 candidate whose written acceptance is not thereon or attached thereto
 10 when filed.

Nominations.
 1931, 314.

1 SECTION 7. The articles in the warrant for every town meeting, so
 2 far as they relate to the election of the moderator, town officers and
 3 town meeting members, and as herein provided, to referenda, and all
 4 matters to be acted upon and determined by ballot, shall be so acted
 5 upon and determined by the registered voters of the town in their

Action on
 articles in
 warrant.
 1931, 314.

respective precincts. All other articles in the warrant for any town meeting shall be acted upon and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the selectmen in the warrant for the meeting, subject to the referendum provided for by section ten. 6
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Moderator;
moderator
pro tempore.
1931, 314.

SECTION 8. A moderator shall be elected by ballot at each annual town meeting, and shall serve as moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. Nominations for and election of a moderator shall be as in the case of other elective town officers, and any vacancy in the office may be filled by the town meeting members at a meeting held for that purpose. If a moderator is absent, a moderator pro tempore may be elected by the town meeting members. 1
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Vacancies in
membership,
how filled.
1931, 314.

SECTION 9. Any vacancy in the full number of town meeting members from any precinct, whether arising from a failure of the registered voters thereof to elect, or from any other cause, may be filled, until the next annual election, by the remaining members of the precinct from among the registered voters thereof. Upon petition therefor, signed by not less than ten town meeting members from the precinct, notice of any vacancy shall promptly be given by the town clerk to the remaining members from the precinct in which the vacancy or vacancies exist, and he shall call a special meeting of such members for the purpose of filling such vacancy or vacancies. He shall cause to be mailed to every such member, not less than five days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the said meeting a majority of the members from such precinct shall constitute a quorum, and they shall elect from their own number a chairman and a clerk. The choice to fill any vacancy shall be by ballot, and a majority of the votes cast shall be required for a choice. The chairman and clerk shall count the ballots and shall make a certificate of the choice and forthwith file the same with the town clerk, together with a written acceptance by the member or members so chosen, who shall thereupon be deemed elected and qualified as a town meeting member or members, subject to the right of all the town meeting members to judge of the election and qualifications of the members as set forth in section five. 1
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Certain votes
subject to
referendum.
Procedure.
1931, 314.

SECTION 10. A vote passed at any representative town meeting authorizing the expenditure of twenty thousand dollars or more as a special appropriation, or establishing a new board or office or abolishing an old board or office or merging two or more boards or offices, or fixing the term of office of town officers, where such term is optional, or increasing or reducing the number of members of a board, or adopting a new by-law, or amending an existing by-law, shall not be operative until after the expiration of five days, exclusive of Sundays and holidays, from the dissolution of the meeting. If, within said five days, a petition, signed by not less than three per cent of the registered voters of the town, containing their names and addresses as they appear on the list of registered voters, is filed with the selectmen asking that the question or questions involved in such a vote be submitted to the registered voters of the town at large, then the selectmen, after the expiration of 1
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15 five days, shall forthwith call a special meeting for the sole purpose of
 16 presenting to the registered voters at large the question or questions so
 17 involved. The polls shall be opened at two o'clock in the afternoon
 18 and shall be closed not earlier than eight o'clock in the evening, and all
 19 votes upon any questions so submitted shall be taken by ballot, and the
 20 check list shall be used in the several precinct meetings in the same
 21 manner as in the election of town officers. The questions so submitted
 22 shall be determined by a majority vote of the registered voters of the
 23 town voting thereon, but no action of the representative town meeting
 24 shall be reversed unless at least twenty per cent of the registered voters
 25 shall so vote. Each question so submitted shall be in the form of the
 26 following question, which shall be placed upon the official ballot:—
 27 "Shall the town vote to approve the action of the representative town
 28 meeting whereby it was voted (brief description of the substance of the
 29 vote)?" If such petition is not filed within said period of five days, the
 30 vote of the representative town meeting shall become operative and
 31 effective upon the expiration of said period.

1 SECTION 11. The town, after the acceptance of this chapter, shall
 2 continue to have the capacity to act through and to be bound by its
 3 town meeting members, who shall, when convened from time to time
 4 as herein provided, constitute representative town meetings; and the
 5 representative town meetings shall exercise exclusively, so far as will
 6 conform to the provisions of this chapter, all powers vested in the mu-
 7 nicipal corporation. Action in conformity with all provisions of law
 8 now or hereafter applicable to the transaction of town affairs in town
 9 meeting, shall, when taken by any representative town meeting in
 10 accordance with the provisions of this chapter, have the same force and
 11 effect as if such action had been taken in a town meeting open to all the
 12 voters of the town as organized and conducted before the establishment
 13 in said town of representative town meeting government.

Authority to
 continue to
 act by repre-
 sentative
 town meetings.
 Effect of
 such action.
 1931, 314.

1 SECTION 12. This chapter shall not abridge the right of the inhabit-
 2 ants of the town to hold general meetings, as secured to them by the
 3 constitution of this commonwealth; nor shall this chapter confer upon
 4 any representative town meeting in any town the power finally to com-
 5 mit the town to any measure affecting its municipal existence or sub-
 6 stantially changing its form of government without action thereon by
 7 the voters of the town at large, using the ballot and the check list
 8 therefor.

Right to
 hold general
 meetings not
 abridged.
 Limitation
 upon powers
 of representa-
 tive town
 meetings.
 1931, 314.

CHAPTER 44.

MUNICIPAL FINANCE.

SECT.	DEFINITION.	SECT.	FORM AND CERTIFICATION OF TOWN AND DISTRICT NOTES.
1.	Certain terms defined.	23.	Director of accounts to issue book of forms for town and district notes.
	MUNICIPAL INDEBTEDNESS.	24.	Issue of town and district notes.
2.	Municipal indebtedness regulated.	24A.	Such notes may be payable to "bearer", when.
3.	Computation of indebtedness.	25.	When note is paid, director to be notified.
4.	Cities, towns and districts may borrow for one year in anticipation of revenue.	26.	Fees to be charged by director and paid into treasury.
5.	Towns may borrow between January 1 and date of town meeting.	27.	Certification prima facie evidence.
5A.	Cities may borrow to meet certain liabilities in anticipation of appropriations.		REPORT OF BORROWING.
6.	Cities and towns may borrow for temporary loans for payment of land damages, etc.	28.	Director to be informed of all municipal loans, etc.
6A.	Towns may borrow for highway purposes in anticipation of state or county reimbursement.		TAX LIMIT IN CITIES.
7.	Purposes for which cities and towns may borrow within the debt limit.	29.	Tax limit in certain cities.
8.	Purposes for which cities and towns may borrow outside the debt limit.		DEPARTMENT APPROPRIATIONS.
9.	When districts may borrow.	30.	Department appropriations in certain cities.
10.	Debt limit.	31.	Liability not to be incurred in excess of appropriation, etc.
11.	Earlier payment of debts, etc.		BUDGET IN CITIES.
12.	City may incur indebtedness for water supply purposes.	32.	Mayors, etc., of certain cities to submit annual budgets, etc.
13.	Town officers may incur liabilities between December 31 and next appropriation.	33.	Failure of mayor or commissioner or director of finance to recommend appropriation.
	LIABILITY FOR DEBTS.	33A.	To include provisions for salaries of officials, etc.
14.	Liability for lawful debts.	34.	Expenditures in anticipation of appropriations.
15.	Cities, towns, etc., not to be exempt from liability to pay debts contracted under special acts, etc.		AUDITING.
	BONDS, NOTES AND CERTIFICATES OF INDEBTEDNESS.	35.	Auditing of accounts of towns and districts.
16.	Issue of bonds, notes, etc.	36.	Auditing of accounts of cities.
17.	Temporary loan may be made for period not exceeding one year, etc.	37.	Director to assist municipal accounting officers.
18.	Discount of notes.	38.	Uniformity in municipal accounting.
19.	Provision for payment of debts by cities, towns and districts.	39.	Director to report result of audit to city, town or district authorities.
20.	Proceeds of sale of bonds to be used only for purposes specified, etc. Premiums.	40.	Biennial, etc., audits of city and town accounts. Preference to petitions.
21.	Issue of new securities for old, recalled or paid. New, when payable.	41.	Expenses of auditing, payment and collection.
22.	Rate of interest.	42.	Report of local audit.
		43.	Returns and information to director. Forms for accounting.

<p>SECT.</p> <p>44. Annual report and bulletins of municipal statistics.</p> <p>45. Witnesses, production of documents, etc.</p> <p>46. Destruction or sale of old papers.</p> <p style="text-align: center;">SINKING FUNDS.</p> <p>47. No new sinking funds. Existing funds continued.</p> <p>48. Duties of sinking fund commissioners. Investments.</p> <p>49. Issue of new bonds to sinking fund commissioners of cities.</p> <p>50. [Repealed.]</p> <p>51. Loans from state sinking funds not to be made to certain cities and towns.</p> <p>52. Registration of bonds, etc., held by sinking fund commissioners.</p> <p style="text-align: center;">MISCELLANEOUS PROVISIONS.</p> <p>53. Department receipts to be paid into treasury, etc.</p>	<p>SECT.</p> <p>54. Investment of trust funds, etc.</p> <p>55. Deposits of cities or towns limited.</p> <p>55A. Certain municipal officers not liable for loss of public moneys by reason of liquidation of certain departments.</p> <p>56. Financial year of towns. Returns.</p> <p>57. Interest on certain debts to be paid from taxes.</p> <p>58. Cities not to pay for wines, liquors or cigars.</p> <p>59. Enforcement of chapter.</p> <p>60. Penalty for violation of law relative to town and district notes.</p> <p>61. Penalty for refusal to issue non-negotiable bond to sinking fund commissioners.</p> <p>62. Penalties for violation of municipal finance laws.</p> <p>63. Application of proceeds of certain sales of real estate.</p>
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DEFINITIONS.

1 SECTION 1. In this chapter, unless the context otherwise requires, Certain terms defined.

2 the following words shall have the following meanings: 1913, 719, § 2.

3 "Revenue", receipts from taxes and income from all other sources. 1914, 143, § 1.

4 "Director", director of accounts in the department of corporations 1919, 350.

5 and taxation. § 54, 113.

6 "Majority vote" and "two thirds vote", as applied to towns or 1931, 394, § 10.

7 districts, the vote of a majority or two thirds, respectively, of the voters

8 present and voting at a meeting duly called, and, as applied to cities,

9 the vote taken by yeas and nays of a majority or of two thirds, as the

10 case may require, of all the members of each branch of the city govern-

11 ment where there are two branches, or of all the members where there

12 is a single branch of the city government, or of a majority or two thirds

13 of the commissioners where the city government consists of a commis-

14 sion; and in every case subject to the approval of the mayor, where such

15 approval is required by the charter of the city.

16 "Town" shall not include city.

MUNICIPAL INDEBTEDNESS.

1 SECTION 2. Except in Boston and except as otherwise expressly Municipal indebtedness regulated.

2 permitted by law, cities and towns shall incur debts only in the manner 1875, 209.

3 of voting and within the limitations as to amount and time of payment P. S. 29, §§ 1, 7.

4 prescribed in this chapter; but this section shall not be construed as R. L. 27,

5 prohibiting any city, town or district from placing additional restrictions, §§ 1, 8.

6 consistent with this chapter, upon the manner of incurring debt, nor as 1913, 719,

7 affecting the right of any city, town or district to incur debt under any §§ 1, 7, 22.

8 special act which has or shall become effective after January first, nine- 1928, 386, § 1

9 teen hundred and twenty-one; but no debt may be authorized under a 262 Mass. 214

10 special act except by a two thirds vote, unless the act so provides. 1 Op. A. G. 65, 4 Op. A. G. 261.

1 SECTION 3. The indebtedness of a city or town for a specific pur- Computation of indebtedness.

2 pose shall be its net indebtedness, which shall be the total indebted- 1875, 209,

3 ness for that purpose after deducting the amount of sinking funds §§ 6, 10.

1880, 32.
P. S. 29, §§ 2, 3.
1883, 127.
1894, 317, § 21.
cl. 2, f. 522.
§ 34, cl. 4.
1895, 164

applicable to the same. The indebtedness to which the debt limit imposed by section ten shall be applied shall be the total net indebtedness of the city or town after excluding debts exempted from the operation of said section.

R. L. S. § 5, cl. 12; 27, § 2.

218 Mass. 161.

1 Op. A. G. 65.

Cities, towns and districts may borrow for one year in anticipation of revenue
1875, 209, § 2.
P. S. 29, § 6
1885, 312, § 4.
1889, 372.
1891, 221.
1895, 25.
R. L. 27, § 6.
1913, 719, §§ 1, 3.
1914, 143, § 2.
1918, 26, § 1;
257, § 159.
1919, 5.
1920, 2.
3 Op. A. G. 327, 342.
4 Op. A. G. 149.

SECTION 4. Cities, towns and fire, water, light and improvement districts may, by a majority vote, incur debt for temporary loans in anticipation of the revenue of the financial year in which the debt is incurred and expressly made payable therefrom by such vote, and may issue notes therefor to an amount which for cities and towns shall not exceed in the aggregate the total tax levy of the preceding financial year, together with the bank, corporation, street railway and income tax received during the preceding financial year, exclusive of special or additional assessments or revenue from any other source except payments made by the commonwealth in lieu of taxes on account of property taken for institutions or for metropolitan district purposes. Such notes shall be payable, and shall be paid, not later than one year from their date, and shall not be renewed or paid by the issue of new notes, except as provided in section seventeen.

Towns may borrow between January 1 and date of town meeting.
1915, 83,
§§ 1, 2.
1918, 25, § 1.

SECTION 5. To provide necessary funds to meet liabilities authorized by section thirteen, the town treasurer, with the approval of a majority of the selectmen, may borrow on notes of the town during any one month between January first and the next annual town meeting a sum not exceeding one twelfth of the amount obtained by adding the previous tax levy and the sum received from the commonwealth during the preceding year on account of the income tax. The amount so borrowed shall be deemed a part of the amount which may be borrowed under the preceding section. Said notes shall be subject to certification, in accordance with law, by the director, who shall furnish a statement certifying to the amount of the tax levy of the preceding year as filed with the commissioner of corporations and taxation by the assessors, and they shall not be renewed or paid by the issue of new notes except as provided in section seventeen.

Cities may borrow to meet certain liabilities in anticipation of appropriations.
1922, 28.
1923, 359, § 1.

SECTION 5A. To provide the necessary funds to meet liabilities authorized by section thirty-four, the treasurer of a city, with the approval of the official whose approval is required by the city charter in the borrowing of money, may borrow on notes of the city, during any one month between the beginning of the financial year and the time when the revenue loan order shall become finally effective and any period for filing a petition for a referendum thereon shall have expired, a sum not exceeding one twelfth of the amount obtained by adding the previous year's tax levy to the sum received from the commonwealth on account of the income tax during the preceding year. The amount so borrowed shall be deemed a part of the amount which may be borrowed under section four. The provisions of city charters relative to loan orders shall not otherwise apply to loans issued under this section.

Cities and towns may borrow for temporary loans for payment of land damages, etc.

SECTION 6. Cities and towns may, by a majority vote, incur debt for temporary loans for the payment of land damages or any proportion of the general expenses of altering a grade crossing which they are required primarily to pay, or any proportion of the expense of constructing a high-

5 way in anticipation of reimbursement by the commonwealth or county,
 6 such reimbursement first having been agreed upon by the department of
 7 public works or county commissioners, and may issue notes therefor for a
 8 period not exceeding one year from their date; and when any money so
 9 paid is repaid to the municipality, it shall be applied to the discharge of
 10 the loan. Notes issued under this section shall not be renewed or paid
 11 by the issue of new notes, except as provided in section seventeen.

1892, 178.
 R. L. 27, § 7.
 1913, 719,
 § 1, 4
 1918, 26, § 2.
 1931, 394, § 11

1 SECTION 6A. If a town has appropriated a sum of money for the pur-
 2 pose of constructing or repairing a highway, to be used with a sum or sums
 3 allotted by the department of public works or the county commissioners
 4 or by both, and is required primarily to pay that proportion of the expense
 5 for which reimbursement is to be received from the commonwealth or
 6 county or both, such reimbursement first having been agreed upon by
 7 said department or the county commissioners, for the purpose of provid-
 8 ing the necessary funds to meet the expense for which reimbursement is
 9 to be made the treasurer of the town may, with the approval of the
 10 selectmen, incur debt outside the debt limit and issue notes therefor for a
 11 period not exceeding one year from their dates; and the proceeds of such
 12 reimbursement shall be applied to the discharge of the loan.

Towns may
 borrow for
 highway pur-
 poses in
 anticipation of
 state or county
 reimbursement.
 1921, 366.
 1931, 394, § 12.

1 SECTION 7. Cities and towns may incur debt, within the limit of
 2 indebtedness prescribed in section ten, for the following purposes, and
 3 payable within the periods hereinafter specified, but, except as to the
 4 eleventh clause, no loan shall be authorized in any year under any one of
 5 the following clauses unless a sum equal to twenty-five cents on each one
 6 thousand dollars of the assessed valuation of the city or town for the pre-
 7 ceding year has been appropriated from available revenue funds or voted
 8 to be raised by taxation for the purposes set forth in such clause in the
 9 year when the loan is authorized:

Purposes for
 which cities
 and towns
 may borrow
 within
 the debt limit.
 1913, 719,
 § 1, 5.
 1923, 378.
 1928, 64; 324
 1931, 164.
 1 Op. A. G. 24
 4 Op. A. G. 251.

10 (1) For the construction of sewers for sanitary and surface drainage
 11 purposes and for sewage disposal, thirty years.

P. S. 29, § 8.
 1892, 245, § 6.

R. L. 27, § 11.

1903, 375.

1913, 719, § 5, subs. 1.

12 (2) For acquiring land for public parks or playgrounds or public
 13 domain under chapter forty-five, thirty years; but no indebtedness
 14 incurred for public domain shall exceed one half of one per cent of the last
 15 preceding assessed valuation of the city or town.

1882, 154, § 9;
 255, § 7.
 1893, 225, § 3.
 R. L. 27, § 11;
 28, §§ 10, 21,
 29.

1903, 375.

1908, 341, § 3.

1913, 564, §§ 1, 5; 719, § 5,

subs. 2, § 6, subs. 5.

1915, 162, § 1.

G. L. (ed. of 1920) 44, § 8.

1928, 324.

258 Mass. 115.

16 (3) For acquiring land for any purpose for which a city or town is or
 17 may hereafter be authorized to acquire land, not otherwise specifically
 18 provided for; for the construction of buildings which cities or towns are
 19 or may hereafter be authorized to construct; or for additions to such
 20 buildings where such additions increase the floor space of said buildings;
 21 including the cost of original equipment and furnishings of said buildings
 22 or additions, twenty years.

1894, 221.
 R. L. 27, § 11.
 1903, 375.
 1913, 719, § 5,
 subs. 3, 4, § 1.
 1916, 111, § 1.
 1919, 61, § 2.
 3 Op. A. G. 71.
 Op. A. G.
 (1919) 93.

23 (4) For the construction of bridges of stone or concrete or of iron
 24 superstructure, twenty years.

1913, 719, § 5,
 subs. 5.

25 (5) For the original construction of public ways or the extension or
 26 widening thereof, including land damages and the cost of pavement and
 27 sidewalks laid at the time of said construction, or for the construction of
 28 stone, block, brick or other permanent pavement of similar lasting charac-

1913, 719, § 5,
 subs. 6, 7.

	ter under specifications approved by the department of public works, ten years.	29 30
1913, 719, § 5, subs. 8, 12.	(6) For macadam pavement or other road material under specifications approved by the department of public works, or for the construction of sidewalks of brick, stone or concrete, five years.	31 32 33
1913, 719, § 5, subs. 9.	(7) For the construction of walls or dikes for the protection of highways or property, ten years.	34 35
1913, 719, § 5, subs. 10.	(8) For the purchase of land for cemetery purposes, ten years.	36
1913, 719, § 5, subs. 11.	(9) For the cost of additional departmental equipment, five years; but each department shall be considered separately in determining the amount that must be provided from revenue funds or proceeds of taxation before such indebtedness may be incurred.	37 38 39 40
1899, 319, § 1, R. L. 49, § 31, 1913, 719, § 5, subs. 13.	(10) For connecting dwellings or other buildings with common sewers, when the cost is to be assessed in whole or in part on the abutting property owners, five years.	41 42 43
1920, 114.	(11) For the payment of final judgments rendered after the fixing of the tax rate for the current year, one year.	44 45
1928, 350, § 2.	(12) For the establishing of public airports, including the acquiring of land, grading and constructing suitable surface on such field, the construction of necessary buildings and the original equipment and furnishing of same, ten years. The proceeds of indebtedness incurred hereunder may be expended for the establishment of such an airport jointly by two or more municipalities.	46 47 48 49 50 51
1913, 719, § 5.	Debts may be authorized under this section only by a two thirds vote.	52
Purposes for which cities and towns may borrow outside the debt limit.	SECTION 8. Cities and towns may incur debt, outside the limit of indebtedness prescribed in section ten, for the following purposes and payable within the periods hereinafter specified:	1 2 3
	1913, 719, §§ 1, 6.	1928, 291.
		4 Op. A. G. 261.
1913, 719, § 6, -subs. 1.	(1) For temporary loans under section four, five, five A, six, six A, or seventeen, one year.	4 5
1918, 205, § 4.	(2) For maintaining, distributing and providing food, other common necessities of life and temporary shelter for their inhabitants upon the occasions and in the manner set forth in section nineteen of chapter forty, two years.	6 7 8 9
1870, 93, §§ 2, 3. 1873, 255. 1875, 209, § 4. P. S. 27, §§ 28, 29, 29, § 8.	(3) For establishing or purchasing a system for supplying the inhabitants of a city or town with water, for the purchase of land for the protection of a water system, or for acquiring water rights, thirty years.	10 11 12
	1892, 245, § 6. 1895, 188, § 21. R. L. 25, § 32, 27, § 11.	1903, 375. 1913, 719, § 6, subs. 2. 218 Mass. 161. 4 Op. A. G. 261.
1923, 303, § 1.	(4) For the construction of filter beds, standpipes, reservoirs and buildings for pumping stations, twenty years.	13 14
1923, 303, § 1. 1926, 317.	(5) For laying and relaying water mains of not less than six inches but less than sixteen inches in diameter, fifteen years.	15 16
1926, 45.	(6) For constructing and laying aqueducts and water mains of six-teen inches or more in diameter, twenty-five years.	17 18
1913, 719, § 6, subs. 3.	(7) For the extension of water mains and for water departmental equipment, five years.	19 20
1891, 370, § 4. 1894, 182. R. L. 27, § 5. 1908, 341, § 2. 1913, 719, § 6, subs. 4. 1914, 742, § 98.	(8) For establishing, purchasing, extending or enlarging a gas or electric lighting plant within the limits of the territory within which such gas or electric lighting plant is authorized to distribute its products, twenty years; but the outstanding indebtedness so incurred shall	21 22 23 24

25 not exceed in a town five per cent and in a city two and one half per
 26 cent of the last preceding assessed valuation of such town or city.

27 (9) For such emergency appropriations as shall be approved by a
 28 board composed of the attorney general, the state treasurer and the
 29 director, one year.

1913, 719, § 5, subs. 15.
 1920, 591, § 10.

G. L. (ed. of 1920) 44, § 7.
 1928, 291.

30 (10) For acquiring land or constructing buildings or other structures,
 31 including the cost of original equipment, as memorials to soldiers, sailors
 32 and marines, twenty years; but the indebtedness so incurred shall not
 33 exceed one half of one per cent of the last preceding assessed valuation
 34 of the city or town.

1919, 61, § 2.
 1920, 292, § 2.

35 (11) For the payment of an assessment for a proportionate share of
 36 the expense of construction of a county tuberculosis hospital under sec-
 37 tion eighty-three of chapter one hundred and eleven, twenty years.

1916, 286, § 5.

38 (12) For acquiring street railway property under sections one hun-
 39 dred and forty-three to one hundred and fifty-eight, inclusive, of chapter
 40 one hundred and sixty-one, operating the same, or contributing toward
 41 the sums expended by a transportation area for capital purposes, ten
 42 years; but the indebtedness so incurred shall not exceed two per cent of
 43 the last preceding assessed valuation of the city or town.

1920, 599, § 11.

44 Debts for purposes mentioned in clause (1) of this section shall be
 45 payable as provided for in sections four, five, five A, six, six A and seven-
 46 teen. Debts for all other purposes mentioned in this section shall be
 47 payable within the periods above specified from the date of the first
 48 issue of bonds or notes on account thereof, and may be incurred in
 49 accordance with the laws relating to such purposes, so far as they are
 50 consistent with this chapter. Debts, except for temporary loans, may
 51 be authorized under this section only by a two thirds vote.

1875, 209, § 3.
 P. S. 29, § 7.
 R. L. 27, § 8.
 1915, 719, § 6.
 1914, 143, § 3.
 1 Op. A. G. 24.

52 Debts for purposes mentioned in clauses (3), (4), (5), (6) and (7) of
 53 this section shall not be authorized to an amount exceeding ten per cent
 54 of the last preceding assessed valuation of the city or town.

1870, 93, §§ 2, 3.
 P. S. 27,
 §§ 28, 29.
 R. L. 25, § 32.
 218 Mass. 161.

1 SECTION 9. Fire, water, light and improvement districts may by a
 2 two thirds vote authorize the incurring of debt for the purposes pre-
 3 scribed, and payable within the periods specified, by sections seven and
 4 eight, so far as they are authorized by law to make expenditures for the
 5 purposes mentioned therein.

When districts
 may borrow.
 1915, 85, § 1.
 1918, 257,
 § 159
 1919, 5.
 1920, 2.

1 SECTION 10. Except as otherwise authorized by law, a city shall not
 2 authorize indebtedness to an amount exceeding two and one half per
 3 cent, and a town shall not authorize indebtedness to an amount exceed-
 4 ing three per cent, on the average of the assessors' valuations of the
 5 taxable property for the three preceding years, the valuations being
 6 first reduced by the amount of all abatements allowed thereon previous
 7 to December thirty-first of the preceding year; provided, that the value
 8 of motor vehicles taxable under chapter sixty A, as determined there-
 9 under, shall be used in determining the valuation of taxable property
 10 for the purposes of this section. All debts, except those expressly author-
 11 ized by law to be incurred outside the debt limit, shall be reckoned in
 12 determining its limit of indebtedness under this section.

Debt limit.
 1875, 209, § 6.
 P. S. 29, § 4.
 1885, 312, § 2.
 R. L. 27,
 §§ 3, 4.
 1915, 719,
 §§ 1, 6, 12.
 1914, 143, § 3.
 1928, 379, § 2.
 218 Mass. 161.

1 SECTION 11. Cities, except Boston, towns and districts may pay of
 2 provide for the payment of any debt at an earlier period than is required

Earlier pay-
 ment of debts,
 etc.

1875, 209, § 8.
P. S. 29, § 14.
1892, 245, § 7.
R. L. 27, § 18.
1913, 719,
§ 1, 15.
1915, 85, § 6.
142 Mass. 274.
3 Op. A. G. 71.

by this chapter or may appropriate money for the purchase and cancellation of outstanding indebtedness, and shall not refund any debt except as provided in section seventeen; and cities, towns and districts may, for the purpose of reducing the whole debt for the redemption of which sinking funds have been established by cities or towns prior to May twenty-eighth, nineteen hundred and thirteen, and by districts prior to March twentieth, nineteen hundred and fifteen, or of reducing the amount to be raised by taxation for such funds, add to any such sinking fund the excess of any appropriation over the amount required for the purpose thereof, or add to such funds any sums derived from taxation or from other sources not required by law to be expended otherwise.

City may incur indebtedness for water supply purposes.
1876, 19.
P. S. 29, § 18.
R. L. 27, § 21.
1913, 719,
§ 1, 11.
3 Op. A. G.
422, 565.

SECTION 12. A city, except Boston, which, at a meeting of its voters held for that purpose, has accepted, by a vote of two thirds of the legal voters voting thereon, any act to supply the city with water, may, by a two thirds vote, incur debt and issue bonds or notes for the purposes and to the extent authorized by such act, in the manner provided in, and subject to the provisions of, section nineteen.

Town officers may incur liabilities between December 31 and next appropriation.
1913, 692, § 2.

SECTION 13. In towns, during the interval between December thirty-first in each year and the time of making the next annual appropriations, town officers authorized to make expenditures may incur liabilities in carrying on the several departments intrusted to them, and payments therefor shall be made from the town treasury from any available funds therein, and the same shall be charged against the next annual appropriation; provided, that the liabilities incurred during said interval do not exceed in any month the sums spent for similar purposes during any one month of the preceding year; and provided, further, that said officers may expend in any one month for any officer or board created by law an amount not exceeding one twelfth of the estimated cost for said year; but all interest and debt falling due in the said interval shall be paid.

LIABILITY FOR DEBTS.

Liability for lawful debts.
1875, 209, § 10.
P. S. 29, § 16.
R. L. 27, § 20.

SECTION 14. Nothing in this chapter shall exempt a city or town from its liability to pay debts contracted for purposes for which it may lawfully expend money.

144 Mass. 177.

1 Op. A. G. 24.

Cities, towns, etc., not to be exempt from liability to pay debts contracted under special acts, etc.
1914, 740.

SECTION 15. Cities, towns and districts authorized by special acts to incur debt shall not be exempt from liability to pay debts contracted for the purposes for which they may lawfully expend money under such acts, notwithstanding that the amount of the annual payment and the period of the loan may not have been specified by the vote authorizing the debt to be incurred, and the officers authorized to issue bonds or notes therefor may issue the same, subject to the provisions and limitations of such acts, provided that in all other respects the requirements of law shall have been complied with; and the provisions of this section shall apply to any bonds or notes of a city, town or district issued under the authority of any special act heretofore or hereafter enacted.

BONDS, NOTES AND CERTIFICATES OF INDEBTEDNESS.

1 SECTION 16. A city, town or district which has authorized a debt to
 2 be incurred within the limitations, as to amount and time of payment,
 3 prescribed by this chapter may issue therefor bonds or notes, or, in the
 4 case of a city, certificates of indebtedness, all of which shall be prop-
 5 erly denominated on the face thereof, signed by its treasurer, and, if
 6 issued by a city, countersigned by its mayor, unless its charter other-
 7 wise provides, or, if issued by a town, by a majority of its selectmen,
 8 or, if issued by a district, by a majority of the prudential committee or
 9 commissioners, and by any other officers, boards or commissioners of a
 10 city, town or district whose counter-signatures may be required by law,
 11 at such rate of interest as may be deemed proper; and such city, town
 12 or district may, except as provided in section eighteen, sell such bonds,
 13 notes or certificates of indebtedness at not less than par, at public or
 14 private sale, or may use the same in payment of such debts; provided,
 15 that if the amount of the annual payment and the period of the loan
 16 are not specified by the vote authorizing the debt to be incurred, the
 17 officers authorized to issue bonds or notes therefor may issue the same
 18 subject to the provisions and limitations of this chapter. The auditor
 19 or similar officer in cities, the town accountant in towns having such an
 20 officer, the treasurer in all other towns, or the prudential committee or
 21 commissioners in a district, shall, not later than May first of each year,
 22 notify the board of assessors in writing of the amount of debt falling due
 23 during the current financial year, the sinking fund requirements, if any,
 24 and what provision has been made for meeting such requirements; and
 25 the board shall make such provision for meeting said debt and sinking
 26 fund requirements in the tax levy of that year as in its judgment may
 27 be necessary. This section and the four following sections shall not apply
 28 to Boston.

Issue of bonds,
 notes, etc.
 1884, 129.
 1896, 269
 R. L. 27, § 9.
 1913, 719,
 §§ 1, 8.
 1914, 143, § 4.
 1915, 85, § 3.
 201 Mass. 453.
 212 Mass. 92.

1 SECTION 17. If a city, town or district votes to issue bonds, notes or
 2 certificates of indebtedness in accordance with law, the officers author-
 3 ized to issue the same may, in the name of such city, town or district,
 4 make a temporary loan for a period of not more than one year in an-
 5 ticipation of the money to be derived from the sale of such bonds, notes
 6 or certificates of indebtedness, and may issue notes therefor; but the
 7 time within which such securities shall become due and payable shall
 8 not be extended by reason of the making of such temporary loan be-
 9 yond the time fixed in the vote authorizing the issue of such bonds,
 10 notes or certificates of indebtedness; and notes issued under this section
 11 and sections four, five, five A, six and six A for a shorter period than
 12 one year may be refunded by the issue of other notes maturing within
 13 the required period; provided, that the period from the date of issue
 14 of the original loan to the date of maturity of the refunding loan shall
 15 be not more than one year; and provided, further, that no notes shall
 16 be refunded under this section except under authority of such vote, if
 17 any, as is required for the original borrowing.

Temporary
 loan may be
 made for
 period not
 exceeding one
 year, etc.
 1875, 209, § 8.
 P. S. 29, § 14.
 1898, 526.
 R. L. 27,
 §§ 10, 18.
 1908, 250, § 1
 1913, 719,
 §§ 1, 9.
 1914, 143, § 5.
 1923, 303, § 2
 1 Op. A. G. 24.
 Op. A. G.
 (1918) 34

1 SECTION 18. Notes issued under section four, five, five A, six, six A
 2 or seventeen may be sold at such discount as the treasurer or other
 3 officer authorized to sell the same may, with the approval of the officer
 4 or officers whose counter-signature is required on said notes, deem
 5 proper, the discount to be treated as interest paid in advance.

Discount of
 notes.
 1904, 153.
 1913, 719,
 §§ 1, 10
 1923, 303, § 2.

Provision for
payment of
debts by cities,
towns and
districts.
1882, 133, § 1.
R. L. 27, § 13.
1908, 241, § 1.
1911, 330.
1913, 719,
§§ 1, 14.
1915, 85, § 5.
1916, 62,
§§ 1, 2.
1923, 359, § 2.

SECTION 19. Cities, towns and districts shall not issue any notes payable on demand, and they shall provide for the payment of all debts, except those incurred under sections four, five, five A, six, six A and seventeen, by such annual payments as will extinguish the same at maturity, and so that the first of such annual payments on account of any loan shall be made not later than one year after the date of the bonds or notes issued for the serial loan, and so that the amount of such annual payments in any year on account of such debts, so far as issued, shall not be less than the amount of principal payable in any subsequent year, and such annual amounts, together with the interest on all debts, shall, without further vote, be assessed until the debt is extinguished; provided, that in the case of bonds or notes issued for establishing or purchasing a water supply system for its inhabitants, for the purchase of land for the protection thereof or for acquiring water rights, the first of such annual payments shall be made not later than three years after the date thereof.

Proceeds of
sale of bonds
to be used
only for pur-
poses specified,
etc. Premiums.
1910, 379,
§§ 1, 3.
1913, 719,
§§ 1, 7.
1915, 85, § 2.
1928, 224
4 Op. A. G.
261.

SECTION 20. The proceeds of any sale of bonds or notes, except premiums, shall be used only for the purposes specified in the authorization of the loan; provided, that transfers of unexpended amounts may be made to other accounts to be used for similar purposes or such unexpended amounts may, after the expiration of two years from the completion of the project for which the loan was authorized, be transferred to any other account established for purposes for which a loan may be authorized for an equal or longer period of time. Any premium received upon such bonds, less the cost of preparing, issuing and marketing them, shall be applied to the payment of the principal of the first bonds or notes so to mature, and the contributions from other sources for the payment of said bonds or notes shall be reduced correspondingly.

Issue of new
securities for
old, recalled
or paid.
New, when
payable.
1876, 238, § 4.
P. S. 29, § 23.
R. L. 27, § 25.

SECTION 21. A city or town which recalls and pays any of its securities under rights reserved therein may issue, in place of securities so recalled and paid, other securities payable at periods within the maturity of those originally issued. Such new securities shall be made payable within thirty years from the time of contracting the original debt.

1 Op. A. G. 24.

Rate of
interest.
1920, 336.

SECTION 22. All bonds, notes and other securities issued by cities or towns, except Boston, shall bear such rate of interest as may be fixed by the city or town treasurer, with the approval of the mayor or selectmen, notwithstanding any general or special provision of law enacted prior to April twenty-second, nineteen hundred and twenty.

FORM AND CERTIFICATION OF TOWN AND DISTRICT NOTES.

Director of
accounts to
issue book of
forms for town
and district
notes.
1910, 616, § 1.
1913, 727, § 1.
1915, 285.
1918, 257,
§ 139.
1919, 5, 350,
§§ 52, 55.
1920, 2.
3 Op. A. G.
312, 523, 578.

SECTION 23. The director shall furnish to the treasurer of every town, and of every fire, water, light and improvement district, forms for the issue of notes for money borrowed by the town and by such districts. Every such note shall state the amount thereof, the date of issue, which shall be construed as the date from which interest is payable, the interest which it bears, the date when it will become due, and such other matter as the director may deem necessary; and a record of every such note shall be kept by said treasurer in such form as the director may designate. The director may place upon notes submitted to him for certification

10 such denominations as will show the purpose for which they are issued
 11 and as may be required by law to appear thereon.

1 SECTION 24. Whenever a town or a fire, water, light or improvement
 2 district votes to raise money otherwise than by the issue of bonds, the
 3 treasurer thereof shall make notes for the amount of the proposed loan,
 4 and shall use one or more, in serial order, of the forms provided for in
 5 the preceding section, with the blank spaces properly filled in. Town
 6 notes shall be signed by the treasurer thereof, and a majority of the
 7 selectmen shall countersign and approve each note in the presence of the
 8 town clerk, who shall certify to the fact on the face thereof and affix
 9 thereon the town seal. Notes of districts shall be signed by the treasurer
 10 thereof, and a majority of the prudential committee or commissioners
 11 shall countersign and approve them in the presence of the clerk of the
 12 district, who shall certify to the fact on the face thereof. The treasurer
 13 of the town or district, after making a record of the transaction in accord-
 14 ance with the preceding section, shall forward, with the fee required by
 15 section twenty-six, every such note to the director, with a copy of said
 16 record and a copy of the vote authorizing the loan, certified by the clerk
 17 of the town or district, and a certification by said clerk that the person
 18 whose signature appears upon the note as treasurer was the duly author-
 19 ized treasurer of the town or district when such signature was made,
 20 and that the persons whose signatures appear upon the note as those of
 21 a majority of the selectmen or of the prudential committee or commis-
 22 sioners were duly qualified as such when such signatures were made;
 23 and the treasurer of such district shall furnish such other information
 24 with reference to the financial condition of the district as the director
 25 may require to enable him properly to certify the note. If upon exam-
 26 ination the note appears to the director to have been duly issued in
 27 accordance with the vote of the town or district authorizing it, or in
 28 accordance with an act of the general court, and to have been signed by
 29 the duly qualified officials of such town or district, he shall so certify
 30 and shall thereupon return the note by registered mail to the treasurer
 31 of such town or district; but, under such regulations as he may pre-
 32 scribe, if so authorized by the town treasurer with the approval of the
 33 selectmen, or by the treasurer of the district with the approval of the
 34 prudential committee or commissioners, the director may deliver a
 35 certified note to the payee thereof. He may certify to the issue of a
 36 note on any date not earlier than three days prior to the date of issue
 37 appearing on the note, if the other conditions of this chapter have been
 38 complied with. He shall not certify a note payable on demand, nor
 39 shall he certify any note unless the laws relating to municipal indebted-
 40 ness have been complied with, or if it appears that the proceeds of the
 41 note are not to be used for the purpose specified in the vote authorizing
 42 the loan for which the note is issued.

Issue of town
and district
notes
1910, 616, § 2.
1912, 15, § 1
1913, 416, § 1;
727, § 2, 3.
1914, 55,
§ 1, 2
1918, 257,
§ 159
1919, 5,
1920, 2,
1921, 28,
4 Op. A. G.,
134.

1 SECTION 24A. Town and district notes, when issued for a serial loan,
 2 may be made payable to "bearer", and when so issued section twenty-
 3 four may be construed by the director as being properly complied with
 4 in so far as it relates to the proper filling in of the space provided for the
 5 name of the purchaser of the loan, and he may certify such notes; pro-
 6 vided that before certification there shall be filed with him by the town
 7 or district treasurer, as the case may be, the name of the purchaser of
 8 such loan.

Such notes
may be
payable to
"bearer",
when
1921, 294.

When note is paid, director to be notified. 1910, 616, § 3. 1913, 727, § 5.

SECTION 25. Whenever a note issued by a town or district is paid, the treasurer thereof shall immediately notify the director of such payment, stating the source from which such payment was made.

1918, 257, § 159. 1919, 5. 1920, 2.

Fees to be charged by director and paid into treasury. Const. amend. 63, § 1. (Const. Rev. art. 125.)

SECTION 26. The director shall establish a reasonable fee for every note certified, to be turned over monthly to the commonwealth; and the state treasurer may refund the amount of any fee deposited with him by said director for the certification of any note which may be cancelled before money is obtained thereon.

1910, 616, § 4. 1912, 49, § 1. 1913, 727, § 4.

Certification prima facie evidence. 1915, 84, § 1.

SECTION 27. The certification of town and district notes by the director shall be prima facie evidence of the liability of such town or district therefor.

REPORT OF BORROWING.

Director to be informed of all municipal loans, etc. 1919, 23.

SECTION 28. Whenever a city, town or district votes to authorize the incurrence of indebtedness, the city, town or district clerk, as the case may be, shall, within forty-eight hours after the vote becomes effective, furnish to the director a copy thereof; and whenever a loan is issued by a city, the city treasurer shall notify the director of the amount and purpose of the loan, and shall state whether it be in the form of bonds or notes; and whenever a loan is issued by a town or district in the form of bonds, the treasurer thereof shall notify the director of the amount and purpose thereof. City, town and district treasurers shall also furnish the director, upon request, with any other information in respect to the authorization and issue of loans, which he may require to enable him to keep a complete and accurate record of indebtedness authorized or incurred by cities, towns and districts.

TAX LIMIT IN CITIES.

Tax limit in certain cities. 1885, 178, § 1; 312, § 1. 1887, 281. 1893, 247, 445. 1900, 399. 1901, 261. R. L. 12, § 54. 1908, 589, § 5. 1909, 490, I, § 53. 1910, 521. 1913, 719, § 19. 1915, 18, § 1.

SECTION 29. The tax limit heretofore established by ordinance under section nineteen of chapter seven hundred and nineteen of the acts of nineteen hundred and thirteen, in cities other than Boston, shall have the force of law until it is annulled or modified by the action of the city council or other governing body. The mayor, or in cities having a commission form of government the commissioner or director of finance, may request a change in the tax limit as then existing or the fixing of a limit; and when such request is submitted in writing to the city council, it shall immediately order a public hearing to be held not less than seven days thereafter relative to the fixing of a tax limit, and after such hearing the council may, between January first and May first only, by ordinance passed by a two thirds vote, fix a limit or abolish a limit previously established, and such ordinance shall remain in force until further modified, as above provided.

DEPARTMENT APPROPRIATIONS.

Department appropriations in certain cities. 1917, 269. 1918, 107. 244 Mass. 296.

SECTION 30. A city, except Boston, wherein the appropriation for any department is determined by law at a certain rate or percentage of the taxable valuation or the valuation of the taxable property therein, or however otherwise the same may be described, shall, in addition to the amount so determined, appropriate and use for such department such proportion of the proceeds of the tax upon incomes, returned by

7 the commonwealth to the city under section eighteen of chapter fifty-
 8 eight, as the appropriation so determined by law bears to the total local
 9 tax levy of that city for the current year; but in each year such depart-
 10 ments shall be credited with their proportion of the income tax received
 11 during the preceding year.

1 SECTION 31. No department of any city or town, except Boston, Liability not to
 2 shall incur liability in excess of the appropriation made for the use of be incurred in
 3 such department, except in cases of extreme emergency involving the excess of
 4 health or safety of persons or property, and then only by a vote in a city appropriation,
 5 of two thirds of the members of the city council, and in a town by a vote etc.
 6 of two thirds of the selectmen. 1913, 719,
 §§ 1, 16
 251 Mass. 82.

BUDGET IN CITIES.

1 SECTION 32. Within sixty days after the annual organization of the Mayors, etc., of
 2 city government, in cities other than Boston not having the commission certain cities
 3 form of government the mayor, and in such cities having said commis- to submit
 4 sion form, the commissioner or director of finance, shall submit to the annual budgets.
 5 city council the annual budget of the current expenses of the city, and 1913, 719,
 §§ 1, 20
 6 the mayor or commissioner or director, as the case may be, may submit 1915, 138, § 1.
 1920, 172
 7 thereafter supplementary budgets. The budget shall consist of an item- 231 Mass. 252,
 322
 8 ized and detailed statement of the money required, and the city council, 241 Mass. 325,
 333,
 251 Mass. 82.
 9 by a majority vote, shall make such appropriations in detail, clearly
 10 specifying the amount to be expended for each particular purpose;
 11 but the budget shall not be in such detail as to fix specific salaries of
 12 employees under the direction of boards elected by the people, other
 13 than the city council. The city council may reduce or reject any item,
 14 but, without the approval of the mayor or commissioner or director of
 15 finance, as the case may be, shall not increase any item in or the total of
 16 a budget, nor add any item thereto. In such cities not having the com-
 17 mission form of government, the city officials, when so requested by the
 18 mayor, shall submit to him forthwith in such detail as he may require
 19 estimates for the next fiscal year of the expenditures of their departments
 20 or offices under their charge, which shall be transmitted to the city
 21 council. In such cities having the commission form of government each
 22 commissioner or director shall, within thirty days after the annual
 23 organization of the city government, submit to the commissioner or
 24 director of finance estimates in such detail as he may require of the
 25 amounts deemed necessary for the current expenses of their respective
 26 departments. In all cities other than Boston, if the council fails to
 27 approve or disapprove any item in the budget, as submitted by the
 28 mayor or commissioner or director of finance, within sixty days after its
 29 receipt thereof, such item shall, without any council action, become a
 30 part of the budget for the year, and the sum named shall be available for
 31 the purpose designated. Nothing in this section shall prevent the mayor
 32 or commissioner or director of finance from recommending, and the city
 33 council from making, appropriations prior to the adoption of the annual
 34 budget.

1 SECTION 33. In case of the failure of the mayor or commissioner or Failure of
 2 director of finance to transmit to the city council a written recommenda- mayor or
 3 tion for an appropriation for any purpose deemed necessary by the coun- commissioner
 4 cil, after having been so requested by vote thereof, said council, after or director of
finance to
recommend
appropriation.

1913, 719, the expiration of seven days from such vote, upon its own initiative may 5
 §§ 1, 20, make an appropriation for such purpose by a vote of at least two thirds 6
 1915, 138, § 1. of its members, and shall in all cases make such appropriations in detail, 7
 1920, 172, clearly specifying the amount to be expended for each particular pur- 8
 231 Mass. 252, pose, but not in such detail as to fix specific salaries of employees under 9
 241 Mass. 336, the direction of boards elected by the people, other than the city council. 10

To include provisions for salaries of officials, etc. 1922, 230. SECTION 33A. The budget shall include sums sufficient to pay the 1
 salaries of officials fixed by law or by ordinance, but no new position 2
 shall be created or increase in rate made during the financial year subse- 3
 quent to the submission of the annual budget, unless provision therefor 4
 is made by means of a supplemental budget. 5

Expenditures in anticipation of appropriations. 1913, 719, § 1, 20, 1915, 138, § 1, 241 Mass. 333, 336. SECTION 34. In the period after the expiration of any fiscal year and 1
 before the regular appropriations have been made by the city council, 2
 the city officers who are authorized to make expenditures may incur li- 3
 abilities in carrying on the work of the several departments intrusted to 4
 them, and payments therefor shall be made from the treasury from any 5
 available funds therein, and charged against the next annual appropria- 6
 tion; provided, that the liabilities incurred during said interval do not 7
 exceed in any month the sums spent for similar purposes during any one 8
 month of the preceding year; and provided, further, that said officers 9
 may expend in any one month for any new officer or board lawfully 10
 created an amount not exceeding one twelfth of the estimated cost for 11
 the current year. All interest and debt falling due in said interval shall 12
 be paid. 13

AUDITING.

Auditing of accounts of towns and districts. 1910, 598, § 1, 1913, 706, § 1, 1916, 13, § 1, 1917, 159, § 1, 192, § 1, 1918, 257, § 159, 1919, 5, 1920, 2. SECTION 35. Any town and any fire, water, light or improvement 1
 district, at a meeting legally called therefor, may petition the director 2
 for an audit of its accounts or for the installation of an accounting sys- 3
 tem; and said director, as soon as possible after the receipt of such 4
 petition, shall cause such audit to be made or system of accounts to be 5
 installed. Any town or district, at a meeting legally called therefor, 6
 after such accounting system has been installed, may petition for sub- 7
 sequent audits, or may provide in its by-laws for periodical audits under 8
 the supervision of said director, who shall cause such audits to be made. 9
 The selectmen may petition said director for an audit of the town ac- 10
 counts when, in their opinion, the condition of the accounts is such as to 11
 warrant the making of such audit, and said director, as soon as possible 12
 after the receipt of such petition, shall cause such audit to be made. 13

Auditing of accounts of officers. 1910, 598, § 3, 1913, 706, § 1. SECTION 36. Any city may, by vote of its city council, petition the 1
 director for an audit of its accounts or for the installation of an account- 2
 ing system; and, if a statute or an ordinance requires a city official or 3
 commission to cause an audit to be made, such official or commission 4
 may petition therefor, and said director, as soon as possible after the 5
 receipt of such petition, shall cause such audit to be made or accounting 6
 system installed. 7

Director to assist municipal accounting officers. 1913, 706, § 1, 1917, 159, § 2. SECTION 37. Whenever, after such accounting system has been in- 1
 stalled, a city, town or district accounting officer requests the advice or 2
 assistance of the director, he shall render such assistance as in his judg- 3
 ment may be necessary. 4

1 SECTION 38. The accounting systems installed in accordance with
2 this chapter shall be such as will, in the judgment of the director, be most
3 effective in securing uniformity of classification in the accounts of such
4 cities, towns and districts. The director may supply approximately at
5 cost to cities, towns and districts where such accounting systems have
6 been installed such books, forms or other supplies as may be required
7 from time to time after the original installation of such systems.

Uniformity in
municipal
accounting.
1910, 508, § 2.
1913, 706, § 1.
1917, 241;
159, § 2.

1 SECTION 39. Upon the completion of an audit under section thirty-
2 five or thirty-six, the director shall render a report to the city govern-
3 ment or the board of selectmen or the prudential committee or com-
4 missioners, respectively, embodying the results of his findings, with such
5 suggestions as he may deem advisable for the proper administration of
6 the finances of the city, town or district.

Director to
report result
of audit to
city, town or
district au-
thorities.
1910, 508, § 5.
1917, 159, § 3.

1 SECTION 40. The director shall cause an audit to be made of the
2 accounts of all cities and towns of the commonwealth, except Boston,
3 and may cause subsequent audits to be made of the accounts of each city
4 and town, except Boston, as often as once in two years, or annually at the
5 request of the mayor or the selectmen, and for this purpose he, and his
6 duly accredited agents, shall have access to all necessary papers, books
7 and records. Upon the completion of each audit, as aforesaid, a report
8 thereon shall be made to the mayor and city government in cities, and to
9 the selectmen in towns, and a copy of the same shall be furnished to the
10 city or town clerk, who shall cause the same or a summary of its essential
11 features to be published at the expense of the city or town. The director,
12 in his discretion, may give preference to audits upon petitions under
13 section thirty-five or thirty-six over audits under this section.

Biennial, etc.,
audits of city
and town
accounts.
Preference to
petitions.
1920, 245,
§§ 1, 3.
1926, 158.

1 SECTION 41. The expenses incurred under sections thirty-five to
2 forty, inclusive, shall be paid primarily by the commonwealth; and the
3 state treasurer shall issue his warrant requiring the assessors of the cities
4 and towns concerned and of the towns in which such district is located to
5 assess a tax to the amount of said expense, and such amounts shall be
6 collected and paid to the state treasurer in the same manner and subject
7 to the same penalties as state taxes. Any balance due shall be assessed
8 in the succeeding years in the same manner as other state taxes.

Expenses of
auditing,
payment and
collection.
1910, 508, § 6.
1917, 159,
§§ 4, 5.
1920, 245, § 2.

1 SECTION 42. Whenever a city or town causes an audit of its accounts
2 or the accounts of separate departments to be made by a person of its
3 own selection, the city or town clerk shall immediately, upon the em-
4 ployment of such person, file his name and address with the director, and
5 such person shall, within ten days after making the report of his audit
6 and recommendations to the city or town, file a certified copy thereof
7 with the director; and in any such case the director may, in his dis-
8 cretion, accept the audit so made, or cause an audit to be made under
9 section forty.

Report of
local audit.
1920, 245, § 4.

1 SECTION 43. The director shall annually furnish to the auditor or
2 other accounting officer of each city and town schedules so arranged
3 as to provide for uniform returns giving detailed statements of all re-
4 ceipts classified by sources, and all payments classified by objects, for
5 its last fiscal year; a statement of the public debt showing the purpose
6 for which each item of the debt was created and the provision made

Returns and
information
to director.
Forms for
accounting.
1906, 296, § 1.
1909, 371,
§§ 6, 10.
203 Mass. 539.

for the payment thereof; and a statement of assets and liabilities at the close of the fiscal year. The director may prescribe standard forms intended to promote the systematic accounting of financial transactions and the publication of the same in the city and town reports. He shall collect from the proper local authorities such other information pertaining to municipal affairs as in his judgment may be of public interest. All accounting and other officials and custodians of public money of cities and towns shall fill out properly and return promptly to the director all schedules transmitted by him to them.

Annual report and bulletins of municipal statistics.
1906, 296, § 2.
1909, 371,
§§ 3, 6,
1911, 74,
1918, 189,
§§ 1, 2; 257, § 9.
1919, 5; 550,
§§ 8, 53.
1920, 2.

SECTION 44. The commissioner of corporations and taxation shall include in his annual report statistics relative to the financial affairs of cities and towns and other information of public interest pertaining to municipal affairs. Said part of his report may be printed and distributed as a separate document or in separate parts, and the commissioner may also publish, at such intervals as he deems expedient, bulletins or special reports of the director relative to municipal affairs.

Witnesses, production of documents, etc.
1869, Res 102.
P. S. 31, § 14.

SECTION 45. The director may require the attendance of witnesses and the production of books and documents, and may examine witnesses under oath in the same manner as in the superior court.

R. L. 107, § 2. 1908, 462, § 1. 1909, 371, §§ 2, 10. 1912, 560, § 1.

Destruction of or sale of old papers.
1877, 43, § 1.
R. L. 107, § 4.
1909, 371,
§§ 9, 10.

SECTION 46. The director, having first obtained authority from the governor and council, may destroy or sell all such records, papers and schedules accumulated in the division of accounts as in his judgment are of no value.

SINKING FUNDS.

No new sinking funds. Existing funds continued.
1875, 209, § 7.
P. S. 29,
§§ 12, 13.
R. L. 27, § 17.
1913, 719,
§§ 1, 13.
1915, 85, § 4.

SECTION 47. No further sinking funds for the payment of debt shall be established by any city, town or district, but cities and towns shall contribute to every sinking fund established prior to May twenty-eighth, nineteen hundred and thirteen, and districts shall contribute to every sinking fund established prior to March twentieth, nineteen hundred and fifteen, until such sinking fund, with its accumulations, shall be sufficient to extinguish at maturity the debt for which it was established. This section shall not apply to Boston.

Duties of sinking fund commissioners. Investments.
1875, 209, § 5.
P. S. 29, § 11.
1894, 146.
R. L. 27, § 15.
1915, 85, § 4.
208 Mass. 537.

SECTION 48. The sinking fund commissioners shall have charge of all sinking funds intrusted to them by the city, town or district, and shall invest and reinvest, in the name of the board, all amounts contributed thereto and the income thereof as it accrues, in the particular bonds, notes or certificates of indebtedness for the redemption of which such sinking fund was established, or in other bonds of their city, town or district secured by sinking funds, or in temporary loan notes or certificates of their city, town or district issued in anticipation of taxes, or in securities, except personal securities, in which funds of savings banks may by law be invested; but no part thereof shall be loaned to the city or town except as herein provided. The commissioners may sell such securities and reinvest the proceeds. They shall keep a record of their proceedings, and shall annually make a written report to the city, town or district of the amount and condition of said funds and of the income

15 thereof for the preceding financial year. Their records and the securities
 16 belonging to said funds shall at all times be subject to the inspection of
 17 the mayor, aldermen, selectmen, or any committee or commissioners
 18 of the city, town or district authorized for the purpose. No member
 19 of the board shall receive compensation for his services; but the nec-
 20 essary expenses of the board shall be paid by the city, town or district,
 21 and the treasurer and secretary thereof shall receive such compensation
 22 as shall be fixed by the city, town or district.

23 When securities for the redemption of which a sinking fund has been
 24 established become a part of said sinking fund, the commissioners shall
 25 cause a notice to be stamped or written on the face thereof that they are
 26 a part of such sinking fund, and are not negotiable; and all coupons
 27 thereof, as they are paid, shall be cancelled.

Securities to be stamped as not negotiable, etc.

1 SECTION 49. If, when bonds payable from the sinking fund become
 2 due, the sinking fund commissioners of a city hold any other bonds of
 3 the city not due and payable, which have been stamped as the property
 4 of said sinking fund and are not negotiable, they shall so certify to the
 5 mayor and request that new bonds be issued to them by the city in lieu
 6 of the bonds not due. If the mayor is satisfied that there is occasion
 7 therefor, he shall cause new bonds to be prepared, bearing the same rate
 8 of interest, and payable as to principal and interest on the same dates
 9 as the bonds to be surrendered, and identical in terms therewith; and
 10 when executed by him and the city treasurer and approved by the com-
 11 mittee on finance of the city council, they shall be issued to such commis-
 12 sioners on the surrender by them to the city treasurer and the cancellation
 13 of such former bonds. Such cancellation and new issue shall be entered
 14 in full on the books of the city treasurer.

Issue of new bonds to sinking fund commissioners of cities 1895, 243. R. L. 27, § 16.

1 SECTION 50. [REPEALED, 1921, 486, § 12.]

1 SECTION 51. No part of the sinking funds of the commonwealth
 2 shall be loaned to a city or town the indebtedness of which exceeds five
 3 per cent of the last preceding annual valuation for the assessment of
 4 taxes of the taxable property therein, or to a city or town not comply-
 5 ing with this chapter; but the certificate of the treasurer of a city or
 6 town as to the percentage of its indebtedness, and as to such compliance,
 7 shall justify the state treasurer in making any such loan, unless he has
 8 reasonable cause to suppose that its statements are untrue.

Loans from state sinking funds not to be made to certain cities and towns. 1875, 269, § 9. P. S. 29, § 15. R. L. 27, § 19.

1 SECTION 52. A county, city, town or district, or any domestic cor-
 2 poration, which shall have issued any bond, note or certificate of in-
 3 debtedness payable to bearer, held by the sinking fund commissioners
 4 of any city, town or district, shall, at the request of such commissioners,
 5 issue in exchange therefor a bond, note or certificate of the same effect,
 6 payable to such commissioners by name; provided, that the city, town
 7 or district desiring such exchange shall, if requested, furnish the blank
 8 form for the bond, note or certificate therefor in the same general form
 9 as that furnished by the commonwealth under section thirty-nine of
 10 chapter twenty-nine.

Registration of bonds, etc., held by sinking fund commissioners. 1912, 377, § 1. 1915, 385, § 4. 1916, 152. 1917, 116. §§ 1, 2.

MISCELLANEOUS PROVISIONS.

Department receipts to be paid into treasury, etc. 1929, 591, § 7. 1926, 205.

SECTION 53. All moneys received by any town officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officer or department upon their receipt into the town treasury. Any sums so paid into the town treasury shall not later be used by such officer or department without a specific appropriation thereof, except that sums allotted to towns for highway purposes by the commonwealth or a county, which shall be used only for the purposes specified by the officials making the allotment or to meet temporary loans issued in anticipation of such allotment as provided in section six or six A, shall be available therefor without any appropriation. 1
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Investment of trust funds, etc. 1913, 719, §§ 1, 17. 1916, 101.

SECTION 54. Trust funds, including cemetery perpetual care funds, unless otherwise provided or directed by the donor thereof, shall be placed at interest in savings banks, trust companies incorporated under the laws of the commonwealth, or national banks, or invested by cities and towns in securities which are legal investments for savings banks. This section shall not apply to Boston. 1
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Deposits of cities or towns limited. 1893, 266. R. L. 25, § 19. 1921, 486, § 13.

SECTION 55. A city or town shall not at any one time have on deposit in a bank or trust company an amount exceeding sixty per cent of the capital and surplus of such bank or trust company, unless satisfactory security is given to it by such bank or trust company for such excess. 1
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Certain municipal officers not liable for loss of public moneys by reason of liquidation of certain depositories. 1929, 81.

SECTION 55A. A city or town officer receiving public money and lawfully and in good faith and in the exercise of due care depositing the same in a savings bank or trust company organized under the laws of the commonwealth or in a national bank doing business in the commonwealth shall not be personally liable to the city or town for any loss of such money by reason of the closing up of such depository for the liquidation of its affairs. 1
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Financial year of towns. Returns. 1913, 692, § 1. 1926, 111.

SECTION 56. The financial year of all towns of the commonwealth shall end on December thirty-first, and the returns made to the director under section forty-three shall show the financial condition of the town at the close of business on that day; provided, that the treasurer shall, until January tenth, enter in his books all items for the payment of bills incurred and salaries and wages earned during the previous year, and expenditures therefor shall be deemed to be as of December thirty-first preceding. 1
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Interest on certain debts to be paid from taxes. 1876, 133. P. S. 29, §§ 20-22.

SECTION 57. A city or town owing debts incurred in aid of a railroad corporation shall annually raise by taxation an amount sufficient, with the income, if any, derived from its stock or securities, to pay the interest on such debts. 1
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R. L. 27, § 24.

Cities not to pay for wines, liquors or cigars.

SECTION 58. No city shall pay a bill incurred by any official thereof for wines, liquors or cigars. 1
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1884, 320, § 13.

R. L. 19, § 33.

1917, 17.

1 SECTION 59. The supreme judicial or superior court, by mandamus
 2 or other appropriate remedy, at law or in equity, upon the suit or petition
 3 of the attorney general or of the mayor, or of one or more taxable inhabit-
 4 ants of a city, town or district authorized by law to incur debt, or of any
 5 creditor to whom it is indebted to an amount not less than one thousand
 6 dollars, may compel such city, town or district, and its assessors, col-
 7 lectors, treasurers, commissioners of sinking funds and other proper
 8 officers, to conform to this chapter.

Enforcement
 of chapter.
 1875, 209, § 11.
 P. S. 29, § 17.
 1883, 312, § 5.
 R. L. 27, § 26.
 1915, 719,
 § 1, 21.
 266 Mass. 503.
 1 Op. A. G. 263.

1 SECTION 60. A town treasurer or a treasurer of a fire, water, light or
 2 improvement district, who violates any provision of sections twenty-
 3 three to twenty-five, inclusive, shall be punished by a fine of not less
 4 than one hundred nor more than five hundred dollars.

Penalty for
 violation of
 law relative to
 town and
 district notes.

1910, 616, § 5.
 1913, 727, § 6.

1918, 257, § 159.
 1919, 5.

1920, 2.

1 SECTION 61. A county, city, town, district or corporation which neg-
 2 lects or refuses to issue a bond, note or certificate in accordance with
 3 section fifty-two when requested so to do by the sinking fund commis-
 4 sioners of any city, town or district shall be subject to a penalty of not
 5 more than fifty dollars.

Penalty for
 refusal to issue
 non-nego-
 tiable bond
 to sinking fund
 commissioners.
 1912, 377, § 2.

1915, 85, § 4.

1 SECTION 62. Any city, town or district officer who knowingly violates,
 2 or authorizes or directs any official or employee to violate, any provision
 3 of this chapter, or any other provision of general law relating to the incur-
 4 ring of liability or expenditure of public funds on account of any city,
 5 town or district, or any provision of special law relating to the incurring
 6 of liability or expenditure of public funds as aforesaid, shall, except as
 7 otherwise provided, be punished by a fine of not more than one thousand
 8 dollars or by imprisonment for not more than one year, or both; and the
 9 mayor, selectmen, prudential committee, or commissioners, shall, and
 10 five taxpayers may, report such violation to the district attorney who shall
 11 investigate and prosecute the same.

Penalties for
 violations of
 municipal
 finance laws.
 1922, 253
 1926, 248.

1 SECTION 63. Whenever the proceeds of the sale of real estate by a city
 2 or town exceed five hundred dollars, the same shall be applied to the
 3 payment of indebtedness incurred in acquiring such real estate or shall
 4 be added to the sinking fund, if any, from which said indebtedness is
 5 payable, or if no such indebtedness is outstanding shall be used for any
 6 purpose or purposes for which the city or town is authorized to incur debt
 7 for a period of ten years or more.

Application of
 proceeds of
 certain sales of
 real estate.
 1923, 303, § 4.

CHAPTER 45.

PUBLIC PARKS, PLAYGROUNDS AND THE PUBLIC DOMAIN.

SECT.	DEFINITION.	SECT.
1.	Definition.	15. Obligation to provide playgrounds.
	PUBLIC PARKS.	16. Acceptance of playground act by towns.
2.	Park commissioners, election, appointment and removal.	17. Temporary playgrounds.
3.	Taking or purchase of land for parks.	18. Use of playgrounds by adults.
4.	Connection of park with other sections of city or town.	
5.	Powers of park commissioners.	THE PUBLIC DOMAIN.
6.	Betterments, how applied.	19. Laying out and use of public domain.
7.	Erection of buildings upon parks.	20. Taking by eminent domain.
8.	Military evolutions in parks.	21. City or town forests, management and care.
9.	Annual reports.	22. Buildings on public domain.
10.	[Repealed.]	23. Expenditure limited to appropriation.
11.	Building line. Height of buildings on parkways.	
	IMPROVEMENT ASSOCIATIONS.	SHORE RESERVATIONS IN TOWNS.
12.	Care of public grounds by improvement associations.	23A. Shore reservations, certain towns may petition for, establishment, etc.
13.	Penalty for trespassing on public grounds.	23B. Duties of county commissioners relative to such petition.
	PLAYGROUNDS.	23C. Establishment, etc., stipulation relative to damages, etc.
14.	Laying out, use and control of playgrounds.	
		PENALTY.
		24. Penalty for violation of rules and regulations.

DEFINITION.

Definition. SECTION 1. In this chapter "town" shall not include city. 1

PUBLIC PARKS.

Park commissioners, election, appointment and removal 1882, 154, §§ 1, 2, 13.
1890, 240.
1899, 253.
B. L. 28, § 1.
1902, 544, § 7.
1915, 165.
1924, 209, § 1.
137 Mass. 450.
143 Mass. 521.
1 Op. A. G. 617.

SECTION 2. A town may elect a board of park commissioners, consisting of three persons, and prescribe their terms of office, or the members of a town planning board may if so authorized by vote of the town act as park commissioners therein. In a town which has not elected a board of park commissioners or has not authorized the town planning board so to act, the selectmen shall act as such board of park commissioners. The mayor of a city may, with the approval of the city council, appoint a board of park commissioners for said city, consisting of five persons, who shall hold office for terms of one, two, three, four and five years respectively from the first Monday in May next following such appointment, or until their successors are qualified; and thereafter the mayor shall annually, before the first Monday in May, with like approval appoint one such commissioner for a term of five years from said first Monday in May. No member of the city council, clerk or treasurer of such city or town shall be such commissioner. In cities a vacancy in such board shall be filled in like manner for the residue of the unexpired term. A commissioner may be removed by a vote of two thirds of the voters of a town, or by a vote of two thirds of all the 1
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19 members of a city council. Such commissioners shall serve without
20 compensation.

1 SECTION 3. Any such board may locate public parks within its city
2 or town and for that purpose may take in fee by eminent domain under
3 chapter seventy-nine or by purchase, gift, devise or otherwise, land
4 which it considers desirable therefor, or may take bonds for the con-
5 veyance thereof to its city or town, but any such taking by eminent
6 domain or by purchase shall be subject to the provisions of section four-
7 teen of chapter forty. A city or town may take and hold in trust or
8 otherwise any grant, gift, bequest or devise, made for the purpose of
9 laying out or improving any parks therein.

Taking or
purchase of
land for
parks
1882, 154,
§ 3, 6
R. L. 28, §§ 2,
7, 9
1924, 209, § 2
137 Mass. 450
143 Mass. 521
219 Mass. 323
251 Mass. 267
258 Mass. 115

1 SECTION 4. Such boards may connect any public park or way, under
2 their control, with any part of the city or town for which they are ap-
3 pointed by taking over any connecting ways, or part thereof leading to
4 such park, and may accept and add to such park any way or part thereof,
5 adjoining and parallel with any boundary line of the same; but the con-
6 sent of the public authorities having control of such way, and the written
7 consent of a majority of the owners of land abutting thereon, shall first
8 be obtained. They shall have the same power and control over such
9 ways as they have over parks, and a town may invest them with the
10 control, improvement and maintenance of any of the ways thereof for
11 the purpose of carrying out this section. If any such way or part
12 thereof shall pass from the control of any such board, the power and
13 authority over the same shall revert to the public authorities having
14 control of ways in the town in which such way is located.

Connection
of park with
other sections
of city or town.
1893, 300,
§ 5 1, 3-5.
R. L. 28,
§ 3, 6.
187 Mass. 221.

1 SECTION 5. Such boards may lay out and improve public parks,
2 make rules for their use and government, appoint all necessary engi-
3 neers, surveyors, clerks and other officers, including a police force to act
4 in such parks, define their powers and duties and fix their compensation
5 and do all acts needful for the proper execution of their powers and
6 duties. They shall have the authority given to the mayor, aldermen,
7 selectmen, road commissioners and tree warden respectively by section
8 seven of chapter eighty-four and by chapter eighty-seven, in places under
9 their jurisdiction.

Powers of
park com-
missioners.
1882, 154, § 3.
R. L. 28,
§ 2, 4
133 Mass. 321.
207 Mass. 460.

1 SECTION 6. All amounts received for betterments which accrue by the
2 laying out of parks under this chapter shall be applied to the payment
3 of park loans.

R. L. 28, § 10

1908, 341, § 3.

Betterments,
how applied.
1882, 154, § 9.

1 SECTION 7. Land taken for or held as a park under this chapter
2 shall be forever kept open and maintained as a public park, and no build-
3 ing which exceeds six hundred square feet in area on the ground shall
4 be erected on a common or park dedicated to the use of the public with-
5 out leave of the general court; but, except in parks in Boston and in
6 parks comprising less than one hundred acres in extent, structures for
7 shelter, refreshment and other purposes may be erected of such material
8 and in such places as, in the opinion of the fire commissioners, if any,
9 do not endanger buildings beyond the limits of such park. The superior
10 court shall have jurisdiction in equity, upon petition of not less than ten
11 taxable inhabitants of the city or town in which such common or park is

Erection of
buildings
upon parks.
1877, 223,
§ 1, 2
P. S. 54,
§ 10, 17
1882, 154, § 10.
1893, 75
R. L. 28,
§ 11, 53, § 20.
1917, 344,
VI, § 10.
164 Mass. 419,
166 Mass. 347,
212 Mass. 583
3 Op. A. G. 406.

located, to restrain the erection of a building on a common or park in violation of this section. 12
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Military
evolutions
in parks.

1882, 154, § 11.
R. L. 28, § 12.
1915, 257,
§ 158

SECTION 8. Without the consent of such board no military organiza- 1
tion shall camp, parade, review, or perform any military evolution or 2
exercise in, or enter, any park laid out as aforesaid, except in case of riot, 3
insurrection, rebellion or war. 4

1919, 5.

1920, 2.

Annual reports.
1882, 154, § 12.
R. L. 28, § 13.

SECTION 9. Such boards shall make reports of their respective do- 1
ings and detailed statements of all receipts, expenditures and liabilities 2
for the preceding financial year, in towns at the annual town meetings and 3
at such other times as the town directs, and in cities to the city council 4
annually within thirty days after the end of the financial year. 5

SECTION 10. [REPEALED, 1924, 209, § 3.] 1

Building line.
Height of
buildings on
parkways.
1896, 313.
1897, 379.
R. L. 28, § 16.

SECTION 11. In a city which by a vote of its city council, or in a 1
town which by vote of a town meeting, accepts this section, or has ac- 2
cepted corresponding provisions of earlier laws, the park commissioners 3
may, in accordance with section thirty-seven of chapter eighty-two, 4
establish a building line distant at no point more than twenty-five feet 5
from any exterior line of a way under their control or the part of a public 6
way on which a park abuts; and the extreme height to which buildings 7
upon such ways may be erected shall be seventy feet exclusive of such 8
steeple, towers, domes, cornices, parapets, balustrades, sculptured orna- 9
ments, chimneys and roofs as such board may approve. 10

IMPROVEMENT ASSOCIATIONS.

Care of public
grounds by
improvement
associations.
1885, 157, § 1.
R. L. 28, § 17.

SECTION 12. A town having public grounds or open spaces in any 1
of its public ways, which have been or may be designated by it as not 2
needed for public travel, may give the improvement thereof to cor- 3
porations within its limits organized under section four of chapter one 4
hundred and eighty, which, under the direction of the selectmen or road 5
commissioners, shall have the use, care and control thereof and may 6
grade, drain, curb and fence the same, set out shade or ornamental 7
trees, lay out flower plats and otherwise improve them. 8

Penalty for
trespassing on
public grounds.
1885, 157,
§§ 2, 3.
R. L. 28, § 18.

SECTION 13. Any person who wilfully or maliciously drives cattle, 1
horses or other animals, or any vehicle, on or across such grounds or 2
ways, or destroys or removes any fence or railing on such grounds or 3
ways, or plays games thereon, or otherwise interferes with or injures 4
the work of the corporation having the care of the property so injured, 5
shall be punished by a fine of not more than twenty dollars, which shall 6
be paid over to such corporation. 7

PLAYGROUNDS.

Laying out,
use and
control of
playgrounds.
1893, 225,
§§ 1, 2.
R. L. 28, § 19.
1908, 513,
§§ 2, 3.
1910, 508,
§§ 1, 3

SECTION 14. Any city or town may acquire land and buildings within 1
its limits by gift or purchase, or by eminent domain under chapter 2
seventy-nine, or may lease the same, or may use suitable land or build- 3
ings already owned by it, for the purposes of a public playground or 4
recreation centre, and may conduct and promote recreation, play, sport 5
and physical education, for which admission may be charged, on such 6

7 land and in such buildings, and may construct buildings on land owned
 8 or leased by it and may provide equipment for said purposes. Buildings
 9 so acquired, leased or constructed may be used also for town meetings,
 10 and, with the consent of, and subject to the conditions and terms pre-
 11 scribed by, the officer or board in control of the building, may be used
 12 by the municipality, or by any department thereof, or by any person,
 13 society or other organization for such other public, recreational, social
 14 or educational purposes as the said officer or board may deem proper.
 15 For the purposes aforesaid, any city or town may appropriate money,
 16 and may employ teachers, supervisors and other officers, and may fix
 17 their compensation. Except in Boston and except as to the making of
 18 appropriations, the powers conferred by this section shall be exercised
 19 by the board of park commissioners, or by the school committee, or by a
 20 playground or recreation commission appointed by the mayor or elected
 21 by the voters of the town at a town meeting, or may be distributed
 22 between the board of park commissioners, the school committee and such
 23 playground or recreation commission, or any two of them, or they may
 24 be exercised by a committee made up from any one or more members of
 25 all or any one of said boards or commissions, accordingly as the city
 26 council or the town may decide. Any municipal officer or board author-
 27 ized to exercise any of the powers conferred by this section may conduct
 28 its activities on property under its control, on other public property
 29 under the control of other public officers or boards, with the consent of
 30 such officers or boards, or on private property, with the consent of the
 31 owners. The provisions of section fifteen or sixteen shall not be con-
 32 strued to apply to any city or town because of any action taken under
 33 this section.

1912, 223,
 §§ 2, 3.
 1915, 25, § 1.
 1918, 124,
 1919, 217,
 1928, 191
 208 Mass 190,
 212 Mass 583,
 273 Mass. 111.

1 SECTION 15. Every town having a population of more than five thou-
 2 sand which accepts this section, and every city and town having such
 3 population which has accepted corresponding provisions of earlier laws,
 4 shall provide and maintain at least one public playground conveniently
 5 located and of suitable size and equipment, for the recreation and physi-
 6 cal education of the minors of such city or town, and at least one other
 7 playground for every additional twenty thousand of its population.

Obligation to
 provide play-
 grounds
 1908, 513, § 1.
 1912, 223, § 1.

1 SECTION 16. In towns which have a population of more than five
 2 thousand and which have not already satisfied the provisions of the pre-
 3 ceding section or corresponding provisions of earlier laws, upon petition
 4 to the selectmen by ten per cent of the voters filed fifteen days before
 5 the day of the annual election of town officers, the following question
 6 shall be submitted to the town at the next annual meeting or shall be
 7 placed on the official ballot, if any, at the next town election: "Shall
 8 section fifteen of chapter forty-five of the General Laws, requiring cer-
 9 tain towns to provide public playgrounds, be accepted by this town?"
 10 Said section shall take effect in any town to which it applies upon its
 11 acceptance by a majority of the voters voting as aforesaid.

Acceptance
 of playground
 act by towns.
 1908, 513,
 §§ 4, 5
 1912, 223,
 §§ 4, 5.

1 SECTION 17. If in a town in the metropolitan parks district, or in
 2 any city, tenement buildings are built about or contiguous to open spaces,
 3 the owners of such buildings may apply to the park commissioners, if
 4 any, or, in a city or town of said district having no park commission,
 5 to the metropolitan district commission, and said boards may, with the
 6 approval of the board of health of the city or town, take a lease of such

Temporary
 playgrounds.
 1903, 331.
 R. L. 28, § 22.
 1919, 350,
 § 123.

open spaces for a neighborhood playground for a term not exceeding fifteen years, subject to renewal, at a rental not exceeding the taxes thereon. The owners of such buildings shall have the care and control thereof under the supervision of the park commissioners, or if there are none, of the selectmen.

Use of playgrounds by adults
1910, 508, § 1.

SECTION 18. This chapter shall not be construed to prohibit the use of any playgrounds by adults at the discretion of the body having the grounds in charge.

THE PUBLIC DOMAIN.

Laying out and use of public domain.
1882, 255,
§§ 1, 6.
R. L. 28, § 23.
1913, 564, § 1.
1915, 162, § 1.

SECTION 19. A town, by a two thirds vote at an annual town meeting, or a city, by a two thirds vote of the city council, may determine to take or purchase land within its limits, which shall be a public domain, and may appropriate money and accept gifts of money and land therefor. Such public domain shall be devoted to the culture of forest trees, or to the preservation of the water supply of such city or town, and the title thereto shall vest in the city or town in which it lies, except that cities or towns owning land within the territorial limits of other cities and towns for water supply purposes may, as herein provided, convert such land into a public domain and retain the title thereto.

Taking by eminent domain.
1918, 257,
§ 187, subo. 1.
§ 1919, 5.
1920, 2.

SECTION 20. If a city or town has determined to take land for a public domain as provided by the preceding section, the aldermen or the selectmen shall within ten days adopt an order for the taking of such land in fee by eminent domain under chapter seventy-nine.

City or town forests, management and care.
1927, 212.

SECTION 21. The management and care of that portion of the public domain known as the city or town forest, excepting lands held within the watershed of any pond, stream, reservoir, well or other water used by a city or town as a source of water supply, in a town shall be in charge of a special town forest committee appointed by the selectmen, and in a city shall be in charge of a forester or of such other board or officer as the mayor and city council may determine. The special town forest committee shall be composed of three members who shall choose their own chairman, and shall serve without compensation. One member of said committee shall be appointed each year for a term of three years, except that, when first appointed, one shall be appointed for a term of three years, one for a term of two years and one for a term of one year.

Buildings on public domain.
1882, 255,
§§ 4, 5.
R. L. 28,
§§ 26, 27.
1913, 564,
§§ 3, 4.
1931, 426, § 160.

SECTION 22. Any city or town owning a public domain may lease any building thereon, and it may erect thereon any building for public instruction and recreation. All sums derived from rents or from the sale of the products of any such domain shall be applied, so far as may be necessary, to the management thereof.

Expenditure limited to appropriation.
1882, 255, § 6.
R. L. 28, § 28.

SECTION 23. No land shall be taken or purchased for a public domain, no building erected thereon and no expenditures authorized or made or liability incurred therefor until an amount sufficient to cover the estimated expense thereof has been appropriated therefor as provided in

5 section nineteen, and all contracts made for expenditures in excess thereof
6 shall be void. The expenditures shall not exceed the appropriations
7 therefor.

SHORE RESERVATIONS IN TOWNS.

1 SECTION 23A. A town bordering on tidewater may, at an annual
2 town meeting, vote to instruct its selectmen to petition in writing the
3 county commissioners of the county in which said town is situated, in
4 this and the two following sections called the commissioners, to establish,
5 lay out and maintain, on behalf of the county, a shore reservation border-
6 ing on tidewater in such town, and thereupon said selectmen shall so
7 petition. This section and sections twenty-three B and twenty-three C
8 shall not apply to cities.

Shore reserva-
tions, certain
towns may
petition for
establish-
ment, etc.
1926, 387.

1 SECTION 23B. If the commissioners, after a public hearing upon the
2 petition and after such further investigation as the commissioners con-
3 sider desirable, determine that public necessity requires that such a
4 reservation should be so established, laid out and maintained, they shall
5 submit plans and estimates of the cost to the general court by filing the
6 same with the clerk of the house of representatives not later than Decem-
7 ber first following such determination, for such action as to the general
8 court may seem advisable.

Duties of
county com-
missioners
relative to
such petition.
1926, 387.

1 SECTION 23C. After being authorized by the general court to establish
2 any such reservation, the commissioners, on behalf of the county, may
3 take by eminent domain under chapter seventy-nine, or acquire by pur-
4 chase, gift, devise or otherwise, such land in fee as may be necessary
5 therefor, and may establish, lay out and maintain the same. Any person
6 injured in his property by the establishment and laying out of such a
7 reservation may recover compensation therefor from the county under
8 said chapter seventy-nine.

Establish-
ment, etc.,
stipulation
relative to
damages, etc.
1926, 387.

9 The selectmen of any town instructed to petition for the establishment
10 of such a reservation, if and to the extent authorized by vote of the town
11 at a town meeting, may stipulate in writing in behalf of the town to
12 indemnify and save harmless the county against all or any part of any
13 claims for damages sustained under this section, and to contribute money,
14 labor or materials toward the cost of establishing, laying out, maintaining
15 and properly policing such a reservation.

PENALTY.

1 SECTION 24. Whoever violates any rule or regulation for the govern-
2 ment or use of any land or way taken or held under this chapter or for like
3 purposes under any special act, and made under authority of law by any
4 board or officer in charge thereof, shall be punished by a fine of not more
5 than twenty dollars.

Penalty for
violation of
rules and
regulations.
1806, 199
R. L. 28, § 30.

CHAPTER 46.

RETURN AND REGISTRY OF BIRTHS, MARRIAGES AND DEATHS.

SECT.

1. Facts to be recorded by city and town clerks.
2. Separate record and indexes.
3. Physician or officer to record and make report of births. Fee. Penalty. Daily list to board of health.
4. Information as to births required. Penalty.
5. City and town clerks to ascertain facts for record of births, and may correct deficiencies and clerical errors therein.
6. Notice of births and deaths by parent, keeper, etc.
7. Master to report births and deaths on vessel.
8. Penalty for neglect to report.
9. Physician or officer to give death certificate. Penalty.
10. Physician or officer to state causes of death of soldier or sailor. Penalty.
11. Undertakers to make returns, etc.
12. Copies of records of births and deaths, etc.
13. Correction of errors in record, amendment of records of illegitimates subsequently legitimized, etc.

SECT.

14. Penalty for false return.
15. Clerks to provide blanks for returns of births.
16. Blank forms to be furnished to towns, etc.
17. Copies of records of births and marriages to be transmitted to state secretary annually, and deaths monthly, etc.
18. Copies to be legibly written.
19. Clerk's record to be prima facie evidence.
20. Superintendent of state infirmary to make records and returns.
21. Copies of records of births, marriages and deaths to be bound, etc.
22. Registrar in certain cities and towns.
23. Proceedings on neglect to report.
24. Omission of name of illegitimate, etc., child.
25. Disposition of forfeitures.
26. Fees of city and town clerks.
27. Penalty for violation by clerks, etc.
28. Who may administer oaths.
29. Attestation of copies under seal.

Facts to be recorded by city and town clerks.
 A. C. 43.
 C. L. 130, § 2.
 1692-3, 48.
 1695-6, 2.
 1795, 69, § 1.
 R. S. 15, § 46.
 1844, 159, § 1.
 1849, 202, § 1.
 G. S. 21, § 1.
 P. S. 32, § 1.
 1887, 202, § 5.
 1890, 402.
 1897, 444, § 1.
 R. L. 29, § 1.
 1919, 322, § 1.
 200 Mass. 474.
 252 Mass. 328.
 3 Op. A. G.
 126.

SECTION 1. Each town clerk shall receive or obtain and record in separate columns the following facts relative to births, marriages and deaths in his town:

In the record of births, date of record, date of birth, place of birth, name of child, his sex and color, names, places of birth and residence of his parents, including the maiden name of the mother and occupation of the father. In the record of birth of an illegitimate child, the name of and other facts relating to, the father shall not be recorded except on the written request of both father and mother. The term "illegitimate" shall not be used in the record of a birth unless the illegitimacy has been legally determined, or has been admitted by the sworn statement of both the father and mother.

In the record of marriages, date of record, date of marriage, place of marriage, name, residence and official station of the person by whom solemnized, names and places of birth of the parties married, residence of each, age and color of each, the number of the marriage (as first or second) and if previously married, whether widowed or divorced, the occupation of each and the names of their parents, and the maiden names of the mothers. If the woman is a widow or divorced, her maiden name shall also be given.

In the record of deaths, date of record, date of death, name of deceased, sex, color, condition (whether single, widowed, married or divorced), supposed age, residence, occupation, place of death, place of birth, names

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24 and places of birth of the parents, maiden name of the mother, disease
 25 or cause of death, defined so that it can be classified under the inter-
 26 national classification of causes of death, place of burial, name of the
 27 cemetery, if any, and if deceased was a married or divorced woman or a
 28 widow, her maiden name and the name of her husband. The word "resi-
 29 dence", as used in this section, shall be held to include the name of the
 30 street and number, if any, of the house.

1 SECTION 2. Births, marriages and deaths shall be recorded separately,
 2 separate indexes thereof kept, and each entry shall be numbered in its
 3 order. Returns of births, marriages and deaths shall be preserved by
 4 the town clerk and conveniently arranged for examination.

Separate
 record and
 indexes
 1887, 202, § 2.
 1897, 444,
 §§ 1, 2, 16.
 R. L. 29, § 2.

1 SECTION 3. Every physician, or hospital medical officer registered
 2 under section nine of chapter one hundred and twelve, in this chapter
 3 called officer, shall keep a record of the birth of every child in cases of
 4 which he was in charge, showing date and place of birth, the name, if
 5 any, of the child, its sex and color, the name, age, birthplace, occupation
 6 and residence (including the street number, if any, and the ward num-
 7 ber, if in a city) of each parent, the maiden name of the mother and the
 8 name of the physician or officer, if any, personally attending the birth.
 9 If the child is illegitimate, the name of and other facts relating to the
 10 father shall not be set forth except upon written request of both the
 11 father and mother; provided, that if an illegitimate child shall have
 12 become legitimate by the intermarriage of his parents and the acknowl-
 13 edgment of his father, as provided in section seven of chapter one hun-
 14 dred and ninety, prior to the mailing or delivery of any report herein
 15 required, such report shall read, in all respects, as if such child had been
 16 born to such parents in lawful wedlock. Said physician or officer shall,
 17 within fifteen days after such birth, mail or deliver to the clerk or regis-
 18 trar of the town where such birth occurred, a report stating the facts
 19 hereinabove required to be shown on said record and also the said
 20 written request, if any; provided, that if said report is not so made
 21 within forty-eight hours after such birth, said physician or officer shall,
 22 within said forty-eight hours, mail or deliver to said clerk or registrar
 23 a notice stating the date and place of the birth, the street number, if
 24 any, the ward number, if in a city, and the family name. Upon presen-
 25 tation to him of a certificate of the town clerk stating that any such
 26 birth has been duly reported, the town treasurer shall pay to such physi-
 27 cian or officer a fee of twenty-five cents for each birth so reported. Any
 28 physician or any such officer violating any provision of this section shall
 29 forfeit not more than twenty-five dollars.
 30 The said town clerk or registrar shall file daily with the local board of
 31 health a list of all births reported to him, showing, as to each, the date
 32 of birth, sex, color, family name, residence, ward and physician or
 33 officer in charge.

Physician or
 officer to
 record and
 make report
 of births.
 Fee. Penalty.
 Daily list to
 board of
 health
 1865, 96,
 1880, 33,
 §§ 1, 3,
 P. S. 32,
 §§ 7, 9
 1883, 158, § 1.
 1889, 288,
 1897, 444, § 3.
 R. L. 29, § 3.
 1910, 93, § 1.
 1912, 280,
 §§ 1, 2
 1920, 244, § 2.
 1925, 281, § 1.

1 SECTION 4. A member or servant of a family in which a child is born,
 2 having knowledge of the facts required for record relative to such birth,
 3 shall furnish the same upon request of the clerk of the town where such
 4 child was born or its parents reside, or of any person authorized by him.
 5 Such member or servant refusing to furnish such facts shall be punished
 6 by fine not exceeding ten dollars.

Information
 as to births
 required.
 Penalty.
 1897, 444, § 4.
 R. L. 29, § 4.

CITY and town clerks to ascertain facts for record of births, and may correct deficiencies and clerical errors therein.
 1897, 444, § 5, 9.
 R. L. 29, § 5, 9.
 1910, 93, § 2.
 1931, 165;
 426, § 161.

SECTION 5. The clerk of each town may annually in January ascertain the facts required for record by section one relative to all children born during the preceding year and resident therein, and, if it appears that any such child was born in any other town, within or without the commonwealth, shall transmit to the clerk of such town a certificate stating the facts so ascertained as to such child. When necessary to supply deficiencies in the birth records, he may enter therein any written information obtained by him but he shall not change facts already recorded except as provided in section thirteen or except to correct errors in copying from notices, reports or certificates on file in his office. If such an error is so corrected, a statement to that effect, signed by him, shall be entered upon the record.

Notice of births and deaths by parent, keeper, etc.
 C. L. 130, § 2.
 1692-3, 48.
 1795, 69, § 2.
 R. S. 15, § 47.
 G. S. 21, § 2.
 P. S. 32, § 2.
 1897, 444, § 6.
 R. L. 29, § 6.
 1931, 426, § 162.
 [See section 20.]

SECTION 6. Parents, within forty days after the birth of a child, and every householder, within forty days after a birth in his house, shall cause notice thereof to be given to the clerk of the town where such child is born. Every householder in whose house a death occurs and the oldest next of kin of a deceased person in the town where the death occurs shall, within five days thereafter, cause notice thereof to be given to the board of health, or, if the selectmen constitute such board, to the town clerk. The keeper, superintendent or person in charge of a house of correction, prison, reformatory, hospital, infirmary or other institution, public or private, which receives inmates from within or without the limits of the town where it is located shall, when a person is received, obtain a record of all the facts which would be required for record in the event of the death of such person, and shall, on or before the fifth day of each month, give notice to the town clerk of every birth and death among the persons under his charge during the preceding month. The facts required for record by section one shall, so far as obtainable, be included in every notice given under this section.

Master to report births and deaths on vessel.
 1692-3, 48.
 1795, 69, § 2.
 R. S. 15, § 47.
 G. S. 21, § 2.
 P. S. 32, § 2.
 1897, 444, § 7.
 R. L. 29, § 7.

SECTION 7. The master or other commanding officer of a vessel shall give notice, with the facts required for record, of every birth or death occurring among the persons under his charge. The notice of a birth shall be given to the clerk, and the notice of a death shall be given to the board of health or, if the selectmen constitute such board, to the clerk of the town at which his vessel first arrives after such birth or death.

Penalty for neglect to report.
 1795, 69, § 2.
 R. S. 15, § 47.
 G. S. 21, § 2.
 P. S. 32, § 2.
 1897, 444, § 8.
 R. L. 29, § 8.

SECTION 8. A parent, keeper, superintendent or other person required by section six to give or cause to be given notice of a birth or death, neglecting so to do for ten days after the time limited therefor, and the master or commanding officer of a vessel neglecting so to do for ten days after the arrival of his vessel at the place where notice is to be given, shall forfeit not more than five dollars.

Physician or officer to give death certificate.
 Penalty.
 G. S. 21, § 3.
 P. S. 32, § 3.
 1888, 63;
 306, § 1.
 1853, 263, § 1.
 1897, 444, § 10.
 R. L. 29, § 10.
 1910, 322, § 2.
 1920, 244, § 2.
 1 Op. A. G. 406.

SECTION 9. A physician or registered hospital medical officer shall forthwith, after the death of a person whom he has attended during his last illness, at the request of an undertaker or other authorized person or of any member of the family of the deceased, furnish for registration a standard certificate of death, stating to the best of his knowledge and belief the name of the deceased, his supposed age, the disease of which he died, defined as required by section one, where same was contracted, the duration of his last illness, when last seen alive by the physician or officer and the date of his death. A physician or officer attending at

10 the birth of a child dying immediately thereafter, or a physician or
 11 officer attending at the birth of a child born dead, shall forthwith furnish
 12 for registration a certificate, stating that to the best of his knowledge and
 13 belief such child either died immediately after birth or was born dead.
 14 Both the birth and death of such child shall be recorded and, if it was
 15 born dead, the word "stillborn", shall be entered in both the record of
 16 birth and death. A physician or any such officer neglecting or refusing
 17 to make such certificate or making a false statement therein shall forfeit
 18 not more than fifty dollars.

1 SECTION 10. A physician or officer furnishing a certificate of death
 2 as required by the preceding section or by section forty-five of chapter
 3 one hundred and fourteen, shall, if the deceased, to the best of his knowl-
 4 edge and belief, served in the army, navy or marine corps of the United
 5 States in any war in which it has been engaged, insert in the certificate a
 6 recital to that effect, specifying the war, and shall also certify in such
 7 certificate both the primary and the secondary or immediate cause of
 8 death as nearly as he can state the same. For neglect to comply with
 9 any provision of this section, such physician or officer shall forfeit ten
 10 dollars. For the purposes of this section and of sections forty-five, forty-
 11 six and forty-seven of said chapter one hundred and fourteen, the word
 12 "war" shall include the China relief expedition and the Philippine in-
 13 surrection, which shall, for said purposes, be deemed to have taken place
 14 between February fourteenth, eighteen hundred and ninety-eight and
 15 July fourth, nineteen hundred and two, and the Mexican border service
 16 of nineteen hundred and sixteen and nineteen hundred and seventeen.

Physician or
 officer to
 state cause
 of death of
 soldier or
 sailor.
 Penaltv.
 1889, 224.
 1897, 444, § 11.
 R. L. 29, § 11.
 1920, 244, § 2.
 1926, 243, § 1.

1 SECTION 11. Every undertaker or other person in charge of a funeral
 2 shall forthwith obtain the physician's or officer's certificate required by
 3 section nine, enter thereon the facts as to the deceased required by
 4 section one to be recorded, and return it to the board of health or its
 5 agent, or, if the selectmen constitute such board, to the clerk of the
 6 town where the death occurred. The person making such return shall
 7 receive from the town a fee of twenty-five cents. The board of health
 8 shall transmit such certificate to the town clerk.

Undertakers
 to make
 returns, etc.
 1844, 159, § 4.
 1849, 202, § 3.
 G. S. 21, § 4.
 1872, 275, § 4.
 1878, 302.
 P. S. 32, § 4.
 1897, 444, § 12.
 R. L. 29, § 12.
 1920, 244, § 2.
 200 Mass. 479.
 4 Op. A. G. 406.

1 SECTION 12. Except as hereinafter provided, each town clerk shall
 2 forthwith make a certified copy of the record of each birth and death
 3 recorded during the previous month, if the parents of the child born or
 4 the deceased were residents of any other town in the commonwealth or
 5 in any other state at the time of said birth or death, and transmit it to
 6 the clerk of the town where such parents or deceased person were so
 7 resident, stating the name of the street and number of the house, if any,
 8 where such parents or deceased person so resided; and the clerk of a
 9 town in the commonwealth receiving such certified copy, or certified
 10 copies of births, marriages or deaths, from the clerk of a town without
 11 the commonwealth, shall record the same and transmit to the state
 12 secretary a certified copy of the record thereof. No birth record of a
 13 child born out of wedlock shall so be transmitted to any other city or
 14 town.

Copies of
 records of
 births and
 deaths, etc.
 1889, 208.
 1897, 444, § 13.
 R. L. 29, § 13.
 1910, 93, § 3.
 1931, 132, 230.

1 SECTION 13. If the record relating to a birth, marriage or death does
 2 not contain all the required facts, or if it is claimed that the facts are not
 3 correctly stated therein, the town clerk shall receive an affidavit con-

Correction
 of errors in
 record, amend-
 ment of
 records of

illegitimates
subsequently
legitimized,
etc.
1892, 305, § 1.
1894, 402.
1897, 441, § 14.
R. L. 29, § 14.
1925, 281, § 2.
1930, 169.
1934, 258.

taining the facts required for record, if made by a person required by law 4
to furnish the information for the original record, or, at the discretion of 5
the town clerk, by credible persons having knowledge of the case. 6
If a person shall have acquired the status of a legitimate child by the 7
intermarriage of his parents and the acknowledgment of his father, as 8
provided in section seven of chapter one hundred and ninety, the record 9
of his birth shall be amended or supplemented as hereinafter provided so 10
as to read, in all respects, as if such person had been reported for record 11
as born to such parents in lawful wedlock. For such purpose, the town 12
clerk shall, if satisfied as to the identity of the persons and the facts, 13
receive an affidavit executed by the parents or by either if the other is 14
dead, setting forth the material facts. Unless such intermarriage is 15
recorded in the records in the custody of such clerk, such affidavit shall be 16
accompanied by a certified copy of the record thereof. 17

If a person of illegitimate birth shall have acquired a new name by 18
judicial decree, the town clerk shall receive a certified copy of such decree. 19

He shall file any affidavit, certified copy of such decree or copy of record 20
submitted under this section and record it in a separate book kept there- 21
for, with the name and residence of the deponent or the facts of such 22
decree and the date of the original record, and shall thereupon draw a line 23
through any statement, or statements, sought to be corrected or amended 24
in the original record, without erasing them, shall enter upon the original 25
record the facts required to correct, amend or supplement the same in 26
accordance with such affidavit or decree, including, in case of a decree of 27
adoption, the same facts relative to the adopting parents as are required 28
in a record of birth by the provisions of section one relative to natural 29
parents, and forthwith, if a copy of the record has been sent to the state 30
secretary, shall forward to the state secretary a certified copy of the cor- 31
rected, amended or supplemented record upon blanks to be provided by 32
him, and the state secretary shall thereupon correct, amend or supple- 33
ment the record in his office. Reference to the record of the affidavit or 34
such decree shall be made by the clerk on the margin of the original record. 35
If the clerk furnishes a copy of such a record, he shall certify to the facts 36
contained therein as corrected, amended or supplemented, and shall state 37
that the certificate is issued under this section; except that the clerk 38
shall, upon proper judicial order, or when requested by a person seeking 39
his own birth record, or by a person whose official duties, in the opinion 40
of the clerk, entitle him to the information contained in the original 41
record, furnish a copy of such original record. Such affidavit, or a certified 42
copy of the record of any other town or of a written statement made at 43
the time by any person since deceased required by law to furnish evi- 44
dence thereof, may, in the discretion of the clerk, be made the basis for 45
the record of a birth, marriage or death not previously recorded, and such 46
copy of record may also be made the basis for completing the record of a 47
birth, marriage or death not containing all the required facts. 48

Penalty for
false return.
1897, 444, § 15.

SECTION 14. Whoever wilfully makes a false return relative to a 1
birth, marriage or death shall forfeit not more than fifty dollars. 2

R. L. 29, § 15.

Clerks to
provide blanks
for returns of
births.
1880, 33, § 2.

SECTION 15. Each town clerk shall annually give public notice that 1
he will furnish blanks for returns of births to parents, householders, 2
physicians and registered hospital medical officers applying therefor. 3

P. S. 32, § 8.

1897, 444, § 17.

R. L. 29, § 16.

1920, 244, § 2.

1 SECTION 16. The state secretary shall prepare and furnish to the
 2 clerks and boards of health of towns, and to the superintendent of the
 3 state infirmary, record books, books for indexes thereto, forms for returns,
 4 on paper of uniform size, and any necessary instructions and explanations,
 5 including an explanation that sections one hundred and ten and one
 6 hundred and eleven of chapter one hundred and eleven require physicians,
 7 registered hospital medical officers, nurses, relatives or other attendants,
 8 to report immediately to the local board of health every child one or
 9 both of whose eyes become inflamed, swollen and red and show an un-
 10 natural discharge within two weeks after birth. Town clerks shall dis-
 11 tribute the blank forms as the state secretary shall direct. A town may
 12 provide such books and forms if they conform to those so prepared.

Blank forms to
 be furnished to
 towns, etc.
 1842, 95, § 2.
 1844, 159,
 §§ 6, 7.
 1849, 202, § 5.
 G. S. 21, § 9.
 P. S. 32, § 14.
 1897, 444, § 18.
 1900, 353.
 R. L. 29, § 17.
 1911, 104.
 1912, 470.
 1920, 244, § 2.

1 SECTION 17. The clerk of each town, and of each city containing less
 2 than thirty thousand inhabitants, annually, on or before March first,
 3 the clerks of cities containing more than thirty thousand and less than
 4 one hundred thousand inhabitants, annually, on or before April first,
 5 and the clerks of cities containing one hundred thousand inhabitants or
 6 more, annually, on or before May first, shall transmit to the state secre-
 7 tary certified copies of the records of births and marriages recorded therein
 8 during the preceding year, with certified copies, upon blanks provided
 9 by him, of such records and corrections in such records as have not been
 10 previously returned. The clerk of each city and town shall, on or before
 11 the tenth day of every month, transmit to the state secretary, upon
 12 blanks to be furnished by him, certified copies of the returns of deaths in
 13 such town during the preceding month. In case no deaths have occurred,
 14 the fact shall be certified by the town clerk within ten days after the close
 15 of such month.

Copies of
 records of
 births and
 marriages to be
 transmitted to
 state secretary
 annually,
 and deaths
 monthly, etc.
 1842, 95, § 1.
 1844, 159, § 1.
 1849, 202, § 5.
 G. S. 21, § 5.
 1875, 21.
 P. S. 32, § 10.
 1894, 206.
 1897, 444, § 19.
 1901, 167.
 R. L. 29, § 18.
 1903, 305.
 1906, 415.
 Op. A. G.
 (1918) 89.

1 SECTION 18. The state secretary shall require and town clerks shall
 2 cause copies transmitted under the preceding section to be written in a
 3 legible hand.

Copies to be
 legibly written.
 1897, 444, § 20.
 R. L. 29, § 19.

[Penalty, § 27.]

1 SECTION 19. The record of the town clerk relative to a birth, marriage
 2 or death shall be prima facie evidence of the facts recorded. A certificate
 3 thereof, signed by the town clerk or assistant clerk, shall be admissible
 4 as evidence of such record.

Clerk's record
 to be prima
 facie evidence.
 R. S. 75, § 25.
 G. S. 21, § 6.

P. S. 32, § 11.	133 Mass. 242.	240 Mass. 449, 514.
1897, 444, § 21.	142 Mass. 466.	252 Mass. 328.
R. L. 29, § 20.	163 Mass. 453.	253 Mass. 499.
10 Allen, 161.	217 Mass. 451.	265 Mass. 420.
122 Mass. 43.	226 Mass. 67.	269 Mass. 415.

1 SECTION 20. The superintendent of the state infirmary shall obtain,
 2 record and make return of the facts relative to births and deaths therein
 3 in the same manner as town clerks. The clerk of the town where such
 4 infirmary is located shall, relative to the births and deaths therein, be
 5 exempt from the duties otherwise required of him by this chapter.

Superintendent
 of state in-
 firmary to
 make records
 and returns.
 1855, 366.
 G. S. 21, § 8.
 P. S. 32, § 13.
 1897, 444, § 22.

R. L. 29, § 21. 1911, 104.

1 SECTION 21. The state secretary shall cause the copies received by
 2 him for each year to be bound, with indexes thereto. He shall prepare
 3 from said copies such statistical tables as will be of practical utility, and
 4 make annual report thereof to the general court.

Copies of
 records of
 births, mar-
 riages and
 deaths to be
 bound, etc.

1842, 95, § 2.	1849, 202, § 5.	P. S. 32, § 15.	R. L. 29, § 22.
1844, 159, § 7.	G. S. 21, § 10.	1897, 444, § 23.	1902, 544, § 8.

Registrar in certain cities and towns. SECTION 22. Any city, except Boston, and any town containing more than ten thousand inhabitants, may provide for the appointment of a person other than the clerk to be registrar. Such registrars, and in Boston the city registrar, shall be sworn and the provisions of this chapter relative to clerks shall apply to them.

Proceedings on neglect to report. SECTION 23. The town clerk shall give written notice of the requirements of this chapter to any person neglecting to comply therewith, and upon the continuance of such neglect for one month shall notify the agent or attorney duly appointed by the town to sue in its corporate capacity, or, if there is no such agent or attorney, the district attorney of the district, who shall cause a prosecution for the penalty or forfeiture therefor to be instituted.

Omission of name of illegitimate, etc., child. SECTION 24. In any statement of births and deaths printed by a town the name of an illegitimate child or of its parents or of the parents of a stillborn child shall not be printed, but the word "illegitimate" or "stillborn" shall be used in place thereof. A town violating this section shall forfeit to the mother of such child not more than one hundred dollars.

Disposition of forfeitures. SECTION 25. All fines and forfeitures recovered under this chapter shall, except as provided in sections twenty-four and twenty-seven, accrue to the benefit of the town where the required return should have been made.

Fees of city and town clerks. SECTION 26. The town clerk shall receive the following fees from the town upon presenting to the town treasurer a certificate of the receipt of the prescribed copies by the state secretary: For each marriage, fifty cents; for each birth, one dollar; for each death returned to him by an undertaker or the board of health, fifty cents; for each death not so returned but obtained and recorded by him, one dollar. He shall also receive from the town the following fees: For each certificate transmitted under section twelve, fifty cents; for receiving and recording an affidavit and forwarding a copy thereof under section thirteen, one dollar; for sending the notice required by section twenty-three, fifty cents; for each oath administered in his capacity as clerk, twenty-five cents. A town may limit the aggregate compensation allowed to its clerk.

Penalty for violation by clerks, etc. SECTION 27. A city or town clerk or registrar refusing or neglecting to perform any duty required of him under this chapter shall be punished by a fine of not less than twenty nor more than one hundred dollars. Fines recovered for violation of section eighteen shall be to the use of the commonwealth.

R. L. 29, §§ 19, 27.

1919, 168, § 1.

Who may administer oaths. SECTION 28. An oath required by this chapter may be administered by the clerk, assistant clerk or registrar of a town.

1897, 444, § 30.

R. L. 29, § 28.

Attestation of copies under seal. SECTION 29. Town clerks or registrars shall attest their copies of the record of births, marriages or deaths with the official seal of the town.

1898, 389, § 3.

R. L. 29, § 29.

CHAPTER 47.

INFIRMARIES.

SECT.

1. Maintenance, etc. Location.
2. Directors of infirmary.
3. Meetings of directors.
4. Joint infirmaries.
5. Joint board of directors.
6. Each town to choose three directors, etc.

SECT.

7. Expenses, by whom paid.
8. Records of admission.
9. Discontinuance of infirmaries.
10. Rate for persons able to pay.
11. Children, detention of.
12. [Repealed.]

1 SECTION 1. Any town may erect or provide and maintain an in- Maintenance,
 2 firmary for persons in need. No town shall erect or maintain an in- etc. Location.
 3 firmary wholly or in part within the limits of any other town without its §§ 1, 8,
 4 consent. 1788, 30, §§ 7,
 11.

1828, 142, § 3.	1852, 275.	R. L. 30, §§ 1, 2.	151 Mass. 505.
R. S. 16, §§ 1,	1857, 153.	G. L. (ed. of 1920)	186 Mass. 341.
22; 46, § 4.	G. S. 22, §§ 1, 2, 22.	47, § 2.	2 Op. A. G. 548.
1848, 291.	P. S. 33, §§ 1, 2, 22.	1927, 203, § 1.	

1 SECTION 2. Any town which has an infirmary may annually choose Directors
 2 three, five, seven or more directors to have the management thereof, of
 3 who may appoint a superintendent and assistants. If such directors 1743-4, 12, § 1.
 4 are not chosen, the local board of public welfare shall be the directors. 1788, 30, § 1.
 R. S. 16,
 §§ 2, 3.
 G. S. 22, § 3.

P. S. 33, § 3.	G. L. (ed. of 1920)	1927, 203, § 1.	186 Mass. 341.
R. L. 30, § 3.	47, § 3.	152 Mass. 500.	

1 SECTION 3. The directors shall at least monthly hold general meet- Meetings of
 2 ings at which they may make orders and regulations for the infirmary, to directors.
 3 be binding until the next meeting of the town or of the city council. 1743-4, 12, § 1.
 4 when the same shall be submitted to such meeting, and if approved shall 1788, 30, § 1.
 5 remain in force until revoked by the town or by the city council. R. S. 16,
 §§ 2, 3.
 P. S. 33, § 4
 R. L. 30, § 1.

G. L. (ed. of 1920) 47, § 4.	1927, 203, § 1.
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1 SECTION 4. Any number of towns may, at their joint charge and for Joint in-
 2 their common use, erect or provide an infirmary and purchase land for firmaries.
 3 the use thereof. 1743-4, 12, § 2.

1788, 30, § 2.	G. S. 22, § 5.	G. L. (ed. of 1920) 47, § 5.
1828, 142, § 3.	P. S. 33, § 5.	1927, 203, § 1.
R. S. 16, §§ 5; 46, § 4.	R. L. 30, § 5.	

1 SECTION 5. The management and repair of such infirmary shall be Joint board of
 2 vested in a joint board of directors, who shall be chosen annually by the directors.
 3 several towns interested. 1743-4, 12, § 2.
 1788, 30, § 2.

R. S. 16, § 6.	P. S. 33, § 6.	G. L. (ed. of 1920) 47, § 6.
G. S. 22, § 6.	R. L. 30, § 6.	1927, 203, § 1.

1 SECTION 6. Unless all the towns interested in such infirmary agree Each town to
 2 to choose a different number, each of them shall choose three choose three
 3 of the joint board; and upon the death of a director, or his removal from directors, etc.
 4 the place for which he was chosen, the vacancy may be filled by such 1743-4, 12, § 2.
 5 town. If a town neglects to choose directors, those chosen by the other 1788, 30, § 2.
 6 towns shall have charge of the infirmary. R. S. 16,
 §§ 7, 8.
 G. S. 22, § 7.
 P. S. 33, § 7.
 R. L. 30, § 7.

G. L. (ed. of 1920) 47, § 7.	1927, 203, § 1.
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Expenses, by whom paid. SECTION 7. The expense of maintaining the infirmary shall be paid 1
1743-4, 12, § 6 by the several towns interested, in proportion to their share of the state 2
1788, 30, § 5. tax at the time when the expense was incurred, unless they agree to a 3
R. S. 16, § 13. different proportion. 4
G. S. 22, § 12.
P. S. 33, § 12.

R. L. 30, § 12.

G. L. (ed. of 1920) 47, § 12.

1927, 203, § 1.

Records of admission. SECTION 8. Each infirmary shall keep records of all persons admitted 1
1743-4, 12, to it, which records shall be in the form prescribed by the department of 2
§ 10. public welfare. 3
1788, 30, § 9.

R. S. 16, § 18.
G. S. 22, § 17.
P. S. 33, § 17.1901, 177.
R. L. 30, § 17.
1914, 792, § 1.1919, 350, § 96.
G. L. (ed. of 1920) 47, § 17.
1927, 203, § 1.

Discontinuance of infirmaries. SECTION 9. An infirmary may be discontinued or appropriated to 1
any other use if the towns interested so determine. 2

1743-4, 12, § 14.
1788, 30, § 13.R. S. 16, § 24.
G. S. 22, § 23.P. S. 33, § 23.
R. L. 30, § 23.G. L. (ed. of 1920) 47, § 23.
1927, 203, § 1.

Rate for persons able to pay. SECTION 10. Persons able to pay for infirmary care may be received 1
1927, 203, § 1. and cared for in an infirmary at a rate fixed by the board of directors 2
thereof. 3

Children, detention of. SECTION 11. No child who can be provided for under section thirty- 1
1879, 103, § 2. six of chapter one hundred and seventeen without unreasonable expense 2
P. S. 84, § 4. shall be detained in an infirmary for more than sixty days unless his 3
R. L. 81, § 7. physical condition is such as to make such action necessary or desirable 4
1905, 203, § 2. or unless he is under three years of age and his mother is a suitable person 5
1913, 112. to aid in taking care of him and is an inmate of the same infirmary. 6
G. L. (ed. of 1920) 117, § 38.
1927, 203, § 1.

SECTION 12. [INSERTED, 1927, 203, § 1; REPEALED, 1931, 426, § 163.] 1

CHAPTER 48.

FIRES, FIRE DEPARTMENTS AND FIRE DISTRICTS.

SECT.	FIREWARDS.	SECT.	
1.	Firewards.	15.	Arrest without warrant.
2.	Firewards to attend fires.	16.	Clearing land of slash.
3.	Buildings to be pulled down, when.	17.	Clearing ways of slash.
4.	Same subject.	18.	Electric, etc., companies to clear land of slash.
5.	Owners to be indemnified.	19.	Forester, forest wardens, etc., to enforce three preceding sections.
6.	Firewards may command assistance.	20.	Penalty.
7.	Firewards may direct enginemen, etc.	20A.	Lumber cutting, operation of portable sawmills, regulated. Penalty.
	FOREST WARDENS.	21.	Spark arresters, when required. Penalty.
8.	Forest wardens. Appointment, etc.	22.	Inspection by forester, etc.
9.	Back fires in woodlands.	23.	Erection of forest fire observation towers.
10.	Forest wardens may appoint deputies, require aid, etc.	24.	Expenditures authorized.
11.	Penalty for refusal of aid.	25.	Duties of forest wardens. Posting notices, etc.
12.	Compensation of foresters, etc.	26.	Penalty for destroying notice.
13.	Setting, etc., fires in open air regulated. Penalty.		
14.	[Repealed.]		

- SECT.
 27. Forest wardens, when not liable for trespass.
 28. Prevention of forest fires. Report.
 28A. State fire patrol, appointment, etc., in certain counties.
 28B. Patrolling forests of towns in drought. State aid to small towns.

ENGINEMEN AND HOSEMEN.

29. Selectmen, etc., to appoint engine-men.
 30. Annual meeting of engine-men. Rules and penalties.
 31. Meetings of engine companies.
 32. Selectmen, etc., to appoint engine-men to private engines.
 33. If selectmen refuse, commissioners may appoint.
 34. Engine-men to live near engines.
 35. Hosemen.
 36. Certain call men in fire departments may be appointed to permanent force.
 37. Exception to application of § 34.
 38. Compensation of engine-men.
 39. Chief engineer and assessors to certify lists. Treasurers to pay.
 40. Penalty for refusing certificate, etc., or making false one.
 41. Three preceding sections not to apply unless adopted.

FIRE DEPARTMENTS.

42. Fire departments in certain towns.
 43. Chief to act as forest warden.
 44. Effect of two preceding sections on firemen under civil service.
 45. Engineers. Appointment.
 46. Organization of engineers.
 47. Engineers to have powers of fire-wards; to appoint engine-men, etc.
 48. Organization of engine-men, etc. By-laws, etc.
 49. Privileges of engineers, etc.
 50. Apparatus of fire departments.
 51. Penalty.
 52. Engineers to have care of engines, etc.
 53. Engineers may regulate carrying fire in streets, etc.
 54. Other powers of engineers as to preventing, etc., fires.
 55. Members of fire departments. Term of office.
 56. Same subject. Hours of labor.
 57. Same subject. Days off, etc.
 58. Tenure of office of chiefs of fire department in certain towns.
 Platoon system.
 59A. Response of fire departments to call for aid from other cities, etc.

SECT.
 RESERVE FIRE FORCES IN CITIES.

- 59B. Establishment.
 59C. Number of members.
 59D. Assignment of members to duty. Compensation.

FIRE DISTRICTS.

60. Fire departments in districts.
 61. Establishment of fire districts.
 62. Selectmen to call meeting upon request.
 63. Voters. Clerk, duties. Temporary clerk. Notice to commissioner of corporations and taxation.
 64. Meeting may establish fire department.
 65. Engineers, how chosen.
 66. Meetings of fire district, how called and conducted.
 67. Voting lists for elections in fire districts.
 68. Certain election laws to apply to fire districts.
 69. Fire districts may raise money for purchase of engines, etc.
 70. Temporary debts.
 71. Prudential committee. Treasurer.
 72. Temporary treasurer.
 73. Assessment, etc., of money raised by fire district, etc.
 74. Board of engineers to make rules and appoint engine-men, etc.
 75. Powers of engineers and liability of district for their acts.
 76. Privileges, etc., of members of fire department. Compensation.
 77. By-laws to be approved, etc.
 78. Penalties, how recovered, etc.
 79. District may exclude persons or estates.
 80. Districts heretofore organized.

FIREMEN'S RELIEF.

81. Appropriation for relief of firemen. Disbursement.
 82. Members of protective associations, etc., entitled to benefits.
 83. Allowance to families of firemen, etc., killed or fatally injured.

SPECIAL PROVISIONS.

84. Firemen's clubs not to be established unless, etc.
 85. Penalty for joining unauthorized club.
 86. Two preceding sections in force only where adopted, etc.

GENERAL PROVISIONS.

87. Fire department equipment, standardization.

FIREWARDS.

Firewards. SECTION 1. Selectmen may annually, in March or April, appoint 1
 1711-12, § 5, § 1. firewards, and shall forthwith give them notice thereof. Whoever 2
 1744-5, § 30, § 1. neglects, within seven days after such notice, to file with the town clerk 3
 1796, § 88, § 1. his acceptance or refusal of the office shall, unless excused by the select- 4
 R. S. 18, men, forfeit ten dollars. 5
 §§ 1, 2.
 G. S. 24, P. S. 35, § 1. 1907, 475, § 5. 1919, 5. 4 Op. A. G. 379.
 §§ 1, 2. R. L. 32, § 9. 1918, 257, § 160. 1920, 2.

Firewards to attend fires. SECTION 2. If a fire breaks out, the firewards shall immediately 1
 1711-12, § 5, § 2. repair thereto, and shall wear a suitable badge of office. 2
 1744-5, § 30, §§ 1, 2. P. S. 35, § 2. 1919, 5.
 1796, § 88, § 2. R. L. 32, § 10. 1920, 2.
 R. S. 18, § 4. 1907, 475, § 5. 4 Op. A. G. 379.
 G. S. 24, § 3. 1918, 257, § 160.

Buildings to be pulled down, when. SECTION 3. Three or more firewards present at a place which is in 1
 1711-12, § 5, § 1. immediate danger from fire, or if there are not three of them present 2
 1744-5, § 30, § 2. the selectmen or the mayor and the aldermen present, or in their absence 3
 1796, § 88, § 2. two or more of the civil officers present, or in their absence two or more 4
 R. S. 18, § 4. of the chief military officers of the place present may direct any building 5
 G. S. 24, § 4. to be demolished if they deem it necessary to prevent the spread of the 6
 P. S. 35, § 3. fire. 7
 R. L. 32, § 11. 1919, 5. 5 Cush. 269. 11 Allen, 507.
 1907, 475, § 5. 1920, 2. 11 Cush. 433.
 1918, 257, § 160.

Same subject. SECTION 4. If a city by its city council or a town accepts this section 1
 1873, 201. or has accepted corresponding provisions of earlier laws, the official of 2
 P. S. 35, § 4. a fire department in command at a fire shall have exclusively the power 3
 R. L. 32, § 12. conferred by the preceding section. 4
 1907, 475, § 5. 1919, 5. 1920, 2.
 1918, 257, § 160.

Owners to be indemnified. SECTION 5. If such demolition of a building is the means of stopping 1
 1796, § 88, § 3. the fire or if the fire stops before it comes to it, the owner shall be entitled 2
 R. S. 18, § 7. to recover reasonable compensation from the town unless it was the 3
 G. S. 24, § 5. building in which the fire started. Such compensation shall be deter- 4
 P. S. 35, § 5. mined and recovered under chapter seventy-nine, as if the building 5
 R. L. 32, § 13. demolished were taken by eminent domain. 6
 1907, 475, § 5. 1919, 5. 8 Met. 462. 11 Cush. 433. 11 Allen, 507.
 1918, 257, § 160. 1919, 5.

Firewards may command assistance. SECTION 6. Such firewards or other officers may require assistance 1
 1711-12, § 5, § 1. for extinguishing a fire and for removing furniture, goods or merchandise 2
 1744-5, § 30, § 2. from a building on fire or in danger of fire. They may appoint guards 3
 1796, § 88, § 2. to secure the same, may require assistance for demolishing a building, 4
 R. S. 18, § 5. and suppress tumults and disorders at fires. 5
 G. S. 24, § 6. P. S. 35, § 6. R. L. 32, § 14. 1918, 257, § 160. 1920, 2.
 1907, 475, § 5. 1919, 5.

Firewards may direct engine-men, etc. SECTION 7. They may direct the stations and operations of the 1
 1711-12, § 5, § 3. engine-men with their engines and of all other persons, for the purpose 2
 1744-5, § 30, § 3. of extinguishing the fire. Whoever refuses or neglects to obey such 3
 1796, § 88, § 2. orders shall be punished by a fine of not more than ten dollars. 4
 R. S. 18, § 6. G. S. 24, § 7. R. L. 32, § 15. 1918, 257, § 160. 1920, 2.
 P. S. 35, § 7. 1907, 475, § 5. 1919, 5.

FOREST WARDENS.

1 SECTION 8. The mayor in cities and, except as provided in section
 2 forty-three, the selectmen in towns shall annually, in January, appoint
 3 a forest warden, and forthwith give notice thereof to the state forester, in
 4 this chapter called the forester. Such appointment shall not take effect
 5 unless approved by the forester. When so approved notice of the appoint-
 6 ment shall be given by the mayor or selectmen to the person so appointed.
 7 Whoever having been duly appointed fails within seven days after receipt
 8 of such notice to file with the city or town clerk his acceptance or refusal
 9 of the office shall, unless excused by the mayor or selectmen, forfeit ten
 10 dollars. The same person may hold the offices of tree warden, selectman,
 11 chief of fire department and forest warden. Upon the failure of the mayor
 12 of a city or the selectmen of a town to make such appointment in the
 13 month of January, the forester shall notify the mayor or selectmen so to
 14 do, and if the mayor or selectmen fail to comply within fourteen days
 15 after receipt of such notice, the forester may appoint as forest warden in
 16 such city or town a suitable person, who shall be a resident thereof.

Forest wardens,
 Appointment,
 etc.
 1886, 296,
 § 2, 5.
 R. L. 32, § 16.
 1907, 475,
 § 1, 5.
 1913, 600, § 1.
 1918, 257,
 § 160.
 1919, 5.
 1920, 2.
 1921, 274.

1 SECTION 9. If a fire occurs in woodland, the forest warden of the
 2 town, or of a town containing woodland endangered by such fire, at a
 3 place in immediate danger therefrom, may set back fires and take neces-
 4 sary precautions to prevent its spread.

Back fires in
 woodlands.
 1874, 228.
 P. S. 35, § 9.
 R. L. 32, § 19.

1907, 475, § 5. 1918, 257, § 160. 1919, 5. 1920, 2.

1 SECTION 10. The forest warden may appoint deputies to assist him
 2 in his duties, and may discharge them; and he or his deputies may, if in
 3 their judgment there is danger from a forest fire, employ assistance or
 4 require any male person in their town between the ages of eighteen and
 5 fifty to aid in its extinguishment or prevention, and may require the
 6 use of horses, wagons and other property adapted therefor, and shall keep
 7 an account of the time of all persons assisting them and a schedule of all
 8 property so used.

Forest wardens
 may appoint
 deputies, re-
 quire aid, etc.
 1886, 296, § 6.
 1897, 254,
 § 4, 5.
 R. L. 32,
 §§ 17, 20.
 1907, 475,
 § 3, 5.
 1918, 257,
 § 160.

1919, 5. 1920, 2.

1 SECTION 11. Whoever, without sufficient cause, wilfully refuses or
 2 neglects to assist or to allow the use of his property as required by the
 3 preceding section, shall be punished by a fine of not less than five nor
 4 more than one hundred dollars, to be equally divided between the com-
 5 plainant and the town, and may also be imprisoned for not more than
 6 two months.

Penalty for
 refusal of aid
 1897, 254, § 6.
 R. L. 32, § 21.

1 SECTION 12. Payment shall be made to forest wardens, their depu-
 2 ties, and persons assisting them, and for property used under their
 3 direction at a forest fire, at a rate prescribed by the town or, in default
 4 of its action thereon, by the selectmen. No such payment shall be made
 5 until an itemized account, approved by the forest warden under whose
 6 direction the work was done or assistance furnished, shall have been filed
 7 with the officer making payment.

Compensation
 of foresters,
 etc.
 1886, 296, § 6.
 1897, 254, § 8.
 R. L. 32, § 23.
 1907, 475, § 5.
 1918, 257,
 § 160.
 1919, 5.
 1920, 2.

1 SECTION 13. No person shall set, maintain or increase a fire in the
 2 open air at any time unless the ground is substantially covered with
 3 snow, except by written permission, covering a period not exceeding ten
 4 days from the date thereof, granted by the forest warden or chief of the

Setting, etc.,
 fires in open
 air regulated.
 Penalty.
 1752-3, 18, § 3.
 1756-7, 14, § 3.
 1796, 82, § 11.

1837, 177, § 1. fire department in cities and towns, or, in cities having such an official, 5
 G. S. 164, § 12. the fire commissioner; provided, that débris from fields, gardens and 6
 P. S. 206, § 12. orchards, and leaves and rubbish from yards, may be burned on ploughed 7
 1897, 254, § 10. R. L. 32, § 24; fields by the owners thereof, their agents or lessees, if such fire is at least 8
 211, § 11. two hundred feet distant from any sprout or forest land and at least fifty 9
 1907, 475, § 5. feet distant from any building and is properly attended until extinguished; 10
 1908, 209, § 1. and provided, further, that persons above the age of eighteen may set or 11
 1911, 244, § 1. 4 maintain a fire for a reasonable purpose upon sandy land, or upon salt 12
 § 1. 5 marshes or sandy or rocky beaches bordering on tide water, if the fire 13
 1912, 419, § 3. is enclosed within rocks, metal or other non-inflammable material. The 14
 1916, 51, § 1. 5 forester may make rules and regulations relating to the granting and 15
 1918, 257, § 100 revocation of such permits binding throughout the commonwealth. Such 16
 1919, 5, § 350, §§ 101, 104, 1920, 2 rules and regulations shall take effect subject to section thirty-seven of 17
 1922, 515, § 42. chapter thirty, when approved by the governor and council. The forest 18
 1927, 160, § 1. wardens in towns and officials performing the duties of forest wardens in 19
 1930, 401, § 1. cities shall cause public notice to be given of the provisions of this section 20
 230 Mass. 595. and shall enforce the same. Whoever violates any provision of this sec- 21
 tion shall be punished by a fine of not more than one hundred dollars or 22
 by imprisonment for not more than one month, or both. 23

SECTION 14. [REPEALED, 1930, 401, § 2.]

1

Arrest without
 warrant
 1907, 299;
 475, § 5.
 1908, 209, § 4.
 1911, 244, § 2.
 1912, 419, § 4.
 1916, 51,
 §§ 4, 5
 1918, 257,
 § 100.
 1919, 5, § 350,
 § 42.
 1920, 2.
 1927, 280, § 2.

SECTION 15. The forester, the state fire warden or any duly author- 1
 ized assistant, the forest warden in a town or the official performing the 2
 duties of a forest warden in a city, or any duly appointed deputy forest 3
 warden, the director of the division of fisheries and game, a fish and game 4
 warden or a deputy fish and game warden may arrest without warrant 5
 any person found in the act of setting, maintaining or increasing a fire 6
 in violation of sections thirteen and fourteen. They shall take precau- 7
 tions to prevent the progress of forest fires, or the improper kindling 8
 thereof, and upon the discovery of any such fire shall immediately re- 9
 quire the necessary assistance in accordance with section ten, the pro- 10
 visions of which and of sections eleven and twelve are hereby made 11
 applicable in such case, and shall notify the local forest warden. 12

Clearing land
 of slash.
 1914, 101, § 1.
 1920, 308,
 §§ 1, 6.

SECTION 16. Every owner, lessee, tenant or occupant of lands or of 1
 any rights or interests therein, except electric, telephone and telegraph 2
 companies, who cuts or permits the cutting of brush, wood or timber on 3
 lands which border upon woodland, or upon a highway or railroad loca- 4
 tion, shall dispose of the slash caused by such cutting in such a manner 5
 that the same will not remain on the ground within forty feet of any 6
 woodland, highway or railroad location. 7

Clearing ways
 of slash.
 1914, 101, § 2.
 1920, 308,
 §§ 2, 6.

SECTION 17. Any person who cuts or causes to be cut trees, brush or 1
 undergrowth within the limits of any highway, shall dispose of the 2
 slash and brush then and there resulting from such cutting in such a 3
 manner that the same will not remain on the ground within the limits 4
 of said highway. 5

Electric, etc.,
 companies to
 clear land
 of slash.
 1920, 308, § 3.

SECTION 18. Electric, telephone and telegraph companies which, at 1
 the time of erecting their transmission lines, cut or cause to be cut brush, 2
 wood or timber on land which borders upon woodland or upon a highway 3
 or railroad location, shall dispose of the slash caused by such cutting in 4
 such a manner that the same will not remain on the ground within forty 5

6 feet of any woodland, highway or railroad location; such companies
 7 which after the erection of their lines trim or cut brush, wood or timber
 8 which has grown up since the line was erected, and which borders upon
 9 woodland or upon a highway or railroad location, shall, upon the request
 10 of the forester, and within a time limit set by him, dispose of the slash
 11 of second or subsequent cuttings if the same in his opinion constitutes
 12 a menace to adjoining property.

1 SECTION 19. The forester, or any duly authorized assistant, and the
 2 forest wardens in cities and towns are hereby authorized to inspect wood
 3 or lumber operations, and also the rights of way of electric, telephone
 4 and telegraph companies' transmission lines, to determine whether the
 5 slash and brush are disposed of in accordance with sections sixteen to
 6 eighteen, inclusive.

Forester,
 forest wardens,
 etc., to enforce
 three preceding
 sections
 1920, 308, § 4.

1 SECTION 20. Violation of any provision of sections sixteen to eight-
 2 een, inclusive, shall be punished by a fine of not less than twenty nor
 3 more than one hundred dollars.

Penalty.
 1914, 101, § 3.
 1920, 308,
 §§ 5, 6.

1 SECTION 20A. No person shall engage in any lumbering operations
 2 which involve the cutting of more than ten thousand feet, other than
 3 the cutting of cord wood, unless he has filed with the forester a state-
 4 ment giving the location and approximate size of the lot of land from
 5 which wood is to be cut and the approximate date when such operations
 6 are to be commenced. Any person, before operating any portable
 7 sawmill, shall notify the forester of the place of such intended operation
 8 and shall clear away and dispose of all slash and brush within seventy-
 9 five feet thereof. Violation of any provision of this section shall be
 10 punished by a fine of not less than five nor more than one hundred
 11 dollars.

Lumber cut-
 ting, operation
 of portable
 sawmills,
 regulated.
 Penalty.
 1922, 252.

1 SECTION 21. Whoever, except when the ground is covered with snow,
 2 operates in or adjacent to forest or grass lands any portable steam saw-
 3 mill, steam roller, steam shovel or steam tractor, which burns wood,
 4 coke, coal or other spark producing material as fuel, unless the same is
 5 provided with a suitable spark arrester approved by the forester, shall
 6 be punished by a fine of not less than fifty nor more than one hundred
 7 dollars.

Spark
 arresters,
 when required.
 Penalty.
 1917, 51,
 §§ 1, 3, 4.
 1930, 399, § 2.

1 SECTION 22. The forester or his assistants may inspect all appliances
 2 described in the preceding section to determine if they are provided
 3 with suitable spark arresters.

Inspection by
 forester, etc.
 1917, 51, § 2.

1 SECTION 23. Towns may construct, in co-operation with other towns
 2 or with the commonwealth, forest fire observation towers, the situa-
 3 tion and construction of which shall be subject to the direction of the
 4 forester.

Erection of
 forest fire
 observation
 towers
 1919, 120.

1 SECTION 24. Money appropriated by a town under section eleven of
 2 chapter forty, for the prevention of forest fires, and all fines received
 3 under sections eleven, thirteen and twenty-six of this chapter and sec-
 4 tion nine of chapter two hundred and sixty-six shall be expended by the
 5 forest warden, under the supervision of the selectmen, in trimming

Expenditures
 authorized.
 1897, 254,
 §§ 11, 12.
 R. L. 32, § 25.
 1907, 475, § 5.
 1918, 257,
 § 160
 1919, 5.

1920, 2; 269.
1923, 214
1927, 280, § 3.

brush out of wood roads, in preparing and preserving suitable lines for
back fires, or in other ways adapted to prevent or check the spread of
fire; or such town may expend any portion of such money in taking by
eminent domain such woodland as the selectmen, upon recommendation
of the forest warden, consider expedient to prevent forest fires. Such
taking and the payment of damages therefor or for injury to property,
other than by fire or back fire, shall be governed by chapter seventy-
nine. Every town, the valuation of which does not exceed one million
two hundred and fifty thousand dollars, which expends in any one year
a sum equal to one twentieth of one per cent of its valuation in the
extinguishment of forest fires, shall, upon the recommendation of the
forester, approved by the governor, receive from the commonwealth
one half of any additional sum expended by it in the extinguishment of
forest fires, provided that the total amount paid by the commonwealth
to any such town in any one year shall not exceed two hundred and
fifty dollars. In the event of a forest fire getting beyond the control of
a local forest warden, the forester or his assistant may take entire charge
of the extinguishment of such fire and engage all help and equipment
necessary therefor. All expenses thereby incurred in a town wherein a
fire occurs after the forester has so taken charge shall be divided equally
between such town and the commonwealth. The expenses aforesaid
shall be paid by the commonwealth upon presentation of pay rolls and
vouchers approved in such manner as the forester shall direct. One
half of any sums so paid shall be assessed and collected as a part of the
state tax of such town.

Duties of
forest wardens.
Posting
notices, etc.
1886, 296, § 3.
1897, 254, § 7.
R. L. 32,
§§ 18, 22.
1907, 475,
§§ 2, 5, 10.
1918, 257,
§ 160.
1919, 5.
1920, 2.
1931, 426,
§ 164.

SECTION 25. Except as provided in section twenty-four, every forest
warden shall have sole charge of the extinguishment of forest fires in
his city or town. He shall investigate the causes and extent of forest
fires and the injury done thereby, and shall report thereon to the for-
ester at such times and in such form as he requires. Every forest warden
shall also post in suitable places in the town such warnings against the
setting of forest fires and statements of law relating thereto as may be
supplied to him by the forester. The engineers or other officers in charge
of fire departments in cities and in towns which have so voted shall
perform the duties and exercise the powers of forest wardens with
respect to forest fires.

Penalty for
destroying
notice.
1897, 254, § 7.
R. L. 32, § 22.

SECTION 26. Whoever wilfully and maliciously tears down or destroys
any notice posted under the preceding section shall be punished by a
fine of ten dollars.

1907, 475, §§ 7, 10.

Forest wardens,
when not liable
for trespass.
1907, 475, § 6.

SECTION 27. Forest wardens, their deputies and assistants shall not
be liable for trespass when engaged in the performance of their duties
under this chapter or chapter one hundred and thirty-two.

Prevention of
forest fires.
Report
1911, 722,
§§ 1, 2.
1919, 350,
§ 39.

SECTION 28. The state fire warden appointed under section five of
chapter twenty-one shall aid and advise the forest wardens and their
deputies in towns and the municipal officers exercising the functions
of forest wardens in cities in preventing and extinguishing forest fires
and in enforcing the laws relative thereto. The forester may designate
not more than fifteen assistants to aid the warden. The state fire warden

7 shall report annually to the forester upon his work and upon the forest
8 fires occurring in the commonwealth. This report shall be included in
9 the report of the commissioner of conservation relative to the acts of
10 the forester.

1 SECTION 28A. Upon written application of the county commissioners
2 of any county which accepts this section by vote of said commissioners,
3 the state forester may appoint additional temporary officers in the divi-
4 sion of forestry or detail assistants to the state fire warden to such
5 number as may be necessary, who shall patrol the forests in the towns
6 of such county, during those seasons of the year when forest fires are
7 likely to occur therein for the purpose of detecting and preventing such
8 fires. One half of the money expended under the provisions of this
9 section in any county shall be repaid to the commonwealth by said
10 county.

State fire
patrol, ap-
pointment,
etc., in cer-
tain counties.
1929, 284.

1 SECTION 28B. Whenever it shall appear to the forester that by
2 reason of extreme drought there is danger of forest fires, the forest
3 warden of any town shall, upon order of the forester, cause the forests
4 of such town to be patrolled for the prevention of such fires in such
5 manner as the forester shall determine. The cost of such patrol shall be
6 paid by said town, subject to reimbursement by the commonwealth, if
7 the valuation of such town does not exceed one million two hundred and
8 fifty thousand dollars, as if incurred for the extinguishment of forest
9 fires as provided in section twenty-four.

Patrolling
forests of
towns in
drought.
State aid to
small towns.
1930, 309.

ENGINEMEN AND HOSEMEN.

1 SECTION 29. The mayor of cities or the selectmen of towns which
2 are provided with fire engines may appoint engine-men, to hold office at
3 the pleasure of the authority appointing them, and may discharge them
4 for negligence in their duties.

Selectmen, etc.,
to appoint
engine-men.
1784, 64,
1785, 42,
§§ 1, 2.

1794, 43.
1805, 82.
R. S. 18, §§ 9, 18.

G. S. 24, §§ 9, 17.
P. S. 35, §§ 12, 21.

R. L. 32, § 26.
111 Mass. 60.

1 SECTION 30. Each company of engine-men so appointed shall meet
2 annually in May, choose a foreman and a clerk, and establish such
3 regulations, consistent with law, relative to their duty as engine-men,
4 as shall be approved by the aldermen or selectmen; and they shall
5 annex penalties thereto, not exceeding ten dollars, which may be recov-
6 ered by their clerk.

Annual meeting
of engine-men.
Rules and
penalties.
1785, 42, § 1.
R. S. 18, § 12.
G. S. 24, § 12.
P. S. 35, § 15.
R. L. 32, § 27.

1 SECTION 31. Each company shall meet monthly, or oftener if neces-
2 sary, to examine their engine and its equipments and see that they are
3 in good repair and ready for use. They shall, under the direction of the
4 firewards, extinguish any fire in their city or town.

Meetings
of engine
companies.
1785, 42, § 2.
R. S. 18, § 13.

G. S. 24, § 13.

P. S. 35, § 16.

1925, 250, § 2.

1 SECTION 32. Upon application therefor by the proprietors of an en-
2 gine, the mayor of a city or the selectmen of a town where it is owned
3 may appoint engine-men and use the engine as if it belonged to the town,
4 and shall determine where it shall be kept, if the proprietors do not agree
5 upon such place.

Selectmen,
etc., to appoint
engine-men to
private engines.
1785, 42, § 3.
R. S. 18, § 14.
G. S. 24, § 14.

P. S. 35, § 17.

R. L. 32, § 29.

127 Mass. 275.

If selectmen refuse, commissioners may appoint.
1824, 120, § 1.
R. S. 18, § 15.
G. S. 24, § 15.
P. S. 35, § 18.
R. L. 32, § 30.
127 Mass. 275.

SECTION 33. If the mayor or selectmen, upon such application, refuse or delay for fourteen days to appoint enginemen, the proprietors may apply therefor in writing to the county commissioners, giving written notice to such mayor or selectmen seven days at least before the sitting of the commissioners; and if sufficient cause is shown, the commissioners may appoint such enginemen.

Enginemen to live near engines.
1824, 120, § 2.
R. S. 18, § 16.

SECTION 34. Enginemen appointed under either of the two preceding sections, shall, if possible, live at or near the place where the engine is kept, and shall have the privileges and exemptions of other enginemen.

G. S. 24, § 16.

P. S. 35, § 19.

R. L. 32, § 31.

Hosemen.
1869, 92.
1870, 28.
P. S. 35, § 20.
R. L. 32, § 32.

SECTION 35. Selectmen, engineers of fire departments and the board of engineers of fire districts may, in towns having one or more steam fire engines, or in which water for extinguishing fires is supplied from hydrants or reservoirs, appoint not more than twenty men to each hose carriage.

Certain call men in fire departments may be appointed to permanent force.
1913, 487, § 1.
1914, 138.
1916, 119.
1923, 109.
242 Mass. 587.

SECTION 36. Any town which has accepted chapter four hundred and eighty-seven of the acts of nineteen hundred and thirteen, and has a call or part call fire department which now is or may hereafter be subject to chapter thirty-one, may, on the recommendation of the board of engineers of the fire department or of the officer or board having charge of the fire department, promote to membership in the permanent force, without civil service examination and without any probationary period of service required under said chapter thirty-one and the rules and regulations made thereunder, any persons then in the call or part call fire department who have served as call men or part call men or substitute call men for five or more successive years, and who are certified to be competent physically for the duty by the town physician, if any, otherwise by a physician designated therefor by the board of engineers or other authority, as aforesaid.

Exception to application of § 34.
1913, 487,
§§ 2, 3.

SECTION 37. The preceding section shall not apply to any town in which the promotion of call men to the permanent or regular force is regulated by a special act relating to such town, nor to Boston.

Compensation of enginemen.
1834, 50, § 2.
R. S. 18, § 19.
G. S. 24, § 18.
P. S. 35, § 22.
R. L. 32, § 33.

SECTION 38. Enginemen or members of the fire department who have served for one year preceding May first in any year, shall receive from the town a sum equal to the poll taxes paid by or for them and such further compensation as the town determines.

Chief engineer and assessors to certify lists. Treasurers to pay.
1834, 50, § 2.
R. S. 18, § 20.
G. S. 24, § 19.
P. S. 35, § 23.
R. L. 32, § 34.

SECTION 39. The chief engineer or other officer in charge of a fire department, and the foreman or director of each company where no fire department is established by law, shall annually on or before May first certify to the assessors of their respective towns a list of all persons in their department or companies who during the preceding year have performed all the duties required by law. The assessors shall within ten days thereafter examine such lists and certify to the treasurers of their respective towns the amount to be paid to each person named therein. Each treasurer shall, after deducting all taxes due from the persons so named, pay the amount so certified to them, or, if minors, to their parents or guardians. Upon refusal of the treasurer to pay

12 any sum so certified, the person entitled may recover such amount in
13 contract.

1 SECTION 40. If such chief engineer or other officer wilfully refuses to
2 make such certificate, he shall forfeit for each person entitled to be so
3 certified not more than five dollars, to the use of such person, or, on
4 complaint, to the use of the town; and if such engineer or other officer
5 makes a false certificate in such case, he shall forfeit not less than twenty
6 nor more than fifty dollars.

Penalty for
refusing certifi-
cate, etc., or
making false
one.
1834, 50, § 3.
R. S. 18, § 21.
G. S. 24, § 20.
P. S. 35, § 24.
R. L. 32, § 35.

1 SECTION 41. The three preceding sections shall be in force only in
2 those towns which adopt the same by vote of their city council or at
3 their annual town meeting, or which have so adopted corresponding
4 provisions of earlier laws. If such adoption is revoked by the city
5 council or by the town at an annual meeting, said sections shall cease
6 to be in force.

Three pre-
ceding sections
not to apply
unless adopted.
1834, 50, § 5.
R. S. 18, § 22.
G. S. 24, § 21.
P. S. 35, § 25.
R. L. 32, § 36.

FIRE DEPARTMENTS.

1 SECTION 42. Towns accepting the provisions of this and the two
2 following sections or which have accepted corresponding provisions of
3 earlier laws may establish a fire department to be under the control of
4 an officer to be known as the chief of the fire department. The chief
5 shall be appointed by the selectmen, and shall receive such salary as
6 the selectmen may from time to time determine, not exceeding in the
7 aggregate the amount annually appropriated therefor. He may be re-
8 moved for cause by the selectmen at any time after a hearing. He shall
9 have charge of extinguishing fires in the town and the protection of life
10 and property in case of fire. He shall purchase subject to the approval
11 of the selectmen and keep in repair all property and apparatus used for
12 and by the fire department. He shall have and exercise all the powers
13 and discharge all the duties conferred or imposed by statute upon engi-
14 neers in towns except as herein provided, and shall appoint a deputy
15 chief and such officers and firemen as he may think necessary, and may
16 remove the same at any time for cause and after a hearing. He shall
17 have full and absolute authority in the administration of the depart-
18 ment, shall make all rules and regulations for its operation, shall report
19 to the selectmen from time to time as they may require, and shall annu-
20 ally report to the town the condition of the department with his recom-
21 mendations thereon; he shall fix the compensation of the permanent and
22 call members of the fire department subject to the approval of the select-
23 men. In the expenditure of money the chief shall be subject to such
24 further limitations as the town may from time to time prescribe.

Fire depart-
ments in
certain towns.
1920, 591, § 27.
[Scope, § 44.]

1 SECTION 43. The chief of the fire department shall act as forest
2 warden in all such towns, and shall have authority to appoint deputy
3 wardens and fix their compensation subject to the approval of the
4 selectmen.

Chief to act
as forest
warden.
1920, 591, § 28.

[Scope, § 44.]

1 SECTION 44. The two preceding sections shall not affect the tenure
2 of office nor apply to the removal of permanent and call members of fire
3 departments in towns which have accepted chapter thirty-one or corre-
4 sponding provisions of earlier laws. Said sections shall not apply to
5 cities.

Effect of two
preceding
sections on
firemen under
civil service.
1920, 591, § 29.

Engineers.
Appointment.
1839, 138,
§§ 1, 2.
1855, 128.
G. S. 24,
§§ 23, 24.
P. S. 35,
§§ 28, 29.
1886, 113.
R. L. 32, § 38.

SECTION 45. The selectmen, except as provided in the three preceding sections, may establish a fire department, and thereafter shall annually, in April, appoint a suitable number of engineers, not exceeding twelve, for one year from the following May first, and until others are appointed in their stead; may, for cause, remove an engineer, after seven days' notice to him and a hearing, and shall fill all vacancies.

101 Mass. 117.

216 Mass. 422.

2 Op. A. G. 253.

Organization
of engineers.
1839, 138, § 3.
G. S. 24, § 25.
P. S. 35, § 30.
R. L. 32, § 39.

SECTION 46. They shall, immediately after such appointment, notify each of said engineers to meet at a time and place designated. At such meeting the engineers shall choose a chief engineer, a clerk and other necessary officers.

Engineers to
have powers of
firewards; to
appoint engine-
men, etc.
1839, 138, § 4.
G. S. 24, § 26.
P. S. 35, § 31.
R. L. 32, § 40.
111 Mass. 60.

SECTION 47. The engineers, in the extinguishment of fires, shall exercise the powers of firewards, and in the nomination and appointment of engine-men shall exercise the powers and perform the duties of selectmen. They may appoint such men to the engines, hose and hook and ladder carriages, and constitute such companies for securing property endangered by fire, as they deem expedient.

Organization
of engine-men,
etc.
By-laws, etc.
1839, 138, § 5.
G. S. 24, § 27.
P. S. 35, § 32.
R. L. 32, § 41.

SECTION 48. The engine, hose and hook and ladder men and protective companies may organize companies, elect officers and establish such regulations and by-laws as the board of engineers approve; and may annex penalties for the violation thereof, not exceeding ten dollars for each offence, which may be recovered by the clerk to the use of the company.

Privileges of
engineers, etc.
1839, 138, § 6.
G. S. 24, § 28.
P. S. 35, § 33.
R. L. 32, § 42.

SECTION 49. The engineers and all persons appointed by them shall perform the duties, be subject to the liabilities and entitled to the privileges and exemptions of engine-men appointed by selectmen.

Apparatus of
fire depart-
ments.
1888, 310,
§§ 1, 2.
1898, 165.
R. L. 32, § 43.

SECTION 50. A town having a fire department or having a fire district in which only the fire department thereof responds to the first alarm of fire therein shall provide and keep in good condition and ready for immediate use one or more of the following articles: a gun or other suitable device capable of throwing a projectile with a cord attached thereto over the top, or into the windows, of any building therein, with all needful appliances for properly working the same; and a life net or jumping net strong enough to break the fall of a person jumping from the top story of such building. Such apparatus shall be taken to every fire in a building over two stories in height. The engineers shall see that a sufficient number of firemen are regularly trained in the proper handling and use thereof.

Penalty.
1888, 310, § 3.
R. L. 32, § 44.

SECTION 51. A town or the engineers thereof violating any provision of the preceding section shall forfeit not less than fifty nor more than five hundred dollars.

Engineers to
have care of
engines, etc.
1839, 138, § 7.
G. S. 24, § 29.
P. S. 35, § 34.
R. L. 32, § 45.
216 Mass. 422.
223 Mass. 473.

SECTION 52. The board of engineers shall have the care and superintendence of the public engines, hose, fire hooks, ladder carriages and ladders, the buildings, fixtures and equipments, and of all pumps, reservoirs for water and apparatus owned by the town and used for extinguishing fires; and shall cause the same to be kept in repair or renewed, and shall make necessary alterations therein and additions thereto at

7 an expense not exceeding one hundred dollars in any one year, unless
8 the town has authorized a larger appropriation.

1 SECTION 53. They may make regulations as to the carrying of fire,
2 firebrands, lighted matches or other ignited materials openly in the
3 streets or thoroughfares of their town, or of such parts thereof as they
4 may designate, or as to prohibiting owners or occupants of buildings
5 within their town, or such part thereof as they may designate, from
6 maintaining any defective chimney, hearth, oven, stove or stove pipe,
7 fire frame or other fixture, deposit of ashes or whatever may give just
8 cause of alarm or be the means of kindling or spreading fire. Whoever
9 violates any such rule or regulation shall forfeit not more than twenty
10 dollars.

Engineers may regulate carrying fire in streets, etc. 1839, 138, § 8. G. S. 24, § 30. P. S. 35, § 35. 1888, 220. R. L. 32, § 46. 1918, 291, § 33.

1 SECTION 54. They may make regulations, consistent with law, for
2 their own government and for the conduct of citizens at fires, and annex
3 penalties for violation thereof not exceeding twenty dollars for each
4 offence, to be recovered by the chief engineer and appropriated to the
5 improvement of the fire apparatus of the town; but such regulations
6 shall be approved by the town and published as it may direct.

Other powers of engineers as to preventing, etc., fires. 1839, 138, § 8. G. S. 24, § 31. P. S. 35, § 36. R. L. 32, § 47.

1 SECTION 55. A town which has established a fire department may
2 vote to fix the term of office for the members of such department at one
3 year from a designated day, and may at the same time determine the
4 then current term of office of members of fire departments; but no term
5 shall be made shorter than six or longer than eighteen months, and the
6 incumbents shall hold office until others are appointed in their stead.
7 In such cases all provisions of this chapter referring to the month of
8 May shall be construed to refer to the first month of the year thus
9 designated.

Members of fire departments. Term of office. 1877, 38. P. S. 35, §§ 38, 39. R. L. 32, § 48.

1 SECTION 56. Except in towns subject to section fifty-nine, any city
2 by ordinance and any town by by-law may establish the hours of labor
3 of the members of its fire department.

Same subject. Hours of labor. 1904, 315, § 1.

1909, 514, §§ 44, 145.

1 SECTION 57. Subject to section fifty-nine, members of the fire de-
2 partment of every city which accepted chapter five hundred and forty-
3 six of the acts of nineteen hundred and twelve or chapter ninety-seven
4 of the General Acts of nineteen hundred and fifteen, shall be excused
5 from duty for one day out of every five days, without loss of pay. The
6 time and manner of so excusing members shall be determined by the
7 chief, or other officer or board at the head of the fire department, who
8 shall have authority, in case of any public emergency, to prevent any
9 member of the department from taking the day off herein provided for
10 at the time when he is entitled thereto or at the time assigned therefor;
11 but such day off shall be granted to him as soon thereafter as practicable,
12 and such days shall be in addition to any annual vacation allowed to the
13 members of said departments, and such annual vacation shall not be
14 diminished on account of the days off herein provided for.

Same subject. Days off, etc. 1912, 546. 1913, 318. 1915, 97.

1 SECTION 58. In every town which accepted chapter two hundred
2 and ninety-one of the General Acts of nineteen hundred and sixteen or
3 chapter one hundred and forty of the General Acts of nineteen hundred

Tenure of office of chiefs of fire departments in certain towns. 1916, 291.

1917, 140,
1931, 426, § 165.

and seventeen, or in which the provisions of chapter thirty-one were, 4
on April third, nineteen hundred and seventeen, applicable to the chief 5
of the fire department thereof, such chief shall hold his office continu- 6
ously during good behavior unless incapacitated by physical or mental 7
disability to perform the duties of his position; provided, that in every 8
such city the official having the power of appointment, with the con- 9
sent of the confirming board, if any, and in every such town, the select- 10
men, may, for just cause and for reasons specifically assigned by said 11
official or selectmen, remove such chief, first giving him a copy of such 12
reasons and allowing him a reasonable time to answer them in writing. 13
A copy of the reasons, notice and answer, and of the order of removal, 14
shall be filed with the town clerk. 15

Platoon
system.
1919, 132
241 Mass. 305.

SECTION 59. The permanent members of the uniformed fire fighting 1
force in every town which accepts this section or has accepted corre- 2
sponding provisions of earlier laws shall be divided by the fire commis- 3
sioner, board of fire commissioners, chief engineer, board of engineers, 4
or other officers having charge of the fire fighting force into two bodies 5
or platoons, which shall be designated as a day force and a night force, 6
and shall alternate on tours of duty every third day. 7

The hours of duty of the day force shall be from eight o'clock in the 8
forenoon to six o'clock in the afternoon, and the hours of duty of the 9
night force shall be from six o'clock in the afternoon to eight o'clock in 10
the forenoon; provided, that on every third day, for the purpose of 11
alternating the day force with the night force and vice versa, the number 12
of hours of duty herein stated may be exceeded, but one force shall be 13
at liberty at all times, except that in case of a conflagration the officer or 14
board having charge of the fire fighting force shall have full authority 15
to summon and keep on duty all members of the fire fighting force while 16
the conflagration continues. 17

This section shall not affect any law, ordinance or by-law relative to 18
salary, pensions, annual vacations or sick or disability leave of absence 19
of the members of the fire fighting force in any town subject to this 20
section. Sections fifty-six and fifty-seven shall not apply to the perman- 21
ent members of the uniformed fire fighting force in any such town. 22

All ordinances or by-laws, or parts thereof, affecting the number that 23
may be appointed as members of a fire fighting force, or the meal hours 24
or days off of the members of the fire department of any such town, 25
shall have no force after its acceptance becomes effective. 26

Upon petition of not less than ten per cent of the registered voters in 27
any town, duly certified by the registrars of voters and filed with the 28
state secretary not less than thirty days before any state election, the 29
state secretary shall cause to be printed upon the official ballot to be 30
used in such town at such state election the following question: "Shall 31
section fifty-nine of chapter forty-eight of the General Laws, providing 32
for the division into day and night forces of permanent members of fire 33
departments, known as the two platoon system, be accepted?" If a 34
majority of the votes cast on the said question in any town are in the 35
affirmative, this section shall take effect in such town ninety days 36
thereafter. 37

Response of
fire depart-
ments to calls
for aid from
other cities,
etc.

SECTION 59A. Cities, towns and fire districts may, by ordinance or 1
by-law, or by vote of the board of aldermen, selectmen or of the pruden- 2
tial committee or board exercising similar powers, authorize their 3

4 respective fire departments to go to aid another city, town or fire dis- 1925, 250, § 1.
 5 trict in extinguishing fires therein, and while in the performance of 1927, 199.
 6 their duties in extending such aid the members of such departments
 7 shall have the same immunities and privileges as if performing the same
 8 within their respective cities, towns or districts. Any such ordinance,
 9 by-law or vote may authorize the head of the fire department to extend
 10 such aid, subject to such conditions and restrictions as may be prescribed
 11 therein. The words "fire departments" as used in this section shall
 12 mean lawfully organized fire fighting forces, however constituted.
 13 Any city, town or district aided under and in accordance with this
 14 section may compensate any city, town or district rendering aid as
 15 aforesaid for the whole or any part of any damage to its property sus-
 16 tained in the course of rendering the same and may reimburse it in whole
 17 or in part for any payments lawfully made to any member of its fire
 18 department or to his widow or other dependents on account of injuries
 19 or death suffered by him in the course of rendering aid as aforesaid
 20 or of death resulting from such injuries.

RESERVE FIRE FORCES IN CITIES.

1 SECTION 59B. Any city, except Boston, in which the city council, Establishment.
 2 with the approval of the mayor, accepts this and the two following sec- 1928, 218.
 3 tions, may establish a reserve force of firemen in its fire department;
 4 and appointments thereto and removals therefrom shall, subject to
 5 chapter thirty-one, be made in the same manner as appointments to the
 6 regular or permanent force of the fire department of said city.

1 SECTION 59C. The number of members of such reserve force shall Number of
 2 not exceed five in cities in which the number of members of the regular 1928, 218.
 3 force does not exceed fifteen. If the number of members of the regular
 4 force exceeds fifteen, one member may be added to the reserve force for
 5 every three of the regular force above fifteen and not above thirty; one
 6 for every five of the regular force above thirty and not above eighty;
 7 and one for every ten of the regular force above eighty.

1 SECTION 59D. The mayor, chief of the fire department or the officer Assignment
 2 or board having charge of the said department in a city wherein such 1928, 218.
 3 reserve force is established may assign the members thereof to duty in
 4 the said department whenever and for such length of time as he or it
 5 may deem necessary. The compensation of the members of said reserve
 6 force shall be fixed by the city council. Except as provided in this and
 7 the two preceding sections, no provision of law applicable to the regular
 8 or permanent fire force of the fire department of a city shall apply to
 9 such reserve force or the members thereof except when assigned to duty
 10 as aforesaid. Compensation.

FIRE DISTRICTS.

1 SECTION 60. Fire departments may be established in districts con- Fire depart-
 2 taining not less than one thousand inhabitants, or not less than five 1928, 218.
 3 hundred inhabitants in towns the population of which does not exceed 1844, 152, § 1.
 4 two thousand; and the officers thereof shall have charge of and be G. S. 24, § 33.
 5 responsible for the apparatus for the extinguishment of fire therein, in P. S. 35, § 40.
 6 the same manner as firewards and enginemen of towns. R. L. 32, § 49.
 1906, 63.

Establishment of fire districts.
1844, 152, § 2.
G. S. 24, § 34.
P. S. 35, § 41.
R. L. 32, § 50.

SECTION 61. Before a district is constituted and organized, a petition shall be presented to the town at a meeting, stating the limits of the proposed district, and requesting the town to raise taxes for the establishment and maintenance of a sufficient fire department for the reasonable protection of the inhabitants and property within said limits. If the town refuses or neglects so to do, the inhabitants of the proposed district may organize it and establish a fire department therein.

Selectmen to call meeting upon request.
1844, 152, § 3.
G. S. 24, § 35.
P. S. 35, § 42.
R. L. 32, § 51.

SECTION 62. The selectmen, on written application of not less than seven freeholders, inhabitants of such proposed district, setting forth the limits thereof, and requiring them to notify a meeting of the voters thereof to consider the expediency of organizing such district and establishing a fire department, shall forthwith give such notice in the manner of notifying town meetings, requiring the voters to assemble at some suitable place within the district for said purpose, the substance of which shall be expressed in the notice. If the selectmen refuse or neglect to give notice of such meeting, a justice of the peace may do so.

Voters.
Clerk,
duties.
Temporary
clerk.
Notice to commissioner of corporations and taxation.
1844, 152, § 4.
G. S. 24, § 36.
1865, 257.
P. S. 35, § 43.
R. L. 32, § 52.
1928, 5.

SECTION 63. If at such meeting the voters determine to organize such district, they shall choose a clerk, who shall be sworn. He may be removed by the district, and in case of a vacancy another may be chosen; or in such case, or in case of his disability, the selectmen may appoint a temporary clerk, who shall be sworn and shall perform such duties until the vacancy is filled or the disability removed. Immediately upon the establishment of such a district, written notice thereof shall be sent by the clerk to the commissioner of corporations and taxation.

Meeting may establish fire department.
1844, 152, § 5.
G. S. 24, § 37.
P. S. 35, § 44.
R. L. 32, § 53.

SECTION 64. The district at such meeting may vote to establish a fire department, to consist of a chief engineer and as many assistant engineers, enginemen, hosemen and hook and ladder men as they may consider necessary, not exceeding seventy-five for each suction engine, thirty-five for each common engine, five for each one hundred and fifty feet of leading hose kept for use within the district, and not exceeding twenty-five hook and ladder men. Each of said officers and members shall be furnished with a certificate, signed by the chief engineer and clerk, declaring his station in the department.

Engineers, how chosen
1844, 152, § 6.

SECTION 65. The chief engineer and assistant engineers shall be chosen annually by the district, and shall be sworn.

G. S. 24, § 38. 1871, 25. P. S. 35, § 45. R. L. 32, § 54.

Meetings of fire district, how called and conducted.
1844, 152, § 7.
G. S. 24, § 39.
P. S. 35, § 46.
R. L. 32, § 55.
182 Mass 433.

SECTION 66. District meetings shall be called by the clerk, when requested in writing by the chief engineer or by two assistant engineers or by seven voters; the clerk shall give notice thereof by posting written notices, briefly stating the purpose of the meeting, in at least six public places in the district not less than seven days prior to the meeting, or by publishing the same in a newspaper, if any, published in the town in which the district is situated. At each meeting a moderator shall be chosen, who shall have the powers of the moderator of a town meeting. After the choice of a clerk he shall preside at subsequent meetings with like powers until a moderator is chosen.

1 SECTION 67. The registrars of voters of towns containing fire dis-
 2 tricts, or the prudential committee in districts composed of portions
 3 of two or more towns, shall, at least ten days before the annual fire dis-
 4 trict election, make correct alphabetical lists of all persons qualified
 5 to vote at such election; shall cause such lists to be posted in two or
 6 more public places in said district; and shall correct said lists in the
 7 same manner as they are required by law to correct voting lists for
 8 town elections.

Voting lists for
 elections in fire
 districts.
 1874, 124,
 §§ 1, 2,
 P. S. 35,
 §§ 47, 48,
 R. L. 32,
 §§ 56, 57.

1 SECTION 68. Section eight of chapter forty-one and sections eighty-
 2 three and one hundred and six of chapter fifty-four shall apply to fire
 3 districts.

Certain
 election laws
 to apply to fire
 districts.

1871, 124, § 3.

P. S. 35, § 49.

R. L. 32, § 58.

1 SECTION 69. Such districts may, at meetings called therefor, raise
 2 money by taxation for the purchase of engines and other articles neces-
 3 sary for the extinguishment of fires, for hydrant and water service, for
 4 the purchase of land, for the erection and repairs of necessary buildings,
 5 for the erection and maintenance of street lamps within their limits,
 6 for the payment of a proper charge of an insurance company for acting
 7 as surety on an official bond which may be given to such district by
 8 any of its officers, and for other incidental expenses of the fire depart-
 9 ment. The prudential committee of such district may accept an in-
 10 surance company as sufficient surety upon such bond.

Fire districts
 may raise
 money for
 purchase of
 engines, etc.
 1844, 132, § 12
 G. S. 24, § 43.
 1864, 150,
 1874, 151, § 1.
 P. S. 35, § 51.
 1895, 295,
 1901, 76,
 R. L. 32, § 59.
 154 Mass. 450,
 219 Mass. 46.

1 SECTION 70. Such districts may by ordinary vote incur debts for
 2 temporary loans in anticipation of the taxes of the municipal year in
 3 which such debts are incurred and of the receipts from other sources
 4 due in such year, and expressly made payable, by vote of the district,
 5 from such taxes and receipts.

Temporary
 debts.
 1890, 280,
 R. L. 32, § 60.
 205 Mass. 54,
 219 Mass. 46.

1 SECTION 71. Such districts shall choose a prudential committee,
 2 which shall expend, for the purposes prescribed by the district, the
 3 money so raised or borrowed, and shall choose a treasurer, who shall
 4 give bond for the faithful performance of his official duties in a sum
 5 and with sureties approved by the prudential committee. He shall
 6 receive all money belonging to the district, and shall pay over and
 7 account for the same according to its order or that of the prudential
 8 committee.

Prudential
 committee.
 Treasurer.
 1844, 132, § 12.
 G. S. 24, § 43.
 1870, 332, § 3.
 1874, 151,
 §§ 1, 2,
 P. S. 35,
 §§ 51, 52,
 1895, 295,
 R. L. 32, § 61.

1 SECTION 72. If the treasurer is prevented from performing his
 2 official duties, or if the office is vacant, the prudential committee may
 3 in writing appoint a temporary treasurer, who shall give a bond in like
 4 manner as the treasurer and shall hold his office until another is chosen.

Temporary
 treasurer.
 1874, 151, § 3.
 P. S. 35, § 53.
 R. L. 32, § 62.

1 SECTION 73. The clerk shall certify to the assessors of the town all
 2 votes of the district authorizing interest to be added to taxes and all
 3 sums of money voted to be raised, which shall be assessed and collected
 4 in the same manner as town taxes, and shall be paid over to the district
 5 treasurer. The assessors, treasurer and collector of a town in which
 6 such district is organized shall have the same powers and perform the
 7 same duties relative to the assessment and collection of the money voted
 8 by the fire district as they have and exercise relative to the assessment,

Assessment,
 etc., of money
 raised by fire
 district, etc.
 1844, 132, § 13.
 G. S. 24, § 44.
 1870, 332,
 1874, 151, § 4.
 1876, 114,
 1878, 185, § 2.
 P. S. 35, § 54.
 R. L. 32, § 63.
 11 Met. 374,
 138 Mass. 527,
 219 Mass. 46.

collection and abatement of town taxes, and the sums so voted shall be assessed upon the property, real and personal, within the district. 9 10

Board of engineers to make rules and appoint engineers, etc. 1844, 152, §§ 8, 11.

SECTION 74. The board of engineers may make and publish rules and regulations as provided in case of fire departments by sections fifty-three and fifty-four. It may appoint and remove enginemen, hosemen and hook and ladder men, and fill vacancies in the companies. 1 2 3 4

G. S. 24, § 40. P. S. 35, § 55. R. L. 32, § 64.

Powers of engineers and liability of district for their acts. 1844, 152, § 9. G. S. 24, § 41. P. S. 35, § 56. R. L. 32, § 65.

SECTION 75. Engineers shall have and exercise within their district the powers and authority of firewards of towns relating to the extinguishment of fires and the demolition of buildings; and districts shall be liable in the same manner for acts done by such engineers, or by their orders, as towns for acts done by firewards. 1 2 3 4 5

Privileges, etc., of members of fire department. Compensation.

SECTION 76. Members of the fire department of such district shall have the immunities and privileges of firewards and enginemen of towns, and shall receive such compensation as the district determines. 1 2 3

1844, 152, §§ 10, 14. P. S. 35, § 57. G. S. 24, § 42. R. L. 32, § 66.

By-laws to be approved, etc. 1844, 152, § 15. G. S. 24, § 45. P. S. 35, § 58. R. L. 32, § 67. 1908, 98, § 1.

SECTION 77. No by-law, rule or regulation adopted by a fire district imposing a penalty shall be in force until approved by the attorney general and published at least three times in one or more newspapers, if any, published in the town; otherwise, in one or more newspapers published in the county where the fire district is situated. 1 2 3 4 5

Penalties, how recovered, etc. 1844, 152, §§ 8, 15. G. S. 24, § 46. P. S. 35, § 59. R. L. 32, § 68.

SECTION 78. Penalties under any of the four preceding sections may be recovered in tort in the name of the chief engineer and appropriated to expenses of the fire department of the district, or on complaint or indictment to the use of the commonwealth. If the chief engineer dies, resigns or removes during the pendency of such action, it shall not abate, but his successor shall be admitted to prosecute it. Residence in the district shall not disqualify a judge, juror or officer in such action. 1 2 3 4 5 6 7 8

District may exclude persons or estates. 1845, 237, § 1. G. S. 24, § 47. 1875, 122. P. S. 35, § 60. R. L. 32, § 69. 108 Mass. 142.

SECTION 79. A district, at a meeting called therefor, may annex adjacent territory and its inhabitants, if a majority of the voters of said territory petition therefor, defining the limits thereof; or may on the petition of any person, with the assent of the town containing such district, exclude him or his estate therefrom. 1 2 3 4 5

Districts heretofore organized. G. S. 24, § 48. P. S. 35, § 61. R. L. 32, § 70.

SECTION 80. Fire districts heretofore legally organized shall continue and be subject to the provisions of this chapter relative to fire districts. 1 2 3

FIREMEN'S RELIEF.

Appropriation for relief of firemen. Disbursement. 1890, 450, §§ 1, 2, 6. 1891, 274, §§ 1, 2, 6. 1892, 177, §§ 1, 2, 6.

SECTION 81. The sum of eighteen thousand dollars may be paid annually from the state treasury to furnish relief to firemen injured in the performance of their duty at a fire or in going thereto or returning therefrom, or while engaged in company drills, when such drills are ordered by the chief, acting chief or board of engineers of the fire de- 1 2 3 4 5

6 partment, or required by city ordinance or town by-law, and to widows
 7 and children of firemen killed in the performance of such duty. Pay-
 8 ments on account of said relief shall be determined in manner and amount,
 9 on properly approved vouchers, by the commissioners on firemen's relief,
 10 in the same manner as other claims against the commonwealth. Five
 11 hundred dollars of the amount hereby authorized may be expended for
 12 the traveling and incidental expenses of said commissioners.

223 Mass. 270
 2 Op. A. G. 253, 393. 3 Op. A. G. 279
 4 Op. A. G. 427, 544

[For appointment of commissioners see Chap. 10, § 21.]

R. L. 32,
 §§ 71, 72, 76,
 1902, 108, § 1.
 1903, 253
 1906, 171, § 1.
 1911, 90
 1917, Sp. 121,
 § 1, 3
 1918, 81,
 §§ 1, 2
 1919, 350, § 30.

1 SECTION 82. Any officer or member in active service in an incor-
 2 porated protective department co-operating with a fire department,
 3 and any person performing the duties of a fireman in a town having no
 4 organized fire department, shall be entitled to the benefits provided by
 5 the preceding section.

1892, 177, § 4. R. L. 32, § 74. 2 Op. A. C. 253.

Members of
 protective
 associations,
 etc. entitled to
 benefits.
 1890, 450, § 4.
 1891, 274, § 4.

1 SECTION 83. If a person entitled under either of the two preceding
 2 sections to the benefits provided in section eighty-one is killed, or dies
 3 within sixty days from injuries received, while in the performance of
 4 duties entitling him to such benefits, and his death is certified to the
 5 comptroller by the town clerk and the attending physician or medical
 6 examiner, the comptroller shall certify for payment to the executor or
 7 administrator of such person, out of the appropriation annually made for
 8 the purpose, the sum of twenty-five hundred dollars for the use equally of
 9 his widow and minor children; or if there are minor children but no
 10 widow, to their use; or if there is no minor child, to the use of the widow;
 11 and if there is no widow or minor child, to the use of the next of kin if
 12 dependent on such deceased person for support. A child of full age
 13 dependent upon such person for support shall be regarded as a minor
 14 child. No payments shall be made under this section or section eighty-
 15 one on account of the death of a member of the fire department of a city
 16 or town in respect to which compensation is payable under section eighty-
 17 nine of chapter thirty-two.

Allowance to
 families of
 firemen, etc.
 killed or fatally
 injured
 1893, 401.
 1899, 417.
 R. L. 32, § 77.
 1920, 286.
 1923, 362, § 54.
 1928, 402, § 6.
 1930, 182, § 3.
 2 Op. A. G. 393.

SPECIAL PROVISIONS.

1 SECTION 84. No association, society or club organized as firemen
 2 shall be established in any town except by written permission of the
 3 aldermen or selectmen.

1855, 161, § 1. G. S. 24, § 49. P. S. 35, § 62. R. L. 32, § 78.

Firemen's clubs
 not to be
 established
 unless, etc.

1 SECTION 85. Whoever joins, belongs to or assembles with such
 2 association, society or club established without such permission shall
 3 be punished by a fine of not less than five nor more than one hundred
 4 dollars or by imprisonment for not more than three months.

G. S. 24, § 50. P. S. 35, § 63. R. L. 32, § 79.

Penalty for
 joining un-
 authorized
 club.
 1855, 161, § 2.

1 SECTION 86. The two preceding sections shall be in force in those
 2 towns only which adopt them or have adopted corresponding provi-
 3 sions of earlier laws.

1855, 161, § 3. G. S. 24, § 51. P. S. 35, § 64. R. L. 32, § 80.

Two preceding
 sections in force
 only where
 adopted, etc.

GENERAL PROVISIONS.

Fire department equipment, standardization. 1924, 343.

SECTION 87. The department of public safety may make rules and regulations providing for the standardization throughout the commonwealth of threads on fire hose couplings, fittings and hydrant outlets for public fire protection. The state fire marshal shall prepare said rules and regulations and submit them to the commissioner of public safety, and they shall take effect subject to section thirty-seven of chapter thirty when approved by said commissioner and by the governor and council and on such dates as they may fix.

CHAPTER 49.

FENCES, FENCE VIEWERS, POUNDS AND FIELD DRIVERS.

SECT.	SECT.
FENCES AND FENCE VIEWERS.	SPITE FENCES.
1. Fence viewers, appointment and term of office.	21. Fence deemed private nuisance, when.
2. Fences defined.	
3. Adjoining occupants to maintain fences.	POUNDS AND IMPOUNDING OF CATTLE.
4. Proceedings on neglect, etc., of party.	FIELD DRIVERS.
5. Remedy against adjoining owner for repair of fence.	22. Pounds to be maintained.
6. Controversies as to repairs, etc.	23. Penalty for injuring same.
7. Remedy for failure to erect, etc., portion of fence.	24. Beasts at large without keeper to be taken up.
8. Compensation for repairing more than just share.	25. Beasts to be impounded.
9. Fences, how and where made, when lands are bounded by water.	26. Fees of field driver and pound keeper.
10. Improved land in common, without partition fences, may be divided.	27. Such fees to be paid by owner of beasts.
11. Maintenance of fences. Land, how laid common.	28. Impounding of beasts on premises of field driver.
12. Purchase of right in fence.	29. Distraint of beasts doing damage.
13. If unimproved land is enclosed, etc., person benefited shall pay, etc.	30. Impounding of such beasts.
14. Fence viewers may establish division lines, when.	31. Person distraining to state demand.
15. Removal of fence to and rebuilding on true line.	32. Beasts not delivered until costs paid.
16. Fence viewers, when fences are on town lines.	33. Notice to be given owner or keeper.
17. Water fences, how made.	34. Notice to be posted and published.
18. Fence viewers may determine whether fence is required.	35. Determination of disputed amount.
19. Penalty for fence viewer's neglect of duty.	36. Same subject.
20. Fees of fence viewers.	37. If not paid, beasts to be sold.
	38. Disposition of proceeds.
	39. Escaped or rescued beasts may be retaken.
	40. Penalty for rescuing beasts distrained.
	41. Legality of distress, how tried.
	42. Rams and he-goats, when not to go at large.

FENCES AND FENCE VIEWERS.

Fence viewers, appointment and term of office 1693-4, 7, § 1, 1785, 52, § 4 R. S. 15, § 33; 19, § 16.

SECTION 1. The mayor of each city, subject to confirmation by the city council, and the selectmen of each town shall annually appoint two or more fence viewers, to hold office for one year and until their successors are qualified.

G. S. 18, § 31.
P. S. 27, § 78.

R. L. 11, § 234.
1913, 835, § 400.

1918, 291, §§ 13, 26.

1 SECTION 2. Fences four feet high, in good repair, constructed of rails,
2 timber, boards, iron or stone, and brooks, rivers, ponds, creeks, ditches
3 and hedges, or other things which the fence viewers consider equivalent
4 thereto, shall be deemed legal and sufficient fences.

Fences defined
C. L. 115, § 2.
1993-4, 7, § 1.
1785, 52, § 2.
R. S. 19, § 1.

G. S. 25, § 1.
P. S. 36, § 1.

R. L. 33, § 1.
98 Mass. 569.

207 Mass. 12.

1 SECTION 3. The occupants of adjoining lands enclosed with fences
2 shall, so long as both of them improve the same, maintain partition
3 fences in equal shares between their enclosures, unless they otherwise
4 agree.

Adjoining occu-
pants, to main-
tain fences
1698, 12, § 4.
1742-3, 33.

1785, 52, §§ 2, 3.
R. S. 19, §§ 2, 8.
G. S. 25, §§ 2, 8.

P. S. 36, §§ 2, 8.
R. L. 33, § 2.
2 Met. 180.

4 Met. 589.
4 Gray, 215.

134 Mass. 227.
154 Mass. 587.

1 SECTION 4. If a person refuses or neglects to repair or rebuild the
2 part of a partition fence which under this chapter he is required to
3 maintain, any person aggrieved may complain to the fence viewers,
4 who, after notice to each party, shall view the fence; and if they deter-
5 mine that it is insufficient and that a partition fence is required, they
6 shall so state in writing to the delinquent occupant, and direct him to
7 repair or rebuild his part within such time as the fence viewers may
8 determine; and if the fence is not so repaired or rebuilt, the complain-
9 ant, after having repaired or rebuilt his part of said fence, may repair or
10 rebuild the part of such occupant.

Proceedings on
neglect, etc.,
of party.
C. L. 17, § 2.
1693-4, 7, § 1.
1742-3, 33.
1785, 52, § 2.
R. S. 19, § 3.
G. S. 25, § 3.
1863, 190, § 1.
1870, 376.
P. S. 36, § 3.
R. L. 33, § 3.
1918, 257,
§ 161.
1919, 5.

1920, 2.
14 Pick. 276.

6 Allen, 437.
134 Mass. 227.

210 Mass. 248.

1 SECTION 5. If a deficient fence which has been built up or repaired
2 by a complainant is, after due notice to each party, adjudged sufficient
3 by the fence viewers, and the value of the part of the delinquent occu-
4 pant, together with the fees of the fence viewers, has been ascertained by
5 a certificate under their hands, the complainant may demand either of
6 the owner or of the occupant of the land where the fence was deficient
7 double the amount so ascertained; and upon the neglect or refusal to
8 pay the same for one month after demand, he may recover the same,
9 with interest at one per cent a month, in an action of contract.

Remedy
against adjoining
owner, for
repair of fence.
1785, 52, § 3.
R. S. 19, § 4.
G. S. 25, § 4.
P. S. 36, § 4.
R. L. 33, § 4.
1918, 257,
§ 162.
1919, 5.
1920, 2.
6 Mass. 90.
5 Pick. 503.
14 Pick. 276.

11 Met. 496.

6 Allen, 437.

131 Mass. 431.

134 Mass. 227.

1 SECTION 6. When any dispute arises concerning the part of a parti-
2 tion fence which under this chapter each party is required to build or
3 maintain, either party may apply to the fence viewers, who, after notice
4 to each party and a hearing, may in writing assign to each his share
5 thereof, and may direct the time within which each party shall erect or
6 repair his share; which assignment, being recorded in the office of the
7 town clerk, shall be binding upon the parties and upon the succeeding
8 occupants of the lands.

Controversies
as to repairs,
etc.
1742-3, 33.
1785, 52, § 3.
R. S. 19, § 5.
G. S. 25, § 5.
P. S. 36, § 5.
R. L. 33, § 5.
1918, 257,
§ 163.
1919, 5.
1920, 2.

11 Met. 496.
11 Cush. 450.

174 Mass. 524.
210 Mass. 248.

221 Mass. 198.

1 SECTION 7. If a person refuses or neglects to erect and maintain the
2 part of a fence assigned to him by the fence viewers, it may be erected
3 and maintained by the adjoining occupant, and if adjudged sufficient
4 by the fence viewers, he shall be entitled to double the value thereof,
5 which shall be ascertained and recovered in the manner aforesaid.

Remedy for
failure to erect
etc., portion
of fence.
1693-4, 7, § 1.
1742-3, 33.
1785, 52, § 3.
R. S. 19, § 6.

G. S. 25, § 6.
P. S. 36, § 6.
R. L. 33, § 6.

1918, 257, § 164.
1919, 5.
1920, 2.

11 Met. 496.
210 Mass. 248.
221 Mass. 198.

Compensation
for repairing
more than
just share.
R. S. 19, § 7.
G. S. 25, § 7.
1863, 190, § 1.
1870, 376.
P. S. 36, § 7.
R. L. 33, § 7.
14 Pick. 276.
206 Mass. 454.

SECTION 8. If a partition fence is required under this chapter between the lands of adjoining occupants, and either of them has, before complaint made, voluntarily erected the whole fence or more than his just share thereof, or has otherwise become proprietor thereof, the fence viewers may order the other occupant to pay the value of so much thereof as may be assigned to him to repair or maintain, to be ascertained and recovered as provided in this chapter.

Fences, how
and where
made, when
lands are
bounded by
water
1740-1, 19,
§ 1.
1745-6, 17.
1752-3, 17.
1760-1, 21.
1770-1, 5.
1775-6, 14.
1779-80, 18.
1785, 52, § 4.
R. S. 19, § 9.
G. S. 25, § 9.
P. S. 36, § 9.
R. L. 33, § 8.
11 Met. 496.

SECTION 9. If lands of different persons, required under this chapter to be fenced, are divided by a river, brook, pond or creek, and one of the occupants refuses or neglects to join in making a partition fence, or they disagree respecting the same, the fence viewers shall, upon application, forthwith view such river, brook, pond or creek; and if they determine that it is not sufficient as a fence, that it is impracticable to fence on the true boundary line without unreasonable expense, and that a partition fence is required, they shall, after notice to the parties, determine how or on which side the fence shall be set up and maintained, or whether partly on the one side and partly on the other, as to them may appear just, and shall reduce their determination to writing; and if either party refuses or neglects to make and maintain his part of the fence according to such determination, it may be made and maintained as before provided, and the delinquent party shall be subject to the same costs and charges, and they shall be recovered in like manner.

Improved land
in common,
without partition
fences,
may be
divided.
1785, 52, § 5.
R. S. 19, § 10.
G. S. 25, § 10.
1863, 190.
1870, 376.
P. S. 36, § 10.
R. L. 33, § 9.
131 Mass. 431.
154 Mass. 587.

SECTION 10. If land belonging to two persons in severalty has been occupied in common without a partition fence, and one of the occupants desires to occupy his part in severalty, and the other occupant refuses or neglects on demand to divide the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, the party desiring it may have the same divided and assigned by the fence viewers in the manner provided in this chapter; and the fence viewers may in writing assign a reasonable time, having regard to the season, for making the fence; and if the occupant complained of does not make his part of the fence within the time so assigned, the other party may, after having made up his part of the fence, make up the part of such occupant, and recover therefor double the sum total of the expense thereof and fees, as provided in section five.

Maintenance
of fences.
Land, how
laid common.
1822, 60.
R. S. 19, § 15.
G. S. 25, § 11.
P. S. 36, § 11.
R. L. 33, § 10.
1 Cush. 11.
134 Mass. 227.

SECTION 11. If a division of fence between the owners of improved land has been made either by fence viewers or under an agreement in writing between the parties which has been recorded in the office of the clerk of the town, the several occupants of such land and their heirs and assigns shall erect and maintain said fences agreeably to such division; but if a person lays his land common and determines not to improve any part adjoining the fence so divided, and gives six months' notice of his determination to all the occupants of adjoining land, he shall not be required to keep up or maintain said fence during the time that his land lies common and unimproved.

Purchase of
right in fence.
C. L. 19, § 7.
1698, 12, § 4.
1742-3, 33.

SECTION 12. If one person ceases to improve his land or lays open his enclosure, he shall not take away any part of the partition fence belonging to him and adjoining the next enclosure if the occupant or owner

4 pays the reasonable value thereof, as determined in writing by the fence
 5 viewers. 1785, 52, § 6
 R. S. 19, § 11.

G. S. 25, § 12. P. S. 36, § 12. R. L. 33, § 11. 154 Mass. 587.

1 SECTION 13. If unenclosed land is afterward enclosed or used for de-
 2 pasturing, the occupant or owner shall pay for one half of each partition
 3 fence standing upon the line between it and the enclosed land of any
 4 other occupant or owner, the value thereof, as determined in writing by
 5 the fence viewers; and if thereupon such occupant or owner neglects or
 6 refuses, for thirty days after demand, to pay one half of the value, the
 7 proprietor thereof may maintain an action of contract therefor and for
 8 the costs of ascertaining the same; but the occupant or owner of unen-
 9 closed land on the island of Nantucket used only for depasturing shall not
 10 be subject to this section.

If unimproved
 land is enclosed,
 etc., person
 benefited shall
 pay, etc.
 C. L. 19, § 7.
 1698, 12, § 4.
 1742, 3, 33.
 1785, 52, § 6.
 R. S. 19, § 12.
 1847, 102.
 G. S. 25, § 13.
 P. S. 36, § 13.
 R. L. 33, § 12.
 1 Cush. 11.
 154 Mass. 587.

1 SECTION 14. If the division line between lands of respective occupants
 2 is in dispute or unknown, the fence viewers may designate a line on which
 3 the fence shall be built, and may employ a surveyor therefor; and such
 4 line shall, for the purpose of maintaining a fence, be deemed the division
 5 line between such lands until it is determined that the true line is in
 6 another place, and until so determined all laws relative to the erection,
 7 maintenance and protection of fences shall be applicable to the fence
 8 erected or to be erected on such line.

Fence viewers
 may establish
 division lines,
 when.
 1863, 190, § 1.
 P. S. 36, § 14.
 R. L. 33, § 13.
 116 Mass. 577.
 154 Mass. 587.
 174 Mass. 524.
 221 Mass. 198.

1 SECTION 15. If it is determined that the true division line is in an-
 2 other place, each occupant shall remove his part of the fence to, and
 3 rebuild the same on such line; and in case of neglect or refusal by either
 4 to remove and rebuild his share thereof, the other may apply to the fence
 5 viewers, who shall view the premises and assign a time within which the
 6 fence shall be removed and rebuilt, and shall give the delinquent party
 7 notice thereof; and if such party does not remove and rebuild the fence
 8 within the time so assigned, the other party may remove and rebuild the
 9 same and recover double the expense thereof, with the fees of the fence
 10 viewers, to be ascertained and recovered in the manner provided in sec-
 11 tion five.

Removal of
 fence to
 and rebuilding
 on true line.
 1863, 190, § 2.
 P. S. 36, § 15.
 R. L. 33, § 14.

1 SECTION 16. If the line upon which a partition fence is to be made or
 2 divided is a boundary line of a town or is partly in one and partly in
 3 another town, a fence viewer shall be taken from each place.

1785, 52, § 6. G. S. 25, § 14. R. L. 33, § 15.
 R. S. 19, § 13. P. S. 36, § 16.

Fence viewers,
 when fences
 are on town
 lines.

1 SECTION 17. A water fence, or fence running into the water, shall,
 2 unless otherwise agreed by the parties, be built by them in equal shares;
 3 and they shall have like remedies as in case of partition fences.

G. S. 25, § 15. P. S. 36, § 17. R. L. 33, § 16. 11 Met. 496.

Water fences,
 how made.
 1740-1, 19, § 3.
 1785, 52, § 7.
 R. S. 19, § 14.

1 SECTION 18. Fence viewers, when called upon to act under any sec-
 2 tion of this chapter, may determine whether a partition fence is required.

1863, 190, § 1. 1870, 376. P. S. 36, § 14. R. L. 33, § 13.

Fence viewers
 may determine
 whether fence
 is required.

1 SECTION 19. A fence viewer who, when requested, unreasonably
 2 neglects to perform any duty required of him in this chapter shall for-
 3 feit five dollars, to be recovered in tort to the use of the town, or on com-

Penalty for
 fence viewer's
 neglect of duty.
 1698, 12, § 1.
 1753-4, 29, § 1.

1756-7, 24.
1785, 52, § 8.
R. S. 19, § 17.

plaint to the use of the commonwealth, and shall also be liable for all damages to the party injured.

G. S. 25, § 16.

P. S. 36, § 18.

R. L. 33, § 17.

Fees of fence viewers.
1698, 12, § 1.
1753-4, 29, § 1.
1756-7, 24.
1785, 52, § 8.
R. S. 19, § 18.
G. S. 25, § 17.
1862, 93.
P. S. 36, § 19.
R. L. 33, § 18.
1931, 234
11 Met. 496.

SECTION 20. Each fence viewer shall be paid at the rate of five dollars a day for the time during which he is employed, but his fee for services in any one case shall not be less than one dollar. Such payment shall be made by all or by such of the parties in dispute, and in such proportions, as shall be determined by a certificate in writing under the hands of the fence viewers acting in each case. If any person required to pay the whole or any portion of said fees neglects to pay the fence viewers within thirty days after the certificate has been delivered, they may recover in tort double the amount of the fees due from such delinquent person.

SPITE FENCES.

Fence deemed private nuisance, when.
1887, 348.
R. L. 33, § 19.
148 Mass. 368, 407.
160 Mass. 482.
162 Mass. 543.

SECTION 21. A fence or other structure in the nature of a fence which unnecessarily exceeds six feet in height and is maliciously erected or maintained for the purpose of annoying the owners or occupants of adjoining property shall be deemed a private nuisance. Any such owner or occupant injured in the comfort or enjoyment of his estate thereby may have an action of tort for damages under chapter two hundred and forty-three.

POUNDS AND IMPOUNDING OF CATTLE. FIELD DRIVERS.

Pounds to be maintained.
C. L. 124.
1698, 6, § 1.
1728-9, 5.

SECTION 22. Each town may provide and maintain one or more pounds. The mayor or selectmen may appoint a pound keeper for each pound and one or more field drivers for the town.

1788, 65, § 1.
1834, 184, § 1.
R. S. 15, § 33; 19,
§§ 16, 19-21.

1848, 272.
G. S. 18, § 31; 25, §§ 18, 20.
P. S. 27, § 78; 36, §§ 20, 22.
R. L. 11, § 354; 33, § 20.

1913, 835, § 400.
1918, 291, §§ 14, 26.
6 Allen, 408.

Penalty for injuring same.
1834, 184, § 8.
R. S. 19, § 24.
G. S. 25, § 19.

SECTION 23. Whoever wilfully injures a pound shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than three months.

P. S. 36, § 21.

R. L. 33, § 21.

Beasts at large without keeper to be taken up.
1698, 6, § 2.
1788, 14, § 2;
65, § 2.
1793, 19.
1834, 184, § 4.
R. S. 19, § 22.
C. S. 25, § 21.
P. S. 36, § 23.
R. L. 33, § 22.
21 Pick. 187.
23 Pick. 251.
12 Met. 198.

SECTION 24. Every field driver shall take up horses, mules, asses, neat cattle, sheep, goats or swine going at large in the public ways, or on common and unimproved land within his town and not under the care of a keeper; and any other inhabitant of the town may take up such cattle or beasts so going at large on Sunday, and for taking up such beasts on said day the field driver or such other inhabitant of the town may in tort recover for each beast the same fees which the field driver is entitled to receive for taking up like beasts.

12 Cush. 98.
2 Gray, 178.
4 Gray, 314, 345.
16 Gray, 264.

1 Allen, 270.
3 Allen, 39.
6 Allen, 408.

131 Mass. 426.
174 Mass. 565.
222 Mass. 119.

Beasts to be impounded.
1788, 65, § 2.
1834, 184, § 4.
R. S. 113, § 1.

SECTION 25. Beasts so taken up by a field driver or such inhabitant shall be forthwith impounded, and while so impounded shall be furnished with suitable food and water.

G. S. 25, § 22.
P. S. 36, § 21.
R. L. 33, § 23.

12 Met. 198.
5 Cush. 263.
12 Cush. 98, 103.

4 Gray, 312.
16 Gray, 264.
6 Allen, 408.

1 SECTION 26. The field driver shall be entitled to ten cents each for
 2 sheep and goats and fifty cents each for other beasts so taken up by him,
 3 and the pound keeper shall be entitled to four cents each for animals im-
 4 pounded in the pound; but if more than ten sheep are taken up at the
 5 same time, the fees of the field driver for all above that number shall be
 6 only five cents each.

Fees of field driver and pound keeper. 1788, 65, § 2. 1834, 184, § 4. R. S. 113, § 2. G. S. 25, § 23. 1863, 178. P. S. 36, § 25.

R. L. 33, § 24.

131 Mass. 426.

1 SECTION 27. The pound keeper shall not deliver to the owner any
 2 beast so impounded until the owner pays him his fees, the expense of
 3 keeping the beasts, and the fees of the field driver, which, when received,
 4 he shall pay to the field driver.

Such fees to be paid by owner of beasts. 1834, 184, § 4. R. S. 113, § 3.

G. S. 25, § 24.

R. L. 33, § 25.

21 Pick. 187.

5 Cush. 263.

1 SECTION 28. Beasts taken up by a field driver in a town which adopts
 2 this section or has adopted corresponding provisions of earlier laws may
 3 be impounded on his own premises; and for the purposes of this chapter
 4 he shall be considered a pound keeper, and such place on his premises
 5 shall be considered a town pound relative to beasts therein impounded.

Impounding of beasts on premises of field driver. 1869, 366. P. S. 36, § 29. R. L. 33, § 28.

1 SECTION 29. If a person is injured in his land by horses, mules, asses,
 2 neat cattle, sheep, goats or swine, he may recover his damages in an
 3 action against the owner of the beasts or by distraining the beasts doing
 4 the damage and proceeding therewith as hereinafter directed; but if the
 5 beasts were lawfully on the adjoining lands and escaped therefrom through
 6 neglect of the person injured to maintain his part of the division fence
 7 the owner shall not be liable nor the beasts distrained.

Dstraint of beasts doing damage. 1753, 4, 29, § 3. 1756, 7, 24. 1788, 65, § 3. 1834, 184, § 5. R. S. 113, § 4. G. S. 25, § 25. P. S. 36, § 27. R. L. 33, § 26.

5 Greenl. 356.
 6 Mass. 40.
 16 Mass. 33.
 21 Pick. 55.

4 Met. 589.
 13 Met. 407.
 12 Cush. 98.
 10 Allen, 544.

114 Mass. 466.
 126 Mass. 364.
 131 Mass. 426.
 134 Mass. 510.

1 SECTION 30. Beasts so distrained shall be impounded in the pound
 2 or in some suitable place under the immediate care and inspection of the
 3 distrainer, and he shall furnish them with suitable food and water while
 4 they remain impounded.

Impounding of such beasts. C. L. 18, § 3. 1698, 6, § 3. 1788, 65, § 3. 1834, 184, § 5.

R. S. 113, § 5.
 G. S. 25, § 26.

P. S. 36, § 28.
 R. L. 33, § 27.

13 Met. 407.
 126 Mass. 364.

1 SECTION 31. If the beasts are impounded in the pound, the distrainer
 2 shall leave with the pound keeper a memorandum in writing, under his
 3 hand, stating the cause of impounding and the amount which he demands
 4 from the owner for the damage done by them, and also for the daily
 5 charges of feeding them; and if they are impounded in any other place,
 6 he shall on demand give a like memorandum to the owner.

Person distraining to state demand. 1788, 65, § 4. 1834, 184, § 5. R. S. 113, § 6. G. S. 25, § 27. P. S. 36, § 30. R. L. 33, § 29.

21 Pick. 187.
 23 Pick. 251.

12 Met. 198.
 13 Met. 407.

10 Allen, 544.
 126 Mass. 364.

1 SECTION 32. The pound keeper shall not deliver the beasts to the
 2 owner until his fees, the amount so demanded by the distrainer for the
 3 damages and charges aforesaid, the expense, if any, of advertising, and
 4 all other legal costs and expenses have been paid to him.

Beasts not delivered until costs paid. 1834, 184, § 5. R. S. 113, § 7.

G. S. 25, § 28.

P. S. 36, § 31.

R. L. 33, § 30.

5 Cush. 263.

Notice to be given owner or keeper.
 C. L. 18, § 3;
 125, 146, § 3.
 1698, 6, § 3.
 1788, 65, § 4.
 1834, 184, § 6.
 R. S. 113, § 8.
 G. S. 25, § 29.
 P. S. 36, § 32.

SECTION 33. Whoever impounds beasts shall, within twenty-four hours thereafter, give notice in writing, containing a description of the beasts and a statement of the time, place and cause of impounding, to the owner or person having the care of them, if known and living within six miles of the place of impounding, by delivering it to him or leaving it at his place of abode.

R. L. 33, § 31.	12 Met. 118, 198.	3 Allen, 39.
21 Pick. 187.	7 Cush. 355.	10 Allen, 544.
23 Pick. 251.	2 Gray, 178.	131 Mass. 426.

Notice to be posted and published.
 1834, 184, § 6.
 R. S. 113, § 9.
 G. S. 25, § 30.
 P. S. 36, § 33.
 R. L. 33, § 32.
 12 Met. 198.
 3 Allen, 39.

SECTION 34. If there is no person entitled to such notice, the person impounding the beasts shall, within forty-eight hours thereafter, post a like notice in a public place in the town and in a public place in each of any two adjoining towns, if within four miles from the place where the beasts were taken; and if their value exceeds thirty dollars and no person claims them within seven days after the day of impounding, a like notice shall be published three weeks successively in a newspaper, if any, published within twenty miles of the pound, the first publication to be within fifteen days after the day of impounding.

Determination of disputed amount.
 C. L. 18, § 3.
 1788, 65, § 4.
 1834, 184, § 6.
 R. S. 113, § 10.

SECTION 35. If the owner or keeper of the beasts is dissatisfied with the claim of the person impounding them, he may have the amount for which he is liable determined by two disinterested persons, who shall be appointed and sworn by a justice of the peace or by the town clerk.

G. S. 25, § 31.	P. S. 36, § 34.	R. L. 33, § 33.
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Same subject.
 1793-4, 10.
 1788, 65, § 4.
 1834, 184, § 6.
 R. S. 113, § 11.
 G. S. 25, § 32.
 P. S. 36, § 35.
 R. L. 33, § 34.
 21 Pick. 55.

SECTION 36. If the amount for which the beasts have been impounded and detained is not paid within fourteen days after notice of the impounding has been given as before directed, or after the last publication of such notice, the person who impounded them shall apply to a justice of the peace or to the town clerk, who shall issue a warrant to two disinterested persons, to be appointed and sworn by the justice or clerk, and they shall determine the amount due from the owner or keeper of the beasts for the damages, costs and expenses for which they have been impounded and detained, including reasonable compensation for their own services.

If not paid, beasts to be sold.
 C. L. 146, § 3.
 1793-4, 10.
 1788, 65, § 4.
 1834, 184, § 6.

SECTION 37. If the amount so determined is not paid forthwith, the person who impounded the beasts shall cause them to be sold by auction in the town where impounded, first advertising the sale by posting a notice thereof for twenty-four hours at some public place in such town.

R. S. 113, § 12.	P. S. 36, § 36.	21 Pick. 55.
G. S. 25, § 33.	R. L. 33, § 35.	

Disposition of proceeds.
 C. L. 146, § 3.
 1793-4, 10.
 1757-8, 10.
 1769-1, 21.
 1770-1, 5.

SECTION 38. The proceeds of the sale, after paying all damages, costs, expenses and charges for advertising and selling the beasts, shall be deposited in the town treasury for the use of the owner, upon proof of his right thereto within two years from the sale.

1775-6, 14.	1834, 184, § 6.	P. S. 36, § 37.
1779-80, 18.	R. S. 113, § 13.	R. L. 33, § 36.
1788, 65, § 3.	G. S. 25, § 34.	

Escaped or rescued beasts may be retaken.
 1834, 184, § 7.
 R. S. 113, § 14.
 G. S. 25, § 35.

SECTION 39. If beasts lawfully distrained or impounded escape or are rescued, the pound keeper, field driver or other person who distrained them may, within seven days thereafter, retake, hold and dispose of them as if there had been no escape or rescue.

P. S. 36, § 38.	R. L. 33, § 37.
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1 SECTION 40. Whoever rescues beasts lawfully distrained or impounded
 2 shall be liable in tort to any person injured for all damages sustained
 3 thereby and the fees and charges incurred before the rescue; and he
 4 shall also be punished by a fine of not less than five nor more than
 5 twenty dollars.

R. S. 113, § 15.
 G. S. 25, § 36.
 P. S. 36, § 39.

R. L. 33, § 38.
 1 Mass. 168.
 4 Mass. 471.

17 Mass. 342.
 5 Pick. 514.
 5 Cush. 267.

Penalty for
 rescuing beasts
 distrained
 C. L. 125, § 2.
 1698, 6, § 4.
 1788, 65, § 6.
 1834, 184, § 8.

1 SECTION 41. The defendant in an action for rescuing beasts dis-
 2 trained or impounded shall not be allowed to allege or give in evidence
 3 the insufficiency of the fences or any other fact or circumstance to show
 4 that the distress or impounding was illegal, but if there is such ground
 5 of objections to the proceedings he may avail himself thereof in an action
 6 of replevin.

5 Pick. 514.

5 Cush. 267.

Legality of
 distress, how
 tried.
 1788, 65, § 6.
 R. S. 113, § 16.
 G. S. 25, § 37.
 P. S. 36, § 40.
 R. L. 33, § 39.
 4 Mass. 471.

1 SECTION 42. If the owner of a ram or he-goat suffers it to go at large
 2 out of his enclosure between July first and December twenty-fifth, he
 3 shall, if prosecuted within thirty days next after such ram or he-goat
 4 is found going at large, be punished by a fine of five dollars.

P. S. 36, § 41.

R. L. 33, § 40.

256 Mass. 1.

Rams and he-
 goats, when not
 to go at large.
 1825, 98, § 1.
 R. S. 19, § 23.
 G. S. 25, § 38.

TITLE VIII.

ELECTIONS.

- CHAPTER 50. General Provisions relative to Primaries, Caucuses and Elections.
- CHAPTER 51. Voters.
- CHAPTER 52. Political Committees.
- CHAPTER 53. Nominations, Questions to be submitted to the Voters, Primaries and Caucuses.
- CHAPTER 54. Elections.
- CHAPTER 55. Corrupt Practices and Election Inquests.
- CHAPTER 56. Violations of Election Laws.
- CHAPTER 57. Congressional, Councillor and Senatorial Districts, and Apportionment of Representatives.

CHAPTER 50.

GENERAL PROVISIONS RELATIVE TO PRIMARIES, CAUCUSES AND ELECTIONS.

<p>SECT.</p> <p style="text-align: center;">DEFINITIONS.</p> <p>1. Definitions.</p> <p style="text-align: center;">DETERMINATION OF RESULTS.</p> <p>2. Results of elections, how determined.</p> <p style="text-align: center;">PROVISIONS AFFECTING CONSTRUCTION OF STATUTES.</p> <p>3. Elections in cities to be on Tuesdays.</p> <p>4. Time, how computed in election laws.</p> <p>5. Posting of lists, notices, etc.</p>	<p>SECT.</p> <p>6. Application of laws relating particularly to any city or town.</p> <p style="text-align: center;">POWER OF ALDERMEN OR SELECTMEN TO MAKE REGULATIONS.</p> <p>7. Ballot boxes, etc. Regulations as to use.</p> <p style="text-align: center;">PRESUMPTION OF REGULARITY IN CRIMINAL CASES.</p> <p>8. Presumption in criminal cases that registration, election, etc., was regular.</p>
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DEFINITIONS.

Definitions.
 1888, 436, § 1.
 1889, 413, § 1.
 1890, 423, § 1.

SECTION 1. Terms used in chapters fifty to fifty-seven, inclusive, shall be construed as follows, unless a contrary intention clearly appears: 1 2

1892, 351, § 1; 416, § 6.	1897, 530, § 1.	1907, 560, § 1.
1893, 417, §§ 2, 231.	1898, 548, § 1.	1913, 835, § 1.
1894, 504, § 1.	R. L. 11, § 1.	250 Mass. 188.
1895, 449, § 3, 489, § 2; 507, § 1.		

Aldermen
 1911, 550, § 1.
 1913, 835, § 8.
 1930, 154
 1931, 426,
 § 166.

“Aldermen” or “board of aldermen” shall include the board of election commissioners or election commission of any city having such a board or commission, as to all matters coming within the scope of their powers and duties, and as to such matters shall not apply to the city council of such city. 3 4 5 6 7

Caucus.

“Caucus” shall apply to any public meeting of the voters of a precinct, ward or town, held under the laws relating to caucuses. 8 9

10 "Caucus officers" shall apply to chairmen, wardens, secretaries,
 11 clerks and inspectors, and, when on duty, to additional officers appointed
 12 or elected, or elected to fill a vacancy, and taking part in the conduct of
 13 caucuses. Caucus
officers.

14 "City clerk" shall include the board of election commissioners or
 15 election commission of any city having such a board or commission,
 16 with reference to all matters coming within the scope of their powers
 17 and duties, and as to such matters shall not apply to the city clerk of
 18 such city. City clerk.
R. L. 11, § 8.
1907, 560, § 8
1913, 835, § 8
1919, 289, § 18
1920, 154,
1931, 426,
§ 166.

19 "City election" shall apply to any election held in a city at which a
 20 city officer is to be chosen by the voters, whether for a full term or for the
 21 filling of a vacancy. City election.
1913, 835, § 1.

22 "Convention" shall apply only to a meeting of delegates duly chosen
 23 in primaries or caucuses, representing two or more subdivisions of the
 24 district for which the convention is held. Convention.
1907, 429, § 1.

25 "Direct plurality vote" shall mean the highest total vote, determined
 26 according to section two, received for a nomination at the primaries or
 27 caucuses in an entire electoral district. Direct
plurality vote.

28 "Election" shall apply to the choice by the voters of any public officer
 29 and to the taking of a vote upon any question by law submitted to the
 30 voters. Election.

31 "Election officer" shall apply to wardens, clerks, inspectors and ballot
 32 clerks, and to their deputies when on duty, and also to selectmen, town
 33 clerks, moderators and tellers when taking part in the conduct of elec-
 34 tions. Election
officer.

35 "Listing board", a board established by special law in a particular
 36 city or town to prepare lists of persons of voting age resident in the city
 37 or town and perform certain other duties in connection with said lists. Listing
board.
1923, 131, § 3.

38 "Majority", with reference to a question on the ballot, shall mean
 39 more than one half of those voting upon the question. Majority.
213 Mass. 153.

40 "Mayor" or "mayor and aldermen" shall include the board of elec-
 41 tion commissioners or election commission of any city having such a
 42 board or commission, with reference to all matters coming within the
 43 scope of their powers and duties, and as to such matters shall not apply
 44 to the mayor or city council of such city. Mayor, etc.
R. L. 11, § 8.
1907, 560, § 8.
1913, 835, § 8.
1920, 154,
1931, 426,
§ 166.

45 "Municipal party" shall apply to a party, not a political party as to
 46 state elections or state primaries, which at the preceding city or town
 47 election polled for mayor or a selectman at least three per cent of the
 48 entire vote cast in the city or town for that office, or, in a city, which
 49 files with the city clerk, at least sixty days before the annual or biennial
 50 municipal election, a petition to be allowed to place nominations of
 51 such party on the official ballot, signed in person by a number of regis-
 52 tered voters of the city equal at least to three per cent of the entire vote
 53 polled in the city for mayor at the preceding election. Municipal
party.
1903, 454, § 1.
1907, 429, § 16.
1931, 394,
§ 214.

54 "Official ballot" shall mean a ballot prepared for any primary, caucus
 55 or election by public authority and at public expense. Official ballot.
202 Mass. 539.

56 "Political committee" shall apply only to a committee elected as
 57 provided in chapter fifty-two, except that in chapter fifty-five it shall also
 58 apply, subject to the exception contained in section thirty-eight thereof,
 59 to every other committee or combination of five or more voters of the
 60 commonwealth who shall aid or promote the success or defeat of a
 61 political party or principle in a public election or shall favor or oppose
 62 the adoption or rejection of a question submitted to the voters. Political
committee.
1892, 416, § 6.
1893, 417,
§ 231
1898, 548,
§ 287
R. L. 11, § 255.
1907, 560,
§ 314
1914, 783, § 1.
1916, 161.

Political party.
1912, 398, § 1.
1919, 269, § 1.
198 Mass. 340.

"Political party" shall apply to a party which at the preceding biennial state election polled for governor at least three per cent of the entire vote cast in the commonwealth for that office; but when a candidate for governor receives two or more nominations for that office "political party" shall apply only to a party which made a nomination at the preceding state primary and which in said primary polled at least three per cent of the entire vote for nomination for governor therein cast in the commonwealth. With reference to municipal elections and primaries and caucuses for the nomination of city and town officers, "political party" shall include a municipal party.

Presiding officer.

"Presiding officer" shall apply to the warden or chairman at a caucus, to the warden, chairman of the selectmen, moderator, temporary moderator or town clerk in charge of a polling place at a primary or election, or to a justice of the peace acting as moderator at a town meeting, or, in the absence of any such officer, to the deputy warden or the clerk or senior inspector or senior selectman present who shall have charge of a polling place.

Primary.
1903, 454, § 1.

"Primary" shall apply to a joint meeting of political or municipal parties held under the laws relating to primaries.

Registrars,
etc.

1898, 548, § 9.
R. L. 11, § 8.
1907, 560, § 8.
1913, 835, § 8.
1918, 293, § 29.
1919, 289, § 18.
1920, 154.
1931, 426, § 166.

"Registrars" or "registrars of voters" shall mean the board of registrars of voters of a city or town, and shall include the board of election commissioners or election commission of any city having such a board or commission, with reference to all matters coming within the scope of their powers and duties. "Registrar" shall, when applicable, mean a member of any of said boards.

State election.

"State election" shall apply to any election at which a national, state, or county officer is to be chosen by the voters, whether for a full term or for the filling of a vacancy.

State officer.

"State officer" shall apply to any person to be chosen at a state election.

Town.

"Town" shall not include city.

Two leading political parties.

1912, 398, § 2.
1919, 269, § 1.

"Two leading political parties" shall apply to the political parties which elected the highest and next highest number of members of the general court at the preceding biennial state election.

Voter.

"Voter" shall mean a registered voter.

Written acceptance.

1914, 454, § 1.

"Written acceptance" shall mean acceptance signed personally or by attorney duly authorized in writing.

DETERMINATION OF RESULTS.

Results of elections, how determined.
Const. amend.
14.

(Const. Rev.

art. 36.)
1856, 157.
1857, 185.
G. S. 7, § 14.
P. S. 7, § 25.
1890, 423, § 96.
1893, 417, § 3.
1898, 548, § 2.
R. L. 11, § 2.
1907, 560, § 2.

SECTION 2. In elections, the person receiving the highest number of votes for an office shall be deemed and declared to be elected to such office; and if two or more are to be elected to the same office, the several persons, to the number to be chosen to such office, receiving the highest number of votes, shall be deemed and declared to be elected; but persons receiving the same number of votes shall not be deemed to be elected if thereby a greater number would be elected than are to be chosen. This section shall apply to all nominations and elections by ballot at primaries or caucuses.

PROVISIONS AFFECTING CONSTRUCTION OF STATUTES.

1 SECTION 3. All elections in cities which by charter or statute are to
 2 be held on a Monday shall be held on the following Tuesday.

Elections in cities to be on Tuesdays.

1874, 376, § 53. 1890, 423, § 142. 1898, 548, § 3. 1907, 560, § 3.
 P. S. 7, § 67. 1893, 417, § 4. R. L. 11, § 3. 1913, 835, § 3.

1 SECTION 4. In computing the period of time prescribed in any stat-
 2 ute relating to primaries, caucuses or elections, Sundays and holidays
 3 shall generally be included; but when the last day of such period falls
 4 on a Sunday or on a holiday, the following day shall be considered the
 5 final day of such period; and when the first day of such period falls on
 6 a Sunday or on a holiday, the day preceding shall be considered the first
 7 day of the period. Whenever the day designated for a primary, caucus
 8 or election is a holiday, said primary, caucus or election shall be held
 9 on the following day.

Time, how computed in election laws. 1890, 423, § 187. 1891, 74, § 1. 1893, 417, § 5. 1898, 548, § 4. R. L. 11, § 4. 1907, 560, § 4. 1910, 44. 1913, 835, § 4.

1 SECTION 5. All lists, notices and copies of laws relating to primaries
 2 or elections, required to be posted, shall be posted at the same places
 3 with the voting lists, or as near as may be thereto.

Posting of lists, notices, etc. 1892, 351, § 37.

1893, 417, § 8. R. L. 11, § 7. 1913, 835, § 7.
 1898, 548, § 7. 1907, 560, § 7.

1 SECTION 6. Laws from time to time in force relating particularly to
 2 any city or town shall prevail where they are in conflict with the provi-
 3 sions of chapters fifty-one to fifty-seven, inclusive; but, except as other-
 4 wise provided by any such law, said chapters and all other statutes in
 5 any way concerning the right to vote at primaries, caucuses or elections,
 6 or its exercise, or matters incidental thereto, shall apply to such city or
 7 town, in addition to the laws particularly applicable thereto.

Application of laws relating particularly to any city or town. 1898, 548, § 9. R. L. 11, § 8. 1907, 560, § 8. 1913, 835, § 8. 1918, 257, § 12; 293, § 29.

1919, 5, 108, § 22; 289, § 12. 1920, 2. 1931, 426, § 167.

POWER OF ALDERMEN OR SELECTMEN TO MAKE REGULATIONS.

1 SECTION 7. Boards of aldermen or selectmen may make regulations
 2 consistent with law relative to the use of ballot boxes and seals, count-
 3 ing and other apparatus, the receiving of ballots and the counting and
 4 returning of votes.

Ballot boxes, etc. Regulations as to use. 1884, 299, § 18. 1890, 423, § 94.

1893, 417, §§ 126, 155, 205. R. L. 11, § 9. 1913, 835, § 9.
 1898, 548, § 8. 1907, 560, § 9.

PRESUMPTION OF REGULARITY IN CRIMINAL CASES.

1 SECTION 8. In any criminal prosecution for the violation of any
 2 law relating to the assessment, qualification or registration of voters,
 3 to voting lists or ballots or matters pertaining thereto, or to primaries,
 4 caucuses or elections or matters pertaining thereto, the presumption
 5 shall be that every proceeding or official act was valid, regular and
 6 formal; but evidence may be introduced either to rebut or support the
 7 presumption. As to an alleged election or primary, the testimony of
 8 the city or town clerk, and as to an alleged caucus, the testimony of
 9 the presiding officer, secretary or clerk thereof, that such election, pri-
 10 mary or caucus was held, shall be prima facie evidence that the same
 11 was regularly and duly held.

Presumption in criminal cases that registration, election, etc., was regular. 1890, 393, § 1, 2. 1893, 417, § 10, 11. 1898, 548, § 10, 11. R. L. 11, § 10, 11. 1903, 454, § 7. 1907, 560, § 10, 11. 1913, 835, § 10, 11.

1918, 257, § 10. 1919, 5. 1920, 2.

CHAPTER 51.

VOTERS.

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7. Form and contents of street lists.	37. Annual register, entries, arrangement, etc. Exception.
8. Assessment of persons not previously assessed.	38. Revision and correction of registers.
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13. Assessments to be subject to abatement, etc.	MANNER OF REGISTRATION.
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15. Registrars in certain cities and towns, appointment, term of office, etc.	46. Registration of minors.
16. Registrars in small towns.	47. Applicants to be notified of rejection, etc.
17. Registrars in certain cities, appointment, term of office, etc.	
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21. Registrars, term of office.	
22. Assistant registrars in cities, appointment, etc.	SUPPLEMENTARY REGISTRATION OF SOLDIERS AND SAILORS.
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25. Registrars, etc., not to hold other office.	
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26. Sessions of registrars.	53. Police officers at meetings.
27. Sessions before primaries.	54. Supervisors of registration, appointment, etc.
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		62. Voting list for use at caucus.
		63. List of voters before a new division of a city into wards.

QUALIFICATIONS OF VOTERS.

1 SECTION 1. Every citizen twenty-one years of age or older, not
 2 being a pauper or person under guardianship and not being temporarily
 3 or permanently disqualified by law because of corrupt practices in
 4 respect to elections, who can read the constitution of the commonwealth
 5 in English and write his name, and who has resided in the common-
 6 wealth one year and in the city or town where he claims a right to vote
 7 six months last preceding a state, city or town election, and who has
 8 complied with the requirements of this chapter, may have his name
 9 entered on the list of voters in such city or town, and may vote therein
 10 in any such election or, except in so far as restricted in any town in
 11 which a representative town meeting form of government has been
 12 established, in any meeting held for the transaction of town affairs. No
 13 other person shall have his name entered upon the list of voters or have
 14 the right to vote; except that no person who is prevented from reading
 15 or writing as aforesaid by a physical disability, or who had the right to
 16 vote on May first, eighteen hundred and fifty-seven, shall, if otherwise
 17 qualified, be deprived of the right to vote by reason of not being able
 18 so to read or write; and no person who, having served in the army or
 19 navy of the United States in time of war, has been honorably discharged
 20 from such service, if otherwise qualified to vote, shall be disqualified
 21 therefrom on account of receiving or having received aid from any city
 22 or town, or because he is exempted by section five of chapter fifty-nine
 23 from the assessment of a poll tax; and no person otherwise qualified to
 24 vote for national or state officers shall, by reason of a change of residence
 25 within the commonwealth, be disqualified from voting for such officers
 26 in the city or town from which he has removed his residence until the
 27 expiration of six months from such removal. A married woman dwelling
 28 or having her home separate and apart from her husband shall for the
 29 purpose of voting and registration therefor be deemed to reside at the
 30 place where she dwells or has her home.

Qualifications of voters.
 Const. amend. 3, 20, 23, 26, 28, 30-32.
 (Const. Rev. arts. 31-34.)
 1811, 9, § 1.
 1822, 104, § 1.
 R. S. 3, § 1.
 G. S. 6, § 1.
 1874, 376, § 1.
 P. S. 6, § 17.
 27, § 52.
 1884, 298, §§ 1-3.
 1887, 249.
 1890, 423, §§ 2, 3, 208.
 1891, 286, § 1.
 1892, 351, §§ 2, 4, 6.
 1893, 417, § 13.
 1898, 548, § 13.
 R. L. 11, § 12.
 1906, 481.
 1907, 560, §§ 12, 456.
 1913, 835, §§ 12, 503.
 1920, 579, § 2.
 1922, 305.
 1931, 426, § 168.
 159 Mass. 413.
 237 Mass. 591.
 1 Op. A. G. 34, 69.
 Op. A. G. (1920) 252.

1 SECTION 2. If the name of a female who is duly registered as a voter
 2 is changed by marriage or by decree of court, her right to vote in her
 3 former name shall continue until April first next following.

Vote by woman whose name has been changed.
 1920, 579, § 3.
 1924, 106.

1 SECTION 3. A person qualified to vote in a city or town divided into
 2 wards or voting precincts shall be registered and may vote in the ward
 3 or voting precinct in which he resided on April first preceding the elec-
 4 tion, or, if he became an inhabitant of such city or town after said April
 5 first, in the ward or voting precinct in which he first became a resident.

Place of registration and voting.
 1876, 225, §§ 4, 6.
 P. S. 6, §§ 20, 21.
 1884, 298, §§ 29, 31.

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| 1886, 264, § 5. | 1898, 548, § 15. | 1909, 410, § 2. |
| 1890, 423, § 4. | R. L. 11, § 14. | 1913, 835, §§ 14, 503. |
| 1892, 351, § 4. | 1907, 560, §§ 14, 456. | 1 Op. A. G. 69. |
| 1893, 417, § 15. | | |

ASSESSMENT OF POLL TAXES AND LISTS OF PERSONS ASSESSED.

Assessors to make lists of persons liable to a poll tax and of women voters, etc.
 1882, 247, § 1.
 1884, 298, § 26, § 31.
 1885, 271, § 1.
 1886, 68, § 1.
 264, § 3.
 1889, 196.
 404, § 1.
 1890, 423, § 11.
 1892, 351, § 7.
 1893, 417, § 16.
 1894, 268, § 1.
 1898, 548, § 16.
 1899, 361, § 1.
 R. L. 11, § 15.
 1902, 264.
 1903, 279, § 16, 18.
 1906, 481, § 1.
 1907, 329, 560, § 15, 456.
 1909, 344, § 1.
 440, § 2, 5.
 1913, 855, § 15, 503.
 1915, 91, § 1.
 1917, 29, § 1.
 109, § 1.
 1918, 282, § 1.
 1919, 108, § 1.
 1923, 131, § 4.

SECTION 4. Except as otherwise provided by law, the assessors, assistant assessors, or one or more of them, shall annually, in April or May, visit every building in their respective cities and towns and, after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, age, occupation, and residence on April first in the current year, and the residence on April first in the preceding year, of every male person twenty years of age or older, residing in their respective cities and towns, liable to be assessed for a poll tax, and of soldiers and sailors exempted from the payment of a poll tax under section five of chapter fifty-nine; and, except in cities and towns having listing boards, shall also make true lists containing the same facts relative to every woman twenty years of age or older residing in their respective cities and towns.

Any inmate of the soldiers' home in Chelsea shall have the same right as any other resident of that city to be assessed and to vote therein.

The assessors shall, upon the personal application of an assessed or listed person for the correction of any error in their original lists, and whenever informed of any such error, make due investigation, and, upon proof thereof, correct the same on their books. When informed of the omission of the name of a person who is averred to have lived in the city or town on April first in the current year, and to have been assessed, or listed as provided in this section, there in the preceding year, they shall make due investigation, and, upon proof thereof, add the name to their books, and, except in cities and towns having listing boards, give immediate notice thereof to the registrars of voters. They shall preserve for two years all applications, certificates and affidavits received by them under this section.

[Penalty for failure to give name or information to assessor, etc., Chap. 56, § 5; for giving false information, Chap. 56, § 6; for falsifying list, Chap. 56, §§ 1, 2.]

Assessors to transmit lists to registrars and collectors, etc.
 1885, 271, § 1.
 1886, 68, § 1.
 1889, 196.
 1890, 423, § 11.
 1892, 351, § 8.
 1893, 417, § 17.
 1894, 298, § 2.
 1898, 548, § 17.
 R. L. 11, § 16.
 1903, 279, § 17.

SECTION 5. The assessors, except in cities and towns having listing boards, shall, before June fifteenth in each year, transmit to the registrars of voters the lists required by the preceding section, or certified copies thereof, and shall promptly transmit to the registrars and to the collector of taxes notice of every addition to and correction in the lists made by them. Every assessor, assistant assessor and collector of taxes shall furnish all information in his possession necessary to aid the registrars in the performance of their duties.

1907, 560, §§ 16, 456.
 1913, 855, § 10, 503.
 1915, 91, § 2.
 1917, 29, § 2; 106, § 2.
 1918, 282, § 2.
 1919, 108, § 2.
 1923, 131, § 5.

Assessors of cities and certain towns to prepare street lists, etc.
 1884, 298, § 19.
 1888, 206.
 1890, 305; 423, § 25, 26.
 1891, 277.
 1892, 351, § 9.
 1893, 417, § 18.
 1898, 548, § 18.
 R. L. 11, § 17.
 1903, 279, § 3.
 1904, 294, § 1.
 1907, 560, § 17, 456.
 1909, 492, § 1.
 1915, 855, § 17, 503.

SECTION 6. Except in cities and towns having listing boards, the assessors of cities on or before June fifteenth in each year, and the assessors of towns on or before July first in each year, shall prepare lists containing the names of all persons listed by them under section four for the current year. Such lists shall be arranged in cities by streets, and in towns by streets or alphabetically by the names of the persons listed, and in cities and in towns of over five thousand inhabitants according to the latest national or state census, by the smallest subdivision of the city or town for the purpose of voting. The assessors in cities and in such towns shall print such lists in pamphlet form, shall deliver to the registrars as many copies thereof as they may require, and shall hold the remaining copies

12 for public distribution. In every other town, the assessors shall cause
 13 such lists to be conspicuously posted on or before July first in each year in
 14 two or more public places therein.

1918, 282, § 3. 1919, 108, § 3. 1923, 131, § 6. 1925, 146.

1 SECTION 7. Except in cities and towns having listing boards, the
 2 assessors shall name or designate in such street lists all buildings used as
 3 residences, in their order on the street where they are located, by giving
 4 the number or other definite description of each building so that it can be
 5 readily identified, and shall place opposite to or under each number or
 6 other description of a building the name, age and occupation of every
 7 person residing therein on April first of the current year who is listed under
 8 section four, and his residence on April first of the preceding year.

Form and
 contents of
 street lists.
 1884, 298, § 19.
 1890, 423, § 25.
 1891, 277.
 1892, 351, § 10.
 1893, 417, § 19.
 1898, 548, § 19.
 R. L. 11, § 18.
 1904, 294, § 2.
 1907, 560,
 §§ 18, 450.
 1909, 440, § 2.

1913, 835, §§ 18, 503. 1917, 29, § 4; 106, § 4. 1919, 108, § 4.
 1915, 91, § 4. 1918, 282, § 4. 1923, 131, § 7.

1 SECTION 8. If a male resident in a city or town, except in one having
 2 a listing board, on April first was not assessed for a poll tax, or if an ex-
 3 empted soldier or sailor or a woman in such a city or town was not listed
 4 under section four, such person shall, in order to establish his right to be
 5 assessed or listed, present to the assessors before the close of registration
 6 a sworn statement that he was on said day a resident of such city or town,
 7 and a sworn list of his polls and estate. If the assessors are satisfied that
 8 such statement is true, they shall assess or list him, as the case may be,
 9 and give him a certificate thereof.

Assessment of
 persons not
 previously
 assessed.
 1874, 376, § 6.
 1877, 207, § 1.
 P. S. 6, § 8.
 1884, 298, § 11.
 1888, 240, § 1.
 1890, 423, § 14.
 1893, 417, § 20.
 1894, 271, § 4.
 1895, 61, § 1.
 1898, 548, § 20.

R. L. 11, § 19. 1907, 560, §§ 19, 456. 1915, 91, § 5. 1919, 81.
 1903, 430. 1909, 440, § 2. 1917, 29, § 5; 106, § 5. 1923, 131, § 8.
 1904, 294, § 3. 1913, 835, §§ 19, 503. 1918, 282, § 5.

[Penalty for false affidavit, Chap. 56, § 7.]

1 SECTION 9. A person who becomes a resident of a city or town, except
 2 one having a listing board, after April first and desires to be registered as a
 3 voter shall present to the assessors a sworn statement that he became a
 4 resident therein at least six months preceding the election at which he
 5 claims the right to vote. If the assessors are satisfied that such statement
 6 is true, they shall give him a certificate that he became a resident therein
 7 as aforesaid, and shall forthwith notify the registrars of voters of the city
 8 or town, if in the commonwealth, where such person resided on April
 9 first, that they have given such certificate.

Certain persons
 desiring to be
 registered to
 present state-
 ment to
 assessors, etc.
 1895, 61, § 2.
 1898, 548, § 20.
 R. L. 11, § 19.
 1904, 294, § 3.
 1907, 429, § 3;
 560, §§ 19, 456.
 1909, 440, § 2.
 1913, 835,
 §§ 19, 503.

1915, 91, § 5. 1918, 282, § 5. 1923, 131, § 9.
 1917, 29, § 5; 106, § 5. 1919, 81. 1931, 426, § 169.

[Penalty for false affidavit, Chap. 56, § 7.]

1 SECTION 10. The assessors shall hold such day and such evening
 2 sessions as may be necessary to carry out the provisions of the two
 3 preceding sections.

Sessions of
 assessors.
 1894, 271, § 4.

1895, 61, § 4. R. L. 11, § 21. 1913, 835, §§ 21, 503.
 1898, 548, § 22. 1907, 560, §§ 21, 456.

1 SECTION 11. The assessors, except in cities and towns having listing
 2 boards, shall enter the name and residence of each person assessed or
 3 certified under section eight or section nine in a book provided therefor.

Records to
 be kept
 1894, 271, § 4.
 1895, 61, § 3.
 1898, 548, § 21.

1899, 361, § 2. 1907, 560, §§ 20, 456. 1918, 282, § 6.
 R. L. 11, § 20. 1913, 835, §§ 20, 503. 1919, 108, § 5.
 1902, 90. 1917, 106, § 6. 1923, 131, § 10.
 1903, 279, § 16.

1 SECTION 12. In every place where voters are registered, the regis-
 2 trars, and in every place where oaths are administered as required by

Copies of
 sections
 prescribing

penalties to be paid. 1894, 271, § 4. 1895, 61, § 3. 1898, 548, § 21. this chapter, the assessors, shall post in a conspicuous place a copy of sections seven and nine of chapter fifty-six, printed on white paper with black ink, in type not less than one quarter of an inch wide.

1890, 361, § 2. 1902, 90. 1913, 835, §§ 20, 503. 1918, 282, § 6.
R. L. 11, § 20. 1907, 560, §§ 20, 456. 1917, 106, § 6. 1919, 108, § 5.

Assessments to be subject to abatement, etc. 1890, 423, § 14. 1892, 351, § 26. SECTION 13. All assessments made under section eight shall be subject to section sixty-one of chapter fifty-nine and shall be entered in the tax list of the collector of taxes and be collected by him according to law.

1893, 417, § 22. R. L. 11, § 22; 12, § 74. 1913, 835, §§ 22, 503.
1898, 548, § 23. 1907, 560, §§ 22, 456.

Names, etc., of certain persons to be sent to registrars. 1884, 298, § 30. 1886, 264, § 4. 1889, 404, § 5. 1890, 423, § 39. 1892, 351, § 39. 1893, 417, § 23. 1898, 548, § 24. 1900, 241. 1901, 441. SECTION 14. The city or town clerk or other officer having charge of the registration of deaths in each city or town shall, on the first day of every month, and also two days before every election, transmit to the registrars of voters a list of the names of all residents thereof twenty-one years of age or older who died in the preceding month or since the date of the list previously transmitted, with a statement of the ward, street and number therein, if any, where such person resided at his death.

R. L. 11, § 23. 1907, 560, §§ 23, 456. 1913, 835, §§ 23, 503.

Assessment of poll taxes and making of certain lists in certain cities. 1925, 183. SECTION 14A. In any city which accepts this section by vote of its city council, in the making of lists under sections four to fourteen, inclusive, the board of assessors may, with the approval of the mayor, have the assistance of the police department in visiting buildings and residences and performing the duties of assistant assessors in securing the information required by said sections.

REGISTRARS OF VOTERS.

Registrars in certain cities and towns, appointment, term of office, etc. 1881, 210, § 1. P. S. 6, § 11. 1884, 298, § 14. 1890, 423, § 18. 1893, 417, § 26. 1898, 548, § 26. R. L. 11, § 25. 1907, 560, §§ 25, 456. 1909, 440, §§ 2, 6. 1913, 835, §§ 25, 503. 1920, 154. 1921, 102, § 1. 1931, 426, § 170. SECTION 15. Except as provided in sections sixteen and seventeen, there shall be in every city, other than one having a board of election commissioners or an election commission, and in every town a board of registrars of voters consisting of the city or town clerk and three other persons who shall, in a city, be appointed by the mayor, with the approval of the aldermen, and in a town, by a writing signed by the selectmen and filed with the town clerk. When a board of registrars is first appointed, the registrars shall be appointed in February or March for terms respectively of one, two and three years, beginning with April first following. In February or March in every year after the original appointment, one registrar shall be appointed for the term of three years, beginning with April first following.

246 Mass. 572.

Registrars in small towns. 1884, 298, § 49. 1890, 423, § 39. 1893, 417, § 27. 1898, 548, § 27. R. L. 11, § 26. 1907, 560, §§ 26, 456. 1909, 440, § 2. 1913, 835, §§ 26, 503. 1919, 269, § 2. 1921, 102, § 2. SECTION 16. In every town having less than six hundred voters registered for the biennial state election, the selectmen and the town clerk may, if the selectmen so vote, constitute a board of registrars of voters; but when six hundred voters shall be so registered, a board of registrars shall in the following year be appointed as provided in the preceding section, and shall continue to perform the duties of registration until the number of voters so registered for two successive biennial state elections shall be less than six hundred, whereupon, on April first following such second biennial state election, if the selectmen so vote, such board shall cease to exist and thereafter the selectmen and town clerk shall constitute a board of registrars of voters.

1 SECTION 17. In every city, other than one having a board of election
 2 commissioners or an election commission, which, by vote of the city
 3 council, approved by the mayor, accepts the provisions of this section,
 4 or has accepted corresponding provisions of earlier laws, or which is
 5 now subject to similar provisions of law, there shall be a board of regis-
 6 trars of voters, consisting of four persons, who shall be appointed by the
 7 mayor with the approval of the board of aldermen. When a board of
 8 registrars is first appointed after the acceptance of the provisions afore-
 9 said, two registrars shall be appointed in February or March following
 10 such acceptance for terms respectively of three and four years, beginning
 11 with April first next ensuing. The city clerk of such city shall cease to
 12 be a member of the board of registrars on April first, but the remain-
 13 ing two members of the existing board of registrars whose terms do
 14 not then expire shall continue to hold office for their respective terms
 15 of one and two years. In February or March of every year after such
 16 first appointments, there shall in like manner be appointed one registrar
 17 of voters for the term of four years, beginning with April first following.
 18 The board so constituted shall annually in April organize by electing
 19 one of its members as clerk, who shall perform all the duties of a city
 20 clerk when acting as clerk of the board of registrars.

Registrars in
 certain cities,
 appointment,
 term of office,
 etc.
 1881, 210, § 1.
 P. S. G. § 11.
 1884, 298, § 14
 1889, 69,
 § 3.
 1890, 423, § 19.
 1893, 417, § 24.
 1898, 548, § 25.
 R. L. 11, § 24.
 1907, 560,
 §§ 21, 456.
 1909, 440, § 6.
 1913, 835,
 §§ 21, 503.
 1931, 426,
 § 171.
 Op. A. G.
 (1917) 27.

1 SECTION 18. In the original and in each succeeding appointment and
 2 in filling vacancies, registrars of voters shall be so appointed that the
 3 members of the board shall, as equally as may be, represent the two
 4 leading political parties, and in no case shall an appointment be so made
 5 as to cause a board to have more than two members, including the city
 6 or town clerk, of the same political party.

Registrars,
 political
 representation.
 1881, 210, § 1.
 P. S. G. § 11.
 1884, 298, § 14.
 1889, 69, § 3.
 1890, 423, § 18.
 1891, 395.

1893, 417, §§ 28, 30.	1907, 560, §§ 27, 456.	1919, 269, § 3.
1898, 548, § 28.	1913, 835, §§ 27, 503.	198 Mass. 340.
R. L. 11, § 27.		

1 SECTION 19. If, upon written complaint to the mayor or to the
 2 selectmen, it shall appear, after notice and hearing, that the city or town
 3 clerk, when a member of the board of registrars, and two registrars are
 4 of the same political party, the mayor or selectmen, as the case may be,
 5 shall remove from office the one of such two registrars having the shorter
 6 term. If, upon like proceedings, it shall appear, after notice and hear-
 7 ing, that a registrar of voters, other than the city or town clerk, has
 8 ceased to act with the political party which he was appointed to repre-
 9 sent, the mayor or selectmen, as the case may be, shall remove him
 10 from office.

Equal repre-
 sentation to be
 preserved.
 1887, 432.
 1890, 423, § 21.
 1893, 417, § 29.
 1898, 548, § 29.
 R. L. 11, § 28.
 1907, 560,
 §§ 28, 456.
 1913, 835,
 §§ 28, 503.
 171 Mass. 138.
 2 Op. A. G. 644.

1 SECTION 20. If a member of the board of registrars shall be unable
 2 to perform the duties of his office, or shall, at the time of any meeting
 3 of said board, be absent from the city or town, the mayor or selectmen
 4 may, upon the request in writing of a majority of the remaining members
 5 of the board, appoint in writing some person to fill such temporary
 6 vacancy, who shall be of the same political party as the member whose
 7 position he is appointed to fill. Such temporary registrar shall perform
 8 the duties and be subject to the requirements and penalties provided
 9 by law for a registrar of voters.

Temporary
 vacancies.
 1885, 246.
 1890, 423, § 20.
 1893, 417, § 31.
 1898, 548, § 30.
 R. L. 11, § 29.
 1907, 560,
 §§ 29, 456.
 1913, 835,
 §§ 29, 503.

1 SECTION 21. Each registrar shall, unless sooner removed, hold his
 2 office for the term for which he is appointed and until his successor is
 3 qualified.

Registrars
 term of office.
 1884, 298, § 14.

1890, 423, § 19.	1898, 548, § 32.	1907, 560, §§ 31, 456.
1893, 417, § 24.	R. L. 11, § 31.	1913, 835, §§ 31, 503.

Assistant registrars in cities, appointment, etc.

1863, 417, § 33.
1898, 548, § 33.
R. L. 11, § 32.
1907, 560,
§§ 32, 33, 456,
1913, 835,
§§ 32, 33, 503.
1920, 243, § 1.
1921, 156.

Registrars, oath of office, etc.

1881, 210,
§§ 2, 3, 6.
P. S. 6, § 12.
1884, 298, § 15.
1890, 423,
§§ 18, 22.
1892, 351, § 14.
1893, 417,
§§ 32, 36,
1898, 548,
§§ 31, 36.
R. L. 11,
§§ 30, 35,
1907, 560,
§§ 30, 35, 456,
1913, 835,
§§ 30, 35, 503.

Powers and duties, etc.

1874, 60,
§§ 7, 9.
1889, 337,
§§ 2, 4.
1893, 417, § 34.
1898, 548, § 34.
R. L. 11, § 33.
1907, 560,
§§ 33, 456.

Registrars, etc., not to hold other office.

1889, 337, § 3.
1890, 423,
§§ 18, 19.
1893, 417, § 35.
1895, 267,
1898, 548, § 35.
R. L. 11, § 34.
1907, 560,
§§ 34, 456,
1913, 835,
§§ 34, 503.

Sessions of registrars.

1874, 376, § 8.
1877, 235,
§ 2.
1878, 233, § 2.
1879, 37.
P. S. 6,
§§ 23, 25.
1884, 298,
§§ 36, 37.
1890, 423,
§§ 44, 45.
1892, 351,
§§ 15-18.
1893, 417,
§§ 37-40.
1894, 271,
§§ 1, 2.

SECTION 22. The registrars in cities may appoint assistant registrars for the term of one year, beginning with April first, unless sooner removed by the registrars, and they shall, as nearly as may be, equally represent the different political parties. Assistant registrars shall be subject to the same obligations and penalties as registrars. Registrars may remove an assistant registrar, and may fill a vacancy for the remainder of the term. Except in the city of Boston, persons appointed to serve temporarily as assistant registrars shall not be subject to chapter thirty-one.

SECTION 23. The registrars and assistant registrars shall, before entering upon their official duties, each take and subscribe an oath faithfully to perform the same. They shall receive such compensation for their services as the city council or selectmen may determine; but such compensation shall not be regulated by the number of names registered by them, and a reduction of compensation shall apply only to registrars and assistant registrars appointed thereafter. The city council or selectmen shall provide them suitable rooms, and necessary assistance. The city or town clerk, when a member of the board of registrars, shall act as clerk thereof, shall keep a full and accurate record of its proceedings and shall cause such notices as the registrars may require to be properly given.

SECTION 24. The registrars may cause the duties devolving upon a single registrar to be performed by one or two assistant registrars, and, if two are designated for such duties, they shall be, so far as practicable, of different political parties. The registrars shall make suitable regulations governing the assistant registrars, whose doings shall be subject to their revision and acceptance.

1913, 835, §§ 33, 503.

1920, 213, § 2.

SECTION 25. No person shall be appointed a registrar or assistant registrar who is not a voter of the city or town for which he is appointed, who holds an office in the city or town for which he is appointed either by election or by direct appointment of the mayor or of the selectmen, or who holds an office by election or appointment under the government of the United States or of the commonwealth, except as a justice of the peace, notary public, or officer of the state militia. The acceptance by a registrar or assistant registrar of any such office shall vacate his office as registrar or assistant registrar.

SESSIONS FOR REGISTRATION.

SECTION 26. The registrars, for the purpose of registering voters in the manner hereinafter provided, shall hold such day and such evening sessions as the town by by-law or the city by ordinance shall prescribe, and such other sessions as they deem necessary; but, except as provided in sections thirty-four and fifty, there shall be no registration of voters between ten o'clock in the evening on the twentieth day preceding, and the day following, the biennial state primary and the biennial state election, nor in any city between ten o'clock in the evening on the twentieth day preceding and the day following the city election, nor in any town between ten o'clock in the evening on the Wednesday next but

11 one preceding and the day following the annual town meeting. The
 12 time and place of registration shall be the same for male and female
 13 applicants.

1898, 548, §§ 37, 38. 1913, 835, §§ 36, 37, 503. 1928, 103, § 1.
 R. L. 11, §§ 36, 37. 1919, 269, § 1. 1930, 326, § 1.
 1907, 560, §§ 36, 37, 456. 1924, 204, § 1. 1 Op. A. G. 54, 184.

[Penalty for misconduct at registration, Chap. 56, § 10.]

1 SECTION 27. They shall hold at least one session at some suitable
 2 place in every city or town on or before the last day for registration
 3 preceding the biennial state primary, and on or before the Wednesday
 4 next but one preceding a city or town primary, except a primary pre-
 5 ceding a special city or town election.

Sessions before
 primaries.
 P. S. 6,
 §§ 23, 25,
 1884, 298,
 §§ 36, 37,
 1890, 423, § 44.

1892, 351, § 17. 1897, 530, § 2. 1913, 835, §§ 36, 37, 503.
 1893, 417, § 39. 1898, 548, § 37. 1924, 204, § 2.
 1894, 271, § 1. R. L. 11, §§ 36, 37. 1928, 103, § 2.
 1895, 27, § 1. 1907, 560, §§ 36, 37, 456. 1931, 426, § 172.

1 SECTION 28. They shall hold a continuous session from twelve o'clock
 2 noon until ten o'clock in the evening on the last day for registration
 3 preceding the biennial state election and the annual or biennial city
 4 election or annual town meeting, except that in towns having less than
 5 three hundred voters said session shall be sufficient if it includes the time
 6 from two to four o'clock in the afternoon, and from seven to ten o'clock
 7 in the evening.

Sessions on
 last day.
 1874, 376, § 8.
 1878, 233, § 2.
 P. S. 6,
 §§ 23, 25,
 1884, 298,
 §§ 36, 37,
 1890, 423, § 44
 1892, 351, § 15.
 1893, 417, § 37.

1894, 271, §§ 1, 2. R. L. 11, §§ 36, 37. 1919, 159, 269, § 1.
 1895, 27, § 1. 1907, 560, §§ 36, 37, 456. 1924, 204, § 3.
 1898, 548, §§ 37, 38. 1913, 835, §§ 36, 37, 503.

1 SECTION 29. They shall, in some suitable place, hold a continuous
 2 session from twelve o'clock noon until ten o'clock in the evening, on the
 3 fourth day preceding a special election. Registration shall cease at ten
 4 o'clock in the evening of the day on which such session is held.

Registration
 for special
 elections.
 1893, 209;
 417, § 41.

1895, 2 R. L. 11, § 38. 1913, 835, §§ 38, 503.
 1898, 548, § 39. 1907, 560, §§ 38, 456.

1 SECTION 29A. They shall, in some suitable place in every city or
 2 town wherein there is to be a special state, city or town primary, hold
 3 a session on the fourth day preceding such primary. Registration shall
 4 cease at ten o'clock in the evening of the day on which such a session is
 5 held.

Sessions prior
 to special
 primaries.
 1930, 113.

1 SECTION 30. In towns divided into voting precincts the registrars
 2 shall, within forty days before the biennial state election, and also within
 3 twenty days before the annual town meeting, but in each case on or before
 4 the last day fixed for registration, hold one or more sessions in each voting
 5 precinct. In towns not divided into voting precincts they shall, during
 6 the same period, hold sessions in one or more suitable places. They shall
 7 hold a session before the last day for registration, at some suitable place
 8 in any village or locality distant two or more miles from the place of
 9 registration, if ten or more voters residing in or near the same file with the
 10 town clerk not less than thirty-eight days before the biennial state election
 11 or eighteen days before the annual town meeting a petition stating that
 12 in such village or locality there are at least ten citizens who are entitled
 13 and desire to be registered.

Sessions in
 towns.
 1874, 376, § 8.
 1878, 233, § 2.
 P. S. 6,
 §§ 23, 25,
 1884, 298,
 §§ 35-37,
 1890, 423,
 §§ 44, 45,
 1892, 351,
 §§ 17-19,
 1893, 417,
 §§ 38, 39,
 1895, 27, § 1.
 1897, 530, § 2.
 1898, 548, § 37.
 R. L. 11,
 §§ 36, 37,
 1907, 429, § 4;
 560, §§ 36, 456.
 1913, 835,
 §§ 36, 503

1919, 269, § 1.

1928, 103, § 3.

Registration when final day falls on Sunday or holiday, 1896, 73.

SECTION 31. If the final day for registration of voters falls on Sunday or on a holiday, the preceding day shall be the final day for such registration.

1898, 548, § 40.
R. L. 11, § 39.

1907, 560, §§ 39, 456.
1913, 835, §§ 39, 503.

Notices of sessions for registration, etc.
P. S. 6,
§§ 23, 25.
1889, 394, § 4.
1890, 423, § 44.
1892, 351, § 14.
1893, 417, § 43.
1898, 548, § 43.
R. L. 11, § 42.
1907, 560,
§§ 42, 456.

SECTION 32. Registrars shall seasonably post or publish notices stating the places and hours for holding all sessions, including the final sessions preceding any election, and also stating that after ten o'clock in the evening of the last day fixed for registration they will not, until after the next election, add any name to the registers except the names of voters examined as to their qualifications between the March thirty-first preceding and the close of registration.

1913, 835, §§ 42, 503.

1931, 426, § 173.

[Penalty for defacing or removing posted notice, Chap. 56, § 12.]

DUTIES OF REGISTRARS.

Any registrar may examine applicants, etc.
1890, 423, § 58.
1892, 351, § 20.
1893, 417, § 47.
1898, 548, § 41.
R. L. 11, § 40.
1907, 560,
§§ 40, 456.

SECTION 33. Any registrar, at a place appointed for registration, on the days and during the hours designated for the purpose, may receive applications for registration and examine on oath applicants and witnesses; but all doings of one registrar shall be subject to the revision and acceptance of the board.

1913, 835, §§ 40, 503.

Not to enter names on registers after close of registration, except, etc.
P. S. 6, § 25.
1890, 423, § 45.
1892, 351, § 25.
1893, 417, § 42.
1898, 548, § 42.
R. L. 11, § 41.
1907, 560,
§§ 41, 456.
1909, 344, § 2.
1913, 835,
§§ 41, 503.
1919, 108, § 6.

SECTION 34. After ten o'clock in the evening of a day on which registration is to cease, the registrars shall not register any person as a voter until after the next primary or election, except that they shall furnish, or cause to be furnished, to each person waiting in line at said hour of ten o'clock for the purpose of being registered a card or slip of identification bearing such person's name and shall, before registration ceases, register each person if found qualified. The registrars may, however, enter or correct on the registers the names of persons whose qualifications as voters have been examined between March thirty-first preceding and the close of registration.

1930, 326, § 2.

Notices of omitted assessments to be computed, etc.
P. S. 6, § 25.
1890, 423, § 45.
1892, 351, § 25.
1893, 417, § 42.
1898, 548, § 42.
R. L. 11, § 41.
1907, 560,
§§ 41, 456.
1909, 344, § 2.
1913, 835,
§§ 41, 503.
1918, 257, § 11.

SECTION 35. Except in cities and towns having listing boards, registrars shall compare all notices of omitted assessments, transmitted to them by the assessors under section four, with the annual register of voters for the previous year, and if it appears to their satisfaction that any of said omitted assessments is that of a person entitled to vote in such previous year they may before the close of registration enter such name on the current annual register. In every case they shall require the vote by virtue of which such entry or correction is made to be attested by their clerk.

1919, 5; 108, § 6.

1920, 2.

1923, 131, § 11.

Records to be kept in general register.
1877, 208.
1878, 251, § 2.
P. S. 6,
§§ 13, 14, 16.
1884, 298,
§§ 17, 18,
22, 38.
1890, 423,
§§ 24, 30, 31.

SECTION 36. They shall keep in general registers, records of all persons registered as qualified to vote in the city or town. They shall enter therein the name of every such voter written in full, or instead thereof the surname and first Christian name or that name by which he is generally known, written in full, and the initial of every other name which he may have, and also his age, place of birth and residence on April first preceding or at the time of becoming an inhabitant of the city or town

8 after said day, the date of his registration and his residence at such date,
 9 his occupation and the place thereof, the name and location of the court
 10 which has issued to him letters of naturalization and the date thereof,
 11 if he is a naturalized citizen, and any other particulars necessary to
 12 identify him fully. Except in Boston, the general registers shall have
 13 uniform headings in substantially the following form, and blank books
 14 suitable for the purpose shall be provided at cost by the state secretary
 15 to registrars applying therefor:

1892, 351,
 § 11, 22, 23.
 1893, 417, § 44
 1898, 548, § 41.
 R. L., 11, § 43.
 1907, 560,
 § 43, 456.
 1909, 440, § 2.
 1913, 835,
 § 43, 503.
 1921, 209, § 1.

When Registered	Name.	Signature of Applicant.	Residence April 1, or Subsequent Date.	Age.	Place of Birth.	Occupation.	Place of Occupation.	Minutes of Naturalization, Court issuing Letters and Date of Naturalization.	Residence at Date of Registration.	Remarks.

1 SECTION 37. The registrars, after April first, shall prepare an annual
 2 register containing the names of all qualified voters in their city or town
 3 for the current year, beginning with said day. Such names shall be ar-
 4 ranged in alphabetical order, and, opposite to the name of each voter,
 5 his residence on April first preceding or on any subsequent day when he
 6 became an inhabitant of the city or town. The registrars shall enter in
 7 the annual register every name contained in the lists transmitted to
 8 them by the assessors under section five, which they can identify as that
 9 of a person whose name was borne on the voting list of the city or town
 10 at the last preceding election or town meeting, giving the residence of
 11 each such person on April first, which, in the case of a person assessed a
 12 poll tax, shall be the place at which he was so assessed. They shall
 13 make all inquiries and investigations necessary to identify such person,
 14 and they shall not enter in the annual register the name of a person
 15 objected to by any registrar until such person has been duly notified
 16 and given an opportunity to be heard. They shall forthwith enter in
 17 the annual register the name of every person whose qualifications as a
 18 voter have been determined by them in the current year and whose
 19 name has accordingly been entered in the general register. They shall,
 20 on or before the first Monday of August in each year, send notice in
 21 writing to each voter of the preceding year whose name has not been
 22 entered in the annual register of the current year that the name of such
 23 voter has not been so entered, such notice to be sent by first class mail
 24 enclosed in an envelope bearing the proper address to which the same
 25 may be returned in case of non-delivery, and the registrars shall prepare
 26 a list of the names of voters not so entered, which shall be open to public
 27 inspection in their principal office, or shall be posted by copy in the
 28 places where copies of voting lists are required to be posted under section
 29 fifty-seven of chapter fifty-one. This section shall not apply to cities
 30 and towns having listing boards.

Annual register, entries, arrangement, etc. Exception.
 1884, 298,
 § 16, 29,
 1886, 264, § 3.
 1890, 425,
 § 23, 38,
 1892, 351, § 12.
 1893, 417, § 45.
 1894, 268, § 3.
 1898, 548, § 45.
 R. L., 11, § 44.
 1907, 560,
 § 43, 456.
 1909, 440, § 2.
 1912, 471, § 1.
 1913, 835,
 § 44, 503.
 1917, 77.
 1921, 209, § 2.
 1929, 280, § 1.
 1 Op. A. G. 54.

1913, 835, § 76.
 1915, 91, § 7.

1917, 29, § 12; 106, § 15.
 1918, 282, § 15.

1919, 108, § 15.
 1923, 131, § 12.

Revision and correction of registers.
1881, 298, § 44.
1891, 423, § 35, 54.
1892, 351, § 26.
1893, 417, § 53.
1898, 548, § 52.
R. L. 11, § 51.
1903, 474, § 3.
1907, 560, § 51, 456.
1913, 835, § 51, 503.

SECTION 38. The registrars shall revise and correct the general register and the current annual register in accordance with any facts which may be presented to them. They shall strike therefrom the name of every deceased person which has been transmitted to them under section fourteen; but after the name of a voter has been placed upon the current annual register, they shall not change the place of residence as given thereon, nor, unless the voter has died, strike such name therefrom, until they have sent him a notice of their intention so to do, naming a certain day when he may be heard.

Notice of error to be transmitted to assessors.
Exception.
1892, 351, § 26.
1893, 417, § 56.

SECTION 39. The registrars shall promptly transmit to the assessors notice of every error which they discover in the name or residence of a person assessed. This section shall not apply to cities and towns having listing boards.

1894, 271, § 5.
1898, 548, § 55.
R. L. 11, § 54.
1903, 279, § 19.
1907, 560, §§ 54, 456.
1913, 835, §§ 54, 503.
1923, 131, § 13.

Sessions for registration and records to be open to public.
1884, 298, § 39.
1889, 404, § 4.

SECTION 40. The registrars shall perform their duties in open session. They shall distinctly announce the name of every applicant for registration before entering his name on the general register. Their records shall at suitable times be open to public inspection.

1890, 423, §§ 28, 49.
1892, 351, §§ 14, 22.
1893, 417, § 57.
1898, 548, § 56.
R. L. 11, § 55.
1907, 560, §§ 55, 456.
1913, 835, §§ 55, 503.

Documents to be preserved.
1884, 298, § 34.
1890, 423, § 43.
1892, 351, § 14.

SECTION 41. The registrars shall preserve all written complaints and certificates received by them, and all other documents in their custody relative to registration, for two years after the dates thereof.

1893, 417, § 58.
1898, 548, § 57.
R. L. 11, § 56.
1907, 560, §§ 56, 456.
1913, 835, §§ 56, 503.

MANNER OF REGISTRATION.

Persons whose names are not on annual register must apply in person, etc.
1884, 298, § 21.
1890, 423, § 29.
1892, 351, § 13.

SECTION 42. Every person, male or female, whose name has not been entered on the annual register in accordance with section thirty-four, thirty-five or thirty-seven, or a corresponding provision of law applicable to a city or town having a listing board, must, in order to be registered, apply in person for registration and prove that he is qualified.

1893, 417, § 46.
1898, 548, § 46.
R. L. 11, § 45.
1907, 560, §§ 45, 456.
1909, 344, § 3.
1913, 835, §§ 45, 503.
1917, 106, § 16.
1918, 282, § 16.
1923, 131, § 14.
1 Op. A. G. 54.

[Penalty for illegal attempt to register, Chap. 56, § 9.]

Male applicant to present tax bill or certificate, etc.
1895, 61, § 1.
1898, 548, § 47.
R. L. 11, § 46.
1903, 474, § 1.
1907, 560, § 46, 456.
1909, 440, § 2.
1913, 835, § 46, 503.
1915, 91, § 6.

SECTION 43. Every male applicant for registration, except in cities and towns having listing boards, whose name has not been transmitted to the registrars as provided in section five, shall present a tax bill or notice from the collector of taxes, or a certificate from the assessors showing that he was assessed as a resident of the city or town on April first preceding, or a certificate that he became a resident therein at least six months preceding the election at which he claims the right to vote, and the same shall be prima facie evidence of his residence.

1916, 87.
1917, 29, § 6; 106, § 7.
1918, 282, § 7.
1919, 108, § 7.
1923, 131, § 15.
1 Op. A. G. 54.

[Penalty for false certificate, Chap. 56, § 7.]

Examination of applicants for registration (oath).
Registration slips, etc.

SECTION 44. The registrars shall examine on oath an applicant for registration relative to his qualifications as a voter, and shall, unless he is prevented by physical disability, or unless he had the right to vote

4 on May first, eighteen hundred and fifty-seven, require him to write his
 5 name in the general register and to read in such manner as to show that
 6 he is neither prompted nor reciting from memory. Registrars shall be
 7 provided by the state secretary with a copy of the constitution of the
 8 commonwealth printed in English on uniform pasteboard slips, each
 9 containing five lines of said constitution printed in type of a size not
 10 less than twenty-four point, and with a box so constructed as to conceal
 11 them from view. The registrars shall place said slips in the box, and shall
 12 require each applicant to draw one of said slips from the box and read
 13 aloud, in full view and hearing of the registrars, the five lines printed
 14 thereon. Each slip shall be returned to the box immediately after the
 15 test is finished, and the contents of the box shall be shaken up by a
 16 registrar before another drawing is made. No person failing to read the
 17 constitution as printed on the slip thus drawn shall be registered as a
 18 voter. The registrars shall keep said slips in said box at all times. The
 19 state secretary shall upon request provide new slips to replace those
 20 worn out or lost.

1878, 251, § 3.
 P. S. 6, § 14.
 1881, 298, § 20.
 1890, 423, § 4.
 1890, 423,
 § 27, 28.
 1892, 351, § 22.
 1893, 417, § 18.
 1894, 291, § 1.
 1895, 548, § 48.
 R. L. 11, § 47.
 1903, 474, § 2.
 1907, 500,
 § 47, 456.
 1913, 835,
 § 47, 503.
 1922, 106
 199 Mass. 413
 1 Op. A. G. 54
 [Penalty for
 misconduct of
 registrar, etc.,
 Chap. 56, § 3;
 for false oath,
 etc., by applic-
 ant, Chap. 56,
 §§ 7, 9.]

1 SECTION 45. If an applicant for registration is a naturalized citizen,
 2 the registrars shall require him to produce for inspection his papers of
 3 naturalization, and to make oath that he is the person named therein,
 4 and shall, if satisfied that the applicant has been legally naturalized,
 5 make upon his papers a memorandum of the date of such inspection. If
 6 papers of naturalization have once been examined and record thereof
 7 made in the general register, the registrars need not again require their
 8 production.

Registration of
 naturalized
 citizens.
 1875, 416
 G. S. 6, § 9.
 1874, 376, § 15.
 P. S. 6, § 26
 1884, 298, § 38.
 1890, 423, § 48.
 1892, 351, § 23.
 1893, 417, § 50.
 1895, 548, § 49.
 R. L. 11, § 48.

1907, 500, §§ 48, 456.

1913, 835, §§ 48, 503.

[Penalty for false oath, etc., Chap. 56, §§ 7, 9.]

1 SECTION 46. If, upon examination, the registrars are satisfied that
 2 an applicant for registration has all the qualifications of a voter, ex-
 3 cept that of age, and that he will on or before the day of the next elec-
 4 tion or town meeting attain full age, they shall place his name upon the
 5 registers.

Registration
 of minors.
 1884, 298, § 24.
 1890, 423, § 32.
 1892, 351, § 24.
 1893, 417, § 51.
 1895, 548, § 50.

R. L. 11, § 49.

1907, 500, §§ 49, 456.

1913, 835, §§ 49, 503.

1 SECTION 47. If the registrars decline to register the name of a person
 2 examined for registration and reported to them therefor by a registrar,
 3 they shall notify him of their refusal, and give him a reasonable oppor-
 4 tunity to be heard by them upon his application. They shall upon the
 5 rejection of an applicant forthwith inform him thereof.

Applicants to
 be notified of
 rejection, etc.
 1892, 351, § 25.
 1893, 417, § 52.
 1895, 548, § 51.
 R. L. 11, § 50.

1907, 500, §§ 50, 456.

1913, 835, §§ 50, 503.

ILLEGAL OR INCORRECT REGISTRATION.

1 SECTION 48. Upon complaint signed and sworn to by a registered
 2 voter, and filed with the registrars at least fourteen days in a city, or at
 3 least four days in a town, before a primary, election or town meeting,
 4 stating that the complainant has reason to believe and does believe that
 5 a certain person by him therein named has been illegally or incorrectly
 6 registered, and giving the reasons for such belief, the registrars shall
 7 examine into such complaint, and if satisfied that there is sufficient
 8 ground therefor, they shall summon the person complained of to appear
 9 before them at a certain place and time before the next primary or elec-
 10 tion or town meeting to answer to the matters set forth in the complaint,

Complaint and
 examination
 by registrars.
 1881, 202
 P. S. 6, § 22.
 1884, 298, § 32.
 1890, 423, § 42.
 1892, 351,
 § 27, 28.
 1893, 417, § 54.
 1895, 548, § 53.
 R. L. 11, § 52.
 1903, 474, § 4.
 1907, 500,
 § 52, 456.
 1913, 835,
 § 52, 503.
 1916, 81.

[Penalty for false oath, Chap. 56, § 7.]

and the substance of the complaint and a copy of this and the following section shall be set forth in the summons. Service of the summons shall be made by an officer qualified to serve civil or criminal process, not more than fourteen nor less than two days before the day named for appearance, by delivering in hand a copy of the summons to the person therein named, or by leaving it at his place of residence, or, if personal service cannot be made and the person's residence is unknown to the officer and cannot be ascertained by inquiry at the place of alleged illegal or incorrect residence or at any later residence of such person appearing on the register, then at such person's last residence, if any, known to the officer, or, if the person's last residence is unknown, at the last place appearing as his residence in the register. The officer shall return the summons to the registrars before the day named for appearance, with the certificate of his doings endorsed thereon.

Examination of persons, etc.
1881, 262.
P. S. 6, § 22.
1884, 298, § 32.
1890, 423, § 42.
1892, 351, § 29.
1893, 417, § 55.
1898, 548, § 54.
R. L. 11, § 55.
1903, 474, § 5.
1907, 560,
§§ 53, 456.
1913, 835,
§§ 53, 503.
[Penalty for false oath, Chap. 56, § 7.]

SECTION 49. If a person summoned before the registrars to answer to such complaint appears before them, they shall examine him on oath, and shall receive other evidence which may be offered in regard to the matters set forth in the complaint, and if satisfied that he is properly registered as a qualified voter they shall enter in the register a statement of their determination upon the facts required for registration. If the registrars are satisfied that he is not a qualified voter in the city or town, they shall strike his name from the register. If they are satisfied that, although he is a qualified voter in the city or town, he is illegally or incorrectly registered in a ward or voting precinct other than the ward or voting precinct in which he is required by section three to be registered, and have determined the ward or voting precinct in which he is so required to be registered, and his place of residence therein, they shall change his place of residence as given on the register accordingly. If a person duly summoned as aforesaid does not appear as directed in the summons and the complainant produces sufficient testimony to make out a *prima facie* case, the name of the person complained of shall be struck from the register; but if such person appears before the registrars before the election or town meeting following and shows sufficient cause for his failure earlier to appear, the hearing shall be reopened and the matter decided on its merits, as determined from the evidence presented on both sides. The complainant and the person complained of may be represented by counsel, and all witnesses may be cross-examined.

SUPPLEMENTARY REGISTRATION OF SOLDIERS AND SAILORS.

Supplementary registration of soldiers and sailors.
1918, 258, § 1;
293, § 12.
1929, 128.
1 Op. A. G. 552.

SECTION 50. Any soldier or sailor in the service of the United States who had a legal residence in any city or town in the commonwealth at the time of entering said service, but who by reason of his being in the army or navy was absent from the city or town during the periods when sessions for listing or assessing and for registration were held, may appear before the city or town clerk in any city or town where such clerk is also a member of the board of registrars, and, in any other city or town, before the chairman of the board of registrars or board performing like duties therein, during the regular office hours of such clerk or chairman and, in accordance with this chapter, prove his qualifications as a voter under section one and be registered, if he so appears not less than three days before the election; but such registration shall be subject to the revision and acceptance of the board.

1 SECTION 51. To every person registered under the preceding section
 2 the registrars shall issue a certificate, similar to that provided for in sec-
 3 tion fifty-nine, entitled "Supplementary Registration: Soldier or Sailor",
 4 and referring by chapter and section number to this and the preceding
 5 section. Upon presentation of the certificate to the presiding officer at
 6 the proper polling place, he shall have the same right to vote as any other
 7 registered voter. After he has voted, the presiding officer shall attach the
 8 certificate to the voting list and it shall be considered a part thereof, and
 9 shall be returned to the registrars and preserved in accordance with law.

Certificate of
 supplementary
 registration,
 and voting
 thereon
 1918, 298, § 2.

MAINTENANCE OF ORDER AND REGULARITY.

1 SECTION 52. A registrar shall enforce regularity in all proceedings
 2 before him, maintain order in and about the place where a session is held,
 3 or applications for registration are received, and keep the access thereto
 4 open and unobstructed.

Authority of
 registrar
 1881, 298, § 40.
 1890, 423, § 50.
 1892, 351, § 20

1893, 417, § 59. R. L. 11, § 57. 1913, 835, §§ 57, 503.
 1898, 548, § 58. 1907, 560, §§ 57, 456.

1 SECTION 53. The board of police or officer in charge of the police
 2 force of a city or town shall, when requested by the registrars, detail a
 3 sufficient number of police officers to attend any meeting held by a regis-
 4 trar in the performance of his duties, and to preserve order and enforce
 5 his directions.

Police officers
 at meetings.
 1884, 298, § 42.
 1890, 423, § 52.
 1892, 351, § 40.
 1893, 417, § 60.
 1898, 548, § 59.

R. L. 11, § 58. 1907, 560, §§ 58, 456. 1913, 835, §§ 58, 503.

1 SECTION 54. The governor, with the advice and consent of the coun-
 2 cil, shall, on the petition of not less than ten qualified voters of a city or
 3 town, appoint for a term of one year two supervisors of registration for
 4 each place of registration therein, one from each of the two leading politi-
 5 cal parties. They shall attend all sessions or meetings for registration
 6 held at the places for which they are appointed, and either of them may
 7 attach to any book or papers there used for purposes of registration any
 8 statement touching the truth or fairness of the proceedings which he
 9 may deem proper, and may add thereto his signature or other marks for
 10 the purpose of identification.

Supervisors of
 registration,
 appointment,
 etc.
 1884, 298, § 50.
 1890, 423, § 60.
 1892, 351, § 38.
 1893, 417, § 61.
 1898, 548, § 60.
 R. L. 11, § 59.
 1907, 560,
 §§ 59, 456.
 1913, 835,
 §§ 59, 503
 1 Op. A. G. 599.

[Penalty for interference with supervisor, Chap. 56, § 11.]

VOTING LISTS.

1 SECTION 55. Registrars shall, from the names entered in the annual
 2 register of voters, prepare voting lists for use at elections. In such voting
 3 lists they shall place the names of all voters entered on the annual register,
 4 and no others, and opposite to the name of each his residence on April
 5 first preceding or at the time of his becoming an inhabitant of such place
 6 after said day. They may enter the names of women voters in separate
 7 columns or lists. In cities, they shall prepare such voting lists by wards,
 8 and if a ward or a town is divided into voting precincts, they shall prepare
 9 the same by precincts, in alphabetical order, or by streets. Names shall
 10 be added thereto or taken therefrom as persons are found to be qualified
 11 or not qualified to vote.

Voting lists,
 contents, ar-
 rangement, etc.
 1843, 68, § 1
 1822, 104, § 2.
 1833, 102, § 2.
 R. S. 3, § 5.
 G. S. 6, § 5.
 1874, 376, § 7.
 1877, 208, § 3.
 1878, 233, § 1.
 1881, 191, § 3;
 210, § 4.
 P. S. 6,
 §§ 18-20, 27.
 1884, 298,
 §§ 27, 28, 43.
 1886, 264, § 2.

1890, 423, §§ 35, 37, 53. 1897, 296, § 4. 1909, 440, § 2
 1892, 351, § 30. 1898, 548, § 61. 1913, 835, §§ 60, 503.
 1893, 417, § 62. 1899, 148. 1920, 579, § 1.
 1895, 449, § 1. R. L. 11, § 60. 1921, 209, § 3.
 1896, 469, § 1. 1907, 560, §§ 60, 456. Op. A. G. (1920) 252.

Names of certain voters to be placed at end of list
 1890, 423, § 47.
 1892, 351, § 31.
 1893, 417, § 63.
 1898, 548, § 62.
 R. L. 11, § 61.

SECTION 56. They shall place at the end of the voting lists of each ward, voting precinct or town to be used at a state election, under a proper heading, the names of all persons who, by changes in city or town boundaries, are not entitled to vote for the whole number of officers to be chosen.

1907, 560, §§ 61, 456.

1913, 835, §§ 61, 503.

[See § 61.]

Posting of voting lists. Copies of lists, when furnished to state committees.
 1813, 68, § 1.
 1822, 104, § 2.
 1835, 402, § 2.
 R. S. 4, § 5.
 C. S. 4, § 5.
 1874, 376, § 7.
 1878, 233, § 1.
 P. S. 6, § 18.

SECTION 57. They shall, at least twenty days before the annual or biennial city or town election, and except in Boston, at least sixty days before the biennial state election, cause copies of the voting lists provided for in the two preceding sections to be posted in their principal office and in one or more other public places in the city or town, and in each precinct therein. Upon application made by any state political committee organized in accordance with law, the clerk of the board of registrars shall furnish to it a copy of the voting list free of charge.

1884, 298, § 27.

1895, 449, § 4.

1910, 147.

1886, 264, § 2.

1896, 469, § 2.

1913, 835, §§ 62, 503.

1890, 423, §§ 35, 36.

1898, 548, § 63.

1919, 269, § 1.

1892, 351, § 32.

R. L. 11, § 62.

1923, 238, § 1.

1893, 417, § 64.

1907, 560, §§ 62, 456.

[Penalty for defacing or removing posted voting list, Chap. 56, § 12.]

Additional names to be posted or published.
 1892, 351, § 33.
 1893, 417, § 65.
 1896, 469, § 2.
 1898, 548, § 64.
 R. L. 11, § 63.
 1907, 560, § 63, 456.
 1913, 835, § 63, 503.

SECTION 58. After the voting lists have been posted, registrars, within forty-eight hours after a new name has been added to the annual register, shall cause it to be added to the lists posted in their principal office. If a city or town shall authorize the registrars to publish the names added to the register, they may, instead of posting them, cause all additional names to be printed in a newspaper published in the city or town, if any, otherwise in a newspaper published in the county.

Certificate in case of omission or error.
 1877, 208, § 3.
 P. S. 6, § 27.
 1884, 298, § 45.
 1890, 423, § 35.
 1892, 351, § 34.
 1893, 417, § 66.
 1898, 548, § 65.
 R. L. 11, § 64.
 1907, 560, § 64, 456.
 1913, 835, § 64, 503.
 1922, 189.

SECTION 59. On the day of a primary, caucus or election, registrars shall give to a voter whose name has been omitted from the voting list, or in whose name or residence, as placed on the voting list, a clerical error has been made, a certificate of his name and residence, as stated on the annual register, signed by a majority of the registrars. On presentation thereof to the presiding election officer of the ward, voting precinct or town in which the voter was registered, he shall be allowed to vote, and his name shall be checked on the certificate, which shall be attached to and considered a part of the voting list and returned and preserved therewith.

Voting lists for use at polls.
 1878, 262.
 P. S. 6, § 28.
 1884, 298, § 46.
 1889, 413, § 20.
 1890, 386, § 14, 423.
 § 56, 90.
 1892, 51, § 1;
 351, § 36.
 1893, 417, § 67.
 1898, 548, § 66.
 R. L. 11, § 65.
 1907, 560, § 65, 456.

SECTION 60. Before every election and meeting in a city or town at which voting lists may be required to be used, registrars shall prepare such lists for each ward, voting precinct or town in which such election or meeting is to be held, containing the names and residences of all persons qualified to vote therein, as the same appear upon the annual register, and shall seasonably transmit the same to the election officers in every such precinct, ward or town. Such voting lists shall be in duplicate for all elections and meetings at which duplicate lists are required to be used.

1913, 835, §§ 65, 503.

Returns of assessed polls, registered voters, etc.
 1890, 223, § 1;
 423, § 46.

SECTION 61. They shall forthwith, after the final day for registration before a biennial state or regular city or town election, certify to the state secretary the number of assessed polls, the number of registered

4 voters in the city or town, and in each ward and precinct therein, and
 5 the number of persons entitled to vote for a part only of the whole
 6 number of officers to be chosen at a state election in such city or town
 7 and in each ward and precinct therein, with the titles of the officers for
 8 whom such persons are entitled to vote.

9 In cities where the city clerk is not a member of the board of registrars,
 10 the registrars shall likewise, after the last day for registration for a city
 11 election, certify to the city clerk the number of registered voters in the
 12 city, and in each ward and voting precinct therein.

1 SECTION 62. When a caucus is called, the registrars, on the request
 2 of the chairman of the ward or town committee of the party whose caucus
 3 is to be held or of the person designated to call the caucus to order, shall
 4 furnish him for use in the caucus a certified copy of the last published
 5 voting list of the town, or of the ward of the city for which the caucus
 6 is to be held, adding thereto the names of voters registered since such
 7 publication. Said lists, if intended for use in the caucus of a political
 8 party held in a city, shall contain the party enrollment of voters whose
 9 names appear thereon established as provided in sections thirty-seven
 10 and thirty-eight of chapter fifty-three.

1 SECTION 63. In cities, after the biennial state election in nineteen
 2 hundred and twenty-four, and in every tenth year thereafter, for the
 3 purpose of furnishing the information necessary for a new division of the
 4 city into wards and voting precincts, the registrars shall deliver to the city
 5 clerk, on or before the first Tuesday after the said state election, a list
 6 of all voters therein who were registered for such election, which shall
 7 be so arranged as to show the number of voters residing in each ward
 8 and precinct, if any, by streets. The registrars shall likewise in any
 9 other year, upon request of the board of aldermen, furnish, for the pur-
 10 pose of dividing the ward into voting precincts, a list of the voters of
 11 any ward in the city, arranged as aforesaid.

1892, 351, § 35
 1893, 417, § 68.
 1898, 548, § 67.
 R. L. 11, § 66.
 1907, 560,
 § 66, 456.
 1913, 835,
 § 66, 503.
 1919, 269, § 4.
 1921, 209, § 4.
 [See § 56.]

Voting list for
 use at caucuses.
 1893, 417, § 69.
 1894, 504, § 32.
 1895, 489, § 13.
 1898, 548, § 68.
 R. L. 11, § 67.
 1907, 560,
 § 67, 456.
 1913, 835,
 § 67, 503.
 1924, 252, § 1.

List of voters
 before a new
 division of a
 city into wards.
 1888, 437,
 § 3, 5.
 1893, 417, § 70
 1898, 548, § 69.
 R. L. 11, § 68.
 1907, 560,
 § 68, 456.
 1913, 835,
 § 68, 503.
 1914, 676, § 1.
 1919, 269, § 5.

CHAPTER 52.

POLITICAL COMMITTEES.

- SECT.
1. State committees. Election, terms, etc.
 2. Ward and town committees. Election, terms, etc.
 3. City committee.
 4. City, ward and town committees. Organization.
 - 4A. Procedure on failure to elect or organize.
 5. Lists of officers and members to be filed.

- SECT.
6. Vacancies.
 7. Ward committees, terms of office of members and disposition of funds upon redivision of a city into wards.
 8. Organization of existing committees.
 9. Number of members, etc., how fixed.
 10. Committees may make rules and regulations, etc.

1 SECTION 1. Each political party shall, in the manner herein pro-
 2 vided, elect from among its enrolled members a state committee, the
 3 members of which shall hold office for two years from January first next

State com-
 mittees.
 Election, terms,
 etc.
 1895, 489, § 3.

1898, 548, § 81. following their election and until their successors shall have organized. 4
 1901, 402, § 1. Said committee shall consist of one member from each senatorial district, 5
 R. L. 11, § 80. to be elected at the primaries before each biennial state election 6
 1907, 560, by plurality vote of the members of his party in the district, and such 7
 §§ 89, 456. number of members at large as may be fixed by the committee, to be 8
 1911, 550, elected at the state convention. 9
 §§ 1, 18. The members of the state committee shall, in January following their 10
 1913, 835, election, meet and organize by the choice of a chairman, a secretary, a 11
 §§ 88, 503. treasurer and such other officers as they may decide to elect. 12
 1914, 790, § 12. The secretary of the state committee shall, within ten days after such 13
 1919, 269, § 8. organization, file with the state secretary, and send to each city and town 14
 1927, 25, § 1; committee, a list of the members of the committee and of its officers. 15
 295. A vacancy in the office of chairman, secretary or treasurer of the 16
 committee or in the membership thereof shall be filled by the commit- 17
 tee, and a statement of any such change shall be filed as in the case of 18
 the officers first chosen. 19

Ward and town committees.

SECTION 2. Each political party shall, in every ward and town, 1
 elect at the primaries before each biennial state election from among 2
 the enrolled members of the party a committee to be called a ward or 3
 town committee, whose members shall hold office for two years from 4
 January first following their election and until their successors shall have 5
 organized, except as provided in section seven. 6
 1913, 835, §§ 89, 503. 1915, 42. 1925, 114, § 1.
 1914, 790, § 13. 1919, 269, § 9. 1927, 25, § 2.

City committee.

SECTION 3. The members of the several ward committees of a political 1
 party in a city shall constitute the city committee. 2
 1895, 489, § 4. 1899, 346, § 1. 1913, 835, §§ 89, 503.
 1896, 469, § 10. R. L. 11, § 81. 1914, 790, § 13.
 1898, 548, § 82. 1907, 560, §§ 90, 456. 1919, 269, § 9.

City, ward and town committees.

SECTION 4. Each town committee shall, between January first and 1
 March first following its election, and each ward and city committee 2
 shall, within thirty days after the beginning of its term of office, meet 3
 and organize by the choice of a chairman, a secretary, a treasurer and 4
 such other officers as it may decide to elect. At such meeting the com- 5
 mittee may add to its numbers. 6
 1913, 835, §§ 89, 503. 1919, 269, § 9.
 1914, 790, § 13. Op. A. G. (1920) 201.

Procedure on failure to elect or organize.

SECTION 4A. In case there is a failure of election of a ward or town 1
 committee, the city committee or the state committee, respectively, of 2
 the political party which said ward or town committee represents shall 3
 appoint from among the voters qualified therefor the members of such 4
 committee and shall call a meeting for its organization, in such call 5
 appointing a time for holding the same and naming a person to preside 6
 thereat. If a ward committee or a city or town committee fails to meet 7
 within the time prescribed by section four and organize the city com- 8
 mittee or the state committee, respectively, of the political party which 9
 such ward, city or town committee represents shall call a meeting for its 10
 organization, in such call appointing a time for holding the same and 11
 naming a person to preside thereat. In the event that a ward or town 12
 committee fails to meet at the time appointed as aforesaid and organize 13

14 the election of each of its members shall be void and the same proceed-
15 ings shall be had as is herein provided in the case of a failure of election.

1 SECTION 5. The secretary of each city, ward and town committee
2 shall, within ten days after its organization, file with the state secretary,
3 with the city or town clerk and with the secretary of the state committee
4 of the political party which it represents, a list of the officers and mem-
5 bers of the committee, together with the addresses of such officers.

Lists of officers
and members
to be filed.
1894, 504, § 3.
1895, 489, § 5.
1898, 548, § 82.
1899, 346, § 1.
R. L. 11, § 81.

1907, 560, §§ 90, 456. 1914, 790, § 13. 1928, 212, § 2.
1913, 835, §§ 89, 503. 1919, 269, § 9.

1 SECTION 6. A vacancy in the office of chairman, secretary or treas-
2 urer of a city, ward or town committee or in the membership of a ward or
3 town committee shall be filled by such committee, and a statement of
4 any such change shall be filed as in the case of the officers first chosen.

Vacancies.
1894, 504, § 3.
1895, 489, § 5.
1898, 548, § 82.
1899, 346, § 1.
R. L. 11, § 81.

1907, 560, §§ 90, 456. 1914, 790, § 13. 1928, 212, § 3.
1913, 835, §§ 89, 503. 1919, 269, § 9.

1 SECTION 7. The terms of office of the members of the ward com-
2 mittees of a city elected at the biennial state primary next preceding a
3 redivision thereof into wards shall terminate on the twentieth day after
4 the holding of the next following biennial state primary; and the terms
5 of office of the members of the ward committees of such city elected at
6 said next following biennial state primary shall commence on said
7 twentieth day, or as soon thereafter as the several ward committees shall
8 organize, which shall be within ten days after said twentieth day, and
9 shall continue for two years from January first following their election
10 and until their successors shall have organized.

Ward com-
mittees, terms
of office of
members and
disposition of
funds upon
redivision of a
city into
wards.

1895, 507, § 30.
1896, 469, § 11.
1898, 548, § 83.
R. L. 11, § 82.
1907, 560,
§ 91, 456.
1913, 835,
§§ 90, 503.
1915, 100,
1919, 269, § 10.
1925, 114, § 2.
1928, 212, § 4.

11 Upon the redivision of a city into wards the treasurer of each ward
12 committee of a ward affected by such redivision shall, before the termina-
13 tion of office of the members thereof, pay over to the treasurer of the city
14 committee representing the same political party such funds of the ward
15 committee as he has in his possession after paying all bills. In the state-
16 ments required under section seventeen of chapter fifty-five, the treasurer
17 of the ward committee making such payment shall report it as a disburse-
18 ment and the treasurer of the city committee receiving it shall report it
19 as a receipt.

1 SECTION 8. Committees existing at the time when the party which
2 they represent first polls for governor at a biennial state election three
3 per cent of the entire vote cast in the commonwealth for that office
4 shall be deemed elected under this chapter, and shall be subject to its
5 provisions.

Organization
of existing
committees.
1895, 489, § 6.
1897, 530, § 10.
1898, 548, § 84.
R. L. 11, § 83.

1907, 560, §§ 92, 456. 1913, 835, §§ 91, 503. 1919, 269, § 1.

1 SECTION 9. The state committee shall fix the number of delegates to
2 the state convention, not less than one for each ward or town. City and
3 town committees shall fix the number of members of ward and town com-
4 mittees, not less than three for each ward or town. Notice of the number
5 of delegates and members of committees to be elected shall be given by the
6 state, city or town committee, as the case may be, to the state secretary
7 on or before August first. In case a city or town committee fails to fix the
8 number of the members of a ward or town committee and to give notice
9 thereof as aforesaid to the state secretary, the number of members of such
10 a ward or town committee to be elected shall not exceed ten.

Number of
members, etc.,
how fixed.
1911, 530, § 1.
1913, 835,
§§ 113, 503.
1918, 257, § 13.
1919, 5,
1920, 2,
1926, 100.

Committees
may make rules
and regulations,
etc.
1894, 504, § 3.
1895, 489, § 6
1897, 530, § 10.

SECTION 10. A state, city or town committee may make rules and regulations, consistent with law, for its proceedings, and a state committee may make rules and regulations, consistent with law, for calling conventions.

1898, 548, § 85.
1899, 329, § 1.
R. L. 11, § 84.

1902, 225; 492
1907, 560, §§ 93, 456.

1908, 428.
1913, 835, §§ 92, 503.

CHAPTER 53.

NOMINATIONS, QUESTIONS TO BE SUBMITTED TO THE VOTERS, PRIMARIES AND CAUCUSES.

- | SECT. | SECT. |
|--|---|
| NOMINATION OF CANDIDATES. | 22. No instruction except by majority of voters cast. |
| 1. What parties may make nominations. | INITIATIVE AND REFERENDUM PETITIONS. |
| 2. Nominations, how made. | 22A. Objections to signatures appended to initiative and referendum petitions. Filing, reference, effect. |
| 3. Candidate whose name is not printed on primary ballot must accept nomination to have name printed on election ballot. | PROVISIONS APPLYING TO ALL PRIMARIES. |
| 4. Calling and holding of conventions. | 23. Certain sections to apply to all primaries. |
| 5. Certificate of nomination, contents, signatures, oath of officers, filing. | 24. Conduct of primaries. |
| 6. Nomination papers, number of signatures. | 25. Withdrawal of candidates. |
| 7. Same, signatures; form, qualifications of signer, certification, limiting number. | 26. Nomination papers, validity. Objections, time for filing. |
| 8. Certificates of nomination and nomination papers, contents, party designation, etc. | 27. Objections, etc., by whom considered. |
| 9. Same, filing, acceptance. | 28. Days and places of holding primaries. |
| 10. Time for filing certificates of nomination and nomination papers. | 29. Officers may be designated to serve at primaries. |
| 11. Objections, necessity, time of filing, etc. | 30. Same subject. |
| 12. Objections, etc., by whom considered, powers, notice, etc. | 31. Certain persons not ineligible as primary officers. |
| 13. Withdrawal of names of candidates. | 32. Ballots for primaries, preparation and number. |
| 14. Nomination to fill vacancy, how made, when filed, objections, etc. | 33. Ballots for each party to be printed on paper of a different color, etc. |
| 15. Certificate in case of nomination to fill vacancy, acceptance. | 34. Ballots, substance, arrangement and form. |
| 16. Certificates, etc., public inspection, preservation, etc. | 35. A cross to constitute a vote, etc. |
| 17. Blanks for nomination. | 36. Delivery of ballots, etc., at polling places. Posting specimen ballots. |
| QUESTIONS TO BE SUBMITTED TO THE VOTERS. | 37. Party enrolment of voters. |
| 18. Opinion of voters to be ascertained as to amendments to federal constitution in certain cases. | 38. Voters enrolled in one political party not to receive ballot of another political party, except, etc. |
| 19. Questions of public policy to be submitted in certain districts upon application. | 39. Counting of votes. |
| 20. Signers to be certified, etc., as in case of nomination papers. | 40. Number of votes needed to nominate by pasters, etc. |
| 21. Filing of applications. Limitation of number and resubmission of questions. | PROVISIONS APPLYING TO STATE PRIMARIES. |
| | 41. Nominations and elections at state primaries. Sections applicable. |
| | 42. Notice to state secretary that primaries will be held by wards, precincts, or groups of precincts. |
| | 43. When polls shall be open. |

SECT.

- 44. Nomination papers, number of signatures.
- 45. Same subject. Contents, qualifications of signers, acceptance, number of candidates.
- 46. Same subject. Certification, limitation on candidates.
- 47. Same subject. Preparation, etc.
- 48. Same subject. Last day for filing.
- 49. Nomination in case of death, withdrawal or ineligibility.
- 50. Vacancies caused by withdrawal, time of filling, objections.
- 51. Counting of ballots.
- 52. Canvass and returns of votes, etc.
- 53. Vacancies caused by ties or in delegations or committees, how filled.
- 53A. Objections to nominations. Withdrawals of nominees.
- 54. State conventions of political parties.

PROVISIONS APPLYING TO CITY AND TOWN PRIMARIES.

- 55. Primaries for municipal nominations. Certain sections to apply.
- 56. Submission of question of holding primaries. Notice of result to state secretary.
- 57. Notices of intention to participate in primaries to be furnished.
- 58. Blank nomination papers to be provided, etc.
- 59. Nominations to be made by nomination papers, signatures, acceptance.
- 60. Nomination papers, etc.
- 61. Same subject. Filing, certification, etc.
- 62. Vacancies, how filled.
- 63. Polls to be open during certain hours.
- 64. Canvass of returns of votes, etc.

PROVISIONS APPLYING TO PRESIDENTIAL PRIMARIES.

- 65. Certain sections to apply to presidential primaries.
- 66. Delegates to national conventions, election, fixing number, etc.
- 67. Notice to state secretary of determination to hold primaries by wards, precincts, etc.
- 68. Preference of delegates for president to be placed on ballots if candidate assents.
- 69. Vacancy in delegation to national convention, how filled.
- 70. Certain provisions of law to apply.

PROVISIONS APPLYING TO ALL CAUCUSES OF POLITICAL PARTIES.

- 71. Certain cities and towns to nominate at caucuses. Certain provisions of law to apply.

SECT.

- 72. City and town committees may make regulations, etc.
- 73. Caucuses may be held by precincts or groups of precincts in certain cases.
- 74. Caucuses relative to special election.
- 75. Calling of caucuses, etc.
- 76. Caucuses open only to members of political party calling them. Challenges. Oath.
- 77. Voting lists to be used.
- 78. Tie vote for caucus officers.
- 79. Certificates of election, etc.
- 80. Returns of caucuses at which direct nominations are made, tabulation of results, notice to nominees, etc.
- 81. Tie vote in cases of direct nomination, how filled.

PROVISIONS APPLYING TO CAUCUSES OF POLITICAL PARTIES AT WHICH OFFICIAL BALLOTS ARE NOT USED.

- 82. Polling places to be provided, etc.
- 83. Notice of caucuses. Procedure.
- 84. Balloting and duration of caucus.
- 85. Proceedings in case of tie vote for elective office, etc.
- 86. Ballots and check lists to be transmitted to city or town clerk.
- 87. In case of contest, etc., ballots to be preserved until finally determined. Recounts.

PROVISIONS APPLYING TO CAUCUSES OF POLITICAL PARTIES AT WHICH OFFICIAL BALLOTS ARE USED.

- 88. Calling, etc., of caucuses at which official ballots are used.
- 89. Adoption of law for official ballots at caucuses.
- 90. Acceptance may be revoked, etc. Notice of action.
- 91. Time of holding caucuses.
- 92. Notices of caucuses to contain certain information, etc.
- 93. Polling places, etc., to be provided. Voting in two or more lines.
- 94. Seven days' notice to be given by city and town committees, etc.
- 95. Blank nomination papers to be provided, etc.
- 96. Nominations to be made by nomination papers, etc.
- 97. Nomination papers, sealing, filing, opening, etc.
- 98. Correction of errors, etc.
- 99. Proceedings in cities when papers are not filed, nomination by ward committee, etc.
- 100. Proceedings in towns when papers are not filed, etc.
- 101. Withdrawals. Filling vacancies.
- 102. Nomination papers to be delivered to city or town clerk.
- 103. Correction of errors, etc.

SECT.	SECT.
104. Objections to nomination papers, etc., by whom considered.	114. Vacancies, additional officers, etc.
105. Cities and towns to provide ballots, etc.	115. Appointment of officers to serve at first caucuses.
106. Form of official ballot, etc.	116. Caucus officers in newly incorporated city or on redivision into wards, etc.
107. Certain provisions of law to apply.	
108. Order of business.	
109. Challenges.	
110. Counting of ballots. Announcement, etc., of result. Sealing, transmission, etc., of record, etc.	PROVISIONS APPLYING TO CAUCUSES OTHER THAN THOSE OF POLITICAL PARTIES.
111. Certified copy of voting list as checked to be furnished.	117. Twenty-five or more voters may hold caucus for city and town offices, representative, etc.
112. Recount of ballots, etc.	118. Notice and conduct of caucus.
113. Caucus officers, election, persons eligible, term of office, oath, duties.	119. Caucus to vote by ballot upon written request, etc.
	120. Preservation of ballots and voting lists, etc.

NOMINATION OF CANDIDATES.

What parties may make nominations.
1888, 436, §§ 2, 3.
1889, 413, § 3.
1890, 436, § 6.
1893, 417, § 75.
1895, 323.
1898, 548, § 136.
R. L. II, § 136.
1907, 560, §§ 165, 456.
1913, 835.
§§ 192, 503.
1919, 259, § 11.
250 Mass. 188.
1 Op. A. G. 388.

SECTION 1. At any primary, caucus or convention held under this chapter, each party having the right to participate in or hold the same may nominate as many candidates for each office for which it has the right to make nominations therein as there are persons to be elected to that office, and no more. A party which has not polled at the preceding state or municipal election the vote required to make it a political or municipal party as defined in section one of chapter fifty, but which at the three preceding biennial elections has polled in the commonwealth, or in any district, county, city, town or ward, respectively, a number of votes for governor equal to the number of voters required to nominate by nomination papers a candidate for an office which is to be filled by election therein, may hold a caucus or convention and make a nomination for the office so to be filled. A party which makes one or more nominations shall be entitled to have the name of each of its candidates printed on the ballot to be used at the ensuing election; but, unless the nomination is made by direct plurality vote in a primary or in several caucuses held in more than one ward or in more than one precinct or group of precincts, a certificate of nomination must be filed as provided in section five.

Nominations, how made.
1888, 441, §§ 1, 7.
1889, 413, §§ 3, 4.
1890, 346, § 4.
1893, 417, § 71.
1895, 489, § 10.
507, § 2.
1898, 548, §§ 86, 132.
1899, 355.
1900, 120.
1901, 402, § 1.
R. L. II, §§ 85, 86, 132.
1907, 560, §§ 94, 95, 161, 166, 456.
1909, 486, § 52.
1911, 550, § 1.

SECTION 2. Except in the case of municipal nominations where city or town charters otherwise provide, candidates of political parties for all elective offices, except presidential elector, shall be nominated, and members of political committees and delegates to conventions shall be elected, in primaries or caucuses, and the nomination of any party other than a political party, in any district containing more than one ward or town, shall be made by a convention of delegates chosen by caucuses held under section one hundred and seventeen in the wards and towns of the district for which the nomination is to be made. All nominations and elections in primaries and caucuses shall be by direct plurality vote. No candidate shall be nominated, or political committee or convention delegate elected, in any other manner than is herein provided.

1913, 835, §§ 113, 186,
190, 191, 193,
1918, 257, § 16.

1919, 5,
1920, 2.

1 Op. A. G. 88
2 Op. A. G. 225, 642.

Candidate whose name is not printed on

SECTION 3. A person whose name is not printed on a state primary ballot as a candidate for an office but who receives sufficient votes to

3 nominate him therefor, shall file a written acceptance of the nomination
4 in the office of the state secretary before the last hour for filing certifi-
5 cates of nomination for such office, otherwise his name shall not be printed
6 on the ballot as a candidate for that office at the ensuing state election.

1913, 516; 835, §§ 193, 503.

1927, 24, § 1.

primary ballot
must accept
nomination
to have name
printed on
election ballot
1912, 273

1 SECTION 4. No convention to nominate candidates shall be called
2 for or held on a date earlier than four days after the holding of the cau-
3 cuses for the choice of delegates thereto, and all such conventions shall
4 be called for and held on a date not later than forty-eight hours prior to
5 the hour for filing certificates of nomination as provided in section ten.

R. L. 11, § 140.

1907, 560, §§ 168, 456.

1913, 835, §§ 195, 503.

Calling and
holding of
conventions
1896, 437, § 1
1898, 548,
§§ 87, 137,
1899, 146;
346, § 2.
1901, 117.

1 SECTION 5. Every certificate of nomination shall state such facts as
2 are required by section eight and shall be signed and sworn to by the
3 presiding officer and by the secretary of the caucus or convention, who
4 shall add to their signatures their residences. The secretary shall within
5 the seventy-two hours succeeding five o'clock in the afternoon of the
6 day upon which the caucus was held or the session of the convention
7 terminated, and within the time specified in section ten, file such certifi-
8 cate at the place specified in section nine.

1911, 355.

1913, 835, §§ 197, 503.

198 Mass. 340.

[Penalty for forgery, etc., of certificate, Chap. 56, § 13.]

Certificate of
nomination,
contents,
signatures,
oath of
officers, filing
1889, 413, § 3
1890, 386, § 5
1893, 417, § 76
1898, 548,
§ 139.
R. L. 11, § 142.
1907, 560,
§§ 171, 456.

1 SECTION 6. Nominations of candidates for any offices to be filled
2 by all the voters of the commonwealth may be made by nomination
3 papers, stating the facts required by section eight and signed in the
4 aggregate by not less than one thousand voters. Nominations of all
5 other candidates for offices to be filled at a state election, and of all
6 candidates for offices to be filled at a city election except where city
7 charters provide otherwise, may be made by like nomination papers,
8 signed in the aggregate by two voters, in the case of offices to be filled
9 at a state election, and one voter, in the case of offices to be filled at
10 a city election, for every one hundred votes cast for governor at the
11 preceding biennial state election in the electoral district or division for
12 which the officers are to be elected, but in no event by less than fifty
13 nor more than one thousand in the case of offices to be filled at a state
14 election, or by less than fifty nor more than two hundred and fifty in the
15 case of offices to be filled at a city election. Nominations of candidates
16 for offices to be filled at a town election may be made by nomination
17 papers signed in the aggregate by at least one voter for every fifty votes
18 polled for governor at the preceding biennial state election in such town,
19 but in no case by less than twenty voters. At a first election to be held
20 in a newly established ward, the number of voters upon a nomination
21 paper of a candidate who is to be voted for only in such ward need not
22 exceed fifty; and at a first election in a town the number for the nomi-
23 nation of a candidate who is to be voted for only in such town need not
24 exceed twenty.

Nomination
papers, number
of signatures.
1888, 436, § 4.
1889, 413, § 4.
1890, 386, § 4.
1893, 417, § 77.
1898, 548,
§ 140.
R. L. 11, § 143.
1902, 573, § 3.
1906, 444, § 4.
1907, 429, § 6;
569, §§ 172,
456
1909, 486, § 53
1913, 835,
§§ 198, 503,
1919, 269, § 1.
1924, 201.
159 Mass. 487.
Op. A. G.
(1920) 252.

1 SECTION 7. Every voter signing a nomination paper shall sign in
2 person, with his name as registered, and shall state his residence on April
3 first preceding, and the place where he is then living, with the street and
4 number, if any; but any voter who is prevented by physical disability
5 from writing or who had the right to vote on May first, eighteen hundred
6 and fifty-seven, may authorize some person to write his name and

Same, signa-
tures; form,
qualifications of
agent, certifi-
cation, limiting
number.
1889, 413, § 4.
1890, 386, § 4;
436, §§ 1, 10
1893, 417, § 78.
1895, 262, § 1

1896, 469, § 5.
 1898, 548,
 § 141.
 R. L. 11, § 144.
 1906, 444, § 5.
 1907, 560,
 § 173, 456.
 1909, 440, § 2.
 1913, 835,
 § 199, 503.
 1917, 82
 1918, 122.
 1920, 579, § 2.
 1922, 214, § 1.
 1923, 124.
 163 Mass. 539.

residence in his presence; and every voter may sign as many nomination papers for each office as there are persons to be elected thereto, and no more. Every nomination paper of a candidate for a state office and, except where otherwise provided by law, of a candidate for a city or town office shall be submitted, on or before five o'clock in the afternoon of the Friday preceding the day on which it must be filed, to the registrars of the city or town where the signers appear to be voters. In each case the registrars shall check each name to be certified by them on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters both in the city or town and in the district or division for which the nomination is made, and only names so checked shall be deemed to be names of qualified voters for the purposes of nomination. The registrars need not certify a greater number of names than are required to make a nomination, increased by one fifth thereof. Names not certified in the first instance shall not thereafter be certified on the same nomination papers. The state secretary shall not be required to receive nomination papers for a candidate after receiving such papers containing a sufficient number of certified names to make a nomination, increased by one fifth thereof.

Certificates of nomination and nomination papers, contents, party designation, etc.
 1888, 436, § 5.
 1889, 413, § 5.
 1890, 386, § 5;
 436, § 2.
 1891, 269
 1893, 417, § 79.
 1896, 469, § 6.
 1898, 548,
 § 143.
 R. L. 11, § 146.
 1907, 429, § 7;
 560, §§ 175,
 456.
 1908, 425.
 1909, 486, § 53.
 1913, 835,
 § 201, 503.
 1917, 250, § 1.
 Cyp. A. C.
 (1920) 252.
 [Penalty for alteration, etc., of nomination paper, etc.; Chap. 56, § 13.]

SECTION 8. All certificates of nomination and nomination papers shall, in addition to the names of candidates, specify as to each, (1) his residence, with street and number, if any, (2) the office for which he is nominated, and (3), except as otherwise provided in this section and in city charters, the party or political principle which he represents, expressed in not more than three words. Certificates of nomination made by convention or caucus shall also state what provision, if any, was made for filling vacancies caused by the death, withdrawal or ineligibility of candidates. The names of the candidates for president and vice president of the United States may be added to the party or political designation of the candidates for presidential electors. To the name of each candidate for alderman at large shall be added the number of the ward in which he resides.

If a candidate is nominated otherwise than by a political party, the name of a political party shall not be used in his political designation. Certificates of nomination and nomination papers for town offices need not include a designation of the party or principle which the candidate represents.

Same, filing, acceptance.
 1888, 436, § 6.
 1889, 413, § 6.
 1890, 386, § 6;
 436, § 3.
 1891, 265.
 1893, 349;
 417, §§ 81, 83.
 1895, 262, § 2.
 1898, 548,
 § 144.
 R. L. 11, § 147.
 1907, 560,
 § 176, 456.
 1913, 835,
 § 202, 503.

SECTION 9. Certificates of nomination and nomination papers for state offices shall be filed with the state secretary. Certificates of nomination or nomination papers for city and town offices shall be filed with the city or town clerk. Every nomination paper shall be filed by a responsible person, who shall sign such paper and add to his signature his place of residence, giving street and number, if any; and the state secretary or the city or town clerk shall require a satisfactory identification of such person. No nomination paper shall be received or be valid unless the written acceptance of the candidate thereby nominated shall be filed therewith.

[Penalty for filing forged, etc., paper, or suppressing valid paper, Chap. 56, § 13.]

Time for filing certificates of nomination and nomination papers.

SECTION 10. Certificates of nomination of candidates for offices to be filled by all the voters of the commonwealth, except for presidential electors, shall be filed on or before the seventh Monday, and of all other

4 candidates for offices to be filled at a state election, including presiden-
 5 tial electors, on or before the fifth Thursday, and nomination papers
 6 of all candidates for offices to be filled at a state election, on or before the
 7 twelfth Tuesday, preceding the day of the election; but if there is a
 8 special election to fill any state office, certificates of nomination shall be
 9 filed on or before the twelfth day, and nomination papers on or before
 10 the eleventh day, preceding the day of such election.

1913, 835, §§ 293, 503.
 1918, 293, § 33.

1919, 289, § 21.
 1921, 387.

1939, 114.
 181 Mass. 29.

11 In cities, except in Boston and where city charters provide otherwise,
 12 certificates of nomination for city offices shall be filed on or before the
 13 third Monday, and nomination papers on or before the second Wednes-
 14 day, preceding the day of the election.

In cities
 1901, 124.

15 In towns, certificates of nomination for town offices shall be filed on or
 16 before the second Wednesday, and nomination papers on or before the
 17 second Thursday, preceding the day of the election; but if such Wednes-
 18 day or Thursday falls on a legal holiday, the said certificates of nomina-
 19 tion or nomination papers shall be filed on or before the succeeding day;
 20 but if a town election is held on a day of the week other than Monday,
 21 such certificates of nomination and nomination papers shall be filed,
 22 respectively, on the twelfth and eleventh days preceding the day of the
 23 election.

In towns
 1890, 389, § 6.
 1897, 91
 1909, 149.

24 Certificates of nomination and nomination papers shall be filed before
 25 five o'clock in the afternoon of the last day fixed therefor.

Last hour
 for filing.

1889, 413, § 6.

1891, 74, § 2.

1893, 417, § 83.

1 SECTION 11. When certificates of nomination and nomination papers
 2 have been filed, and are in apparent conformity with law, they shall be
 3 valid unless written objections thereto are made. Such objections shall
 4 be filed as to state offices with the state secretary, and as to city or town
 5 offices with the city or town clerk, and in the case of state offices within
 6 the seventy-two week day hours, in the case of city offices, except where
 7 city charters provide otherwise, within the forty-eight week day hours,
 8 and in the case of town offices within the twenty-four week day hours,
 9 succeeding five o'clock in the afternoon of the last day fixed for filing
 10 the certificate of nomination or nomination papers to which objections
 11 are made.

Objections,
 necessity
 time of filing,
 etc.
 1888, 436, § 7.
 1889, 413, § 7.
 1890, 389, § 6;
 436, § 9
 1893, 417, § 85.
 1898, 548,
 § 146.
 R. L. 11, § 149.
 1903, 454, § 16.
 1905, 386,
 §§ 3, 16
 1907, 560,
 §§ 178, 456.

1913, 835, §§ 204, 503.

1927, 24, § 2.

1931, 426, § 174.

191 Mass. 497.

1 SECTION 12. Objections to nominations for state offices, and all
 2 other questions relating thereto, shall be considered by the state ballot
 3 law commission; to nominations for city offices, except in Boston, by
 4 the board of registrars, the city clerk and the city solicitor; and to
 5 nominations for town offices, by the board of registrars.

Objections,
 etc., by whom
 considered,
 powers, notice,
 1889, 413, § 7.
 1890, 386, § 6;
 436, § 5
 1891, 270.
 1892, 406, § 1.
 1903, 417,
 §§ 86, 93, 94.
 1894, 343.
 1896, 383,
 §§ 3, 4.
 1898, 548, § 147.
 1900, 231, § 1.
 R. L. 11, § 150.
 1905, 386, § 12.
 1907, 560,
 §§ 179, 456.
 1913, 835,
 §§ 205, 503.

6 Boards in cities and towns may, at hearings on such objections and
 7 questions, summon witnesses, administer oaths and require the produc-
 8 tion of books and papers. Such witnesses shall be summoned in the
 9 same manner, be paid the same fees, and be subject to the same penalties
 10 for default, as witnesses before the superior court. A summons may be
 11 signed, and an oath may be administered by any member of such board,
 12 and the decision of the board shall be final.

13 When such objection has been filed, notice thereof shall be forthwith
 14 mailed by the state secretary, or by the city or town clerk, as the case
 15 may be, to the candidates affected thereby, addressed to their residences

as given in the certificates of nomination or nomination papers, and to any party committee interested in the nomination to which objection is made.

Determination when several candidates have same designation. 1891, 270.

If more candidates bearing the same designation are nominated for an office, otherwise than by nomination papers, than are to be elected thereto, such boards shall determine the candidates, if any, entitled to such designation.

Withdrawal of names of candidates. 1888, 436, § 8. 1889, 413, § 8. 1890, 436, § 9. 1891, 155. 1893, 417, § 84. 1898, 548, § 148. R. L. 11, § 151.

SECTION 13. A person nominated as a candidate for any state, city or town office may withdraw his name from nomination by a request signed and duly acknowledged by him, and filed with the officer with whom the nomination was filed, within the time prescribed by section eleven for filing objections to certificates of nomination and nomination papers.

1903, 454, § 16. 1907, 560, §§ 180, 456. 1905, 386, §§ 4, 16. 1913, 835, §§ 206, 503. [Penalty for forgery, etc., of withdrawal, Chap. 56, § 13.]

Nomination to fill vacancy, how made, when filed, objections, etc. 1890, 436, § 4. 1891, 278. 1893, 417, § 87. 1895, 253, § 2. 1896, 469, § 7. 1898, 548, § 149. R. L. 11, § 152. 1903, 454, § 16. 1905, 386, §§ 5, 10, 16. 1907, 560, §§ 181, 456. 1913, 835, §§ 207, 503. 1929, 283.

SECTION 14. If a candidate nominated for a state, city or town office dies before the day of election, or withdraws his name from nomination, or is found ineligible, the vacancy, except for city offices where city charters provide otherwise, may be filled by the same political party or persons who made the original nomination, and in the same manner; or, if the time is insufficient therefor, the vacancy may be filled, if the nomination was made by a convention or caucus, in such manner as the convention or caucus may have prescribed, or, if no such provision has been made, by a regularly elected general or executive committee representing the political party or persons who held such convention or caucus. In the event of the withdrawal or death of any candidate of a political party nominated by direct nomination for any office, the vacancy may be filled by a regularly elected general or executive committee representing the election district in which such vacancy occurs, or, if no such committee exists by the members of the town committee in any town comprising such district, by the members of the ward committee or committees in the ward or wards comprising such district if within the limits of a single city, or by delegates chosen as hereinafter provided by and from the members of the ward and town committees in the wards and towns comprising such district if within the limits of more than one municipality, at a meeting to be called by such a member or delegate, as the case may be, designated by the chairman of the state committee, and such member or delegate shall preside until a chairman of such meeting is elected. Each ward and town committee in the wards and towns comprising such a district within the limits of more than one municipality shall, as occasions arise, choose from its members delegates to fill vacancies as hereinbefore provided, in such manner as it may determine by its rules and regulations, to a number not exceeding one for each five hundred votes, or fraction thereof, cast in its ward or town for the candidate of the party for governor at the last state election, and shall forthwith notify the state secretary of the delegates so chosen. If a vacancy is caused by withdrawal, certificates of nomination made otherwise than in the original manner shall be filed within seventy-two week day hours in the case of state offices, or within forty-eight week day hours in the case of city or town offices, succeeding five o'clock in the afternoon of the last day for filing withdrawals. They shall be open to objections in the same manner, so far as practicable, as

37 other certificates of nomination. No vacancy caused by withdrawal shall
38 be filled before the withdrawal has been filed.

1 SECTION 15. When a nomination is made to fill a vacancy caused by
2 the death, withdrawal or ineligibility of a candidate, the certificate of
3 nomination shall, in addition to the other facts required, state the name
4 of the original nominee, the fact of his death, withdrawal or ineligibility,
5 and the proceedings had for filling the vacancy; and the presiding officer
6 and secretary of the convention or caucus, or the chairman and secretary
7 of an authorized committee, shall sign and make oath to the truth of the
8 certificate, and it shall be accompanied by the written acceptance of the
9 candidate nominated.

1913, 835, §§ 208, 503.

Certificate in
case of nomi-
nation to fill
vacancy, ac-
ceptance.
1890, 436, § 4.
1891, 278.
1893, 417, § 80.
1895, 253, § 1.
1898, 548,
§ 150.
R. L. 11, § 153.
1907, 560,
§§ 182, 456.

1 SECTION 16. Certificates of nomination, nomination papers, objec-
2 tions thereto and withdrawals, when filed, shall, under proper regulations,
3 be open to public inspection, and the state secretary and the city and
4 town clerks shall preserve the same in their offices for one year.

Certificates,
etc., public in-
spection, pres-
ervation, etc.
1888, 436, § 9.
1889, 413, § 9.

1890, 386, § 6; 436, § 8.
1893, 417, § 88.

1898, 548, § 151.
R. L. 11, § 154.

1907, 560, §§ 183, 456.
1913, 835, §§ 209, 503.

1 SECTION 17. The state secretary shall, upon application, provide
2 blank forms for the nomination of candidates for all state offices; and he
3 shall send blank forms for certificates of nomination for the office of repre-
4 sentative in the general court to the clerk of each city and town for the
5 use of any caucus or convention other than of political parties held therein
6 for the nomination of candidates for that office. He shall likewise provide
7 the clerks of towns wherein official ballots are used with blank forms for
8 the nomination of candidates for town offices.

Blanks for
nomination,
etc.
1907, 560,
§ 184.
1913, 835,
§ 210.

QUESTIONS TO BE SUBMITTED TO THE VOTERS.

1 SECTION 18. If a proposed amendment to the federal constitution is
2 duly submitted to the general court as provided in article five of the con-
3 stitution of the United States, and is not ratified at the session at which
4 it is submitted, there shall be submitted to all the voters of the common-
5 wealth at the following state election, if such an election is to occur prior
6 to the next regular session of the general court, otherwise at such special
7 or regular state election as the general court may order, the question
8 whether such ratification is desirable. The question shall be placed
9 upon the official ballot in the following form: "Is it desirable that the
10 proposed amendment to the constitution of the United States (describing
11 the same) be ratified by the general court?" The votes cast shall be
12 received, sorted, counted, declared and transmitted to the state secretary,
13 laid before the governor and council, and by them opened and examined
14 in accordance with the laws relating to votes for state officers so far as
15 they are applicable, and the governor shall thereupon communicate to
16 the general court the total number of votes cast in the affirmative and in
17 the negative for the proposed amendment, and likewise the same totals
18 arranged by senatorial and representative districts.

Opinion of
voters to be
ascertained as
to amend-
ments to
federal con-
stitution in
certain cases.
1920, 569.

1 SECTION 19. On an application signed by twelve hundred voters in
2 any senatorial district, or by two hundred voters in any representative
3 district, asking for the submission to the voters of that senatorial or
4 representative district of any question of instructions to the senator or

Questions of
public policy
to be submitted
in certain dis-
tricts upon
application.
1913, 819, § 1.

1925, 97.
265 Mass. 16.
Op. A. G.
(1919) 99.

representatives from that district, and stating the substance thereof, 5
the attorney general shall upon request of the state secretary determine 6
whether or not such question is one of public policy, and if such question 7
is determined to be one of public policy, the state secretary and the 8
attorney general shall draft it in such simple, unequivocal and adequate 9
form as shall be deemed best suited for presentation upon the ballot. 10
Upon the fulfilment of the requirements of this and the two following 11
sections the state secretary shall place such question on the official 12
ballot to be used in that senatorial or representative district at the next 13
state election. 14

Signers to be
certified, etc.,
as in case of
nomination
papers
1913, 819, § 2.

SECTION 20. Signers of applications shall append to their signatures 1
their residence, with street and number, if any, and shall be certified as 2
registered voters by the proper registrars of voters. All laws relating to 3
nomination papers shall, so far as applicable, apply to such application. 4

Filing of
applications.
Limitation of
number and
re-submission
of questions
1913, 819, § 3.

SECTION 21. Applications shall be filed with the state secretary not 1
less than sixty days before the election at which the questions are to be 2
submitted. Not more than two questions under section nineteen shall 3
be placed upon the ballot at one election, and they shall be submitted 4
in the order in which the applications are filed. No question negatived 5
and no question substantially the same shall be submitted again in less 6
than three years. 7

No instruction
except by
majority of
votes cast.
1913, 819, § 4.
(Const. Rev.
art. 19).

SECTION 22. No vote under the three preceding sections shall be 1
regarded as an instruction under article nineteen of the bill of rights 2
of the constitution of the commonwealth, unless the question submitted 3
receives a majority of all the votes cast at that election. 4

INITIATIVE AND REFERENDUM PETITIONS.

Objections to
signatures
appended to
initiative and
referendum
petitions.
Filing, refer-
ence, effect.
1924, 302, § 1.

SECTION 22A. Objections that signatures appearing on an initiative 1
or referendum petition have been forged or placed thereon by fraud and 2
that in consequence thereof the petition has not been signed by a 3
sufficient number of qualified voters actually supporting such petition, 4
as required by the constitution, may be filed with the state secretary not 5
later than the sixtieth day prior to the election at which the measure 6
therein proposed or the law which is the subject of the petition is to be 7
submitted to the voters, except that, if a referendum petition is lawfully 8
filed after the sixty-third day prior to said election, such objections may 9
be filed not later than seventy-two week day hours succeeding five 10
o'clock of the day on which such petition is so filed. If upon hearing or 11
otherwise it appears to the state secretary that there is substantial evi- 12
dence supporting such objections, he shall refer the same to the state 13
ballot law commission, which shall investigate the same, and for such 14
purpose may exercise all the powers conferred upon it relative to objec- 15
tions to nominations for state offices, and if it shall appear to said com- 16
mission that the objections have been sustained it shall forthwith reject 17
the petition as not in conformity with the constitution and shall notify 18
the state secretary of its action. 19

PROVISIONS APPLYING TO ALL PRIMARIES.

Certain sections
to apply to all
primaries.

SECTION 23. Sections twenty-four to forty, inclusive, shall apply to 1
all primaries, except as therein otherwise provided. 2

- 1 SECTION 24. Primaries shall be subject to all laws relating to elec-
 2 tions and corrupt practices therein, so far as applicable and except as
 3 otherwise provided in this chapter and in chapters fifty-four, fifty-five
 4 and fifty-six.
 1908, 423, § 2. 1913, 835, §§ 93, 95, 503. 250 Mass. 188.
- 1 SECTION 25. Withdrawals of nominations of persons to be voted for
 2 at primaries shall be subject to section thirteen, except that the date
 3 from which the time for filing withdrawals shall be computed shall be
 4 the last day for filing nomination papers for such primaries, and that the
 5 time shall be forty-eight hours in the case of a town primary.
 1907, 560, §§ 126, 456. 1911, 550, § 9. 1913, 835, §§ 94, 503.
- 1 SECTION 26. Section eleven shall apply to nomination papers of
 2 candidates to be voted for at primaries, except that the date from
 3 which the time for filing objections shall be computed shall be the last
 4 day for filing nomination papers for such primaries.
 1888, 436, § 7. 1893, 417, § 85. 1905, 386, § 3.
 1889, 413, § 7. 1898, 548, § 146. 1907, 560, §§ 178, 456.
 1890, 386, § 6; 436, § 9. R. L. 11, § 149. 1913, 835, §§ 95, 503.
- 1 SECTION 27. Objections to nomination papers of candidates to be
 2 voted for at primaries shall be subject to section twelve, so far as
 3 applicable.
 1911, 550, § 11. 1913, 835, §§ 96, 503.
- 1 SECTION 28. State primaries shall be held on the seventh Tuesday
 2 preceding state elections, city primaries on the third Tuesday preceding
 3 city elections, town primaries on the second Tuesday preceding town
 4 elections, and presidential primaries on the last Tuesday in April; except
 5 that primaries before a special election shall be held on the second Tues-
 6 day preceding the special election.
 7 Except in Boston, they shall be held wholly or partly by wards,
 8 precincts or towns, as the aldermen or selectmen may designate.
 1926, 96. Days and places of holding primaries. 1903, 454, § 4. 1907, 560, §§ 148, 456. 1909, 254, 486, § 52. 1911, 550, § 2. 1912, 254, § 2; 274, § 1. 1913, 835, §§ 97, 503. 1919, 289, § 20.
- 1 SECTION 29. The city or town clerk may designate two inspectors
 2 and two deputy inspectors, representing the two leading political parties,
 3 to serve at primaries, and from the whole body of election officers he
 4 may designate officers equally representing the two leading political
 5 parties to serve as tellers in any precinct or ward during part of the
 6 day for the purpose of receiving ballots, checking names, or canvassing
 7 and counting votes, such tellers to receive such part of a full day's
 8 compensation of election officers as the aldermen or selectmen may
 9 determine.
 Officers may be designated to serve at primaries. 1905, 386, § 13. 1907, 560, §§ 152, 456. 1913, 835, §§ 100, 503. [Penalty for misconduct of officer, Chap 56, § 15]
- 1 SECTION 30. In wards or towns where voting is by precincts at elec-
 2 tions but by wards or towns at primaries, the city or town clerk shall
 3 designate which of the election officers shall serve as primary officers.
 1913, 835, §§ 101, 503. Same subject. 1903, 454, § 8. 1907, 560, §§ 153, 456.
- 1 SECTION 31. A person shall not be ineligible to act as a primary
 2 officer because he is a candidate for delegate to a convention, or, except
 3 in Boston, a candidate for or member of a ward or town committee.
 1907, 560, §§ 154, 456. 1913, 835, §§ 102, 503. 1917, 80. Certain persons not ineligible as primary officers. 1903, 454, § 8.

Conduct of primaries. 1903, 454, §§ 2, 7. 1907, 560, §§ 114, 151, 456.

Withdrawal of candidates. 1894, 504, § 20. 1895, 507, § 14. 1898, 548, § 114. 1901, 249, § 2. R. L. 11, § 114.

Nomination papers, validity. Objections, time for filing.

Objections, etc., by whom considered.

Days and places of holding primaries. 1903, 454, § 4. 1907, 560, §§ 148, 456. 1909, 254, 486, § 52. 1911, 550, § 2. 1912, 254, § 2; 274, § 1. 1913, 835, §§ 97, 503. 1919, 289, § 20.

Officers may be designated to serve at primaries. 1905, 386, § 13. 1907, 560, §§ 152, 456. 1913, 835, §§ 100, 503. [Penalty for misconduct of officer, Chap 56, § 15]

Same subject. 1903, 454, § 8. 1907, 560, §§ 153, 456.

Certain persons not ineligible as primary officers. 1903, 454, § 8.

Ballots for primaries, preparation and number, 1894, 504, §§ 23, 35, 1895, 507, § 16, 1898, 548, § 117, R. L. 11, § 117, 1903, 454, § 6, 1907, 560, §§ 130, 150, 454, 1911, 550, § 12, 1913, 835, §§ 103-105, 503, 1914, 790, §§ 1-3, 1916, 179, §§ 1-3.

Ballots for each party to be printed on paper of a different color, etc. 1898, 548, § 117.

Ballots, substance, arrangement and form. 1894, 504, §§ 23-25, 1895, 507, §§ 16, 18, 1897, 530, § 4, § 118, 1901, 402, § 1, R. L. 11, § 118, 1903, 454, § 6, 1907, 560, §§ 131, 456, 1911, 550, § 12, 1913, 835, §§ 107, 503, 1914, 790, § 5, 1916, 179, § 5, 1925, 302, § 1, 1925, 312, § 1.

A cross to constitute a vote, etc. 1894, 504, § 25, 1895, 507, § 18.

SECTION 32. Ballots shall be prepared and provided, and the number thereof determined, in state and presidential primaries by the state secretary, in city and town primaries by the city or town clerk. No other ballots shall be received or counted, except that if ballots provided for a state or presidential primary are not delivered, or after delivery lost, destroyed or stolen, ballots similar as far as possible shall be provided by the city or town clerk and used at the primary. The number of ballots provided at a city or town primary shall not for any ward or town exceed one ballot of each party for each voter therein. No such ballots shall be printed in any printing establishment owned or managed by the city of Boston.

SECTION 33. Ballots for each party shall be printed on paper of a different color from that on which the ballots for any other party are printed. At least six facsimile copies of the ballot for each party, printed on colored paper, shall be provided for each polling place as specimen ballots.

R. L. 11, § 117, 1903, 454, § 6.

1907, 560, §§ 130, 150, 456, 1913, 835, §§ 106, 503.

1914, 790, § 4, 1916, 179, § 4.

SECTION 34. At the top of each ballot shall be printed the words "Official ballot of the (here shall follow the party name)". On the back of each ballot when folded shall be printed the same words, followed by the number of the precinct and ward or the name of the town for which the ballot is prepared, the date of the primary and for state or presidential primaries a facsimile of the signature of the state secretary and for city or town primaries a facsimile of the signature of the city or town clerk. Names of candidates for each elective office shall be arranged alphabetically according to their surnames.

Names of candidates for ward or town committees, and for delegates to conventions shall be arranged in groups in such order as may be determined by lot, under the direction of the state secretary, who shall notify each state committee and give a representative of each such committee an opportunity to be present. When necessary, groups may be printed on the ballot in two or more columns.

Against the name of a candidate for an elective office, for a ward or town committee or for a member of a state committee shall be printed the street and number, if any, of his residence.

Against the name of a candidate for an elective office shall be printed the statement contained in the nomination paper placing him in nomination.

No names shall be printed on a ballot other than those presented on nomination papers. Immediately following the names of candidates, blank spaces equal to the number of persons to be chosen shall be provided for the insertion of other names.

The number of persons to be voted for for the different offices shall be stated on the ballot.

The form of ballots and the arrangement of printed matter thereon shall be in general the same as that of the official state ballots, except as otherwise provided in this chapter.

SECTION 35. A cross (X) marked against a name shall constitute a vote for the person so designated. A cross in the circle at the head of a group of candidates for a ward or town committee or for delegates to a

4 state convention shall count as a vote for each candidate therein. A
 5 voter may vote for one or more candidates in any such group by marking
 6 a cross against the name of each such candidate, or he may insert another
 7 name and mark a cross against it. If he votes for more candidates than
 8 the number to be elected, his vote shall not be counted.

1913, 835, §§ 108, 503.

1923, 302, § 2.

1925, 312, § 2.

1 SECTION 36. The city or town clerk, before the opening of the polls on
 2 the day of the primary, shall deliver at the polling place to the warden
 3 or, if he is absent, to the clerk or, if both are absent, then to any inspec-
 4 tor, ballot boxes, ballots, specimen ballots, voting lists, suitable blank
 5 forms and apparatus for canvassing and counting the ballots and making
 6 the returns, a seal of suitable device and a record book for each polling
 7 place. The presiding officer at each polling place shall, before the open-
 8 ing of the primary, conspicuously post in such polling place at least six
 9 specimen ballots for each party, which shall be kept so posted until the
 10 polls are closed, except that where voting booths are provided two of
 11 the six specimen ballots for each party may be posted on the outside
 12 of the booth.

Delivery of
 ballots, etc.,
 at polling
 places.
 Posting
 specimen
 ballots.
 1894, 504, § 26.
 1895, 507, § 19
 1898, 548,
 § 120.
 R. L. 11, § 120.
 1907, 509,
 §§ 133, 456.
 1908, 423, § 1.
 1913, 835,
 §§ 109, 503.
 1914, 790, § 6.
 1916, 179, § 6.

1 SECTION 37. When, in a primary, a voter seeks to pass the guard
 2 rail, he shall be asked by one of the ballot clerks with which political
 3 party he desires to be enrolled, and the ballot clerk upon reply shall
 4 distinctly announce the name of such political party and give him such
 5 political party ballot. The voter's selection shall be checked on the
 6 voting list used by the ballot clerk, and such list shall be returned to the
 7 city or town clerk to be retained in his custody as long as he retains the
 8 ballots cast whereupon such voting list shall be transmitted to the regis-
 9 trars of voters for preservation for five years after the expiration of which
 10 it may be destroyed. Said officers shall, upon receiving a written re-
 11 quest therefor, signed by the chairman of any ward, town or city com-
 12 mittee, or by at least ten voters in the ward, town or precinct for which
 13 the list is desired, furnish a certified copy of said list to any ward, town
 14 or city committee. The party enrolment of voters on such voting lists,
 15 and all subsequent party enrolment of voters, shall be transferred each
 16 year to the voting lists used at subsequent primaries, if the names of
 17 such voters have been entered in the annual register prepared by the
 18 registrars.

Party
 enrolment of
 voters
 1903, 454, § 11.
 1907, 429,
 § 14, 500
 §§ 156, 456.
 1911, 550, § 13.
 1913, 835,
 §§ 110, 503.
 1914, 790, § 7.
 1916, 179, § 7.
 1920, 493, § 1.
 1928, 89, § 1.
 1931, 185, § 1.

1 SECTION 38. No voter enrolled under this or the preceding section
 2 shall be allowed to receive the ballot of any political party except that
 3 with which he is so enrolled; but a voter may establish, change or cancel
 4 his enrolment by appearing in person before a member of the board of
 5 registrars of voters and requesting in writing to have his enrolment
 6 established with a party, changed to another party, or cancelled, and
 7 such enrolment, change or cancellation shall take effect at the expiration
 8 of thirty days thereafter. No voter enrolled as a member of one political
 9 party shall be allowed to receive the ballot of any other political party,
 10 upon a claim by him of erroneous enrolment, except upon a certificate
 11 of such error from the registrars, which shall be presented to the pre-
 12 siding officer of the primary and preserved as part of the records of such
 13 primary; but the political party enrolment of a voter shall not preclude
 14 him from receiving at a city or town primary the ballot of any municipal

Voters enrolled
 in one political
 party not to
 receive ballot
 of another
 political party,
 except, etc.
 1911, 550, § 14.
 1913, 835,
 §§ 111, 503.
 1914, 790, § 8.
 1916, 179, § 8.
 1927, 110,
 1931, 185, § 2.

party, though in no one primary shall he receive more than one party 15
ballot. 16

Counting of
votes
1903, 454, § 12.
1907, 509,
§§ 157, 456.
1913, 835,
§§ 112, 503.

SECTION 39. In counting votes when the ballots are removed from 1
the ballot box, they shall first be sorted into piles, one for each party, 2
and each pile shall be counted and sealed separately. Votes shall be 3
counted only for nominations of the party on whose ballot they appear. 4

1914, 790, § 9.

1916, 179, § 9.

[Penalty for false count, etc., Chap. 56, § 15.]

Number of
votes needed to
nominate by
pastors, etc.
1913, 835,
§ 259.
1915, 36.

SECTION 40. No person who is a candidate for a political office at a 1
primary, and whose name is not printed on the ballot therefor, shall be 2
deemed to be nominated unless he receives a number of votes at least 3
equal to the number of signatures which would be required by law to place 4
his name on the ballot as a candidate at such primary. 5

PROVISIONS APPLYING TO STATE PRIMARIES.

Nominations
and elections at
state primaries.
Sections
applicable.
1911, 550, § 1.
1913, 835,
§§ 113, 503.

SECTION 41. Primaries shall be held for the nomination of candi- 1
dates of political parties for all offices to be filled at a state election, ex- 2
cept presidential elector, and for the election of district members of state 3
committees, members of ward and town committees, and delegates to 4
state conventions of political parties. Sections forty-two to fifty-four, 5
inclusive, shall apply to such primaries. 6

Notice to state
secretary that
primaries will
be held by
wards, pre-
cincts, or
groups of
precincts.
1911, 550, § 2.
1912, 274, § 1.

SECTION 42. In cities or towns where the aldermen or selectmen 1
determine the question of holding primaries by wards, precincts or 2
groups of precincts, they shall give notice of their determination to 3
the state secretary on or before August first; except that in case of prima- 4
ries before special elections they shall give such notice at least fourteen 5
days before the primaries. 6

1913, 835, §§ 114, 503.

When polls
shall be open.
1911, 550, § 3.
1913, 835,
§§ 115, 503.
1920, 481.

SECTION 43. The polls at every state primary shall be open during 1
such hours, not less than nine in cities or two in towns, as may be desig- 2
nated by the aldermen in cities, and in towns by by-law or vote, or, in 3
default of such by-law or vote, by the selectmen. 4

Nomination
papers, number
of signatures.
1894, 504, § 15.
1895, 507, § 7.
1896, 469, § 13.
1898, 171,
548, § 108.
1901, 435.
R. L. 11, § 108.
1903, 474, § 7.
1905, 386, § 2.
1907, 560,
§§ 120, 456.
1911, 550, § 4.
1913, 835,
§§ 114, 503,
1929, 135.

SECTION 44. The nomination of candidates for nomination or elec- 1
tion at state primaries shall be by nomination papers. In the case of 2
offices to be filled by all the voters of the commonwealth such papers 3
shall be signed in the aggregate by at least one thousand voters, not more 4
than two hundred and fifty to be from any one county. Such papers 5
for all other offices to be filled at a state election, and for members of 6
committees and delegates to the state convention, shall be signed by 7
a number of voters equal in the aggregate to five voters for each ward or 8
town in the district or county, but in no case shall more than two hun- 9
dred and fifty be required. 10

163 Mass. 539.

Same subject.
Qualifications
of signers,
acceptance,
number of
candidates.

SECTION 45. Every nomination paper shall state, in addition to the 1
name of the candidate, (1) his residence, with street and number thereof, 2
if any, (2) the office for which he is nominated, (3) the political party 3
whose nomination he seeks, and, except for candidates for ward and 4

5 town committees and delegates to conventions, the paper may state,
6 in not more than eight words, the public offices which he holds or has
7 held, and, if he is an elected incumbent of an office for which he seeks
8 renomination, that he is a candidate for such renomination.

9 Signatures shall be subject to section seven, and every voter may
10 sign as many nomination papers for each office as there are persons to
11 be nominated for or elected thereto, and no more.

12 A nomination paper shall be valid only in respect to a candidate whose
13 written acceptance is thereon.

14 No nomination paper shall contain the name of more than one candi-
15 date, except in the case of delegates to the state convention and members
16 of ward and town committees.

1894, 504.
§§ 15, 36,
1895, 507,
§§ 7, 8,
1896, 469, § 13.
1898, 471; 548.
§§ 108, 109.
1903, 245.
1901, 435.
R. L. 11,
§§ 108, 109
1903, 474, § 7.
1904, 275.
1905, 386; § 2.
1907, 429, § 5;
560, §§ 120,
121, 456
1911, 550, § 5.
1912, 446, § 2;
485, § 1.

1913, 835, §§ 117, 503.

1914, 790, § 10.

1915, 283, § 1.

163 Mass. 539.

[Penalty for false statement, Chap. 56, § 14.]

1 SECTION 46. Every nomination paper shall be submitted, on or
2 before five o'clock in the afternoon of the Friday preceding the day on
3 which it must be filed, to the registrars of the city or town in which the
4 signers appear to be voters, who shall check each name to be certified
5 by them on the nomination paper and shall forthwith certify thereon the
6 number of signatures so checked which are names of voters both in the
7 city or town and in the district for which the nomination is made, and
8 who are not enrolled in any other party than that whose nomination the
9 candidate seeks, and only names so checked shall be deemed to be names
10 of qualified voters for the purposes of nomination.

11 The provisions of section seven relative to the number of names to be
12 certified and received, and to names not certified in the first instance, shall
13 apply to such papers. For the purpose of certifying to the names on
14 primary nomination papers the registrars shall hold meetings on the four
15 Fridays next preceding the date on which such papers are required to
16 be filed with the state secretary, except that for primaries before special
17 elections the meetings shall be held on the two Fridays next preceding
18 such date.

19 No person shall be a candidate for nomination for more than one office;
20 but this shall not apply to candidates for membership in political com-
21 mittees or delegations to the state convention.

Same subject.
Certification,
limitation on
candidates.
1911, 550,
§ 6; 745,
1912, 275;
485, § 2.
1913, 835,
§§ 118, 503.
1914, 790, § 11.
1916, 179, § 10.
1917, 79.
1922, 214, § 2.

1 SECTION 47. Nomination papers for use in the nomination of candi-
2 dates to be voted for at state primaries shall be prepared, and on request
3 furnished, by the state secretary.

1911, 550, § 7.

1913, 835, §§ 119, 503.

Same subject.
Preparation,
etc.

1 SECTION 48. All nomination papers of candidates to be voted for at
2 state primaries shall be filed with the state secretary on or before the
3 fifth Tuesday preceding the day of the primaries; except in the case of
4 primaries before special elections, when nomination papers shall be filed
5 on or before the second Tuesday preceding the day of the primaries.

Same subject.
Last day
for filing.
1911, 550, § 8.
1912, 274, § 2;
446, § 3.
1913, 835,
§§ 120, 503.

1 SECTION 49. If a person nominated to be voted for at a state primary
2 dies before the day of the primary, or withdraws his name from nomina-
3 tion, or is found ineligible, and there is no other candidate for the party
4 nomination for the office, the vacancy may be filled by the state com-
5 mittee, if the candidate is one to be voted for by all the voters of the

Nomination in
case of death,
withdrawal or
ineligibility.
1911, 550, § 10.
1913, 835,
§ 121.

commonwealth; and, in the case of candidates for nomination or election in a district, by the members of the ward and town committees in the wards and towns comprising the district.

Vacancies caused by withdrawal, time of filing, objections.
1891, 278.
1895, 417, § 87.
1895, 253, § 2.
1896, 469, § 7.
1898, 548, § 149.
R. L. 11, § 152.
1905, 386, § 5.

SECTION 50. In cases of withdrawal, nominations to fill vacancies shall be filed with the state secretary within seventy-two week day hours succeeding five o'clock in the afternoon of the last day for filing withdrawals.

They shall be open to objections in the same manner, so far as practicable, as other nominations.

No vacancy caused by withdrawal shall be filled before the withdrawal has been filed.

1907, 560, §§ 181, 456.

1913, 835, §§ 122, 503.

Counting of ballots.
1911, 550, § 15.
1913, 835, §§ 123, 503.
1925, 29.

SECTION 51. The provisions of section one hundred and five of chapter fifty-four authorizing the opening of the ballot box at elections in towns, the taking therefrom of the ballots and counting thereof, prior to the closing of the polls, shall apply to state primaries in towns. No ballots cast at a state primary in cities shall be counted until the close of the polls.

Canvass and returns of votes, etc.
1911, 550, § 16.
1912, 261.
1913, 835, §§ 124, 503.
1917, 81.

SECTION 52. Upon receipt of the records of votes cast at state primaries the city or town clerk shall forthwith canvass the same and within four days after said primary make return of the votes for candidates for nomination for state offices, and for election as members of the state committee, to the state secretary, who shall forthwith canvass such returns, determine the results thereof, notify the successful candidates, and certify to the state committees the names of the persons nominated for state offices and elected as members of state committees. Said clerks shall determine the results of the vote for delegates to state conventions and members of ward and town committees, issue proper certificates thereof to the successful candidates, and notify the chairmen of the city and town committees of the respective parties.

Vacancies caused by ties or in delegations or committees, how filled.
1894, 504, § 9.
1895, 489, § 14.
1897, 530, § 5.
1898, 548, § 93.
1901, 404.
R. L. 11, § 93.
1907, 560, §§ 103, 456.
1911, 550, § 17.
1913, 835, §§ 125, 503.

SECTION 53. In case of a tie vote where the number of persons receiving equal votes exceeds the number of nominations available, there shall be deemed to be a vacancy. If the tie is between candidates for an office to be filled by all the voters of the commonwealth, the vacancy shall be filled by the state committee. If the tie is between candidates for nomination for any other office, the vacancy shall be filled by the members of the ward and town committees in the district for which the nomination is to be made. If there is a tie vote for delegates to a convention, or a place unfilled in a delegation, or a vacancy occasioned by inability or neglect of a delegate elected to attend a convention, such vacancy shall be filled only by vote of the remaining members of the delegation at a meeting called therefor. Such meeting shall choose a chairman and secretary, and the secretary shall notify the secretary of the convention of the action taken relative to the vacancy, except that, if only one delegate or two delegates were to be elected, the delegate or remaining delegate, as the case may be, shall fill the vacancy and notify the secretary of the convention of that action.

If there is a tie for members of a ward or town committee, the members elected shall fill the vacancy.

20 If a majority of a delegation, or of a ward or town committee, is not
 21 elected, the vacancy shall be filled by the persons elected to the ward or
 22 town committee.
 23 All vacancies caused by ties shall be filled only by the choice of one
 24 of the candidates receiving the tie vote.

1 SECTION 53A. When nominations at the state primaries are in ap-
 2 parent conformity with law, they shall be valid unless written objections
 3 thereto are filed with the state secretary within six days succeeding five
 4 o'clock in the afternoon of the day of holding such primaries; and such
 5 objections and all other questions relating thereto shall be subject to
 6 section twelve, so far as applicable. A person nominated at such pri-
 7 maries may withdraw his name from nomination by a request signed and
 8 duly acknowledged by him and filed with the state secretary within the
 9 time prescribed in this section for filing objections to such nominations.

Objections to
 nominations.
 Withdrawals
 of nominees.
 1927, 24, § 3.

1 SECTION 54. A political party may, upon the call of its state com-
 2 mittee, but not earlier than one week nor later than two weeks after the
 3 holding of the primaries, hold a state convention for the purpose of
 4 adopting a platform, electing such number of members at large of the
 5 state committee as may be fixed by it, nominating presidential electors,
 6 and for such other purposes consistent with law as the state committee
 7 or the convention may determine. Such convention shall consist of the
 8 delegates elected at the state primary, the members of the state com-
 9 mittee, the United States senators from Massachusetts who are mem-
 10 bers of the party, the nominees of the party for all offices to be filled at
 11 the state election, and in years in which no elections are held for such
 12 offices, the incumbents of those offices who are members of the party.

State con-
 ventions of
 political par-
 ties.
 1911, 550, § 18.
 1912, 265.
 1913, 835.
 §§ 126, 503.

PROVISIONS APPLYING TO CITY AND TOWN PRIMARIES.

1 SECTION 55. The nomination of candidates of political and municipal
 2 parties to be voted for at city and town elections, in cities and towns
 3 where such nominations are permitted by law, and which vote that pri-
 4 maries shall be held therein, shall be made under sections twenty-three to
 5 forty, and fifty-six to sixty-four, both inclusive.

Primaries for
 municipal
 nominations.
 Certain sec-
 tions to
 apply.
 1903, 454, § 2.

1907, 560, §§ 144, 456.

1913, 835, §§ 128, 503.

2 Op. A. G. 473.

1 SECTION 56. In any city or town which has adopted the provisions
 2 of law for nominating by primaries, the following question shall be put
 3 on the official ballot at any city election or annual town meeting on
 4 petition of five per cent of the voters registered at the time of the pre-
 5 ceding city election or annual town meeting, filed with the city or town
 6 clerk on or before the last day for filing nomination papers: "Shall
 7 primaries for the nomination of candidates to be voted for at city (or
 8 town) elections continue to be held in this city (or town)?" In any city
 9 or town not nominating by primaries, where such nominations are per-
 10 mitted by law, the following question may, by similar petition, be put
 11 on the ballot at the next city election or annual town meeting: "Shall
 12 primaries for the nomination of candidates to be voted for at city (or
 13 town) elections be held in this city (or town)?" In accordance with the
 14 result of such vote, such primaries shall or shall not thereafter be held.
 15 Clerks of cities or towns which vote to hold primaries or to rescind
 16 such action shall forthwith notify the state secretary of such vote.

Submission
 of question
 of holding
 primaries.
 Notice of
 result to state
 secretary.
 1903, 454,
 §§ 2, 18.
 1904, 41; 377
 1905, 386, § 17.
 1907, 560,
 §§ 145, 456.
 1910, 520.
 1913, 835,
 §§ 129, 503
 200 Mass. 152.

Notices of intention to participate in primaries to be furnished, etc.
1905, 386, § 11.
1907, 560.
§§ 146, 456.

SECTION 57. Notices of intention to participate in primaries shall be furnished to the city or town clerk, not less than twenty-two days prior to the day on which the primaries are to be held, by the city and town committees of such political and municipal parties as are entitled to and desire to participate therein.

1913, 835, §§ 130, 503.

Blank nomination papers to be provided, etc.
1894, 504, § 22.
1895, 507, § 6.
1898, 548,
§ 107.

SECTION 58. The city or town clerk shall seasonably prepare, and the city or town shall provide, blank nomination papers for use in the nomination of candidates to be voted for at city or town primaries. Such papers shall state the place where, and the day and hour prior to which, nomination papers shall be filed.

R. L. 11, § 107.
1903, 454, § 5.

1907, 560, §§ 119, 149, 456.
1913, 835, §§ 131, 503.

Nominations to be made by nomination papers, signatures, acceptance.
1894, 504, § 15.
1895, 507, § 7.
1896, 469, § 13.
1898, 171;
548, § 108.
1901, 455.
R. L. 11,
§ 108.
1903, 474, § 7.
1905, 386, § 2.
1907, 560,
§§ 120, 456.
1913, 835,
§§ 132, 503.
163 Mass. 539.

SECTION 59. Nominations of candidates for elective offices, to be voted for at a primary, shall be made by nomination papers, as herein-after provided. Such nominations shall be made on the blank nomination papers prepared in accordance with the preceding section; and no nomination paper offered for filing shall be received or be valid to which is attached any card, paper or other device containing the name of a candidate, his written acceptance, or the signature of any voter required by this section. Such papers shall be signed by at least five voters of the ward or town where the primary is to be held, who shall add to their signatures the street and number, if any, of their residences. Such papers for a district composed of more than one ward shall be signed by a number of voters equal in the aggregate to not less than five voters for each ward in said district. Nomination papers shall not contain a larger number of names of candidates than there are persons to be elected. No vacancy caused by the death, withdrawal or ineligibility of any candidate shall be filled, unless the person entitled to fill such vacancy files the written acceptance of the candidate who is nominated to fill the vacancy.

Nomination papers, etc.
1894, 504, § 16.
1895, 507, § 8.
1898, 548, § 109.
1900, 245.
R. L. 11, § 109.

SECTION 60. Section forty-five shall apply to nomination papers for city and town primaries, except that the name of more than one candidate may appear on the same nomination paper, if it contains no more names of candidates than there are persons to be elected.

1904, 275.
1907, 429, § 5; 560, §§ 121,
149, 456.

1910, 290.
1913, 835, §§ 132, 133, 503.
1914, 345, § 2.
1920, 579, § 2.

[Penalty for false statement, Chap. 56, § 14.]

Same subject. Filing, certification, etc.
1913, 539, 835,
§§ 134, 503.
1915, 105.
1918, 257, § 14.
1919, 5.
1920, 2.
1922, 214, § 3.

SECTION 61. All nomination papers of candidates to be voted for at city or town primaries shall be filed with the city or town clerk not less than ten week days previous to the day on which the primary is to be held for which the nominations are made. Every such nomination paper shall be submitted at or before five o'clock in the afternoon of the Friday preceding the day on which it must be filed to the registrars of the city or town where the signers appear to be voters, and the registrars shall check each name to be certified by them on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters both in the city or town and in the district for which the nomination is made, and only names so checked shall be deemed to be names of qualified voters for the purposes of nomination. The registrars need not certify a greater number of names than are re-

14 quired to make a nomination, increased by one fifth thereof. Names
 15 not certified in the first instance shall not thereafter be certified on the
 16 same nomination papers. The city or town clerk shall not be required,
 17 in any case, to receive nomination papers for a candidate after receiving
 18 papers containing a sufficient number of certified names to make a
 19 nomination, increased by one fifth thereof.

1 SECTION 62. In case of a vacancy caused by the death, withdrawal
 2 or ineligibility of a candidate, the person who filed the nomination paper
 3 placing such candidate in nomination may fill the vacancy by presenting
 4 a new name on a nomination paper signed by him. If such vacancy was
 5 caused by withdrawal, the nomination paper shall be filed within twenty-
 6 four week day hours succeeding five o'clock of the last day for making
 7 withdrawals. If there is a failure to make a nomination at a city or
 8 town primary by reason of a tie vote, the vacancy, if in respect to an
 9 office to be filled by all the voters of the city or town, shall be filled by
 10 the city or town committee and, if in respect to an office to be filled by
 11 the voters of a ward, by the ward committee; provided, that any such
 12 vacancy shall be filled only by the choice of one of the candidates re-
 13 ceiving the tie vote.

Vacancies,
 how filled.
 1894, 204, § 20.
 1895, 507, § 14.
 1898, 548,
 § 114.
 1907, 249, § 2
 R. L. 11, § 114.
 1907, 560,
 §§ 126, 149,
 456.
 1910, 182.
 1913, 835,
 §§ 135, 503,
 1928, 321, § 1.

1 SECTION 63. The polls at every such primary shall be open during
 2 such hours, not less than nine in cities nor four in towns, as may be desig-
 3 nated by the aldermen or selectmen.
 1903, 454, § 10. 1907, 560, §§ 155, 456. 1913, 835, §§ 136, 503.

Polls to be
 open during
 certain hours.

1 SECTION 64. City and town clerks shall canvass the returns of votes,
 2 determine the results, and issue proper certificates thereof to the success-
 3 ful candidates.
 1903, 386, § 14. 1907, 560, §§ 158, 456. 1913, 835, §§ 137, 503.

Canvass of
 returns of
 votes, etc.
 1903, 454, § 13.

PROVISIONS APPLYING TO PRESIDENTIAL PRIMARIES.

1 SECTION 65. Sections sixty-six to seventy, inclusive, shall apply to
 2 presidential primaries.

Certain sec-
 tions to apply
 to presidential
 primaries.

1 SECTION 66. In any year in which candidates for presidential elec-
 2 tions are to be elected, the election of delegates and of alternate delegates
 3 to national conventions of political parties shall be by direct plurality
 4 vote in primaries. The number of district delegates and the number of
 5 district alternate delegates, not less than one from each congressional
 6 district, and the number of delegates and alternate delegates at large,
 7 shall be fixed by the state committee, who shall give notice thereof to the
 8 state secretary on or before the third Wednesday in March.

Delegates to
 national con-
 ventions,
 election, fixing
 number, etc.
 1904, 179.
 1907, 560,
 §§ 107, 456,
 1912, 254, § 1.
 1913, 835,
 §§ 138, 503.

1 SECTION 67. In cities and towns where the question of holding
 2 primaries by wards, precincts or groups of precincts is determined by
 3 the aldermen or selectmen, they shall give notice of their determination
 4 to the state secretary on or before the third Wednesday in March.

Notice to state
 secretary of
 determination
 to hold prima-
 ries by wards,
 precincts, etc.
 1912, 254, § 2.

1913, 835, §§ 139, 503.

1 SECTION 68. The state secretary shall cause to be placed on the
 2 official ballot for use in primaries at which delegates to national conven-
 3 tions of political parties are elected, under separate headings, and in the
 4 following order, the names of candidates for delegates at large, alternate

Preference of
 delegates for
 president to
 be placed on
 ballots if can-
 didate assents.
 1912, 254, § 3.

1913, 835,
§§ 140, 503,
1916, 16.

delegates at large, district delegates, and alternate district delegates. 5
The names of candidates appearing in nomination papers containing 6
nominations for all the places to be filled shall be placed first on said 7
ballot, arranged in groups and in the same order as in the nomination 8
papers. The order in which the groups shall appear shall be determined 9
by lot in the manner provided in section thirty-four. The names of 10
candidates appearing in nomination papers containing nominations for 11
less than all the places to be filled shall follow, alphabetically arranged. 12
The ballot shall also contain a statement of the preference, if any, of each 13
candidate for delegate as to a candidate for nomination for president, 14
provided that such statement appears in his nomination papers; but no 15
such statement of preference by any candidate for delegate shall appear 16
upon the ballot unless such candidate for nomination for president files 17
his written assent thereto with the state secretary on or before five o'clock 18
in the afternoon of the last day for filing nomination papers. Such ass- 19
sent may be communicated by telegraph. Upon the receipt of the 20
records of votes cast at presidential primaries, the city or town clerk 21
shall forthwith canvass the same and make return thereof to the state 22
secretary, who shall forthwith canvass such returns, determine the re- 23
sults thereof, and notify the successful candidates. 24

Vacancy in
delegation to
national con-
vention, how
filled.
1913, 835,
§ 141.

SECTION 69. In case of the death, withdrawal or ineligibility of a 1
candidate for delegate to a national convention, the vacancy may be 2
filled in any manner which is clearly provided for on the nomination 3
paper placing such candidate in nomination, before the signature of any 4
voter is entered thereon, otherwise the remaining candidate or candi- 5
dates nominated by the same nomination paper may fill the vacancy. 6
In case of a withdrawal, such vacancy must be filled by filing in the 7
office of the state secretary, within seventy-two week day hours succeed- 8
ing five o'clock in the afternoon of the last day for filing withdrawals, a 9
statement signed by the person or persons authorized to fill the vacancy, 10
giving the name and residence of the candidate nominated, accompanied 11
by his written acceptance. 12

Certain pro-
visions of law
to apply.
1912, 254, § 4.
1913, 835,
§§ 142, 503.

SECTION 70. The provisions of law relating to primaries consistent 1
with the three preceding sections shall apply to presidential primaries 2
so far as practicable. 3

PROVISIONS APPLYING TO ALL CAUCUSES OF POLITICAL PARTIES.

Certain cities
and towns to
nominate at
caucuses.
Certain pro-
visions of law
to apply.
1902, 537, § 4.
1907, 500,
§§ 166, 167, 456.
1913, 835,
§§ 193, 194, 503.
1918, 257, § 16.
1919, 5.

SECTION 71. In cities and towns which have not accepted the pro- 1
visions of law relating to primaries for the nomination of municipal 2
officers, political parties which nominate candidates for elective city or 3
town offices shall do so by direct plurality vote in caucuses, except when 4
city or town charters provide otherwise. All provisions of law relative 5
to the preparation of nomination papers and ballots, to primaries and 6
elections, to ballots cast at primaries and elections, and to recounts of 7
such ballots, shall, so far as applicable, apply to such caucuses. 8

1920, 2.

2 Op. A. G. 469.

City and town
committees
may make
regulations, etc.
1894, 504,
§§ 3, 8.
1895, 489,
§§ 6, 7.

SECTION 72. Each city or town committee may make reasonable 1
regulations, consistent with law, relative to caucuses called by it and to 2
determine membership in the party, and to restrain persons not entitled 3
to vote at caucuses from attendance thereat or taking part therein. But 4

5 no political committee shall prevent any voter from participating in a
 6 caucus of its party for the reason that the voter has supported an in-
 7 dependent candidate for political office.

1899, 329, § 1.
 R. L. 11, § 84.

1902, 225; 492
 1907, 560, §§ 93, 456.

1908, 428
 1913, 835, §§ 92, 503.

1897, 530,
 § 10, 11.
 1898, 548, § 85.

1 SECTION 73. If in a city, except Boston, or town wherein elections
 2 are held by precincts, the city or town committee of either of the two
 3 leading political parties shall file with the aldermen or selectmen, at
 4 least two weeks prior to the time of holding its caucuses, a notice that
 5 such party desires to hold its caucuses by precincts, or by groups of pre-
 6 cincts in any ward, the aldermen or selectmen shall furnish a polling
 7 place in each precinct or group of precincts for the use of such party,
 8 as provided in section ninety-three, and the caucuses of such party shall
 9 be held accordingly.

Caucuses may
 be held by
 precincts or
 groups of pre-
 cincts in cer-
 tain cases
 1907, 560, § 97
 1911, 378.
 1913, 835,
 §§ 143, 503.

1 SECTION 74. Caucuses relative to a special election shall be held at
 2 such time and place and subject to such reasonable notice as the political
 3 committee whose duty it is to provide for holding the same may deter-
 4 mine. Calls therefor shall be issued by the chairman and secretary of
 5 said political committee.

Caucuses rela-
 tive to special
 elections
 1895, 489, § 16.
 1898, 548, § 89.
 R. L. 11, § 89.
 1907, 460,
 §§ 99, 456.

1913, 835, §§ 144, 503.

1 SECTION 75. Every caucus of a political party shall be called by a
 2 written or printed notice. No caucus or meeting of a political party not
 3 so called shall be recognized as valid under sections seventy-one to
 4 eighty-one, inclusive. The presiding officer at a caucus shall open it at
 5 the hour appointed therefor in the notice thereof.

Calling of
 caucuses, etc.
 1894, 504,
 §§ 4, 10
 1895, 489, § 10.
 1896, 469, § 11.
 1898, 548, § 90.
 R. L. 11, § 90.

1903, 474, § 6. 1907, 560, §§ 100, 456. 1913, 835, §§ 145, 503. 191 Mass. 497.

1 SECTION 76. Notices of caucuses shall apply to all members of the
 2 party calling them, and to them only. No person having voted in the
 3 caucus of one political party shall be entitled to vote or take part in
 4 the caucus of another political party within the twelve ensuing months;
 5 except that voting or taking part in the caucuses of any municipal party
 6 by any voter shall not affect his legal right to vote or to take part in the
 7 caucuses of any political party, for any other election, and having voted
 8 or taken part in the caucuses of a political party for any previous elec-
 9 tion, shall not affect his right to vote or take part in the caucuses of
 10 any municipal party, nor shall a voter who is enrolled under section
 11 thirty-seven or thirty-eight as a member of a political party be entitled
 12 to vote in the caucus of another political party held in a city while so
 13 enrolled. No voter, not hereinbefore disqualified, shall be prevented
 14 from voting or participating in any caucus if he takes the following
 15 oath, which shall be administered to him by the presiding officer of the
 16 caucus:

Caucuses open
 only to mem-
 bers of political
 party calling
 them. Chal-
 lenges. Oath.
 1894, 504, § 8.
 1895, 489, § 7.
 1897, 530, § 11.
 1898, 548, § 91.
 R. L. 11, § 91.
 1907, 429, § 16;
 560, §§ 101,
 456
 1913, 835,
 § 145.
 1924, 252, § 2.
 181 Mass. 184.
 2 Op. A. G. 644.
 [Penalty for
 violation by
 officer,
 Chap. 56, § 16;
 by voter,
 Chap. 56, § 32;
 for false oath,
 Chap. 56, § 31.]

You do solemnly swear (or affirm) that you are a registered voter in this ward
 (or town) and have the legal right to vote in this caucus; that you are a member
 of the political party holding the same, and intend to vote for its candidates at the
 polls at the election next ensuing; and that you have not taken part or voted in
 the caucus of any other political party for twelve months last past.

17 Such voter may be challenged like any other voter. Any person
 18 whose right to vote is challenged for any cause recognized by law shall

not be permitted to vote until he has taken the foregoing oath; and the clerk or secretary of the caucus shall make a record of the administration of said oath to every person taking the same, which record shall state whether or not said person voted. The record shall be returned with the proceedings of said caucus and shall be prima facie evidence in any court that such person took said oath and voted in said caucus.

Voting lists to be used.
1893, 417, § 69.
1894, 504, § 32.
1895, 489, § 13.
1898, 548, § 92.
R. L. 11, § 92.
1907, 560,
§§ 102, 456.

SECTION 77. In balloting, the voting lists furnished under section sixty-two of chapter fifty-one shall be used as check lists, and no person shall vote or take part in a caucus whose name does not appear upon said lists, unless he presents to the presiding officer of the caucus the certificate provided for by section fifty-nine of said chapter.

1913, 835, §§ 147, 503. 181 Mass. 184.

Tie vote for caucus officers.
1894, 504, § 9.

SECTION 78. If there is a tie vote for any caucus officer, the caucus officers elected shall fill the vacancy.

1895, 489, § 14. 1898, 548, § 93. 1907, 560, §§ 103, 456.
1897, 530, § 5. R. L. 11, § 93. 1913, 835, §§ 148, 503.

Certificates of election, etc.
1895, 489, § 15.
1896, 435, § 5.
1898, 548, § 94.
R. L. 11, § 94.

SECTION 79. The presiding officer and secretary or clerk of each caucus shall within three week days after its final adjournment deliver or send to each caucus officer a certificate of his election, and to each candidate for an elective office a notice of his nomination.

1907, 560, §§ 104, 456. 1913, 835, §§ 149, 503.

Returns of caucuses at which direct nominations are made, tabulation of results, notice to nominees, etc.
1902, 537, § 2.
1903, 453, § 1.
1906, 444, § 9.
1907, 560,
§§ 105, 170,
456.
1911, 353; 354.
1913, 835,
§§ 150, 196, 503.

SECTION 80. Returns of all caucuses of political parties at which are made any direct nominations for a district comprising more than one ward, or where caucuses are held by precincts or by groups of precincts in any ward or town, shall be made in accordance with section one hundred and ten. Immediately upon receipt of such returns the city or town clerk shall tabulate and determine the results thereof, shall notify the successful candidates, and cause their names to be printed on the ballot to be used at the ensuing election. Recounts of ballots cast at such caucuses shall be made as provided in section one hundred and twelve.

Tie vote in cases of direct nomination, how filled.
1903, 453, § 2.
1907, 560,
§§ 106, 456.
1913, 835,
§§ 151, 503.

SECTION 81. If there is a tie vote for any candidate of a political party nominated directly for any office, for a district comprising more than one ward, the regularly elected general or executive committee representing the party for the election district in which such vote has been cast shall fill the vacancy, but only by the choice of one of the candidates receiving such tie vote.

PROVISIONS APPLYING TO CAUCUSES OF POLITICAL PARTIES AT WHICH OFFICIAL BALLOTS ARE NOT USED.

Polling places to be provided, etc.
1894, 504, § 11.
1895, 489, § 11;
507, § 5.
1898, 548, § 95.
R. L. 11, § 95.
1907, 560,
§§ 108, 156.
1913, 835,
§§ 152, 503.

SECTION 82. At least two weeks prior to the date on which caucuses are to be held, the chairman or secretary of the city or town committee shall notify the aldermen or the selectmen respectively of such date, and said aldermen or selectmen shall, at the expense of the city or town, provide polling places for said caucuses, in case of a city, not less than one for each ward; and shall, at least ten days prior to the date of said caucus, give said chairman or secretary notice of the places so provided.

1 SECTION 83. Notice of caucuses, signed by the chairman and secre-
 2 tary, shall be issued by each city and town committee not less than seven
 3 days prior to the day on which they are to be held. The notices shall
 4 state the place where and the day and hour when the several caucuses
 5 are to be held. They shall be conspicuously posted in at least five places
 6 on the public ways, and, if practicable, in every post office in the city
 7 or town, or shall be published at least twice in one or more local news-
 8 papers. The hour fixed for calling the caucus to order shall not be later
 9 than eight o'clock in the evening. The notice shall designate by name
 10 or office the person who shall call such caucus to order, and he shall
 11 preside until a chairman is chosen. If he is absent at the time appointed,
 12 any member of the ward or town committee present shall call the caucus
 13 to order and preside until a chairman is chosen. The first business in
 14 order shall be the choice of a chairman, a secretary and such other officers
 15 as the meeting may determine. No person shall serve as a caucus officer
 16 at any caucus in which he is a candidate for a nomination to an elective
 17 office.

Notice of
 caucuses.
 Procedure.
 1894, 501, § 7.
 1895, 489, § 12,
 507, § 4, 5.
 1898, 548, § 96.
 1899, 329, § 2.
 R. L. 11, § 96.
 1902, 506.
 1907, 560,
 §§ 103, 456.
 1913, 835,
 §§ 153, 503.

1 SECTION 84. A ballot shall be taken for the choice of any candidate,
 2 to be selected by such caucus, and the polls shall be kept open at least
 3 thirty minutes.

Balloting and
 duration of
 caucus.

1893, 417, § 69.
 1894, 504, § 32.
 1895, 489, § 13.

1898, 548, § 97.
 R. L. 11, § 97.

1907, 560, §§ 110, 456.
 1913, 835, §§ 154, 503.

1 SECTION 85. If a majority of caucus officers is not elected, or there is
 2 a tie vote for candidates for an elective office, the caucus shall at once
 3 proceed to another ballot unless some one present entitled to vote objects;
 4 in which case the caucus shall adjourn to any subsequent day. The
 5 hour and place shall, if practicable, be the same as that named in the
 6 call.

Proceedings
 in case of tie
 vote for
 elective office,
 etc.
 1894, 504, § 9.
 1895, 489, § 14.
 1897, 530, § 5.
 1898, 548, § 93.
 R. L. 11, § 93.

1907, 560, §§ 103, 456.

1913, 835, §§ 148, 503.

1 SECTION 86. The secretary of each caucus shall forthwith, after the
 2 ballots cast therein have been counted, transmit them, with the check
 3 list used at the caucus, to the city or town clerk, who shall preserve them
 4 for ten days. If during said time ten voters entitled to vote in said
 5 caucus shall file with said clerk a written request so to do, he shall pre-
 6 serve the ballots and voting lists for three months, and shall produce
 7 the same if required by any court having jurisdiction or authority over
 8 them.

Ballots and
 check lists to
 be transmitted
 to city or town
 clerk.
 1894, 504, § 33.
 1898, 548, § 98.
 1899, 329, § 3.
 R. L. 11, § 98.
 1907, 330, 560,
 §§ 111, 456.
 1913, 835,
 §§ 155, 503.

1 SECTION 87. If within three week days after any caucus a person
 2 who has received votes thereat for nomination or election to any office
 3 shall file a written statement with the city or town clerk, claiming an
 4 election or nomination or declaring an intention to contest the election
 5 or nomination of any other person, the clerk shall preserve the ballots
 6 for such nomination or office until the claim or contest has been finally
 7 determined. Upon receipt of such statement, the clerk shall immediately
 8 give written notice to the persons affected and to the chairman and sec-
 9 retary of the caucus, fixing a time within twenty-four hours thereafter
 10 and a place at which said ballots will be recounted. The chairman and
 11 secretary of the caucus shall, at said time and place, recount said ballots
 12 and determine the questions raised. Each candidate affected may be
 13 present during such recount, or may be represented by an agent ap-

In case of
 contest, etc.,
 ballots to be
 preserved until
 finally deter-
 mined.
 1898, 548, § 98.
 1899, 329, § 3.
 R. L. 11, § 98.
 1907, 330, 560,
 §§ 111, 456.
 1913, 835,
 §§ 155, 503.
 [Penalty,
 Chap. 56, § 15.]

pointed by him in writing. If it shall appear upon a recount that persons were nominated or elected other than those declared to have been nominated or elected, certificates of such change shall be made in the manner provided in section five as to an original certificate.

PROVISIONS APPLYING TO CAUCUSES OF POLITICAL PARTIES AT WHICH OFFICIAL BALLOTS ARE USED.

Calling, etc., of caucuses at which official ballots are used.
 1894, 504, § 12.
 1895, 507, § 2.
 1896, 469, § 2.
 1898, 548, § 99.
 R. L. 11, § 99.

SECTION 88. All caucuses for the election of caucus officers, or for the nomination of candidates for any city or town office in any city or town wherein the laws relating to primaries have not been adopted, held by a political party which has adopted the provisions of law for the use of official ballots, shall be called and held as provided in sections eighty-nine to one hundred and sixteen, inclusive.

1907, 560, §§ 112, 456. 1913, 835, §§ 156, 503.

Adoption of law for official ballots at caucuses.
 1894, 504, § 36.
 1895, 507, § 24.
 1898, 548, § 100.
 R. L. 11, § 100.
 1907, 560, § 113, 456.
 1913, 835, § 157, 503.

SECTION 89. Any city or town committee shall, at the written request of fifty voters, members of its party, call caucuses of said party to determine by ballot whether the provisions of law for the use of official ballots shall be adopted. The notice of said caucus shall state the purpose for which it is called, the place, the day, and the hour, not earlier than six o'clock and not later than half past seven o'clock in the evening, of holding said caucus. It shall be issued at least seven days prior to the day named therefore, and shall be published at least twice in one or more local newspapers, if any, and shall be posted in at least five public places in each ward or town. The polls shall be kept open at least one hour. If said caucuses shall vote to adopt said provisions, all caucuses of said political party in said city or town shall thereafter be called and conducted accordingly.

Acceptance may be revoked, etc. Notice of action.
 1894, 504, § 37.
 1895, 507, § 25.
 1898, 548, § 101.
 R. L. 11, § 101.
 1907, 560, § 114, 456.
 1913, 835, § 158, 503.

SECTION 90. A political party in a city or town which has accepted said special provisions may, not less than one year after the date of the caucus wherein such provisions were adopted, revoke such action at a caucus called and held in the manner provided in the preceding section. Upon the adoption of said provisions or upon the revocation of such adoption, the secretary of the city or town committee of such political party shall, within ten days thereafter, file a notice thereof with the state secretary and with the clerk of the city or town and the secretary of the state committee of the political party so voting.

Time of holding caucuses.
 1894, 504, § 13.
 1895, 507, § 3.
 1896, 469, § 12.
 1898, 548, § 102.
 1899, 346, § 3.
 R. L. 11, § 102.
 1907, 560, § 115, 456.
 1913, 835, § 159, 503.

SECTION 91. All such caucuses of a political party for the choice of candidates for a city or town election, except caucuses relating to a special election, shall be held on the same day in each city and town. The city or town committee shall fix the days for holding all caucuses mentioned in this section, and all calls for the same shall be issued by its chairman and secretary. No two political parties shall hold their caucuses on the same day. The party first filing a copy of the call for a caucus with the city or town clerk shall be entitled to precedence as to the day so fixed.

Notices of caucuses to contain certain information, etc.
 1894, 504, § 14.
 1895, 489, § 12.
 507, § 4, § 5.
 1897, 560, § 13.

SECTION 92. Notices of caucuses in said cities or towns shall state the place where and the day and hour when nomination papers shall be issued; the place where and the earliest day and hour when such nomination papers may be filed, which time shall be not less than twenty-four week day hours succeeding three o'clock of the day fixed for issuing such

6 papers; the place where and the day and hour prior to which such nomi-
7 nation papers shall be filed; and the day on which the several caucuses
8 will be held, and shall be issued not less than eighteen days prior thereto.

1907, 560, §§ 116, 456.

1913, 835, §§ 160, 503.

1898, 548,
§ 104
1901, 249, § 1.
R. L. 11, § 104.

1 SECTION 93. At least two weeks prior to the day named for a caucus,
2 the chairman or secretary of the city or town committee shall give notice
3 of such date to the aldermen or to the selectmen, who shall, at least ten
4 days prior to such date, notify the city or town committee of the places
5 selected for holding the caucuses, and shall, at the expense of the city
6 or town, provide polling places, in a city not less than one for each ward,
7 and in cities and towns where elections or caucuses are held in voting
8 precincts, one in each of such precincts, as the city or town committee
9 shall designate, but not less than one for each ward, and furnish them
10 with booths, registering ballot boxes, guard rails and the like, as they
11 are arranged for state elections, also postage for mailing credentials and
12 notices or certificates of nomination and election.

Polling places,
etc., to be
provided.
Voting in two
or more lines.
1895, 489, § 12;
507, § 5
1897, 530, § 13.
1898, 548,
§ 105.
R. L. 11, § 105.
1906, 444, § 2.
1907, 560,
§§ 117, 456,
131, 517.
1913, 835,
§§ 161, 503.

13 If twenty-five voters of a ward or of a town shall request in writing at
14 least twelve days before any caucus of the political party to which they
15 belong, the aldermen or selectmen shall so arrange the polling place of
16 such ward or town as to allow voting to proceed in two or more lines at
17 the caucus.

1 SECTION 94. At least seven days prior to the day named for a caucus,
2 the city or town committee shall issue a notice that such caucus will be
3 held, stating the place, the day and the hour of holding the same. The
4 hour shall not be earlier than two o'clock in the afternoon nor later than
5 half past seven o'clock in the evening. Such notices, and notices rela-
6 tive to the filing of nomination papers, shall be published at least twice
7 in one or more local newspapers, if any.

R. L. 11, § 106.

1907, 560, §§ 118, 456.

1913, 835, §§ 162, 503.

Seven days'
notice to be
given by city
and town com-
mittees, etc.
1894, 504, § 14.
1895, 489, § 12;
507, § 5.
1897, 530, § 13.
1898, 548,
§ 106.

1 SECTION 95. The city or town shall provide, and the city or town
2 clerk shall seasonably prepare, for each political party, blank nomination
3 papers for use in the different wards of the city or in the town. Such
4 papers shall state the place where, and the day and hour prior to which,
5 signed nomination papers shall be filed. On the back of each, the first
6 sentence of section seven, sections forty-five and sixty, and sections
7 ninety-six to one hundred and one, inclusive, shall be printed. They
8 shall be delivered only to the chairman or secretary of the political com-
9 mittee for whose use they have been prepared.

Blank nomi-
nation papers
to be provided,
etc.
1894, 504, § 22.
1895, 507, § 6.
1898, 548,
§ 107.
R. L. 11, § 107
1907, 560,
§§ 119, 456,
1913, 835,
§§ 163, 503.

1 SECTION 96. Nominations of candidates for elective city or town
2 offices and for caucus officers to be voted for at a caucus, shall be made
3 by nomination papers, as hereinafter provided. Such nominations shall
4 be made on the blank nomination papers prepared and delivered in ac-
5 cordance with the preceding section; and no nomination paper offered
6 for filing shall be received or shall be valid to which is attached any card,
7 paper or other device, containing the name of a candidate, his written
8 acceptance, or containing the signature of any voter required by this
9 section. Such papers shall be signed in person by at least five voters of
10 the ward or town where the caucus is to be held, and for a district com-
11 posed of more than one ward shall be signed by a number of voters equal
12 in the aggregate to not less than five voters for each ward in said district,

Nominations
to be made by
nomination
papers, etc.
1894, 504, § 15.
1895, 507, § 7.
1896, 469, § 13.
1898, 174,
548, § 108.
1901, 435,
R. L. 11, § 108.
1903, 474, § 7.
1904, 275.
1905, 386, § 7.
1907, 429, § 7.
560, §§ 120,
121, 456.
1910, 200.
1913, 835,
§§ 164, 165, 503.
163 Mass. 359.

and shall be subject to sections forty-five and sixty, except that the nomination paper of a candidate for caucus officer shall not contain the statement permitted by section forty-five. No vacancy caused by the death, withdrawal or ineligibility of any of the above candidates shall be filled, unless the person entitled to fill such vacancy files the written acceptance of the candidate nominated to fill the vacancy.

Nomination papers, sealing, filing, opening, etc.
1895, 504, §§ 17, 18, 507.
§ 9, 10.
1896, 435, § 2.
1898, 548, § 110.
1907, 560, § 122, 456.

SECTION 97. All nomination papers shall be sealed up and filed with the secretary of the city or town committee not less than ten week days previous to the day on which the caucus is to be held for which the nominations are made, and he shall endorse upon them the time when he received them. They shall not be opened until the time for their filing has expired, when the secretary, at his office, shall publicly open them and publicly announce the nominations therein made.

1913, 835, §§ 166, 503.

Correction of errors, etc.
1894, 504, § 18.
1895, 507, § 11.
1898, 548, § 111.
R. L. 11, § 111.
1907, 560, § 123, 456.

SECTION 98. The secretary of the city or town committee shall immediately give notice to the person filing the nomination paper of any error, irregularity or informality appearing therein, and such person may, within two week days after the time when the nomination papers were opened, correct the same, or said secretary may make such correction.

1913, 835, §§ 167, 503.

Proceedings in cities when papers are not filed, nomination by ward committee, etc.
1894, 504, § 19.
1895, 507, § 12.
1898, 548, § 112.
R. L. 11, § 112.
1907, 560, § 124, 456.
1913, 835, § 168, 503.

SECTION 99. If, in a city, nomination papers placing persons in nomination for all the offices to be filled at a caucus in any ward are not filed, the secretary of the city committee shall forthwith notify the chairman or secretary of the committee of such ward, who shall forthwith call a meeting of said committee, which may nominate candidates for all offices for which nomination papers have not been filed, and shall immediately file with the secretary of the city committee nomination papers signed by all the members of the committee who agree to the nominations therein made. In case of disagreement two sets of such nomination papers may be filed. If, at the expiration of two week days after the time at which nomination papers were opened, proper nomination papers have not been filed for all the offices to be filled, or upon any vacancy caused by death or otherwise, except a withdrawal, the chairman and secretary of the city committee may file nomination papers for such offices or vacancies.

Proceedings in towns when papers are not filed, etc.
1894, 504, § 19.
1895, 507, § 13.
1898, 548, § 113.
R. L. 11, § 113.
1907, 560, § 125, 456.
1913, 835, § 169, 503.

SECTION 100. If, in a town, nomination papers placing persons in nomination for all the offices to be filled at a caucus are not filed, or upon a vacancy by death or otherwise, except a withdrawal, the chairman or secretary of the town committee shall forthwith call a meeting of said committee, which shall have all the powers relative to the nomination of candidates conferred in the preceding section upon a ward committee and the chairman and secretary of a city committee.

Withdrawals. Filling vacancies.
1894, 504, § 20.
1895, 507, § 14.
1898, 548, § 114.
1901, 249, § 2.
R. L. 11, § 114.
1907, 560, § 126, 456.

SECTION 101. A person nominated by a nomination paper may, within forty-eight week day hours succeeding five o'clock in the afternoon of the day fixed for opening nomination papers, withdraw his name from nomination by a request signed by him in person and filed with the secretary of the city or town committee. Thereupon, the secretary shall immediately give notice of such withdrawal and of the provisions of this

7 section to the person who filed such nomination paper, and such person
 8 may, within twenty-four week day hours succeeding five o'clock in the
 9 afternoon of the last day fixed for making withdrawals, present a new
 10 name on a nomination paper signed by himself in person; otherwise the
 11 chairman and secretary of the committee may file nomination papers
 12 for the vacancy. If at any time after the expiration of the time for filling
 13 vacancies it shall appear that a vacancy has been created by death, the
 14 chairman of the committee may file with the city or town clerk a new
 15 name to fill such vacancy; and if the time is sufficient therefor, the new
 16 name shall be printed upon the official ballot.

1910, 182.
 1913, 835.
 §§ 170, 503.

1 SECTION 102. Not less than seven week days before the day upon
 2 which the caucuses are to be held and before five o'clock in the afternoon
 3 of the last day, the secretary of each city or town committee shall deliver
 4 to the city or town clerk the nomination papers filed with him.

Nomination
 papers to be
 delivered to
 city or town
 clerk.

1894, 504, § 21.
 1895, 507, § 15.

1898, 548, § 115.
 R. L. 11, § 115.

1907, 560, §§ 127, 456.
 1913, 835, §§ 171, 503.

1 SECTION 103. If an error or informality is found in any nomination
 2 paper, it shall be forthwith returned to the secretary of the committee
 3 by whom it was filed, for correction; and if not corrected and again filed
 4 before five o'clock in the afternoon of the day following its return to said
 5 secretary, it shall be void.

Correction of
 errors, etc.
 1896, 455, § 3.
 1898, 548,
 § 116.
 R. L. 11, § 116.
 1907, 560,
 §§ 128, 456.

1913, 835, §§ 172, 503.

1 SECTION 104. Objections to nomination papers, and all other ques-
 2 tions relating thereto, shall be considered in cities by the board of regis-
 3 trars, the city clerk and the city solicitor; and in towns by the board of
 4 registrars.

Objections to
 nomination
 papers, etc.,
 by whom
 considered.
 1905, 386, § 12.

1907, 560, §§ 129, 456.

1913, 835, §§ 173, 503.

1 SECTION 105. Ballots for each political and municipal party, ballot
 2 boxes, voting lists, specimen ballots, blank forms and apparatus, seals
 3 and record books, shall be provided and treated in accordance with sec-
 4 tions thirty-two to thirty-six, inclusive, so far as applicable, except that
 5 the chairman and secretary of the city or town committee, or, if they
 6 fail to do so, the city or town clerk, may determine the number of ballots
 7 to be provided for each ward or town, not exceeding one for each voter
 8 therein.

Cities and
 towns; pro-
 vide ballots,
 etc.
 1894, 504,
 §§ 23, 35.
 1895, 507, § 16.
 1898, 548,
 § 117.
 R. L. 11, § 117.
 1907, 560,
 §§ 130, 456.
 1913, 835,
 §§ 174, 503.

1 SECTION 106. On the back and outside of each ballot when folded
 2 shall be printed the words "Official ballot of the (here shall be inserted
 3 the party name)" followed by the number of the precinct and ward or
 4 the name of the town for which the ballot is prepared, the date of the
 5 caucus and a faesimile of the signature of the secretary of the political
 6 committee.

Form of official
 ballot, etc.
 1894, 504,
 §§ 23-25.
 1895, 507,
 §§ 16, 18.
 1897, 509, § 4.
 1898, 548,
 § 118.
 R. L. 11, § 118.
 1907, 560,
 §§ 131, 456.
 1913, 835,
 §§ 175, 503.

7 Ballots shall be printed on white paper, except as otherwise provided
 8 by law.

9 Names of candidates for caucus officers shall be arranged in groups in
 10 the order in which they are filed.

11 Against the name of a candidate for an elective or caucus office shall
 12 be printed the street and number, if any, of his residence.

13 A star (*) against a name shall indicate that a person is a candidate for
 14 re-election.

Certain provisions of law to apply
1894, 504, § 34.
1895, 507, § 31.

SECTION 107. Caucuses, except as otherwise provided, shall be held in general accordance with the laws governing the conduct of elections and the manner of voting thereat.

1898, 548, § 121.
R. L. 11, § 121.

1907, 560, §§ 134, 456.
1913, 835, §§ 176, 503.

Order of business.
1894, 504, § 30.
1895, 507, § 20.
1898, 548, § 122.
1907, 560, R. L. 11, § 122.
§ 135, 456.
1913, 835, §§ 177, 503.

SECTION 108. The order of business shall be as follows: 1

First, Any necessary preliminary business. 2

Second, Balloting until half past eight o'clock in the evening, when the polls shall be closed unless the caucus shall vote to keep them open until a later hour; but every voter waiting in line at the hour for closing the polls shall be allowed to vote. 3
4
5
6

Third, After the polls have been closed, any other business properly before the caucus. 7
8

Challenges.
1894, 504, § 31
1895, 507, § 21.
1898, 548, § 123.
R. L. 11, § 123.
1907, 560, §§ 136, 456.
1913, 835, §§ 178, 503.

SECTION 109. If the right of a person offering to vote is challenged for any legal cause, and he takes the oath required by section seventy-six, the presiding officer shall require him, or some one in his behalf, to write his name and residence on the outside of the ballot offered, and before it is received the presiding officer shall add thereto the name of the person challenging and the cause alleged for the challenge. No officer or other person shall give any information in regard to a ballot cast by a challenged voter unless required by law so to do. 1
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Counting of ballots. Announcement, etc., of result. Sealing, transmission, etc., of record, etc.
1894, 504, § 33.
1895, 449, § 7;
507, § 22.
1897, 530, § 23.
1898, 548, § 124.
1899, 190
R. L. 11, § 124.
1907, 560, §§ 137, 456.
1913, 835, §§ 179, 503.

SECTION 110. Immediately after the polls have been declared closed, but not before, the ballots shall be counted in full view of the voters. When they have been counted and the result ascertained, the presiding officer shall make public announcement thereof in open meeting, and the clerk shall, in open meeting, enter in words at length in the record book, the total number of names checked on the voting list, the total number of ballots cast, the names of all persons voted for, the number of votes for each person, and the title of the office for which he was a candidate. The clerk shall forthwith make a copy of said record, certify, seal and transmit it to the city or town clerk. He shall then, before the adjournment of the caucus, and in the presence of those who counted the same, seal up all ballots cast, with the voting lists used, and a statement of any challenge made. 1
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[Penalty for false count, etc., Chap. 56, § 15.]

Package to be endorsed and transmitted to city or town clerk, etc.

The warden and clerk shall endorse upon such package the name of the political party holding the caucus, its date, its purpose, and, if in a city, for what ward and precinct the ballots were cast. The warden shall forthwith transmit, by the officer detailed to attend the caucus, to the city or town clerk, the ballots cast, the voting lists, the ballot boxes, the ballot box seals, the counting apparatus, the copy of the records, and the record book. 14
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Sealed packages to be kept, etc.

The city or town clerk shall safely keep such sealed packages for ten days. If within said time ten voters entitled to vote in said caucus file with him a written request so to do, he shall preserve said ballots and voting lists for three months and shall produce them if required by any court having jurisdiction or authority over them. 21
22
23
24
25

Certified copy of voting list as checked to be furnished.
1896, 435, § 7.

SECTION 111. The city or town clerk, upon written application signed by at least ten voters of a ward or town, for a copy of a list as checked, shall open the envelope containing the voting list used at any 1
2
3

4 caucus in such ward or town and shall furnish to them a certified copy 1898, 548.
5 thereof as checked. § 125

1901, 265. 1907, 560, §§ 138, 456. 1918, 257, § 15. 1920, 2.
R. L. 11, § 125. 1913, 835, §§ 180, 503. 1919, 5.

1 SECTION 112. If before five o'clock in the afternoon of the second
2 day next succeeding the day of a caucus, ten or more voters of any town
3 or ward shall sign, adding thereto their respective residences on April
4 first of that year, and file with the city or town clerk a sworn statement
5 that the records and returns made by the caucus officers of such town
6 or ward are erroneous, specifying the error, or that challenged votes were
7 cast by persons not entitled to vote therein, said city or town clerk shall
8 forthwith transmit such statement to the registrars of voters with the
9 sealed package containing the ballots and voting lists, and said registrars
10 shall give written notice to the person affected, fixing a place and time,
11 as early as may be, at which said ballots will be recounted, and at such
12 place and time shall open the packages containing the ballots and voting
13 lists and recount said ballots and determine the questions raised, and
14 shall reject any challenged vote cast by a person found not to have been
15 entitled to vote; and such recount shall stand as the true result of the
16 vote cast in such caucus. Each candidate affected may be present dur-
17 ing such recount, or may be represented by an agent appointed by him
18 in writing. If it shall appear upon a recount that persons were nomi-
19 nated or elected other than those declared to have been nominated or
20 elected, certificates of such change shall be made as in the case of the
21 original certificate.

Recount of
ballots, etc.
1895, 507, § 23.
1896, 435, § 4
1897, 530, § 12.
1898, 548,
§ 125.
1899, 329, § 4.
R. L. 11, § 126.
1907, 560,
§§ 130, 456
1909, 449, § 2.
1913, 835,
§§ 181, 503
169 Mass. 534.

1 SECTION 113. At the caucus held for the choice of candidates for a
2 city or town election there shall be chosen annually a warden, a clerk,
3 and at least five inspectors, and, in wards having more than five pre-
4 cincts, such additional inspectors as the city committee of the political
5 party whose caucuses are to be held may determine. They shall be
6 voters of the ward or town where elected and members of the political
7 party whose caucus is to be held. No person shall be eligible to the posi-
8 tion of warden, clerk or inspector who is a state, county or city em-
9 ployee, or a member of a ward or town committee, and no person shall
10 serve as a caucus officer at any caucus wherein he is a candidate for
11 nomination to an elective office. Every caucus officer shall hold office
12 for one year, beginning with the first day of the month succeeding his
13 election, and until his successor is elected. He shall, before entering
14 upon the performance of his duties, be sworn by the warden, clerk, or a
15 justice of the peace, and a record thereof made upon the record book of
16 such caucus. The respective duties of caucus officers shall be in gen-
17 eral the same required of election officers at elections.

Caucus offi-
cers, election,
persons
eligible, term
of office, oath,
duties.
1894, 504,
§§ 27-29.
1895, 507,
§§ 26-28.
1896, 435, § 6.
1897, 530, § 24.
1898, 548,
§ 127.
R. L. 11, § 127.
1907, 560,
§§ 140, 456.
1911, 735.
1913, 835,
§§ 182, 503.
[Penalty for
misconduct
of officer,
Chap. 56, § 15.]

1 SECTION 114. A majority of the caucus officers present at a caucus
2 may fill temporary vacancies and elect additional officers to serve in that
3 caucus only. Such temporary officers shall be duly sworn. Permanent
4 vacancies shall be filled by a majority vote of all the caucus officers.

1898, 548, § 129. 1907, 560, §§ 141, 456.
R. L. 11, § 129. 1913, 835, §§ 183, 503.

Vacancies,
additional
officers, etc.
1894, 504, § 28.
1895, 507, § 28.
1897, 530, § 24.

1 SECTION 115. A city or town committee of a political party which
2 has adopted the provisions of law for the use of official ballots shall, at
3 least ten days before holding any caucus thereunder, appoint caucus

Appointment
of officers to
serve at first
caucus.
1895, 507, § 29.

1898, 548, officers in each ward, town, or voting precinct in cities and towns where 4
 § 130. caucuses are held in such precincts, to serve at the first caucus to be 5
 R. L. 11, § 130. held thereafter. 6
 1906, 444, § 3.

1907, 560, §§ 142, 456.

1913, 835, §§ 184, 503.

Caucus officers SECTION 116. In a newly incorporated city, or upon a redivision 1
 in newly in- into wards of a city to which said provisions apply, the caucus officers 2
 corporated city to serve in the first caucuses held in the next succeeding year shall be ap- 3
 or on redivision pointed by the city committee; and at such caucuses the regular caucus 4
 into wards, etc. 1895, 507, § 30. officers shall be chosen. Where additional polling places are provided, 5
 1896, 469, § 14. after the election of caucus officers, officers to act in such polling places 6
 1898, 548, shall be appointed by the city committee. 7
 § 131. R. L. 11, § 131. 8
 1907, 560, after the election of caucus officers, officers to act in such polling places 9
 §§ 143, 456. shall be appointed by the city committee. 10
 1911, 518. 11

1913, 835, §§ 185, 503.

PROVISIONS APPLYING TO CAUCUSES OTHER THAN THOSE OF POLITICAL PARTIES.

Twenty-five or SECTION 117. A caucus of the voters, or of a specified portion thereof 1
 more voters may hold in a ward of a city, or in a town, may be called and held for the nomination 2
 caucus for city and town of candidates to be voted for at any city election, or at any election of 3
 and town officers, repre- town officers for which official ballots are used, or for the selection of 4
 sentative, etc. 1888, 441, delegates to a convention, or for the appointment of a committee. The 5
 §§ 1, 7. proceedings of such caucuses shall be invalid unless at least twenty-five 6
 1889, 413, voters participate and vote therein. Except as provided in this section, 7
 §§ 3, 4. no caucus or meeting other than those of political parties shall be entitled 8
 1890, 386, § 4; to nominate a candidate whose name shall be placed on the official ballot, 9
 456, § 6. or to select delegates to a political convention for the nomination of a 10
 1893, 417, § 71. candidate whose name shall be placed on such ballot. 11
 1898, 548, § 132. R. L. 11, § 132. 12
 1907, 560, or to select delegates to a political convention for the nomination of a 13
 §§ 161, 456. candidate whose name shall be placed on such ballot. 14
 1913, 835, §§ 186, 503. 15

1923, 186.

1 Op. A. G. 88.

Notice and SECTION 118. The notice for a caucus under the preceding section 1
 conduct of caucus shall be written or printed, shall state the place where, and the day and 2
 of caucus. 1888, 441, § 2. hour when, said caucus is to be held, shall be issued at least seven days 3
 1893, 417, § 72. prior thereto, and shall be conspicuously posted in at least five places 4
 1894, 504, § 7. on lines of public travel, and, if practicable, in every post office within 5
 1896, 469, § 4. the city or town, or shall be published at least twice in one or more local 6
 1898, 548, newspapers. Said notice shall be signed by one or more voters of the 7
 § 133. ward, town or district for which the caucus is called, and shall designate 8
 1899, 329, § 5. by name or office the person who shall call such caucus to order, and 9
 R. L. 11, § 133. he shall preside until a chairman is chosen. In his absence, the caucus 10
 1907, 560, may choose a temporary chairman. The first business in order shall be 11
 §§ 162, 456. the organization of the caucus by the choice of a chairman, a secretary, 12
 1913, 835, and such other officers as the meeting may require. The persons receiv- 13
 1907, 560, ing the highest number of votes shall be declared elected or nominated. 14
 §§ 187, 503. The caucus may adopt regulations consistent with law. 15

Caucus to SECTION 119. Upon the written request of ten or more voters present 1
 vote by ballot at a caucus and entitled to vote therein, presented by a motion or other- 2
 upon written wise to the presiding officer for the time being, at any time before the 3
 request, etc. 1888, 441, § 3. choice of the officer to which it relates, any candidate, delegate or member 4
 1893, 417, § 73. of a political committee, and unless the caucus votes otherwise, the 5
 1898, 548, chairman of the caucus, shall be elected by ballot. In balloting, the 6
 § 134. voting lists furnished under section sixty-two of chapter fifty-one shall 7
 R. L. 11, § 134. be used as check lists. 8
 1907, 560, 9
 §§ 163, 456. 10
 1913, 835, 11
 §§ 188, 503. 12

1 SECTION 120. The secretary of a caucus held under the three pre-
 2 ceding sections shall, at the written request of ten voters entitled to vote
 3 in the caucus, preserve all ballots cast and voting lists used therein for
 4 three months, and shall produce the same if required by any court,
 5 board, convention or other tribunal having jurisdiction thereof.

Preservation
 of ballots and
 voting lists, etc.
 1888, 411, § 6.
 1893, 417, § 74.
 1898, 548,
 § 135.

R. L. 11, § 135.

1907, 500, §§ 164, 456.

1913, 835, §§ 189, 503.

CHAPTER 54.

ELECTIONS.

SECT.

WARDS AND VOTING PRECINCTS.

1. Decennial division of cities into wards.
2. Voting precincts, division of cities and wards into.
3. Voting precincts under new division of wards.
4. When new divisions of cities into wards take effect.
5. Map or description of new precincts to be published and posted, etc.
6. Voting precincts in towns.
7. Changes in voting precincts in towns.
8. Map or description of new precincts to be posted, etc.
9. Town may discontinue voting precincts, etc.
10. State secretary to be notified.

ELECTION OFFICERS.

11. Election officers in certain cities, appointment, etc.
12. Election officers in towns divided into voting precincts.
13. Party representation, term of office, removal.
14. Filling of vacancies.
15. Candidates not eligible to act.
16. Deputy to act in certain cases, etc.
17. Ballot clerks of precincts, detail, duties, etc.
18. Presiding officer in towns not divided into precincts, etc.
19. Ballot clerks in certain towns.
20. Oath of office of election officers.
21. Tellers.
22. Election officers, compensation.
23. Supervisors of elections.

VOTING PLACES.

24. Polling places, designation, preparation, notice, etc.
25. Marking shelves and guard rails to be provided, etc.
- 25A. Display of national flag.

SECT.

BALLOT BOXES, VOTING MACHINES, COUNTING APPARATUS AND BLANKS.

26. State ballot boxes and counting apparatus to be provided, when.
27. Blanks and envelopes for returns of votes, forms for use by election officers, etc.
28. Ballot boxes, voting machines and counting apparatus, care, repair, etc.
29. Defective ballot boxes, etc., may be replaced.
30. Precinct seals, use, custody, etc.
31. Ballot box, apparatus, etc., to be sent to polling place.
32. State ballot law commission to examine and approve, etc., voting machines, ballot boxes, etc. Action if they cease to conform to law.
33. Requirements of voting machines and ballot boxes, etc.
34. Cities and towns may adopt use of voting machines and purchase or lease them, etc.
35. Preparation of voting machines for use and delivery at polling place.
36. Election officers when voting machines are used.
37. Regulations for use of voting machines, ballot boxes and counting apparatus.
38. Voting machines, ballot boxes and counting apparatus to be inspected, etc.
39. Persons of whom machines or ballot boxes are purchased to give bond, etc.

PREPARATION AND FORM OF BALLOTS.

40. Ballots, preparation and furnishing.
41. Ballots, names, residences and political designations of candidates.
42. Contents, arrangement of names, blank spaces, etc.
43. Presidential electors, arrangement of names of candidates, etc.

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| <p>SECT.</p> <p>44. Official ballots, paper, size, form, type, etc.</p> <p>45. Ballots, number to be provided, etc. Partial ballots.</p> <p>46. Ballots to be arranged in packages, etc.</p> <p>47. Printing of ballots when vacancy occurs.</p> <p style="text-align: center;">INFORMATION TO VOTERS.</p> <p>48. Cards of instruction. Specimen ballots and copies of proposed amendments to the constitution.</p> <p>49. Lists of candidates, etc., at state elections to be transmitted to registrars and posted.</p> <p>50. City election, posting.</p> <p>51. Town election, posting.</p> <p>52. Lists of candidates, etc., at state and city elections, to be published.</p> <p>53. Measures submitted under initiative and referendum, information to voters. Lists of voters to be furnished, etc.</p> <p>54. Filing of arguments with state secretary.</p> <p>55. Notice of referendum measures to be given to voters in cities.</p> <p>56. Statement of purport of proposed law or amendment may be substituted.</p> <p>57. When to be sent.</p> <p>58. Provisions of §§ 55-57 may be suspended, etc.</p> <p style="text-align: center;">DELIVERY OF BALLOTS, ETC.</p> <p>59. Ballots, etc., packing and transmission.</p> <p>60. Delivery at polls, state, city and town elections.</p> <p>61. Substitute ballots.</p> <p style="text-align: center;">CALLING OF ELECTIONS.</p> <p>62. Biennial state election, date, officers to be chosen.</p> <p>63. Calls for elections in cities.</p> <p>64. Notices or warrants to specify officers, etc. Time of opening and closing of polls.</p> <p style="text-align: center;">CONDUCT OF ELECTIONS.</p> <p>65. Posting instructions, etc. Posters. Other posters or cards forbidden. Opening of ballots, etc.</p> <p>66. Use and custody of state ballot boxes, etc.</p> <p>67. Voting lists, delivery and use. Party representation.</p> <p>67A. Additional ballot boxes, use in towns regulated.</p> <p>68. No statement to be made before public declaration of vote, except, etc.</p> | <p>SECT.</p> <p>69. Persons permitted within guard rail.</p> <p>70. Number of voters allowed within guard rail.</p> <p>71. Presiding officer, general powers and duties.</p> <p>72. Police officer, etc., to preserve order.</p> <p>73. Persons smoking, etc., or having liquor, etc., to be removed.</p> <p>74. Offender to be detained, etc., but not prevented from voting.</p> <p>75. Duties of officers when law is violated.</p> <p style="text-align: center;">MANNER OF VOTING.</p> <p>76. Voting, giving name, delivery of ballot, etc.</p> <p>77. Marking ballot.</p> <p>78. Voting for presidential electors.</p> <p>79. Assistance in marking ballot.</p> <p>80. Certain marks on ballot prohibited.</p> <p>81. Voter spoiling ballot may obtain others.</p> <p>82. Marking and folding ballot, leaving promptly, etc.</p> <p>83. Depositing ballot, giving name, check list, etc.</p> <p>84. Ballots not to be removed from enclosed space, etc.</p> <p>85. Proceedings when vote is challenged.</p> <p style="text-align: center;">ABSENT VOTERS.</p> <p>86. Absent voters may vote, when.</p> <p>87. Preparation of absent voting ballots, applications, etc.</p> <p>88. Distribution of absent voting ballots, etc.</p> <p>89. Obtaining blank applications, mailing ballots, etc.</p> <p>90. Blanks, etc., to be sent to voters in military or naval service. Applications to secretary.</p> <p>91. Filing and certification of applications, notation on voting list, etc.</p> <p>92. Method of voting.</p> <p>93. Time of mailing ballot.</p> <p>94. Application to be attached to ballot. Delivery to election officers.</p> <p>95. Duties of election officers, etc.</p> <p>96. Challenges.</p> <p>97. Immaterial irregularities not to cause rejection.</p> <p>98. Proceedings when absent voter cannot mark ballot.</p> <p>99. Disposition of ballots received late.</p> <p>100. Voting in person after mailing absent voter ballot. Certain ballots not to be counted.</p> <p>101. Statement of military or naval officer in lieu of jurat.</p> <p>102. Information and instructions relative to absent voting.</p> <p>103. Jurisdiction of courts relative to absent voting.</p> |
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SECT.

COUNTING OF VOTES.

- 104. State blanks and apparatus to be used, etc.
- 105. Proceedings at close of polls. Counting votes. Announcing and recording result. Counting in towns during vote.
- 106. Certain ballots not to be counted, etc.
- 107. Ballots, cast and not cast, and voting lists, to be sealed up, etc.
- 108. Copies of voting lists as checked, how furnished.
- 109. Ballots and lists, custody, disposition, etc.

RECORDS AND CERTIFICATES OF ELECTION.

Copies of Records prepared in Cities and Towns.

- 110. Record not to be rejected when number of votes can be ascertained.
- 111. Examination of precinct records, correction, etc.
- 112. Transmission to state secretary, etc., of copies of records of votes.
- 113. Proceedings when copy is received unsealed.
- 114. Memorandum of receipt to be made.

Examination and Certification by Governor and Council, etc.

- 115. State elections and state-wide recounts, examination of copies of records and determination of results.
- 116. Certification of results, issue of summonses and certificates of election.
- 117. Return to state secretary, laying before legislature, filing.
- 118. Presidential electors, examination of returns of votes, proclamation, and certificate.

Contested Elections of Presidential Electors.

- 119. Petition in court for declaration of election, etc.
- 120. Procedure. Compulsion and immunity of witness.

Examination and Certification of Records of Votes for Certain County Officers.

- 121. County commissioners, etc., to examine returns of votes. Notice to state secretary.
- 122. Board of examiners to examine in certain counties. Notice to state secretary, etc.

Correction of Records.

- 123. When records incomplete, etc., new returns to be made, etc.

SECT

Examination and Certification of Records of Votes for Representative.

- 124. Representative district composed of one city or town, etc., examination, record.
- 125. In other districts clerks to meet and determine election, etc.
- 126. Designation, change and notice of places of meeting of clerks.
- 127. Correction of errors in records of votes for representative.
- 128. Certificate in duplicate of election of representative, transmission, form, return of officer.
- 129. Returns of votes to state secretary.

General Provisions relative to Records.

- 130. Whole number of ballots to be stated in words at length, etc.
- 131. Violation of certain provisions not to affect record, etc.

Information to be certified by City and Town Clerks.

- 132. Number of names checked to be certified to state secretary, etc.

Secretary's Report of Assessed Polls, etc.

- 133. Report of number of assessed polls, registered voters, etc.

RECOUNTS OF VOTES.

- 134. Contested election, ballots to be retained. Power to recount, etc.
- 135. Local or state-wide recount, how and by whom conducted, notice of result, amendment of record, etc.
- 136. No information to be given regarding challenged voter.
- 137. In cities, election results not to be declared before recount or expiration of time therefor. No city officer to act without certificate of election.

PROCEEDINGS UPON FAILURE TO ELECT, AND VACANCIES IN STATE OFFICES.

- 138. Presidential electors, failure to elect majority, vacancy or absence.
- 139. Failure to elect, or vacancy; senator in congress.
- 140. Same; representative in congress.
- 141. Same; representative in general court.
- 142. Same; district attorney and county officers.
- 143. Same; county treasurer, register of deeds.
- 144. Same; county or associate commissioner.
- 145. Death after election and before beginning of term of office, effect.

<p>SECT.</p> <p>146. State secretary to be notified, etc.</p> <p>147. Elections to fill vacancies, proceedings.</p> <p>PROCEEDINGS OF PRESIDENTIAL ELECTORS.</p> <p>148. Presidential records, meeting, organization, record of proceedings.</p> <p>149. Compensation.</p> <p>OFFICERS TO BE ELECTED AT STATE ELECTIONS.</p> <p>150. State officers to be elected biennially.</p> <p>151. Presidential electors.</p>	<p>SECT.</p> <p>152. Senators in congress.</p> <p>153. Representatives in congress.</p> <p>154. District attorneys.</p> <p>155. Clerks of courts.</p> <p>156. Registers of probate and insolvency.</p> <p>157. Registers of deeds.</p> <p>158. County commissioners.</p> <p>159. Sheriffs.</p> <p>160. County treasurers.</p> <p>161. Commissioners to apportion Suffolk county into representative districts, decennial election.</p>
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WARDS AND VOTING PRECINCTS.

Decennial division of cities into wards
 1865, 7.
 P. 8, 28.
 §§ 14-16.
 1888, 437.
 §§ 1, 4.
 1893, 417, § 96.
 1898, 548.
 § 158.
 R. L. 11, § 161.
 1907, 560.
 §§ 190, 456.
 1909, 440, § 2.

SECTION 1. In nineteen hundred and twenty-four, and every tenth year thereafter, in December, a city, by vote of its city council, may make a new division of its territory into such number of wards as may be fixed by law. The boundaries of such wards shall be so arranged that the wards shall contain, as nearly as can be ascertained and as may be consistent with well defined limits to each ward, an equal number of voters. The city clerk shall forthwith give written notice to the state secretary of the number and designations of the wards so established, together with an official copy of the description of said wards.

1913, 835, §§ 216, 503. 1914, 676, § 2. 1920, 146, § 1.

Voting precincts, division of cities and wards into
 1884, 299, § 3.
 1890, 423, § 69.
 1893, 417, § 97.
 1896, 244.
 1898, 548.
 § 159.
 R. L. 11, § 162.
 1906, 444, § 6.
 1907, 560.
 §§ 191, 456.
 1913, 835.
 §§ 217, 503.
 1918, 74.
 1921, 220, § 1.

SECTION 2. Each city shall be divided into convenient voting precincts, designated by numbers or letters and containing not more than two thousand voters. Every ward shall constitute a voting precinct by itself, or shall be divided into precincts containing as nearly as may be an equal number of voters, consisting of compact and contiguous territory entirely within the ward, and bounded, so far as possible, by the center line of known streets or ways or by other well defined limits. If a ward constituting one precinct contains more than two thousand voters, according to the registration at the preceding annual or biennial city election, the aldermen, on or before the first Monday of July, shall divide it into two or more voting precincts. They may so divide a ward or precinct containing less than two thousand voters. If in any year, according to such registration, a voting precinct contains more than two thousand voters, the aldermen shall in like manner either divide such precinct into two or more voting precincts or make a new division of the ward into voting precincts.

Voting precincts under new division of wards.
 1884, 299, § 3.

SECTION 3. On or before the first Monday of July in the year following a redivision of a city into wards, the aldermen shall divide such city into voting precincts, conformably to the preceding section.

1888, 437, § 2. 1898, 548, § 160. 1913, 835, §§ 218, 503.
 1890, 423, § 69. R. L. 11, § 163. 1914, 676, § 3.
 1893, 417, § 98. 1907, 560, §§ 192, 456.

When new divisions of cities into wards take effect.

SECTION 4. For all elections held prior to the biennial state primary following a redivision of a city into wards, and for the assessment of taxes in the year following such a redivision, the wards as existing previous to

4 such redivision shall continue, and for such purposes the election officers
 5 shall be appointed and hold office, and voting lists shall be prepared, and
 6 all other things required by law shall be done, as if no such redivision had
 7 been made. For all other purposes the new division shall take effect on
 8 December thirty-first of the year when made.

1909, 440, § 2.
 1913, 835, §§ 219, 503.

1914, 676, § 4.
 1919, 269, § 1.

1924, 139.
 1925, 135, § 1.

157 Mass. 595.

1888, 437, § 4.
 1893, 417, § 99.
 1895, 220.
 1898, 548,
 § 161.
 R. L. 11, § 164.
 1907, 560.
 §§ 193, 456.

1 SECTION 5. When a ward has been divided into new voting precincts,
 2 or the voting precincts thereof have been changed, the aldermen shall
 3 forthwith cause a map or description of the division to be published, in
 4 which the new precincts shall be designated by numbers or letters and
 5 shall be defined clearly and, so far as possible, by known boundaries;
 6 and they shall cause such map or description to be posted in at least ten
 7 public places in each precinct of a ward so divided, and copies thereof
 8 furnished to the registrars of voters, and to the assessors, and to the elec-
 9 tion officers of each precinct so established.

1913, 835, §§ 220, 503.

Map or
 description of
 new precincts
 to be published
 and posted, etc.
 1884, 299, § 4.
 1890, 423, § 70.
 1893, 417,
 § 160.
 1898, 548,
 § 162.
 R. L. 11, § 165.
 1907, 560,
 §§ 194, 456.

1 SECTION 6. A town may direct its selectmen to prepare a division
 2 of the town into convenient voting precincts. The selectmen shall, so
 3 far as possible, make the center line of streets or ways, or other well
 4 defined limits, the boundaries of the proposed precincts, and shall desig-
 5 nate them by numbers or letters. They shall, within sixty days, file a
 6 report of their doings with the town clerk, with a map or description of
 7 the proposed precincts, and with a statement of the number of voters
 8 registered in each for the preceding state or town election. The report
 9 shall be presented by the town clerk at the next town meeting, but shall
 10 not be acted upon except at a meeting held at least seven days after the
 11 report has been filed. The division so reported may be amended at such
 12 meeting, and shall take effect when adopted. Elections of state officers
 13 held in such town more than sixty days after such action shall be held
 14 in the precincts so established. If such report shall be rejected the town
 15 may at any time direct the selectmen to prepare a new division.

Voting pre-
 cincts in towns.
 1886, 264, § 1.
 1890, 423, § 72.
 1893, 417,
 § 161.
 1897, 530, § 6.
 1898, 548,
 § 163.
 R. L. 11, § 166.
 1907, 560,
 §§ 195, 456.
 1913, 835,
 § 221, 503.
 [See Chap. 39,
 § 204.]

1 SECTION 7. A town may make any change in its voting precincts
 2 which the selectmen recommend in a statement giving the boundaries,
 3 the designations of the proposed precincts and the number of voters
 4 registered in each for the preceding state or town election, filed with the
 5 town clerk at least seven days before a town meeting; but no changes
 6 other than those so proposed by the selectmen shall be made at such
 7 meeting.

1913, 835, §§ 222, 503.

Changes in
 voting pre-
 cincts in towns.
 1890, 423, § 72.
 1893, 417,
 § 162.
 1898, 548,
 § 164.
 R. L. 11, § 167.
 1907, 560,
 §§ 196, 456.

1 SECTION 8. When a town has been divided into voting precincts
 2 or the voting precincts thereof have been changed, the selectmen shall
 3 post in the office of the town clerk and in at least three public places in
 4 each new precinct a map or description in which the new precincts shall
 5 be designated by numbers or letters, and defined clearly and, so far as
 6 possible, by known boundaries. They shall furnish copies thereof to the
 7 registrars of voters and the assessors of such town, and to the election
 8 officers of each precinct so established.

1913, 835, §§ 223, 503.

Map or
 description of
 new precincts
 to be posted.
 1893, 417,
 § 103.
 1898, 548,
 § 165.
 R. L. 11,
 § 158.
 1907, 560,
 §§ 197, 456.

Town may discontinue voting precincts, etc. 1888, 146, §§ 1, 3 1890, 423, § 73.

SECTION 9. Any town may at a town meeting discontinue its voting precincts; and subsequent elections therein shall be held as if no such division had been made. But it may, in any subsequent year, establish voting precincts as hereinbefore provided.

1893, 417, § 104 R. L. 11, § 169. 1913, 835, §§ 224, 503.
1898, 548, § 166. 1907, 560, §§ 198, 456.

State secretary to be notified. 1888, 146, § 2. 1890, 423, §§ 71-73. 1893, 417, § 105. 1898, 548, § 167. R. L. 11, § 170. 1907, 560, §§ 199, 456.

SECTION 10. When wards of a city have been changed or when voting precincts in a city or town have been established, changed or discontinued, the city or town clerk shall forthwith give a written notice thereof to the state secretary, stating the number, designation and official description of such wards or voting precincts and in a city the wards where such precincts are situated.

1913, 835, §§ 225, 503. 1920, 146, § 2.

ELECTION OFFICERS.

Election officers in certain cities, appointment, etc.

1884, 299, § 7
1888, 436, § 20
1889, 413, § 20.
1890, 219, 423, § 75.
1891, 256.
1892, 431.
1893, 417, § 106.
1898, 548, § 168.
R. L. 11, § 171.
1902, 157.
1903, 454, § 9.
1905, 386, § 6.
1907, 560, §§ 200, 456.
1911, 436.
1913, 835, §§ 226, 503.
1923, 204, § 1.
1925, 91.
1928, 149, § 1.

SECTION 11. The mayor of every city, except where city charters provide otherwise, shall annually not earlier than June fifteenth nor later than August fifteenth appoint as election officers for each voting precinct, one warden, one deputy warden, one clerk, one deputy clerk, four inspectors and four deputy inspectors, who shall, at the time of their appointment, be qualified voters in the ward of which such precinct forms a part. He may, in like manner, appoint two inspectors and two deputy inspectors in addition, and such additional inspectors to count and tabulate the votes as he may deem necessary. Every such appointment shall be filed in the office of the city clerk of such city within forty-eight hours after it is made, and shall be acted on by the aldermen not less than three days after the filing of such appointment and on or before September first following. Such appointment shall be open to public inspection. In cities where the aldermen accept this section or have accepted corresponding provisions of earlier laws, no deputy warden, deputy clerk or deputy inspectors shall be appointed.

Election officers in towns divided into voting precincts. 1890, 423, § 76. 1892, 431. 1893, 417, § 108. 1898, 548, § 169.

SECTION 12. The selectmen of every town divided into voting precincts shall annually, not earlier than June fifteenth nor later than August fifteenth, appoint as election officers for each voting precinct, one warden, one deputy warden, one clerk, one deputy clerk, two inspectors and two deputy inspectors, who shall be voters of the precinct. They may, in like manner, appoint two inspectors and two deputy inspectors in addition.

R. L. 11, § 172. 1907, 560, §§ 201, 456. 1928, 149, § 2.
1903, 454, § 9. 1913, 835, §§ 227, 503.

Party representation, term of office, removal. 1890, 423, §§ 75, 76. 1893, 417, §§ 106, 108. 1898, 548, § 170. R. L. 11, § 173. 1903, 454, § 9. 1905, 386, § 7. 1907, 560, §§ 202, 456. 1913, 835, §§ 228, 503. 1923, 204, § 2.

SECTION 13. Such election officers shall be so appointed as equally to represent the two leading political parties, except that, without disturbing the equal representation of such parties, not more than two of such election officers not representing either of them may be appointed. The warden shall be of a different political party from the clerk, and not more than one half of the inspectors shall be of the same political party. In each case the principal officer and his deputy shall be of the same political party. Every election officer shall hold office for one year, beginning with September first succeeding his appointment, and until his successor is qualified, or until his removal. An election officer may be removed by the mayor, with the approval of the aldermen, or by the selectmen, after a hearing, upon written charge of incompetence or official misconduct pre-

13 ferred by the city or town clerk, or by not less than six voters of the ward,
14 or, in a town, of the voting precinct where the officer is appointed to act.

1 SECTION 14. If there is a vacancy in the number of the election
2 officers, or if an election officer declines his appointment and gives notice
3 thereof to the city or town clerk within ten days following the date of his
4 appointment, the mayor or the selectmen shall, except as provided in
5 section sixteen, fill the vacancy; and the appointment shall be so made as
6 to preserve the equal representation of the two leading political parties.
7 Appointments to fill vacancies may be acted upon immediately by the
8 aldermen.

Fillings of
vacancies.
1890, 423,
§§ 75, 76,
1893, 417,
§§ 107, 109,
1897, 548,
§ 174,
R. L. 11, § 175.
1905, 474, § 9
1905, 386, § 8.
1907, 560,
§§ 204, 456

1913, 835, §§ 230, 503.

1919, 269, § 12.

1923, 204, § 3.

1 SECTION 15. No person shall, at a state, city or town election, be
2 eligible or act as an election officer in a voting precinct where he is a
3 candidate for election; and if a person appointed an election officer
4 becomes such a candidate, and does not forthwith resign his office, the
5 mayor or selectmen, if he is a candidate at a state election, shall remove
6 him from office before November first, or, if a candidate at a city election,
7 the mayor shall so remove him at least eight days before the day of the
8 election, or if a candidate at a town election the selectmen shall remove
9 him before the election.

Candidates not
eligible to act.
1884, 299, § 8.
1890, 423, § 78.
1893, 417,
§ 110
1894, 132, § 1.
1898, 548,
§ 173.
R. L. 11, § 176.
1907, 560,
§§ 205, 456.
1913, 835,
§§ 231, 503.
180 Mass. 382.

1 SECTION 16. If a warden, clerk or inspector is absent at the opening
2 of the polls or subsequently on the day of election, or if the office is vacant,
3 the deputy of such officer shall act for that election in his place. If the
4 warden and deputy warden, clerk and deputy clerk, or an inspector and
5 his deputy, shall be absent, the voters of the precinct on nomination and
6 by hand vote shall fill the vacancy, and the officer so elected shall act
7 during the remainder of the election; but otherwise no deputy officer
8 shall act in an official capacity or be admitted to the space reserved for
9 election officers while the polls are open or during the counting of the
10 votes.

Deputy to act
in certain cases,
etc.
1884, 299, § 7.
1890, 423,
§§ 75, 76,
1893, 417,
§§ 107, 109,
110,
1898, 548,
§ 174.
R. L. 11, § 177.
1907, 560,
§§ 206, 456.
1912, 515,
1913, 835,
§§ 232, 503.

11 In cities where no deputy warden or deputy clerk is appointed, if a
12 warden or clerk is absent at the opening of the polls or subsequently on
13 the day of election, or if the office is vacant, the senior inspector of the
14 same political party as such warden or clerk shall act as warden or clerk
15 for that election, and the voters of the precinct, on nomination and by
16 hand vote, shall fill the vacancy in the office of inspector.

1 SECTION 17. At state elections in cities and in towns divided into
2 voting precincts, and in city elections, the presiding election officer of
3 each voting place or precinct shall detail two inspectors of different politi-
4 cal parties to act as ballot clerks, who shall have charge of the ballots
5 and shall furnish them to voters.

Ballot clerks
of precincts,
detail, duties,
etc.
1889, 413, § 20.
1890, 423, § 91
1893, 417,
§ 113.

1898, 548, § 175.

R. L. 11, § 178.

1907, 560, §§ 207, 456.

1913, 835, §§ 233, 503.

1 SECTION 18. At state elections in towns not divided into voting
2 precincts, the selectmen shall have the powers of wardens in cities or
3 moderators in towns, and shall act by their chairman or senior member
4 present, who shall be the presiding election officer.

Presiding
officer in towns
not divided
into precincts,
etc.

Const. pt. 2, c. 1,
§ 2, art. 2.
(Const. Rev. art. 46)
1795, 55, § 1
1832, 169, § 1.

R. S. 5, § 6; 6, § 16.
G. S. 7, § 8.
1874, 376, § 22.
P. S. 7, § 8.
1890, 423, § 79.

1893, 417, § 114.
1898, 548, § 176.
R. L. 11, § 179.
1907, 560, §§ 208, 456.
1913, 835, §§ 234, 503.

Ballot clerks
in certain
towns.
1890, 386, § 13;
424, § 77.
1891, 31.
1893, 417,
§ 115.
1898, 548,
§ 177.
R. L. 11, § 180.
1907, 560,
§§ 209, 456.
1913, 835,
§§ 236, 503.

SECTION 19. At state elections in towns not divided into voting precincts, and at town elections in towns where official ballots are used, the selectmen, before the opening of the polls, shall appoint two voters as ballot clerks, who shall have charge of the ballots and shall furnish them to voters. The selectmen or the moderator presiding at such election may subsequently appoint additional ballot clerks, not exceeding one for every four hundred voters and majority fraction thereof, and may likewise fill any vacancy after the opening of the polls. Such ballot clerks shall be so appointed as to represent the two leading political parties as equally as may be, except that such additional ballot clerks may be appointed from voters not representing either of them.

Oath of office
of election
officers.
1884, 299, § 7.
1890, 423,
§§ 75, 76.
1893, 417,
§ 112.

SECTION 20. Every election officer before entering upon the performance of his official duties shall be sworn before the city or town clerk, the presiding officer or clerk at the polls, or any officer qualified to administer oaths, and a record thereof shall be made.

1898, 548, § 178. R. L. 11, § 181. 1907, 560, §§ 210, 456. 1913, 835, §§ 236, 503.

Tellers.
1883, 229.
1885, 261.
1890, 262, § 3.
1890, 423,
§§ 78, 80, 215,
222.
1893, 417,
§ 116.
1895, 285.
1898, 548,
§ 179.
1899, 329, § 6.
R. L. 11, § 182.
1907, 560,
§§ 211, 456.

SECTION 21. Selectmen of towns shall, at least five days before a state or town election, appoint voters as tellers to assist at the ballot box and in checking the names of voters upon the voting lists, and in canvassing and counting the votes. Presiding officers in such towns, at state and town elections, may appoint voters as additional tellers, and they shall do so on the written request of ten voters of the town. Tellers appointed at elections where official ballots are used shall be so appointed that the election officers making and assisting in the canvass and count of votes shall equally represent the two leading political parties.

1913, 835, §§ 237, 503. 138 Mass. 214. 180 Mass. 382.

Election
officers,
compensation.
1884, 299,
§§ 7, 8.
1890, 423,
§§ 75, 76, 78.
1893, 417,
§ 119.

SECTION 22. Election officers shall receive such compensation for each day's actual service as the city council or the selectmen respectively may determine; but no deputy officer shall receive compensation except for attendance at the opening of the polls or for services in place of an absent officer.

1898, 548, § 180. 1907, 560, §§ 212, 456. 152 Mass. 530.
R. L. 11, § 183. 1913, 835, §§ 238, 503.

Supervisors
of elections.
1884, 299, § 9.
1885, 261.
1891, 264,
§§ 1, 2.
1893, 417,
§ 120.
1898, 548,
§ 182.
R. L. 11, § 185.
1907, 560,
§§ 214, 456.
1913, 835,
§§ 240, 503.
[Penalty for
misconduct by
supervisor of
elections,
Chap. 56, § 17;
for interfer-
ence with
supervisor,
Chap. 56, § 43.]

SECTION 23. Upon the written petition of ten qualified voters of a ward or of a town, presented at least twenty-one days before a state or city election therein, the governor, with the advice and consent of the council, shall appoint for such ward or town or for each voting precinct named in the petition, two voters of the city or town, who shall not be signers of the petition or members of any political committee or candidates for any office, to act as supervisors at such election. One supervisor shall be appointed from each of the two leading political parties. They shall be sworn by the city or town clerk or by an officer qualified to administer oaths. The supervisors shall attend the polling places for which they are appointed, may challenge persons offering to vote, and shall witness the conduct of the election and the counting of votes; but they shall not make any statement tending to reveal the state of the polls before the public declaration of the vote. They shall remain where the ballot boxes are kept after the polls are open and until the ballots are sealed for transmission to the officers entitled to receive them. Each

17 supervisor may affix his signature, for the purpose of identification, to the
 18 copy of the record of votes cast, or attach thereto any statement touch-
 19 ing the truth or fairness or conduct of the election. Supervisors shall
 20 receive such compensation for each day's actual service as the city coun-
 21 cil or the selectmen may determine.

VOTING PLACES.

1 SECTION 24. The aldermen in cities, except where city charters pro-
 2 vide otherwise, and the selectmen of towns divided into voting precincts,
 3 shall, twenty days at least before the biennial state or annual or biennial
 4 city election and ten days at least before any special election of a state or
 5 city officer therein, designate the polling place for each voting precinct
 6 and cause it to be suitably fitted up and prepared therefor. In a city or
 7 town which has provided voting booths such booths may be placed in the
 8 public ways of such city or town, provided said ways are left reason-
 9 ably safe and convenient for public travel. It shall be in a public, orderly
 10 and convenient portion of the precinct; but if no such polling place can
 11 be had within the precinct, they may designate a polling place in an ad-
 12 joining precinct. No building or portion thereof shall be designated or
 13 used as a polling place in which intoxicating liquor has been sold within
 14 the thirty days preceding the day of the election. When the polling places
 15 have been designated, the aldermen, in at least five public places in each
 16 precinct of the city, and selectmen, in at least three public places in each
 17 precinct of the town, shall forthwith post a printed description of the
 18 polling places designated, and may give further notice thereof.

Polling places,
 designation,
 preparation,
 notice, etc.
 1884, 229, § 5.
 1885, 142.
 1890, 423, § 74.
 1893, 417,
 § 121.
 1898, 548,
 § 183.
 R. L. 11, § 186.
 1900, 311.
 1907, 560,
 §§ 215, 456.
 1913, 835,
 §§ 241, 503.
 1919, 269, § 13.
 1931, 394,
 § 215.
 190 Mass. 358.

1 SECTION 25. Except where voting machines are used as provided in
 2 section thirty-four, the aldermen or selectmen shall cause each polling
 3 place in their respective cities and towns to be provided with a sufficient
 4 number of suitable marking shelves or compartments where voters may
 5 conveniently and secretly mark their ballots; and they shall cause a
 6 guard rail to be so placed that only persons inside thereof can approach
 7 within six feet of the ballot boxes or of the marking shelves or compart-
 8 ments. The ballot boxes and the marking shelves or compartments shall
 9 be in open view of persons in the polling place outside the guard rail.
 10 The number of marking shelves or compartments shall be not less than
 11 one for every seventy-five voters at such polling place, and not less than
 12 five in any voting precinct of a city, and not less than three in any town
 13 or voting precinct thereof. Each marking shelf or compartment shall
 14 at all times be provided with proper supplies and conveniences for mark-
 15 ing the ballots.

Marking
 shelves and
 guard rails to
 be provided,
 etc.
 1888, 436, § 21.
 1889, 413, § 21.
 1893, 417,
 § 121.
 1898, 548,
 § 184.
 R. L. 11, § 187.
 1907, 560,
 §§ 216, 456.
 1913, 835,
 §§ 242, 503.

1 SECTION 25A. In any city or town which accepts this section by vote
 2 of its city council or selectmen, the national flag shall be displayed at each
 3 polling place during the hours when voting is taking place thereat.

Display of
 national flag.
 1930, 149.

BALLOT BOXES, VOTING MACHINES, COUNTING APPARATUS AND BLANKS.

1 SECTION 26. Except where voting machines are used as provided in
 2 section thirty-four, the state secretary shall, at the expense of the com-
 3 monwealth, provide every city and town for use at every polling place
 4 therein with a state ballot box and counting apparatus approved by the
 5 board of voting machine examiners as provided in section thirty-two.

State ballot
 boxes and
 counting ap-
 paratus to be
 provided, when.
 1884, 299, § 10.
 1887, 443, § 1.
 1888, 434, § 2.
 1890, 423, § 84.

1891, 328, § 1.
1893, 417,
§ 123.

Ballot boxes shall be purchased by the secretary at a price not exceeding seventy dollars each. 6
7

1898, 548, § 185. 1907, 560, §§ 217, 456. 1920, 169
R. L. 11, § 188. 1913, 835, §§ 243, 503. 1 Op. A. G. 251, 376.
1903, 368, § 2.

[Penalties for malicious injury, etc., of ballot box, etc., Chap. 56, §§ 47, 48.]

Blanks and envelopes for returns of votes, forms for use by election officers, etc. 1887, 295, § 1. G. S. 7, § 20. 1874, 376, § 34. P. S. 7, § 33; 8, § 18; 22, § 28. 1890, 423, § 112. 1891, 328, § 1: 329, § 3. 1893, 417, §§ 123, 124.

SECTION 27. The state secretary shall provide every city and town with suitable blank forms and envelopes for all certificates, copies of records and returns required to be made at his office, with such printed directions thereon as he may deem necessary; and such other blank forms and suggestions and instructions, as will assist the election officers in the performance of their duties. The clerks of the courts of the several counties shall in like manner provide cities and towns with suitable blank forms and envelopes for all certificates, copies of records and returns required to be made to the county commissioners and boards of examiners. 1
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1898, 548, §§ 185, 186. 1907, 560, §§ 217, 218, 456. 1913, 835, §§ 243, 244, 503.

[Penalty for malicious injury, etc., of blank forms, Chap. 56, § 47.]

Ballot boxes, voting machines and counting apparatus, care, repair, etc. 1884, 299, § 14. 1890, 423, § 87. 1891, 329, § 1. 1893, 397, 417, § 125. 1898, 548, § 187. R. L. 11, § 190. 1907, 560, §§ 219, 456. 1912, 641, § 5. 1913, 835, §§ 245, 503.

SECTION 28. The clerk of each city or town shall provide therein a place for the safe keeping of the ballot boxes and counting apparatus furnished by the commonwealth, and of voting machines used in such city or town. He shall have the care and custody thereof, and see that they are kept in good order and repair. The custody, care and repair of all such voting machines, ballot boxes and apparatus shall be at the expense of the city or town, but shall be subject to the supervision and control of the state secretary, who may, at the expense of the commonwealth, subject to approval as provided in section thirty-two, cause necessary improvements to be made in any of such voting machines, ballot boxes or apparatus. 1
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Defective ballot boxes, etc., may be repaired. 1895, 508, § 1. 1898, 548, § 188.

SECTION 29. If a state ballot box becomes defective or is lost or destroyed, the state secretary, upon application by the city or town clerk, shall provide another ballot box at the expense of such city or town. 1
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R. L. 11, § 191. 1907, 560, §§ 220, 456. 1913, 835, §§ 246, 503.

Precinct seals, use, custody, etc. 1874, 376, § 42. 1876, 188, § 6. 1880, 87, § 28, 39. 1884, 299, § 23, 53. 1890, 423, § 89. 1892, 405. 1893, 417, § 127. 1898, 548, § 190.

SECTION 30. The clerk of every city and of every town divided into voting precincts shall furnish to the clerk of each voting precinct a seal of suitable device, with a designation thereon of such precinct; and such seal shall be used in sealing all envelopes required by law to be used at elections. The clerk of the precinct shall retain custody of the seal, and shall, at the end of his term of office, deliver it, with the records of the precinct and other official documents in his custody, to the city or town clerk. 1
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R. L. 11, § 193. 1907, 560, §§ 221, 456. 1913, 835, §§ 247, 503.

Ballot box, apparatus, etc., to be sent to polling place. 1884, 299, § 16. 1890, 423, § 89. 1891, 328, § 3.

SECTION 31. Every city and town clerk shall send to the election officers at each polling place, before the opening of the polls on the day of an election or meeting at which the same are required to be used, the ballot box, blank forms and counting and other apparatus. 1
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1892, 405. 1898, 548, § 191. 1907, 560, §§ 222, 456. 1893, 417, § 128. R. L. 11, § 194. 1913, 835, §§ 248, 503.

State ballot law commission to examine

SECTION 32. The state ballot law commission shall constitute the state board of voting machine examiners and no member thereof shall 1
2

3 have any pecuniary interest, directly or indirectly, in any voting machine,
 4 ballot box or counting apparatus. They shall, at such times, under such
 5 conditions, and after such public notice as they shall determine, examine
 6 voting machines, ballot boxes and counting apparatus, and shall file
 7 with the state secretary their written approval of all machines, ballot
 8 boxes and counting apparatus which in their judgment conform to the
 9 requirements of law, together with such written or printed descriptions,
 10 and such drawings, specifications and photographs as will clearly identify
 11 such machines, and the state secretary shall send a copy of each report
 12 on voting machines to every city and town clerk. For the purpose of
 13 such examination said board may employ not more than three expert
 14 machinists at a cost not exceeding ten dollars each for each day employed,
 15 to be paid from the appropriation for the expenses of the commission.
 16 If any machine, ballot box or counting apparatus approved and pre-
 17 scribed by said board in accordance with this and the following section
 18 shall, in the judgment of the board at any time thereafter, by reason
 19 of the enactment of further requirements, cease to conform to the re-
 20 quirements of law, the board shall notify the state secretary thereof, who
 21 shall forthwith send a copy of such notice to every city and town clerk;
 22 and no such machine, ballot box or counting apparatus shall be used at
 23 any primary, caucus or election until, upon examination by said board,
 24 it shall in their judgment conform to all the requirements of law, and
 25 shall be approved in the manner herein provided.

and approve,
 etc. voting
 machines,
 ballot boxes,
 etc. Action if
 they cease to
 conform to law
 Const. amend
 28
 (Const. Rev.
 art. 37.)
 1808, 378,
 § 1, 2,
 548, § 267
 R. L. 11, § 270,
 1907, 560,
 §§ 1, 2, 4
 1907, 560,
 §§ 223, 224,
 456,
 1912, 641,
 §§ 1, 13,
 1913, 835,
 § 249, 503,
 1918, 257, § 17,
 1919, 5,
 1920, 2,
 196 Mass. 410,
 1 Op. A. G. 366.

1 SECTION 33. Voting machines shall furnish convenient, simple and
 2 satisfactory means of voting at primaries and elections and of ascertain-
 3 ing and recording the true result thereof with facility and accuracy,
 4 special regard being given to the prevention and detection of double
 5 voting at primaries and elections and of voting for candidates of more
 6 than one political party at a primary; but no machine shall be approved
 7 which does not secure to the voter as much secrecy in voting as is afforded
 8 by the use of the official ballot. Ballot boxes shall have sufficient locks
 9 and keys or seal fastenings, and shall contain mechanical devices for
 10 receiving, registering and cancelling every ballot deposited therein;
 11 but no such box shall record any distinguishing number or mark upon a
 12 ballot. No machine, ballot box or counting apparatus, not approved
 13 in accordance with this and the preceding section, shall be used at any
 14 election, primary or caucus; nor shall any such machines, ballot boxes or
 15 counting apparatus be used except in accordance with the laws relating
 16 to primaries and elections. The arrangement of names and questions on
 17 voting machines shall be in general the same as on the official ballot,
 18 except that when in the judgment of the ballot law commission it is im-
 19 practicable, said commission shall determine the arrangement.

Requirements
 of voting ma-
 chines and
 ballot boxes,
 etc.
 1808, 378, § 2;
 548, § 267
 R. L. 11, § 270,
 1907, 560,
 §§ 224, 456,
 1912, 641,
 § 2, 13,
 1913, 835,
 §§ 250, 503.

1 SECTION 34. The aldermen of a city, except Boston, or a town, may,
 2 at a meeting held at least thirty days before the primary or election
 3 at which voting machines are to be used, determine upon and purchase,
 4 or lease, one or more voting machines approved as provided in section
 5 thirty-two, and order the use thereof at primaries and elections of state,
 6 city or town officers in such city or town; and thereafter at all primaries
 7 and elections of state, city or town officers in that city or town, until
 8 otherwise ordered by the aldermen in a city, and the selectmen in a town,
 9 said machines shall be used at primaries and for voting for the officers to

Cities and
 towns may
 adopt use
 of voting
 machines and
 purchase or
 lease them, etc.
 1883, 465, 1.
 1896, 498, 1.
 1898, 378,
 § 3;
 548, § 268.
 1901, 531,
 R. L. 11, § 271,
 1907, 560,
 §§ 225, 456,
 1912, 641,
 § 3, 4, 13.

1913, 835,
§§ 251, 503.
1916, 43, § 1.
1 Op. A. G.
366, 602.

be elected at such elections and for taking the vote upon questions submitted to the voters. 11

For polling places in which voting machines are to be used no ballot boxes or ballots shall be furnished. 12 13

Preparation of
voting ma-
chines for
use and
delivery at
polling place.
1912, 641, § 6.
1913, 835,
§§ 252, 503.

SECTION 35. The body, board or official charged with the conduct of elections in any city or town where voting machines are used shall, before the opening of the polls at a primary or election, cause each machine to be prepared for use and delivered at the polling place, and shall cause to be done all things necessary to hold the primary or election with machines. 1 2 3 4 5 6

[Penalty for tampering with voting machine, etc., Chap. 56, § 48.]

Election
officers when
voting ma-
chines are used.
1912, 641, § 7.
1913, 835,
§§ 253, 503.

SECTION 36. In any election when voting machines are used in any polling place in any city or town, the number of election officers in such polling place may be less than six in the discretion of the board, body or official in which or in whom the authority to determine the number of election officers in such polling place is vested by law, subject to section thirteen. 1 2 3 4 5 6

Regulations
for use of
voting ma-
chines, ballot
boxes and
counting ap-
paratus.
1898, 378, § 5;
548, § 270.

SECTION 37. The ballot law commission shall make regulations for the use of the voting machines, ballot boxes and counting apparatus approved by it, and suitable instructions for the voters in cities and towns where such machines, ballot boxes and counting apparatus are used shall be prepared and furnished by the state secretary. 1 2 3 4 5

R. L. 11, § 273. 1907, 560, §§ 227, 456. 1913, 835, §§ 254, 503.
1905, 313, § 2. 1912, 641, §§ 8, 13. 196 Mass. 410.

Voting ma-
chines, ballot
boxes and
counting ap-
paratus to be
inspected, etc.
1884, 299, § 10.
1887, 443, § 1.
1890, 423, § 84.
1893, 417,
§ 123.
1898, 378, § 2;
548, §§ 183,
267.

SECTION 38. No voting machine shall be used at a primary or election until it has been inspected under the direction of the state secretary and found to conform to drawings and specifications to be filed in the office of the secretary by the ballot law commission, with their report on the machine, nor shall any ballot box or counting apparatus be used at a primary, caucus or election until it has been inspected and approved under the direction of said secretary. 1 2 3 4 5 6 7

R. L. 11, §§ 188, 270. 1907, 560, §§ 224, 228, 456. 1913, 835, §§ 255, 503.
1903, 368, §§ 2, 4. 1912, 641, §§ 10, 13.

Persons of
whom machines
or ballot boxes
are purchased
to give bond,
etc.
1895, 508, § 3.
1898, 378,
§ 4; 548,
§§ 189, 269.
R. L. 11,
§§ 192, 272.
1903, 368, § 3.
1905, 313, § 1.
1907, 560,
§§ 226, 456.
1912, 641,
§§ 12, 13.
1913, 835,
§§ 256, 503.
1916, 43, § 2.

SECTION 39. When voting machines or ballot boxes are purchased by the commonwealth or by a city or town, the persons of whom the purchase is made shall give to the state secretary, city or town clerk or election commissioners, as the case may be, a bond with sufficient sureties to keep such machines or ballot boxes in working order for two years. Such persons shall also give a bond with sufficient sureties, conditioned to defend and indemnify the commonwealth or cities and towns purchasing, or leasing, and using the machines or ballot boxes against any suit at law or in equity and for any expense, damage or inconvenience which they may incur or suffer by reason of any suit brought against them for infringement of patents or other rights, arising from the purchase, lease, or use of such machines or ballot boxes. 1 2 3 4 5 6 7 8 9 10 11 12

PREPARATION AND FORM OF BALLOTS.

Ballots,
preparation
and furnishing.
1889, 413,
§§ 1, 10.

SECTION 40. All ballots for use in elections of state officers shall be prepared and furnished by the state secretary, and all ballots for use in elections of city or town officers, by the city or town clerk. No such 1 2 3

4 ballots shall be printed in any printing establishment owned or man-
5 aged by Boston.

1897, 539, § 21.
1898, 548, § 192.

R. L. 11, § 195
1907, 569, §§ 229, 456.

1913, 835, §§ 257, 503.
164 Mass. 486.

265 Mass. 19.

1890, 386, § 7.
1893, 417,
§ 129.

1 SECTION 41. Ballots for the use of voters in a voting precinct or town
2 shall contain the names of all candidates duly nominated for election
3 therein, and, except as provided in section forty-three, such ballots shall
4 contain the name of no other person.

5 To the name of each candidate for a state office shall be added the name
6 of the city or town where he resides. To the name of each candidate for
7 a city office shall be added the name of the street on which he resides,
8 with his street number, if any; and to the name of each candidate for
9 alderman at large shall also be added the number of the ward where he
10 resides.

11 To the name of each candidate for a state or city office, except city
12 offices in cities where political designations are forbidden, shall be added
13 in the same space his party or political designation or designations.

14 To the name of a candidate for a state or city office who is an elected
15 incumbent thereof and who is one of two or more candidates therefor
16 bearing the same name, there shall be added in the same space the words
17 "Candidate for Re-election". To the name of each candidate for a town
18 office upon an official ballot shall be added the designation of the party
19 or principle which he represents, contained in the certificate of nomina-
20 tion or nomination papers. The town clerk shall add the words "Caucus
21 Nominee" to the name of any candidate nominated for a town office by
22 a caucus held under the provisions of sections one hundred and seventeen
23 to one hundred and twenty, inclusive, of chapter fifty-three.

24 If a candidate shall receive the nomination of more than one party or
25 more than one political designation for the same office, he may, within
26 the seventy-two hours next succeeding five o'clock in the afternoon of the
27 last day fixed for the filing of nominations, by a writing delivered to the
28 officer or board required by law to prepare the official ballot, direct in
29 what order the several nominations or political designations shall be
30 added to his name upon the official ballot; and such directions shall be
31 followed by the said officer or board. If, during said time, said candidate
32 shall neglect to so direct, said officer or board shall add said nomina-
33 tions or political designations to the name of said candidate upon the
34 official ballot in such order as said officer or board shall determine.

1 SECTION 42. The names of candidates for every state, city and town
2 office, except presidential electors, shall be arranged under the designa-
3 tion of the office in alphabetical order according to their surnames, except
4 as city charters otherwise provide in the case of municipal offices; but
5 the names of candidates for different terms of service in the same office
6 shall be arranged in groups according to the length of their respective
7 terms, and the names of candidates nominated by single wards but to be
8 voted for at large shall be arranged in groups by wards. In the case
9 of representatives in congress, the designation may be "congressman";
10 Blank spaces shall be left at the end of the list of candidates for each dif-
11 ferent office, equal to the number to be elected thereto, in which the voter
12 may insert the name of any person not printed on the ballot for whom he
13 desires to vote for such office. If the approval of any question is sub-

Ballots, names,
residences and
political designa-
tions of
candidates.
1888, 436, § 10
1889, 413, § 10
1890, 386, § 7;
436, § 2
1891, 269; 270.
1893, 417,
§ 130
1898, 548,
§ 193
1899, 220.
1900, 231.
R. L. 11, § 196
1907, 569,
§§ 229, 456.
1912, 398, § 3.
1913, 835,
§§ 258, 503.
1917, 250, § 2.
1926, 175, § 1.
1927, 24, § 4.
1931, 337
159 Mass. 488.
198 Mass. 349.
221 Mass. 223.
265 Mass. 19.

Contents,
arrangement
of names, blank
spaces, etc.
1888, 353.
1889, 413, § 10.
1890, 386, § 7;
436, § 11.
1893, 417,
§§ 130, 135.
1896, 518, § 2.
1897, 482.
1898, 548,
§ 193.
R. L. 11, § 197.
1907, 429, § 8;
569, §§ 231,
456.
1913, 835,
§§ 259, 503.
§§ 15, 36.
177 Mass. 518.
221 Mass. 223.

228 Mass. 262.
229 Mass. 23.
257 Mass. 332.
1 Op. A. G. 3.
4 Op. A. G. 642.

mitted to the voters, it shall be printed on the ballot after the names of 14
the candidates. 15

Ballots shall be so printed as to give to each voter an opportunity to 16
designate by a cross (X), in a square at the right of the name and designa- 17
tion of each candidate, and at the right of each question, his choice 18
of candidates and his answer to such question; and upon the ballots 19
may be printed such directions as will aid the voter; for example, "vote 20
for one", "vote for two", "yes", "no", and the like. On the back and 21
outside of each ballot when folded shall be printed the words "Official 22
Ballot for", followed by the designation of the voting precinct or town 23
for which the ballot is prepared, the date of election, and a facsimile of 24
the signature of the officer who has caused the ballot to be prepared. 25

Presidential
electors, arrange-
ment of names of can-
didates, etc.
1832, 169, § 1.
R. S. 6, § 15.
G. S. 9, § 11.
P. S. 9, § 11.
1889, 413, § 10.
1890, 425,
§ 172.
1892, 279, § 1.
1893, 417,
§ 131.
1898, 548,
§ 195.
R. L. 11, § 198.
1907, 429, § 12;
560, §§ 232,
456.
1913, 835,
§§ 260, 503.
1925, 36.

SECTION 43. The names of candidates for presidential electors shall 1
be arranged in groups as presented in the several certificates of nomina- 2
tion or nomination papers. The groups shall be arranged in the alpha- 3
betical order of the surnames of the candidates for president, and the 4
names of the candidates in each group shall be printed upon the ballots in 5
two columns of equal width. If candidates are nominated at large and 6
for the several congressional districts, the name and place of residence of 7
the candidates at large shall be put at the head of the first column, and 8
the names of the other candidates with their places of residence and the 9
numbers of their congressional districts shall follow in the numerical order 10
of the districts. The surnames of the candidates of each political party 11
for the offices of president and vice president, with the political designa- 12
tion thereof at the right of the surnames, shall be placed in one line above 13
the group of candidates of such party for electors. A sufficient square in 14
which each voter may designate by a cross (X) his choice for electors shall 15
be left at the right of each political designation; and no other space or 16
margin shall be left in any such group of candidates. 17

Official ballots,
paper, size,
form, type, etc.
1889, 413, § 10.
1890, 386, § 7;
425, § 81.
1894, 279, § 1.
1893, 417,
§ 132.
1898, 548,
§ 196.
R. L. 11, § 199.
1907, 560,
§§ 233, 456.
1913, 835,
§§ 261, 503.
221 Mass. 223.

SECTION 44. The official ballots shall, except as otherwise provided 1
in this chapter, be of ordinary white printing paper, of two or more 2
pages, and shall, before distribution, be so folded as to measure not less 3
than four and one half nor more than five inches in width and not less 4
than six nor more than thirteen and one half inches in length. The names 5
of all candidates shall be printed in black ink in lines at a right angle with 6
the length of the ballot. The names of all candidates, other than candi- 7
dates for presidential electors and for president and vice president, and 8
the initial letters of all names of candidates for presidential electors, shall 9
be in capital letters not less than one eighth nor more than one quarter 10
of an inch in height. The surnames and political designations of the 11
candidates for president and vice president shall be in capital letters 12
not less than three sixteenths of an inch in height. 13

Ballots,
number to be
provided, etc.
Partial ballots.
Const. amend.
30.
(Const. Rev.
art. 34.)
1888, 436, § 12.
1889, 413, § 12.
1890, 386, § 9;
436, § 7.
1893, 417,
§ 133.
1898, 163;
548, § 197.

SECTION 45. One set of ballots, not less than sixty for every fifty 1
registered voters, and for every fraction of fifty thereof, shall be provided 2
for each polling place at which an election for state, city or town officers 3
is to be held. The state secretary or the city or town clerk, as the case 4
may be, may provide a duplicate set of ballots for any polling place when 5
he deems it necessary. 6

A sufficient number of partial ballots in state elections shall be pre- 7
pared for voters entitled to vote for a part only of the officers to be 8
voted for in a city or town. A statement shall be printed on the back 9

10 of such ballots, in addition to the official endorsement, indicating the
 11 class of voters for whose use the ballots are furnished, and such ballots
 12 only shall be furnished to those voters.

1912, 266.

1913, 835, §§ 262, 503.

R. L. 11, § 209.
 1907, 560.
 §§ 234, 456.

1 SECTION 46. Ballots, in convenient numbers, shall be arranged in
 2 packages. A record of the number of ballots printed and delivered to
 3 each polling place shall be kept by the state secretary, or the city or town
 4 clerk, for one year.

1890, 386, § 8.
 1893, 417, § 134.

1898, 548, § 198.
 R. L. 11, § 201.

1907, 560, §§ 235, 456.
 1913, 835, §§ 263, 503.

Ballots to be arranged in packages, etc.
 1888, 436, § 11.
 1889, 413, § 11.

1 SECTION 47. If a vacancy occurs or is declared in the list of nomina-
 2 tions, by reason of death or ineligibility, the name of the candidate nomi-
 3 nated to fill such vacancy shall, if the ballots have not been printed, be
 4 placed on them or, if the ballots have been printed, ballots containing
 5 the new nomination shall, when practicable, be substituted.

1898, 548, § 199. R. L. 11, § 202. 1907, 560, §§ 236, 456. 1913, 835, §§ 264, 503.

Printing of ballots when vacancy occurs.
 1890, 436, § 4.
 1891, 278.
 1893, 417, § 136.

INFORMATION TO VOTERS.

1 SECTION 48. The state secretary in state elections, city clerks in city
 2 elections, and town clerks in town elections at which official ballots are
 3 used, shall, for every such election, prepare and cause to be printed in
 4 large clear type cards containing full instructions to voters for obtaining
 5 ballots, marking them, obtaining assistance and new ballots in place of
 6 those accidentally spoiled; and on separate cards such abstracts of the
 7 laws imposing penalties upon voters as they shall deem proper. They
 8 shall also provide for each polling place ten or more specimen ballots
 9 which shall be facsimiles of the ballots provided for voting, but printed
 10 without the endorsements and on colored paper. The state secretary
 11 shall provide copies of any proposed amendment to the constitution,
 12 law or proposed law, submitted to the people, with a heading in large
 13 type, "Proposed Amendment to the Constitution", "Law Submitted
 14 upon Referendum after Passage", "Law Proposed by Initiative Peti-
 15 tion", as the case may be.

Cards of instruction. Specimen ballots and copies of proposed amendments to the constitution.
 1888, 436, § 13.
 1889, 413, § 13.
 1890, 386, § 10.
 1893, 417, § 137.
 1898, 548, § 200.
 R. L. 11, § 203.
 1907, 560, §§ 237, 456.
 1913, 835, §§ 265, 503.
 1919, 364, § 3.

1 SECTION 49. The state secretary, at least five days before state elec-
 2 tions, shall transmit to the registrars printed lists of the names, residences
 3 and designations of candidates to be voted for at each polling place,
 4 substantially in the form of the official ballot, and also printed copies of
 5 any proposed amendment to the constitution, law, or proposed law, to
 6 be submitted to the people. Upon the receipt thereof, the registrars shall
 7 conspicuously post in not less than three public places in each voting
 8 precinct or town the lists and copies aforesaid for such precinct or town.

R. L. 11, § 204. 1913, 835, §§ 266, 503.
 1907, 429, § 9; 560, §§ 238, 456. 1919, 364, § 4.

Lists of candidates, etc., at state elections to be transmitted to registrars and posted.
 1888, 436, § 14.
 1889, 413, § 11.
 1892, 124, § 2.
 1893, 417, §§ 138-140.
 1898, 548, § 201.

[Penalty for tearing down, etc., posted list, Chap. 56, § 30.]

1 SECTION 50. At least four days before a city election, city clerks
 2 shall cause to be posted in every voting precinct the names, residences
 3 and designations of all candidates duly nominated to be voted for in
 4 their respective cities, substantially in the form of the official ballot.

1898, 548, § 202. 1907, 560, §§ 239, 456.
 R. L. 11, § 205. 1913, 835, §§ 267, 503.

City election, posting.
 1889, 413, § 15.
 1890, 386, § 11.
 1893, 417, § 139.

Town election, posting
1880, 386, § 11.
1883, 417,
§ 140.
1888, 548,
§ 203.
R. L. II, § 206.
1907, 560,
§§ 240, 456.

SECTION 51. In towns using official ballots the town clerk, at least four days before an election therein, shall cause to be posted in one or more public places the names, residences and designations of all candidates duly nominated to be voted for in the town, substantially in the form of the official ballot.

1913, 835, §§ 268, 503.

Lists of candidates, etc., at state and city elections, to be published.
1888, 436, § 15.
1889, 413, § 15.
1893, 417,
§§ 158, 159.
1898, 548,
§ 204.
R. L. II, § 207.
1907, 560,
§§ 241, 456.
1908, 441,
1913, 835,
§§ 269, 503.
1919, 54,
1920, 559.

SECTION 52. Before every state election, the state secretary shall cause to be published a list of all candidates to be voted for in each senatorial district, except that in the county of Suffolk the publication shall be of all candidates to be voted for therein. He shall also publish with said lists the form of any question to be submitted to the voters. Before every city election, city clerks shall cause to be published a list of all candidates to be voted for in their respective cities, and the form of any question to be submitted to the voters at such election. Such lists and questions shall in all cases be in the form, as near as may be, in which they are to appear upon the official ballot, and for state elections shall be printed in at least four newspapers, if there be so many, published in English in each senatorial district, or in the county of Suffolk, as the case may be. Such publication shall, so far as is practicable, be in newspapers representing the two leading political parties, and at such reasonable cost as the secretary may determine. For city elections the publication shall be made in at least two newspapers representing the two leading political parties, if there are so many in the city, devoted wholly or chiefly to the publication of local or general news.

Measures submitted under initiative and referendum, information to voters.
Lists of voters to be furnished, etc.
Const. Rev. arts. 76-107.
1919, 187,
§§ 1, 3.
1926, 196.

SECTION 53. The election commissioners in Boston at least twenty-four days, and the registrars of voters in every other city and town at least sixty days, before the biennial state election, shall cause to be sent to the state secretary mailing lists of the voters whose names appear on the latest revised voting lists of their respective cities and towns, and shall promptly furnish him with subsequent additions to and corrections in the said lists. The secretary shall cause to be printed in type of a size not less than ten point and sent to each person whose name appears upon the said lists, with copies of the measures to which they refer and brief statements, prepared by the attorney general, of the provisions thereof, arguments for and against measures to be submitted to the people under the forty-eighth article of the amendments to the constitution, provided that the arguments are filed with him as provided in the following section.

Filing of arguments with state secretary.
1919, 187, § 2.

SECTION 54. The first ten signers of an initiative or referendum petition, or a majority of them, may prepare and file with the state secretary, not later than ten days after the petition is completed and filed with the secretary in case of a law, and not later than ten days after final legislative action and certification to the secretary in case of a constitutional amendment, a written argument containing not more than five hundred words. If such written argument is filed with the secretary he shall cause to be prepared by a registered voter of the commonwealth and filed with him, within such time as he may designate, a contrary written argument of the same maximum length. All arguments filed with the secretary under this section shall be open to public inspection.

1 SECTION 55. Whenever any law submitted for acceptance to the
 2 voters of a city is to be placed on the ballot at any election, the city
 3 clerk in every city where such law is to be voted upon, except as herein-
 4 after provided, shall send to each of the registered voters in his city en-
 5 titled to vote thereon a copy thereof, with the statement that such law
 6 is to be voted on at said election.

Notice of referendum measures to be given to voters in cities—
 1914, 408, § 1.
 835, §§ 270, 503
 1919, 301, § 1.

1 SECTION 56. Upon vote of a city council, with the approval of the
 2 mayor, there may be substituted for a copy of such law a statement of
 3 the general purport thereof, which statement shall be prepared by the
 4 city solicitor of the city and approved by the mayor and city council.

Statement of purport of proposed law or amendment may be substituted.

1913, 408, § 2; 835, §§ 271, 503.

1919, 301, § 4.

1 SECTION 57. All such copies or statements shall be sent not less than
 2 seven and not more than twenty-one days before the election at which
 3 said matter is to be voted upon.

When to be sent
 1913, 408, § 3;
 835, §§ 272, 503.

1 SECTION 58. By vote of a city council, with the approval of the
 2 mayor, the three preceding sections may be suspended and made in-
 3 applicable as to a particular law submitted for acceptance.

Provisions of §§ 55-57 may be suspended, etc.

1913, 408, § 4; 835, §§ 273, 503.

1919, 301, § 4.

DELIVERY OF BALLOTS, ETC.

1 SECTION 59. Ballots for state elections shall be enclosed in a package
 2 by the state secretary, sealed and marked with the number of ballots of
 3 each kind therein, and specimen ballots, cards of instruction, cards con-
 4 taining abstracts of the laws imposing penalties upon voters, and copies
 5 of any measure to be submitted to the people shall be enclosed in another
 6 package, and the whole shall be further enclosed in a single package
 7 with marks on the outside indicating its contents and the polling place
 8 for which it is intended, and transmitted to city and town clerks, so as
 9 to be received at least twelve hours before the date of election. The
 10 clerks shall return receipts therefor to the secretary. He shall keep a
 11 record of the time when and the manner in which the several packages
 12 are transmitted, and shall preserve the receipts therefor for one year.

Ballots, etc., packing and transmission.
 1888, 436, §§ 16, 17.
 1889, 413, §§ 16, 17.
 1892, 316.
 1893, 417, §§ 11-143.
 1898, 548, § 205.
 R. L. 11, § 208.
 1907, 560, §§ 242, 456.
 1912, 266, § 1.
 1913, 835, §§ 274, 503.
 1919, 304, § 5.

13 The clerk of each city and of each town using official ballots shall en-
 14 close the ballots, specimen ballots, cards of instruction and cards con-
 15 taining abstracts of the laws imposing penalties upon voters for city or
 16 town elections in the same manner.

1 SECTION 60. The city or town clerk, on the day of every state or
 2 city election, before the opening of the polls, shall transmit to the elec-
 3 tion officers of each polling place therein, all things mentioned in the
 4 preceding section which have been provided for such polling place; and
 5 the presiding election officer at the polling place shall receipt therefor to
 6 the clerk, and such receipt, with a record of the number of ballots trans-
 7 mitted, shall be kept in the clerk's office for one year. At town elections,
 8 the town clerk shall, on the day of the election, before the opening of
 9 the polls, deliver the ballots at the polling place to the ballot clerks,
 10 who shall receipt therefor, and their receipt shall be preserved in the
 11 office of the clerk for one year. If a moderator presides at such election,
 12 no such ballots shall be delivered to voters until he has been chosen.
 13 The town clerk shall also deliver the specimen ballots, cards of instruc-

Delivery at polls, state, city and town elections
 1888, 436, § 18
 1889, 415, § 18
 1890, 386, § 14,
 436, § 8.
 1893, 417, §§ 144, 149.
 1895, 275.
 1896, 469, § 8.
 1898, 548, §§ 206, 211.
 1913, 835, §§ 269, 214.
 1907, 429, § 10;
 560, §§ 243, 456
 1912, 266, § 1.
 1913, 835, §§ 275, 503
 1919, 304, § 6.

tion and cards containing abstracts of the laws imposing penalties upon 14 voters at the same time and place. No ballots or specimen ballots shall 15 be delivered by city or town clerks except as provided herein. 16

[Penalty for obstructing transmission of ballots or returns, Chap. 56, § 45.]

Substitute
ballots.
1888, 436, § 19
1889, 413, § 19.
1893, 417,
§ 145.
1898, 548,
§ 207.
R. L. 11, § 210.
1907, 560,
§§ 244, 456,
1913, 835,
§§ 276, 503.

SECTION 61. If the ballots provided for any polling place are not 1 delivered, or if after delivery they are destroyed or stolen, the city or 2 town clerk shall cause similar ballots to be prepared; and upon receipt 3 of such new ballots, accompanied by a statement by him on oath that 4 they have been so prepared and transmitted by him, and that the original 5 ballots have not been delivered or have been so destroyed or stolen, the 6 ballots so substituted shall be used. 7

159 Mass. 487.

CALLING OF ELECTIONS.

Biennial state
election, date,
officers to be
chosen.
(Const. amend.
19, 36, 64.
(Const. Rev.
arts. 29, 62.)
1832, 169.
1833, 68.
R. 7, 6.
§§ 3, 13.
1848, 35.
G. S. 8, § 1;
9, §§ 3, 9, 10.
P. S. 8, § 1.
9, §§ 3, 9, 10;
10, § 1.

SECTION 62. The biennial state election for the choice of governor, 1 lieutenant governor, councillors, state secretary, state treasurer, attorney 2 general, state auditor and senators and representatives in the general 3 court, shall be held on the Tuesday next after the first Monday in Novem- 4 ber in every even numbered year. There shall also be chosen at the 5 biennial state election, when required by law, presidential electors, and 6 senators in congress, and, in their respective districts or counties, repre- 7 sentatives in congress, district attorneys, clerks of the courts, registers 8 of probate and insolvency, registers of deeds, county commissioners, 9 associate commissioners, sheriffs and county treasurers. 10

1890, 423, §§ 147, 165, R. L. 11, § 211, 1916, 247.
170, 171, 188, 1907, 560, §§ 245, 456, 1919, 269, § 14.
1893, 417, § 146, 1913, 835, §§ 277, 503, 265 Mass. 19.
1898, 548, § 208.

Calls for
elections in
cities.
1884, 299, § 2.
1890, 423,
§§ 67, 68.
1893, 417,
§ 147.
1898, 548,
§ 209.
R. L. 11, § 212.
1907, 560,
§§ 246, 456,
1913, 835,
§§ 278, 503.
1919, 269, § 15.
1931, 394,
§ 216.
163 Mass. 411.

SECTION 63. Elections of state officers and city officers shall be 1 called by the aldermen, and the city clerk shall, under their direction, 2 cause notice of such elections to be printed in one or more newspapers 3 published in such city and to be conspicuously posted in the office of 4 the city clerk; and in Boston, in at least four daily newspapers pub- 5 lished therein. Such notices shall be in lieu of the notices or warrants 6 for election required in any city by special statutes. Elections of state 7 officers and town officers shall be called in towns as provided in section 8 ten of chapter thirty-nine. The biennial state and the annual or biennial 9 city and town elections shall be called at least seven days before the day 10 prescribed for the holding thereof. 11

[Penalty for defacing or removing notice, Chap. 56, § 29.]

Notices or
warrants to
specify offices,
etc. Time of
opening and
closing polls.
1874, 376, § 21.
1879, 2.
P. S. 7, §§ 1-3.
1884, 299, § 1.
1890, 380, § 3;
423, §§ 60-69,
148, 165, 171.
1891, 314.
1892, 124, § 1.
1893, 417,
§ 148.
1898, 83, § 1;
548, § 210.
1901, 116.

SECTION 64. Notices or warrants for state and city elections and for 1 the election of town officers in towns where official ballots are used shall 2 specify by name all the offices to be voted for, and state, in the form in 3 which it will appear upon the ballot, any question submitted to the 4 voters. They shall specify the time when the polls will be opened, and in 5 cities and in towns when voting by precincts, when the polls will be closed, 6 and in towns when not voting by precincts, when they may be closed. 7

The polls shall in no case be kept open after eight o'clock in the evening. 8 In cities, the polls may be opened as early as fifteen minutes before six 9 o'clock in the forenoon, and shall be opened as early as ten o'clock in the 10 forenoon and shall be kept open at least six hours. 11

12 In towns, at the election of state and town officers, the polls may be
 13 opened as early as fifteen minutes before six o'clock in the forenoon, and
 14 shall be opened as early as twelve o'clock, noon, and shall be kept open at
 15 least four hours, and until the time specified in the warrant when they
 16 may or will be closed; and in towns not voting by precincts they may be
 17 kept open for such longer time as the meeting shall direct. At annual
 18 town meetings they shall be kept open at least one hour for the reception
 19 of votes upon the question of licensing the sale of certain non-intoxicating
 20 beverages, as defined in section one of chapter one hundred and thirty-
 21 eight. After an announcement has been made by the presiding officer of a
 22 time so fixed for closing the polls they shall not be closed at an earlier hour.

R. L. 11, § 213.
 1905, 111, § L
 1907, 509,
 § 217, 456
 1912, 307, 473.
 1913, 835,
 § 279, 503,
 1914, 329
 1919, 364, § 2
 1924, 171, 468.
 1931, 197, § 1
 2 Op. A. G. 649.

CONDUCT OF ELECTIONS.

1 SECTION 65. At an election of state or city officers, and of town
 2 officers in towns where official ballots are used, the presiding election
 3 officer at each polling place shall, before the opening of the polls, post at
 4 least three cards of instruction, three cards containing abstracts of the
 5 laws imposing penalties upon voters, three copies of measures to be sub-
 6 mitted to the people, if any, and at least five specimen ballots within
 7 the polling place outside the guard rail, and the cards of instruction and
 8 a copy of each measure to be submitted to the people in each marking
 9 compartment; and no other poster, card, handbill, placard, picture or
 10 circular intended to influence the action of the voter, except a paster to
 11 be placed upon the official ballot, shall be posted, exhibited, circulated
 12 or distributed in the polling place, in the building where the polling
 13 place is located, on the walls thereof, on the premises on which the build-
 14 ing stands, on the sidewalk adjoining the premises where such election is
 15 being held, or within one hundred and fifty feet of the entrance to such
 16 polling place. Pastors to be placed on the official ballot shall be subject
 17 to all the restrictions imposed by sections forty-one and forty-four as to
 18 names and residences of candidates and the size of the type in which
 19 the names shall be printed; but no political or other designation shall
 20 appear on such pasters, and no vote by paster shall be counted if such
 21 designation appears. The presiding election officer shall, at the open-
 22 ing of the polls, publicly open the packages containing the ballots and
 23 deliver them to the ballot clerks. All specimen ballots not posted shall
 24 be kept in the custody of the presiding officer until after the closing of
 25 the polls.

Posting in-
 structions, etc.
 Pastors
 Whether posters
 or cards for-
 bidden
 Opening of
 ballots, etc.
 1889, 413, § 18.
 1900, 386, § 14.
 1892, 124, § 2;
 316
 1893, 417,
 § 149
 1895, 275
 1896, 469, § 8.
 1898, 548,
 § 211.
 R. L. 11, § 214
 1907, 429,
 § 11, 560,
 § 228, 456.
 1914, 835,
 § 280, 503
 1919, 364, § 7.
 1920, 479
 221 Mass. 223.
 257 Mass. 332.

[Penalty for
 tearing down
 card of in-
 struction or
 specimen bal-
 lot, Chap. 56,
 § 30, for dis-
 tributing cards,
 etc., in or near
 polling places,
 Chap. 56, § 39.]

1 SECTION 66. The state ballot boxes shall be used for receiving the
 2 ballots in state and city elections, and in town elections where official
 3 ballots are used. The election officers at each polling place shall, at the
 4 opening of the polls and before any ballots are received, publicly open
 5 the ballot box, and ascertain by personal examination, and publicly
 6 show, that the same is empty, and shall immediately thereafter lock or
 7 fasten the box. The clerk of the precinct or town shall make a record of
 8 the condition of the box register, and, if a key is used, it shall be retained
 9 by the police officer or constable at the polling place. The ballot box shall
 10 not, after it is shown to be empty, be removed from public view until all
 11 ballots have been removed therefrom and the box has been relocked or
 12 sealed. The ballot box shall not be opened nor any ballot removed
 13 therefrom until the polls are closed, except as provided in section one

Use and
 custody of
 state ballot
 boxes, etc.
 1874, 376, § 41.
 1877, 209, § 5.
 1880, 87,
 P. S. 7, §§ 29,
 28
 1884, 299,
 §§ 12, 16.
 1887, 443, § 1.
 1888, 334,
 § 2, 3.
 1890, 423,
 §§ 84, 85, 89,
 95.
 1892, 405,
 1893, 446, § 1;
 417, § 150.
 1894, 275, § 1.
 1895, 240,
 1898, 548,
 § 212.

R. L. 11, § 215.
1907, 560,
§§ 249, 456.
1913, 835,
§§ 281, 503.

hundred and five; but in order to make room for ballots, the presiding officer may, in the presence of all the election officers, open the box and pack and press down the ballots therein.

The presiding officer of each polling place shall have charge of the ballot box and ballot box seal, and shall, at the close of each election, return the same, either personally or by a police officer or constable in attendance at the polling place, to the city or town clerk.

If it becomes impossible to use the state ballot box, the voting shall proceed in such manner as the presiding officer shall direct, and in such case the clerk shall record the reason why such ballot box is not used, and shall enclose an attested copy of such record in the envelope with the ballots cast. The provisions as to the use and custody of the state ballot box shall, so far as applicable, apply to the ballot box substituted therefor.

Voting lists,
delivery and
use. Party
representation.
1889, 415,
§§ 20, 22.
1890, 386, § 14;
423, § 90.
1893, 417,
§ 151.
1898, 548, § 213.

SECTION 67. One voting list shall be delivered to the ballot clerks and another to the officers in charge of the ballot box. When a ballot is delivered to a voter, his name shall be checked on the first and when he deposits his ballot it shall be checked on the second. The officer in charge of the ballot box and the officer in charge of the voting list shall be of different political parties.

R. L. 11, § 216.
1907, 560, §§ 250, 456.

1913, 835, §§ 282, 503.
12 Pick. 485.

103 Mass. 543.
111 Mass. 256.

Additional
ballot boxes,
use in towns
regulated.
1930, 63.

SECTION 67A. If the selectmen so vote, more than one state ballot box may be used at any polling place in any town at state elections and at town elections if official ballots are used therein. If more than one ballot box is to be used at any polling place as aforesaid, the voting lists for use thereat shall each be divided by the selectmen into as many sections as there are ballot boxes. Upon written request of the selectmen of a town for one or more additional ballot boxes for use as herein provided, the state secretary shall provide the same at the expense of such town.

No statement
to be made
before public
declaration of
vote, except,
etc.
1874, 376, § 54.
P. S. 7, § 53.
1888, 203, § 1.
1890, 423,
§ 123.
1893, 417,
§ 152.
1898, 548,
§ 214.
R. L. 11, § 217.

SECTION 68. No election officer shall, before the public declaration of the vote, make any statement of the number of ballots cast, the number of votes given for any person, the name of any person who has voted or whose name has not been checked, or of any other fact tending to show the state of the polls, except as expressly permitted by section one hundred and five and except that he shall when requested make a statement of the figures on the ballot box register, which statement shall not be considered an official declaration as to the state of the polls or of the number of ballots cast.

1907, 560, §§ 251, 456.
1911, 304.

1913, 835, §§ 283, 503.
1930, 204, § 1.

[Penalty. Chap. 56, § 18.]

Persons per-
mitted within
guard rail.
1889, 413, § 21.
1893, 417,
§ 153.
1898, 548,
§ 215.
R. L. 11, § 218.

SECTION 69. No persons except the election officers, supervisors, the city or town clerks, and voters admitted for the purpose of voting, shall, during the progress of an election and until the public declaration of the vote, be permitted within the guard rail, unless authorized by the election officers for the purpose of keeping order and enforcing the law.

1907, 560, §§ 252, 456.

1913, 835, §§ 281, 503.

1 SECTION 70. No more than four voters, besides election officers and
 2 supervisors, and the city or town clerk, in excess of the number of mark-
 3 ing compartments provided, shall be allowed at one time within the
 4 guard rail, and except the election officers and supervisors, no voters
 5 shall be admitted therein after the time fixed for closing the polls; but
 6 voters previously admitted shall be allowed five minutes after the time
 7 so fixed to deposit their ballots.

1907, 560, §§ 253, 456.

1913, 835, §§ 285, 503.

Number of voters allowed within guard rail.
 1889, 413, § 22.
 1893, 417, § 154.
 1898, 548, § 219.
 R. L. 11, § 219.

1 SECTION 71. The presiding officer at each polling place shall enforce
 2 the performance by election officers of their duties. During an election
 3 and the counting of the ballots after the close of the polls, he shall have
 4 authority to maintain order and to enforce obedience to his lawful com-
 5 mands, in and about the polling place and to keep the access thereto
 6 open and unobstructed, and he may require any police officer, constable
 7 or other person to communicate his orders and directions and assist in
 8 their enforcement.

R. L. 11, § 220.

1907, 560, §§ 254, 456.

1913, 835, §§ 286, 503.

16 Mass. 385.

[Penalty for disobeying election officer, Chap. 56, § 42.]

Presiding officer, general powers and duties.
 1884, 299, § 37.
 1889, 413, § 23.
 1890, 423, § 125.
 1893, 417, § 156.
 1898, 548, § 217.

1 SECTION 72. The board or officer in charge of the police force of
 2 each city and town shall detail a sufficient number of police officers or
 3 constables for each polling place at every election therein to preserve
 4 order and to protect the election officers and supervisors from any in-
 5 terference with their duties and to aid in enforcing the laws relating to
 6 elections.

R. L. 11, § 221.

1907, 560, §§ 255, 456.

1913, 835, §§ 287, 503.

Police officer, etc., to preserve order.
 1884, 299, § 38.
 1890, 423, § 126.
 1893, 417, § 157.
 1898, 548, § 218.

1 SECTION 73. Any person who, during an election or town meeting,
 2 shall, in a polling place or place of such meeting, smoke or have in his
 3 possession a lighted pipe, cigar or cigarette, or carry into any such place
 4 or keep therein any intoxicating liquor, shall be deemed guilty of dis-
 5 orderly conduct; and the presiding officer shall order him to remove such
 6 pipe, cigar, cigarette or liquor, or to withdraw from such place, and for
 7 disobedience of such order shall cause him to be removed from such
 8 polling place or meeting.

1907, 560, §§ 256, 456.

1913, 835, §§ 288, 503.

[Penalty for failure to remove cigar, etc., or withdraw when ordered, Chap. 56, § 41.]

Persons smoking, etc., or having liquor, etc., to be removed.
 1881, 273, P. S. 7, § 64.
 1890, 423, § 139.
 1893, 417, § 158.
 1898, 548, § 219.
 R. L. 11, § 222.

1 SECTION 74. If a person at an election refuses to obey the lawful
 2 commands of the presiding officer or, by disorderly conduct interrupts
 3 or disturbs the proceedings of an election officer, the presiding officer
 4 may require any police officer, constable or other person to take him
 5 into custody and detain him until after the election; but the presiding
 6 officer may at any time order his release. Such order of detention shall
 7 not be so enforced as to prevent such person, if a voter at that polling
 8 place, from voting.

1913, 835, §§ 289, 503.

16 Mass. 385.

[Penalty for disorderly conduct, Chap. 56, § 40.]

Offender to be detained, etc., but not prevented from voting.
 1884, 299, § 39.
 1890, 423, §§ 51, 127.
 1893, 417, § 159.
 1898, 548, § 220.
 R. L. 11, § 223.
 1907, 560, § 257, 456.

1 SECTION 75. Every election officer shall forthwith report every viola-
 2 tion of any provision of sections sixty-two to eighty-five and one hun-
 3 dred and four to one hundred and thirty-seven, both inclusive, to the
 4 police officer or constable in attendance at the polling place, and such
 5 police officer or constable shall cause the offender to be prosecuted.

R. L. 11, § 224.

1907, 560, §§ 258, 456.

1913, 835, §§ 290, 503.

Duties of officers when law is violated.
 1889, 413, § 27.
 1893, 417, § 160.
 1898, 548, § 221.

MANNER OF VOTING.

Voting, giving name, delivery of ballot, etc.
 1884, 299, § 16.
 1888, 436, § 22.
 1889, 413, § 22.
 1890, 423, § 91.
 1893, 417, § 161.
 1898, 548, § 222.
 1899, 323.

SECTION 76. Each voter desiring to vote at a polling place where official ballots are used shall give his name and, if requested, his residence to one of the ballot clerks, who shall thereupon distinctly announce the same; and if such name is found upon the voting list by the ballot clerk, he shall check and repeat the name and give one ballot to such voter, who shall then be admitted within the guard rail. If not entitled to vote for all the offices upon the ballot, he shall receive a partial ballot.

R. L. 11, § 225. 1907, 560, §§ 259, 456. 1913, 835, §§ 291, 503.

Marking ballot
 1888, 436, § 23.
 1889, 413, § 23.
 1893, 417, § 162.
 1898, 548, § 224.
 R. L. 11, § 227.
 1907, 560, § 260, 456.
 1913, 835, § 292, 503.
 1914, 435, § 1.
 177 Mass. 518.
 182 Mass. 524.

SECTION 77. The voter on receiving his ballot shall, without leaving the enclosed space, retire alone to one of the marking compartments, and shall, except in the case of voting for presidential electors, prepare his ballot by making a cross (X) in the square at the right of the name of each candidate for whom he intends to vote or by inserting the name and residence of such candidate in the space provided therefor and making a cross in the square at the right; and, upon a question submitted to the vote of the people, by making a cross in the square at the right of the answer which he intends to give.

195 Mass. 222. 229 Mass. 23. 1 Op. A. G. 3.
 221 Mass. 223. 257 Mass. 332.

Voting for presidential electors.
 1892, 279, § 2.
 1893, 417, § 163.
 1898, 548, § 225.
 R. L. 11, § 228.
 1907, 560, § 261, 456.
 1913, 835, §§ 293, 503.
 1914, 435, § 2.
 1 Op. A. G. 389.

SECTION 78. A voter may vote for an entire group of candidates for presidential electors by making a cross (X) in the square at the right of the party or political designation immediately above such group. If a voter does not intend to vote for any one candidate in the group, he may strike out his name, and the cross shall count as a vote for each of the other candidates in such group. If a voter desires to vote for another person in place of a candidate whose name he has struck out, he may insert his name and residence in one of the blank spaces and make a cross in the square at the right thereof. A voter who does not mark for any group of candidates may vote for candidates for electors, up to the number to be elected, by inserting names and residences in the blank spaces at the end of the groups of electors and making a cross in the square at the right of each name so inserted.

Assistance in marking ballot.
 1888, 436, § 25.
 1889, 413, § 25.
 1898, 548, § 226.
 R. L. 11, § 229.
 1907, 560, § 262, 456.
 1912, 641, § 9.
 1913, 835, §§ 294, 503.

SECTION 79. A voter who declares on oath to the presiding officer that he had the right to vote on May first, eighteen hundred and fifty-seven, and cannot read, or that from blindness or other physical disability he is unable to prepare his ballot or register his vote upon a voting machine, shall be assisted in such marking or registering by any qualified voter whom he may designate.

1916, 80.

[Penalty for false statement or oath, Chap. 56, § 31.]

Certain marks on ballot prohibited.
 1889, 413, § 27.
 1892, 368.
 1893, 417, § 165.

SECTION 80. Except as authorized by this chapter, no voter, election officer or other person shall place on a ballot any mark by which it may be identified; nor shall any person place a mark against any name upon a ballot not cast by himself.

1898, 548, § 227. 1907, 560, §§ 263, 456. 221 Mass. 223.
 R. L. 11, § 230. 1913, 835, §§ 295, 503.

[Penalties, Chap. 56, §§ 31, 50.]

1 SECTION 81. If a voter spoils a ballot, he may obtain two others, one
 2 at a time, upon returning each spoiled one, and all ballots so returned
 3 shall immediately be marked by an election officer "Spoiled".

Voter spoiling
 ballot may
 obtain others.

1888, 436, § 24. 1893, 417, § 166. R. L. 11, § 231. 1907, 560, §§ 264, 156.
 1889, 413, § 24. 1898, 548, § 228. 1903, 474, § 9. 1913, 835, §§ 296, 503.

1 SECTION 82. Before leaving the marking compartment the voter
 2 shall fold his ballot, without displaying the marks thereon, as it was
 3 folded when received by him, and shall keep it so folded until he has
 4 voted. A voter shall mark and deposit his ballot without undue delay,
 5 shall leave the space enclosed by the guard rail as soon as he has voted,
 6 and shall not remain within the guard rail more than ten minutes. No
 7 voter shall occupy a voting compartment more than five minutes, if all
 8 the marking compartments are in use and other voters are waiting to
 9 occupy the same, nor shall he occupy a marking compartment occupied
 10 by another, except as provided in section seventy-nine.

Marking and
 folding ballot,
 leaving
 promptly, etc.
 1889, 413, § 23.
 1893, 417,
 § 167.
 1898, 548,
 § 229.
 R. L. 11, § 232.
 1907, 560,
 §§ 265, 156.
 1913, 835,
 §§ 297, 503.

[Penalty for allowing marks on ballot to be seen, Chap. 56, § 31.]

1 SECTION 83. A voter after marking his ballot shall give his name and,
 2 if requested, his residence, to one of the officers in charge of the ballot box,
 3 who shall distinctly announce the same. If the name is found on the
 4 voting list by the election officer, he shall distinctly repeat the name
 5 and check it on the voting list; and the voter may then deposit his ballot
 6 in the ballot box with the official endorsement uppermost and in sight.
 7 No ballot without the official endorsement, except as provided in section
 8 sixty-one, shall be deposited in the ballot box. No person shall vote if
 9 his name is not on the voting list, nor until the election officer shall
 10 check his name thereon, unless he presents a certificate from the regis-
 11 trars of voters as provided by section fifty-nine of chapter fifty-one.

Depositing
 ballot, giving
 name, check
 list, etc.
 1889, 413,
 §§ 25, 26, 27.
 1890, 423,
 §§ 90, 91.
 1893, 417,
 § 168.
 1898, 548,
 § 230.
 R. L. 11, § 233.
 1903, 474, § 10.
 1906, 414, § 8.
 1907, 560,
 §§ 266, 456.
 1913, 835,
 §§ 298, 503.
 177 Mass. 518.

1 SECTION 84. No person shall remove any ballot from the space en-
 2 closed by the guard rail before the polls are closed. No voter whose name
 3 has been checked on the voting list in charge of the ballot clerk, other
 4 than an election officer or supervisor, shall again enter such enclosed
 5 space during the election.

Ballots not to
 be removed
 from enclosed
 space, etc.
 1888, 436, § 24.
 1889, 413,
 §§ 23, 24.

1893, 417, § 169. R. L. 11, § 234 1913, 835, §§ 299, 503.
 1898, 548, § 231. 1907, 560, §§ 267, 456.

[Penalty for removing ballot from within guard rail, Chap. 56, § 51.]

1 SECTION 85. If in any state, city or town election at which official
 2 ballots are used the right of a person offering to vote is challenged for
 3 any legal cause, the presiding officer shall administer to him the follow-
 4 ing oath:

Proceedings
 when vote is
 challenged.
 1877, 206.
 P. 8, 7.
 §§ 22, 23.
 1890, 423, § 92
 1892, 332, § 1.
 1893, 417,
 § 170.
 1897, 530,
 §§ 7, 9.
 1898, 548,
 § 232.
 R. L. 11, § 235
 1907, 560,
 §§ 268, 456.
 1913, 835,
 §§ 300, 503.
 1918, 41.

You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be, that you are registered in this precinct (or town) and that you have not voted at this election.

5 He shall also be required to write his name and residence on the out-
 6 side of the ballot offered, and the presiding officer shall add thereto the
 7 name of the person challenging, and the cause assigned therefor, where-
 8 upon such ballot shall be received; and no person shall make any state-
 9 ment or give any information in regard thereto, except as required by
 10 law. The clerk shall record the name and residence of every person who
 11 has been challenged and has voted.

[Penalty for failure to make proper entry on ballot of challenged voter, Chap. 56, § 19; for false oath by voter, Chap. 56, § 31; for illegal challenging, Chap. 56, § 38; for illegally giving information relative to challenged votes, Chap. 56, §§ 29, 53.]

ABSENT VOTERS.

Absent voters may vote, when Const. amend. 45 (Const. Rev. art. 35) 1918, 293, § 1; 295, § 1. 1919, 289, §§ 1, 7, 18. 1925, 101, § 1. Op. A. G. (1926) 58, 84.

SECTION 86. Any voter who on the day of the biennial state election is absent from the city or town where he is registered, and whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section eighty-nine, or with the state secretary as provided in section ninety, and certified under section ninety-one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive; provided, that a voter who is in a penal institution under sentence shall not be entitled or permitted to avail himself of the provisions of this and the seventeen following sections.

[Penalty for official misconduct under §§ 86 to 103, inclusive, Chap. 56, § 27.]

Preparation of absent voting ballots, applications, etc. 1918, 293, §§ 13, 16. 1919, 289, §§ 2, 18. 1926, 38. 1929, 93.

SECTION 87. Prior to each biennial state election the state secretary shall prepare in such quantities as he may deem necessary the following papers:

- (a) Official absent voting ballots, similar in all respects to the official ballot to be used at such election, but printed on paper differing in color from that used for official or specimen ballots.
(b) Blank forms of application for such ballots, worded as follows:

I, _____, hereby apply for an official absent voting ballot. I am a legal resident of the city or town of _____ and a duly registered voter at _____

(Street and Number) (City or Town)

and, as I believe, entitled to vote at the next state election at precinct _____, ward _____, in the city or town of _____

(Signature) (Date)

Mail official absent voting ballot to _____

(Street and Number) (City or Town) (State)

(If in the service of the United States, the applicant will fill out the following:)

I am in the military, naval, civil service of the United States, and my rank or official position is _____ (Signature) (Date)

We, the undersigned, a majority of the registrars of voters of the _____ of _____, hereby certify that the above signature, to the best of our knowledge and belief, appears to be genuine, and that we believe said _____

is a duly registered voter in said precinct _____, ward _____, city or town of _____ Registrars of voters of the _____ of _____

(c) Envelopes of sufficient size to contain the ballots specified in clause (a), bearing on their reverse the following affidavit:

State of _____, County of _____, ss.

I, _____, do solemnly swear that I am a registered voter in the city or town of _____, Massachusetts, in precinct _____, ward _____, that there are at least two municipalities intervening between the municipality in which I am a registered voter and the place where I now am; that I have carefully read the instructions forwarded to me with the ballot herein enclosed, and that I have marked, enclosed and sealed the within ballot as stated hereon by the person taking my oath.

(Signature)

Subscribed and sworn to before me by the above affiant, personally known to me, this _____ day of _____, 19____, in the city or town of _____, state of _____, and I hereby certify that when I was alone with the affiant he showed me the ballot herein enclosed, unmarked, and then in my presence marked the same without my seeing how he marked it, after which he sealed said ballot in this envelope. I had no communication with the affiant as to how he was to vote.

(Seal, if any) Name _____
 Residence _____
 Official title or military or naval rank _____

- 10 (d) Envelopes of size sufficient to contain the preceding, addressed
 11 to the clerks of the several cities and towns within the commonwealth,
 12 upon which shall be printed "Enclosed is the ballot of an absent voter",
 13 and at the top thereof blank spaces for the name, address and voting
 14 place of the sender with the words "name", "address", "ward" and
 15 "precinct" appropriately printed thereon.
 16 (e) Copies of sections eighty-six to one hundred and three, inclusive,
 17 with such explanatory matter and instructions as the state secretary,
 18 with the approval of the attorney general, shall deem appropriate to
 19 carry into effect the purposes of said sections.

1 SECTION 88. The state secretary shall retain for his own use so many
 2 of the papers provided for in the preceding section as he may deem suffi-
 3 cient, and shall supply each city and town clerk in the commonwealth
 4 with as many of them as he may deem necessary.

Distribution of
 absent voting
 ballots, etc.
 1919, 289, § 3.

1 SECTION 89. The blank form of application set forth in clause (b) of
 2 of section eighty-seven, and the other papers described in clause (c) of said
 3 section, shall, as soon as they can be prepared, be delivered to any person
 4 who by mail or otherwise applies therefor to the state secretary or to any
 5 city or town clerk, except a person known by the state secretary or said
 6 clerk to be in a penal institution under sentence. The official absent
 7 voting ballot and all other papers described in said section shall be mailed
 8 by city and town clerks, postage prepaid, to all voters, except those in
 9 a penal institution under sentence, who seasonably file with them, either
 10 directly or through the state secretary under the following section, the
 11 application set forth in said clause (b), after the same is certified by the
 12 registrars and returned to the clerk, as provided in section ninety-one.
 13 Any voter who has received the blank form of said application under this
 14 or the following section may file said application with the city or town
 15 clerk.

Obtaining
 blank appli-
 cations, mailing
 ballots, etc.
 1918, 293,
 §§ 3, 16,
 1919, 289,
 §§ 4, 7,
 1925, 101, § 2.

1 SECTION 90. The state secretary shall obtain as soon as practicable
 2 the names, addresses, official rank or title, and the places where they
 3 are entitled to vote, of all registered voters in the military or naval serv-
 4 ice of the United States, or in the civil or official service of the United
 5 States or of this commonwealth, who by reason of such service are absent
 6 from the commonwealth. The adjutant general and all city and town
 7 officials shall give him all reasonable assistance that he may request for
 8 this purpose. To such voters he shall forward as soon as practicable the
 9 papers mentioned in clauses (b) and (c) of section eighty-seven, with re-
 10 turn envelopes addressed to himself. All applications received by him
 11 from such voters shall be forwarded to the clerks of the several cities or
 12 towns where such voters assert the right to vote.

Blanks, etc.,
 to be sent to
 voters in mili-
 tary or naval
 service. Appli-
 cations to
 secretary.
 1918, 293,
 §§ 3, 14, 16, 17,
 1919, 289, § 5.

Filing and certification of applications, notation on voting list, etc.
1918, 293, § 2, 5, 7.
1919, 289, § 6.

SECTION 91. When an application for an official absent voting ballot is received by the clerk of a city or town, whether from the voter directly or through the state secretary, it shall be transmitted by him to the registrars, who shall examine it and, if they believe the signature thereon to be genuine and the person executing the signature to be a duly registered voter, shall execute the certificate thereon and return the application to said clerk. The clerk shall cause to be placed on the voting list, opposite the name of each person registered as an absent voter, the letters in capitals A. V. If the registrars find the person signing the application not to be a duly registered voter, they shall send him written notice to that effect and shall preserve the application during the time fixed by law for the preservation of ballots cast in the coming election, after which time said application shall be destroyed. The clerk shall keep lists of the names and addresses, arranged by voting precincts, of all voters filing applications for absent voting ballots, and shall post copies of the same for public inspection.

Method of voting
1918, 293, § 18.
1919, 289, § 7.

SECTION 92. A voter, who has received an official absent voting ballot as provided in section eighty-nine, may vote by mailing the same to the city or town clerk. He shall mark said ballot in the presence of an official authorized by law to administer oaths, and of no other person, in a municipality which is separated by at least two municipalities from the city or town where the voter is registered. Before marking the ballot he shall exhibit it to said official, who shall satisfy himself that it is unmarked, but he shall not allow said official to see how he marks it. Said official shall hold no communication with the voter, nor he with said official, as to how he is to vote. Thereafter the voter shall enclose and seal the same in the envelope provided for by clause (c) of section eighty-seven. He shall then execute before said official the affidavit on said envelope as set forth in said clause (c), and shall enclose and seal the envelope with the ballot in the envelope provided for in clause (d) of said section, endorse thereon his name, address and voting place, and mail the same within the time prescribed in the following section, postage prepaid, at a post office in a municipality which is separated by at least two municipalities from the city or town wherein the voter is registered.

Time of mailing ballot.
1918, 293, § 24.
1919, 289, § 8.

SECTION 93. All ballots cast under the preceding section shall be mailed on or before the day of election. The postmark, if legible, shall be conclusive evidence of the time and place of mailing.

Application to be attached to ballot.
Delivery to election officers.
1918, 293, §§ 20, 21, 23.
1919, 289, § 9.
Op. A. G. (1920) 279.

SECTION 94. Upon receipt of an envelope purporting to contain an official absent voting ballot, the clerk of the city or town shall attach thereto the application for an official absent voting ballot executed by the voter whose name appears thereon and certified by the registrars of voters. All such envelopes shall be preserved unopened. Upon election day before the hour for the closing of the polls the said clerk shall deliver all envelopes received by him to the election officers in the several voting precincts where the voters named therein assert the right to vote.

Duties of election officers, etc.
1919, 289, § 10.

SECTION 95. Immediately after the closing of the polls, and after the ballots cast have been removed from the ballot box, the warden or his deputy in each polling place shall open all envelopes delivered to him under the preceding section, and shall compare the signatures on the

5 envelopes therein enclosed with the signatures on the applications at-
 6 tached thereto, except in the case of ballots prepared under section
 7 ninety-eight, and shall examine the postmarks and affidavits. If the
 8 affidavits are properly executed, and if the postmarks and affidavits, or
 9 in case the postmarks are illegible, the affidavits, sufficiently disclose
 10 that the ballots were executed and mailed in accordance with sections
 11 eighty-six to one hundred and three, inclusive, and if the signatures on
 12 the affidavits appear to be executed by the same persons who signed the
 13 applications, and to be the signatures of duly registered voters who have
 14 not voted at the election, he shall make public announcement of the
 15 names of the absent voters, open the envelopes in such manner as not
 16 to destroy the affidavits thereon, take out the ballots without unfolding
 17 them, or permitting them to be opened or examined, and, after checking
 18 the names of the absent voters on the voting list, shall deposit the ballots
 19 in the ballot box. If he finds an envelope to bear an affidavit improperly
 20 executed, or not signed by the person who signed the accompanying
 21 application, or if the voter whose name appears thereon is not a regis-
 22 tered voter or has voted in person, he shall not open the envelope, but
 23 shall mark across the face thereof "Rejected as defective", "Rejected
 24 as not a voter", "Voted in person", as the case may be. All envelopes,
 25 opened or unopened, shall be retained with the ballots cast at the elec-
 26 tion, and preserved and destroyed in the manner provided by law for
 27 the retention, preservation or destruction of official ballots. The tally
 28 sheets in use at elections shall provide in convenient form for the re-
 29 cording thereon of all envelopes, as well as all accepted or rejected ballots
 30 of absent voters.

1 SECTION 96. All ballots received by mail shall be subject to challenge
 2 when and as cast for non-compliance with any provision of sections
 3 eighty-six to one hundred and three, inclusive, or for any other reason
 4 allowed by law, and if challenged shall be disposed of in accordance with
 5 section eighty-five, except that so much of said section as involves the
 6 administering of an oath shall not apply thereto, and the writing of the
 7 name and address of the voter on the ballot shall be performed by the
 8 officer charged with depositing the ballot in the ballot box.

Challenges.
 1919, 289, § 11.

1 SECTION 97. No ballot transmitted under any provision of sections
 2 eighty-six to one hundred and three, inclusive, shall be rejected for any
 3 writing to the jurat an addition, omission or irregularity in the preparation or execu-
 4 tion of any writing or affidavit required by said sections.

Immaterial
 irregularities
 not to cause
 rejection.
 1919, 289, § 12.

1 SECTION 98. An absent voter unable to mark his ballot may have
 2 it marked for him by the clerk of a court of record, who shall add in
 3 writing to the jurat a statement of the fact that the voter is unable to
 4 write, stating the reason therefor, and shall sign the voter's name on
 5 both envelopes.

Proceedings
 when absent
 voter cannot
 mark ballot.
 1919, 289, § 13.

1 SECTION 99. All envelopes received by clerks of cities and towns
 2 after the hour fixed for the closing of the polls on the day of election shall
 3 be retained by them unopened until the time set by law for the destruc-
 4 tion of ballots cast at the state election, at which time the envelopes
 5 shall likewise be destroyed, unopened and unexamined.

Disposition
 of ballots re-
 ceived late.
 1918, 293, § 24.
 1919, 289, § 14.
 Op. A. G.
 (1920) 279.

Voting in person after making absent voter ballot. Certain ballots not to be counted. 1918, 293, §§ 8-10. 1919, 289, § 15. 1925, 101, § 3.

SECTION 100. Sections eighty-six to one hundred and three, inclusive, shall not prevent a voter who has mailed a ballot under them from voting in person. No ballot mailed under said sections shall be counted if the officers charged with the duty of counting the same are cognizant of the fact that the voter has died prior to the opening of the polls on the day of the election, or is under sentence in a penal institution.

Statement of military or naval officer in lieu of jurat. 1919, 289, § 16.

SECTION 101. Any soldier, sailor or marine, without the United States, voting as permitted by sections eighty-six to one hundred and three, inclusive, may substitute for the required jurat and transmit with the sealed ballot, a written statement in such form as the state secretary shall prescribe, setting forth the facts required, made by any one of his superior officers of a rank in the army higher than first lieutenant, and in the navy higher than lieutenant of the second grade.

Information and instructions relative to absent voting. 1919, 289, § 17.

SECTION 102. The state secretary shall prepare for the use of election officers, city and town clerks and registrars of voters such printed information and instructions, subject to approval by the attorney general, as he may deem proper to facilitate the operation of sections eighty-six to one hundred and three, inclusive. Such printed matter shall be transmitted to said officials prior to each state election. The state secretary may prepare and distribute, subject to like approval, such general information relative to said sections as he may deem expedient.

Jurisdiction of courts relative to absent voting. 1918, 293, § 22. 1919, 289, § 19.

SECTION 103. The supreme judicial and superior courts shall have jurisdiction in equity to require the certification of any application for an absent voting ballot which the registrars have unreasonably refused to certify, to order the counting of any ballot improperly rejected, or to enjoin the counting of any ballot which cannot reasonably be identified as the ballot of a person lawfully entitled to vote as provided in sections eighty-six to one hundred and two, inclusive, or which was not cast in accordance therewith; provided, that no proceeding hereunder shall be begun later than the date fixed by law for the final canvass of votes cast for candidates for state offices.

COUNTING OF VOTES.

State blanks and apparatus to be used, etc. 1891, 328, §§ 1, 2. 1893, 417, § 171. 1898, 548, § 233. R. L. 11, § 236. 1907, 500, §§ 269, 456. 1913, 835, §§ 301, 503. 1919, 301, § 2. 253 Mass. 400.

SECTION 104. The blank forms and apparatus provided by the state secretary shall be used in ascertaining the result of the election or vote in state elections in cities and towns, in city elections, in elections of town officers in towns where official ballots are used, and also in taking the vote upon any proposed amendment to the constitution, upon any law or proposed law submitted to the voters by referendum or initiative petition, upon the question of granting licenses for the sale of certain non-intoxicating beverages, as defined in section one of chapter one hundred and thirty-eight, and upon any other question submitted by statute to the voters of any senatorial or representative district, or of any city or town in which official ballots are used. If it is impossible to use such blank forms or apparatus, the canvass of the votes shall be made as the presiding officer shall direct; and the clerk shall record the facts relating to the failure to use such blank forms or apparatus, and shall enclose an attested copy of such record in the envelope with the ballots cast.

Proceedings at close of polls. Counting votes.

SECTION 105. If the state ballot box is used, the clerk shall, as soon as the polls are closed, record the ballot box register. The election officers

3 shall then, publicly and in the presence of the other election officers,
 4 count audibly and distinctly the number of names checked on each list
 5 and announce the same. The ballot box shall then be opened by the
 6 presiding officer and the ballots taken therefrom and audibly counted,
 7 one by one, and the whole number of ballots cast shall be publicly an-
 8 nounced by him. The ballots may be divided into convenient packages,
 9 and, except as otherwise provided in this chapter, each block or package
 10 shall be canvassed and counted by two election officers representing the
 11 two leading political parties, detailed by the presiding officer. Each
 12 election officer, in so canvassing and counting votes, shall be under the
 13 inspection of an election officer of a different political party. The result
 14 of the canvass and count shall be reported to the presiding officer, who
 15 shall cause it to be correctly recorded on the blank forms provided there-
 16 for. At state elections in towns not divided into voting precincts, the
 17 canvass and count of votes shall be made by the selectmen and town
 18 clerk, who may be assisted by the tellers.

19 The clerk in open meeting shall publicly announce the result of the
 20 vote and enter in his records, in words at length, the total number of
 21 names of voters checked on the voting lists, the total number of ballots
 22 cast, the names of all persons voted for, the number of votes for each per-
 23 son and the title of the office for which he was a candidate, the number of
 24 blank ballots for each office, and the number of affirmative and negative
 25 votes in answer to any question submitted to the voters, and shall forth-
 26 with make a copy of such record, certify and seal up the same, and deliver
 27 it to the city or town clerk, who shall forthwith enter it in his records.

28 The voting lists and all ballots removed from the ballot box shall be
 29 kept in open view of the voters present until enclosed and sealed up, and
 30 all proceedings in the canvass and counting of votes shall be public and
 31 in open view of the voters, and there shall be no adjournment or postpone-
 32 ment until the canvass and counting have been completed, and the vot-
 33 ing lists and ballots have been enclosed and sealed up.

34 In towns, the ballot box at any polling place may be opened and ballots
 35 taken therefrom for counting when all the selectmen and the town clerk,
 36 or, where the moderator is in charge of the election, the moderator and
 37 the town clerk, or all the election officers at the voting precinct shall so
 38 order. When the ballots have been thus removed the presiding officer
 39 shall select from the election officers an equal number from each of the
 40 two leading political parties, who shall canvass such ballots, in accord-
 41 ance with this section; but no announcement of the result of such can-
 42 vass shall be made by any election officer until the total result of the
 43 canvass of ballots has been ascertained.

1913, 835, §§ 302, 503.

44 Notwithstanding the foregoing provisions of this section, the clerks of
 45 precincts or the town clerk in a town not divided into precincts may, if
 46 authorized in writing by the election commissioners or election commis-
 47 sion in a city having such a body, by the city clerk in any other city or by
 48 the town clerk in a town, publicly announce the number of votes cast for
 49 each candidate for each office as soon as the count of ballots for that office
 50 has been completed, and the number of affirmative or negative votes cast
 51 upon any question submitted to the voters, as soon as the count of ballots
 52 upon such question has been completed.

1 SECTION 106. If the use of a state ballot box is required, no ballot
 2 shall be counted unless it has been deposited in and cancelled by such

Announcing and recording result.
 Counting in towns during vote.
 1857, 171.
 G. S. 7, § 15.
 P. S. 7, § 26.
 1884, 299, § 19.
 1890, 423, § 95.
 1891, 328, § 4.
 1892, 431.
 1893, 146;
 308, 117, § 172.
 1895, 240.
 1898, 548,
 § 234.
 1899, 209.
 R. L. 11, § 237.
 1906, 344, § 10.
 1907, 560,
 §§ 270, 456.
 1913, 835,
 § 302, 503.
 1921, 209, § 5.
 1930, 204, § 2.
 200 Mass. 318.

Announce- ment of result, etc.
 [Penalty for interference with trans- mission of returns.
 Chap. 56, § 45.]

Ballots, proceed- ings, etc., to be kept in open view, etc.

Removal of ballots from ballot box before voting has ceased, counting, etc.
 1884, 298, § 20
 1892, 405.
 1893, 146; 417,
 §§ 150, 172,
 173.
 1894, 275.
 1901, 89.
 R. L. 11, § 237.
 1906, 344, § 10.
 1907, 560,
 §§ 270, 456.

Public an- nouncement of result regulated.

Certain ballots not to be counted, etc.

1888, 436, § 26.
1889, 413, § 26.
1890, 423, § 84.
1895, 548,
§ 235.
R. L. 11, § 238.
1907, 560,
§ 271, 456.
1913, 835,
§ 303, 503.
177 Mass. 518.
182 Mass. 524.

ballot box, or has been otherwise deposited in accordance with section 3
sixty-six. Only official ballots shall be counted in any election for which 4
they are provided. If a voter marks more names than there are persons 5
to be elected to an office, or if his choice cannot be determined, his ballot 6
shall not be counted for such office. Ballots cast but not counted shall be 7
marked "defective" on the outside thereof, and shall be preserved like 8
other ballots. 9

195 Mass. 222.

213 Mass. 153.

229 Mass. 23.

Ballots, cast
and not cast,
and voting
lists, to be
sealed up, etc.
1874, 376,
§ 41, 43.
1880, 87
P. S. 7, § 28,
29.
1884, 299,
§ 22, 24.
1889, 413,
§ 24, 26.
1890, 386,
§ 14, 16; 423,
§ 97, 98.
1893, 417,
§ 174.
1898, 548,
§ 236.
R. L. 11, § 239.
1907, 560,
§ 272, 456.
1913, 835,
§ 304, 503.
192 Mass. 409.

SECTION 107. The presiding officer at every polling place at elections 1
of state and city officers and of town officers in towns where official bal- 2
lots are used shall, after the record of the counting has been made, cause 3
all ballots cast to be publicly enclosed in an envelope and sealed up with 4
the seal provided therefor, and also with the private seal of any election 5
officer who may desire to affix the same; and a majority of the election 6
officers of the voting precinct or town shall endorse upon such envelope 7
the polling place, the election and the date, and also a certificate that all 8
the ballots cast by the voters of such precinct or town, and none other, are 9
contained therein. He shall cause all ballots not cast to be enclosed in 10
an envelope and sealed up as aforesaid, and shall certify on the envelope 11
the contents thereof. Such presiding officer shall cause the voting lists 12
to be enclosed in an envelope and sealed up as aforesaid, and a majority 13
of the election officers shall certify thereon to the identity of the voting 14
lists enclosed. He shall forthwith personally deliver to the city or town 15
clerk or transmit to him, by the police officer or constable in attendance 16
at the election, all the ballots cast, and not cast, the voting lists, the bal- 17
lot box, ballot box seals and counting apparatus. 18

[Penalty, Chap. 56, § 22; for interference with transmission of ballots, Chap. 56, § 45; for false endorsement, delay in delivery, etc., of ballot, Chap. 36, § 49.]

Copies of
voting lists as
checked, how
transmitted.
1884, 299, § 24.
1890, 423, § 98.
1893, 417,
§ 175.
1897, 430, § 3.
1898, 548,
§ 237.
R. L. 11, § 240.
1907, 560,
§ 273, 456.

SECTION 108. Upon written application, signed by at least ten voters 1
in the town or ward of which the precinct forms a part, or upon writ- 2
ten request signed by the chairman of any ward, town or city committee, 3
the city or town clerk may open the envelope containing such voting 4
list and may make a copy of the list as checked. After any such voting 5
list has been so copied, said clerk shall at once enclose the list in an 6
envelope and seal up the same and certify thereon to the identity of such 7
lists. 8

1913, 835, §§ 305, 503.

1920, 493, § 2.

Ballots and
lists, custody,
disposition,
etc.
1876, 188, § 1.
P. S. 7, § 34.
1882, 74.
1884, 299, § 26.
1889, 413,
§ 24, 26.
1890, 386,
§ 14, 16; 423,
§ 100, 101.
1893, 417,
§ 176.
1898, 548,
§ 238.
R. L. 11, § 241.
1903, 474, § 11.
1907, 560,
§ 274, 456.
1913, 835,
§ 306, 503.

SECTION 109. City and town clerks shall retain in their custody the 1
envelope containing the ballots cast, without examining them or per- 2
mitting them to be examined by any person except as required by law, 3
and upon the expiration of the period fixed for their preservation shall 4
cause such ballots to be destroyed. 5

City and town clerks shall retain in their custody the voting lists and 6
ballots not cast as long as they retain the ballots cast. They shall then 7
transmit such voting lists to the registrars of voters, and shall destroy 8
the ballots marked "Spoiled", without examining them or permitting 9
them to be examined, and may make such disposition of the undis- 10
tributed ballots as they may deem proper. Such voting lists shall be 11
preserved by the registrars of voters for reference for five years after 12
the expiration of which they may be destroyed. 13

1928, 89, § 2.

145 Mass. 257

157 Mass. 408.

182 Mass. 433.

[Penalty, Chap. 56, § 23.]

RECORDS AND CERTIFICATES OF ELECTION.

Copies of Records prepared in Cities and Towns.

1 SECTION 110. No record of votes cast or copy thereof shall be rejected
 2 if the number of votes given for each candidate for an office can be
 3 ascertained therefrom.

Record not to
 be rejected
 when number
 of votes can be
 ascertained

1852, 209, § 1	1890, 423, §§ 102, 151.	R L 11, § 242
G S 7, § 16	1893, 417, § 177	1907, 560, §§ 275, 456.
1874, 376, § 27	1898, 548, § 239.	1913, 835, §§ 307, 503.
P. S. 7, § 37, 8, § 10.		

1 SECTION 111. In state and city elections, the aldermen and city
 2 clerk, and in state elections the selectmen and town clerk of towns
 3 divided into voting precincts, shall forthwith after such election exam-
 4 ine the copies of the records of the election officers, and if any error
 5 appears therein, they shall forthwith give notice thereof to the officers
 6 by whom the error was made, who shall forthwith make an additional
 7 record under oath in conformity with the facts and deliver a copy thereof
 8 to the city or town clerk. Such copy of the records made, with or with-
 9 out notice as aforesaid, shall be received by the city or town clerk at
 10 any time before the last day fixed for the transmission of copies of records
 11 of the votes cast in the city or town, or on which the results of the elec-
 12 tion are required to be declared.

Examination
 of records,
 errors, cor-
 rection, etc.
 1852, 209, § 1.
 G. S. 7, § 16.
 P. S. 7, § 37.
 1890, 423, § 102.
 1892, 190, § 1.
 1893, 417,
 § 178.
 1898, 548,
 § 240
 R L 11, § 243.
 1907, 560,
 §§ 276, 456.
 1913, 835,
 §§ 308, 503.

13 The aldermen and city clerk, and the selectmen and town clerk, shall
 14 examine all original and all additional copies of the records and make
 15 them part of the records of such election, and shall certify and attest
 16 copies of the records of votes for the several candidates.

1 SECTION 112. The clerk of each city and town, within ten days, and
 2 in Boston the election commissioners, within fifteen days, after the day
 3 of any election therein for a senator in congress, representative in con-
 4 gress, governor, lieutenant governor, councillor, state secretary, state
 5 treasurer, state auditor, attorney general, clerk of courts, register of pro-
 6 bate and insolvency, sheriff, district attorney, or senator, or for presi-
 7 dential electors, shall transmit to the state secretary copies of the records
 8 of votes for such officers, together with the records of votes cast on any
 9 constitutional amendment, law or proposed law, and on any question
 10 submitted to them by statute in any senatorial or representative dis-
 11 trict or in two or more cities or towns. Said record shall be certified by
 12 the aldermen, selectmen or election commissioners, and attested and
 13 sealed by the clerk or by said commissioners. The city or town clerk
 14 shall, within ten days after an election for county treasurer or register
 15 of deeds, transmit to the county commissioners, and within ten days
 16 after an election for county commissioners or associate commissioners,
 17 transmit to the clerk of the courts the records of votes for such officers,
 18 certified, attested and sealed as aforesaid; except that in Chelsea, Re-
 19 vere and Winthrop the records of votes for register of deeds shall be
 20 transmitted to the election commissioners of Boston, and that in Revere
 21 and Winthrop the records of votes for county commissioners and asso-
 22 ciate commissioners shall be transmitted to the clerk of the courts for
 23 Middlesex county. Such copies shall be transmitted in envelopes, upon
 24 which shall be stated the offices for, questions on which and districts in
 25 which the votes were cast.

Transmission
 to state sec-
 retary, etc.,
 of copies of
 records of
 votes.
 R. S. 14, §§ 17,
 44, 101, 107.
 1850, 299, § 2.
 1852, 53.
 1855, 92, § 2.
 1856, 118
 1857, 171.
 § 1, 2, 311.
 1858, 93,
 §§ 1, 12.
 G. S. 7, § 17.
 1881, 65
 P. S. 7, § 40;
 9, § 4.
 1890, 423,
 §§ 108, 196.
 1893, 417,
 § 179.
 1896, 469, § 9.
 1898, 217, § 1:
 548, § 241.
 R L 11, § 244.
 1907, 560,
 §§ 277, 456.
 1913, 835,
 §§ 309, 503.
 1917, 109, § 1.
 1919, 391, § 3.
 13 Gray, 83.
 [Penalty for
 failure to make
 and transmit
 copies of record,
 Chap. 56, § 24;
 for false cer-
 tificate of re-
 sult of
 election, Chap.
 56, § 25.]

Proceedings when copy is received unsealed.
1852, 209, § 2.
G. S. 7, § 19.
P. S. 7, § 42.
1890, 423, § 111.
1893, 417, § 180.
1898, 548, § 242.
R. L. 11, § 245.
1907, 560, § 278, 456.

SECTION 113. If any such copy transmitted to the state secretary is not sealed as required by law, he shall forthwith give notice thereof to the officers who transmitted the same; and thereupon another copy shall be made, attested, certified, sealed and transmitted to the secretary. If the second copy is received by him before determination of the persons appearing to be elected and the original appears to be in substantial conformity therewith, the original copy shall not be rejected.

1913, 835, §§ 310, 503.

Memorandum of receipt to be made.
1857, 295, § 2.
G. S. 7, § 21.
P. S. 7, § 44.
1890, 423, § 113.

SECTION 114. The state secretary shall cause the date of the receipt of each copy of the records of votes to be endorsed on the envelope containing it; and if received unsealed, a memorandum thereof shall be made on the copy.

1893, 417, § 181.
1898, 548, § 243.

R. L. 11, § 246.
1907, 560, §§ 279, 456.

1913, 835, §§ 311, 503.

Examination and Certification by Governor and Council, etc.

State elections and state-wide recounts, examination of copies of records and determination of results.
Const. pt. 2, c. 1, § 2, art. 3.
Const. amend. 16, 17, 19.
(Const. Rev. arts. 47, 62, 134, 138.)
R. S. 5, § 3.
§ 22, 6, § 5.
1856, 173, § 4, 10.
G. S. 7, § 22.
P. S. 7, § 45.
1882, 28, § 3.
1890, 423, § 114, 115.
1893, 417, § 182.

SECTION 115. The state secretary shall lay before the governor and council the copies of the records of votes cast, with their seals unbroken. The governor with at least five councillors shall, as soon as may be, open and examine all such copies. They shall tabulate said votes and determine who appear to be elected to the several offices, and what appears to be the result of the votes on any question or questions, and shall forthwith transmit to the state secretary an abstract of such tabulation and determination. The state secretary, upon application, shall furnish to newspapers copies of such abstract. In case of a state-wide recount under section one hundred and thirty-five, the state secretary shall in like manner lay before the governor and council the copies of the amended records received by him under said section, and the governor with at least five councillors shall, if necessary, revise the aforesaid tabulation and determination accordingly.

1898, 548, § 244.
R. L. 11, § 247.
1907, 560, §§ 280, 456.

1913, 835, §§ 312, 503.
1917, 109, § 2.

1925, 118, § 2.
136 Mass. 583.

Certification of results, issue of summonses and certificates of election.
Const. amend. 16, 17.
(Const. Rev. arts. 134, 138.)
1857, 295, § 3.
G. S. 7, § 23.
P. S. 7, § 46.
1890, 423, § 114, 116.
1893, 417, § 183.
1898, 548, § 245.
R. L. 11, § 248.
1907, 560, § 281, 456.
1908, 567, § 1.
1913, 835, § 313, 503.
1925, 118, § 3.

SECTION 116. The governor shall, in the presence of at least five councillors, certify to the results of the examination of the copies of the records of the votes for governor and lieutenant governor, for councillors, for state secretary, state treasurer, state auditor and attorney general, and for senators, and shall issue his summons to such persons as appear to be chosen to said offices. The governor shall issue certificates of election to such persons as appear to be chosen to the offices of senator in congress, representative in congress, clerk of the courts, register of probate and insolvency, sheriff and district attorney, which shall be countersigned and transmitted by the state secretary. No certification shall be made or summons or certificate issued under this section until after five o'clock in the afternoon of the fifteenth day following a state election or, in case a state-wide recount is held in accordance with section one hundred and thirty-five, until the tabulation and determination under the preceding section have been revised in accordance with the results of such recount.

Return to state secretary, laying before legislature, filing.

SECTION 117. After such certification, such copies shall be replaced in their respective envelopes and delivered with the certificate of examination to the state secretary, who shall on the first Wednesday in Janu-

4 any lay the same, with schedules showing the number of ballots cast for
 5 each person voted for, before the senate and house of representatives.
 6 Except for the above purposes, all such copies, both original and cor-
 7 rected, transmitted to the state secretary, shall remain on file in his
 8 office and be there open to the inspection of any interested person.

P. S. 7, § 47. 1890, 423, §§ 115, 117. 1898, 548, § 246. 1907, 560, §§ 282, 456.
 1882, 28, § 3. 1893, 417, § 184. R. L. 11, § 249. 1913, 835, §§ 314, 503.

1 SECTION 118. The copies of the records of votes for presidential
 2 electors shall, in any event, within ten days after they have been trans-
 3 mitted to the state secretary, be opened and examined by the governor
 4 and council, who shall thereafter declare, by proclamation, the names of
 5 the persons who have received at least one fifth of the entire number of
 6 votes cast for electors, and the number of votes received by each such
 7 person. The several persons, to the number of electors required to be
 8 chosen, who have received the highest number of votes so ascertained,
 9 unless notice of a contest has been received by the governor, shall, at the
 10 expiration of fourteen days from the date of such proclamation, be deemed
 11 to be elected; and the governor shall thereupon issue a certificate of
 12 election to every such person.

Const. amend.
 16
 (Const. Rev.
 art. 131)
 1857, 245, § 4.
 1859, 27
 G. S. 7, § 24.
 Presidential
 electors, exam-
 ination of
 returns of
 votes, procla-
 mation, and
 certificate.
 1851, 40, § 2.
 G. S. 9, § 13.
 P. S. 9, § 13.
 1888, 382, § 1.
 1890, 423,
 § 173.
 1893, 417, § 185.
 1898, 548, § 247.
 R. L. 11, § 250.
 1907, 560,
 §§ 282, 456.
 1913, 835,
 §§ 315, 503.

1926, 144.

Contested Elections of Presidential Electors.

1 SECTION 119. Any person who appears, by the proclamation of the
 2 governor, to have received not less than one fifth of the entire number
 3 of votes cast for electors, may, if the election is contested, apply by pe-
 4 tition to the supreme judicial court for Suffolk county, for a declaration
 5 of his election as an elector. Such petition shall set forth the name of
 6 every person whose election is contested and the ground for the contest,
 7 shall be filed within seven days after the date of such proclamation and
 8 shall not thereafter be amended. Before any proceedings thereon, the
 9 petitioner shall recognize to the commonwealth, in such sum and with
 10 such sureties as the court shall order, to pay all costs incurred in the
 11 prosecution of his petition if he shall not prevail. If the petitioner pre-
 12 vails, the cost shall be paid by the commonwealth. The court shall fix
 13 a day for a hearing by the full court, which shall be not less than three
 14 nor more than seven days after the date of the filing of the petition, and
 15 shall order notice of the hearing to be given, with a statement of the
 16 substance of the petition in such manner as it may direct, to the gov-
 17 ernor and to every person whose election is contested. The court shall
 18 also order such notice to be published in at least one newspaper desig-
 19 nated by it in each county.

Petition in
 court for
 declaration of
 election, etc.
 1888, 382,
 § 4-6.
 1890, 423,
 §§ 178-180.
 1893, 417,
 §§ 186, 187.
 1898, 548, § 248.
 R. L. 11, § 251.
 1907, 560,
 §§ 284, 456.
 1913, 835,
 §§ 316, 503.

1 SECTION 120. The petitioner and the contestant may appear and
 2 produce evidence at the hearing, and no person other than the petitioner
 3 or a contestant shall be made a party to the proceedings on such petition,
 4 or be heard thereon. If more than one petition is pending, or the elec-
 5 tion of more than one person is contested, the court may order the cases
 6 to be heard together and shall apportion the costs between them, and
 7 shall finally determine all questions of law and fact. No person shall be
 8 excused from testifying or producing papers or documents therein on
 9 the ground that his testimony or the production of the papers or docu-
 10 ments will tend to criminate him; but no person so testifying shall be
 11 liable to any suit or prosecution, civil or criminal, for any matter or

Procedure.
 Compulsion
 and immunity
 of witness.
 1888, 382,
 §§ 7-10.
 1890, 423,
 §§ 181-184.
 1893, 417,
 §§ 187, 188.
 1898, 548,
 § 249.
 R. L. 11, § 252.
 1907, 560,
 §§ 285, 456.
 1913, 835,
 §§ 317, 503.

cause in respect to which he shall be so examined or to which his testimony shall relate, except to a prosecution for perjury committed in such testimony. The court shall forthwith certify its decision to the governor, who shall thereupon issue certificates of election in accordance therewith. If the petitioner does not prosecute his petition it shall be dismissed and notice thereof given to the governor, who shall issue certificates of election to the persons entitled thereto.

Examination and Certification of Records of Votes for Certain County Officers.

County commissioners, etc., to examine returns of votes. Notice to state secretary.
R. S. 14, § 44.
1855, 92, § 3.
1856, 118, § 3.
G. S. 7, § 27.
1880, 139, § 2.
P. S. 7, § 50.
1884, 209, § 34.
1890, 423, § 121.
1893, 417, § 191.
1898, 548, § 250.
R. L. 11, § 253.
1907, 569,
§§ 286, 456.
1913, 835,
§§ 318, 503.

SECTION 121. The county commissioners to whom the copies of the records of votes for county treasurer and register of deeds have been transmitted shall, on the first Wednesday of the month following the election, examine such copies, determine what persons appear to be elected, issue certificates of election to them and give notice to the state secretary of the name, residence, and number of votes received by each candidate in each city and town, with the name and term of office of every person elected.

In Suffolk county, the election commissioners of Boston shall, within ten days after the election of register of deeds, in like manner examine the copies of the records of votes, determine who appears to be elected, issue a certificate and give notice as above provided.

1914, 393, § 1.

2 Gray, 370.

Board of examiners to examine in certain counties. Notice to state secretary, etc.
1835, 152, § 1.
R. S. 14, §§ 17, 18, 28, 40.
1855, 3.
G. S. 7, § 25;
17, § 49.
P. S. 7, § 48; 23,
§§ 31, 33.
1890, 423,
§§ 119, 120.
1893, 417, § 192.
1898, 548, § 251.
R. L. 11, § 254.
1907, 569,
§§ 287, 456.
1913, 835,
§§ 319, 503.
1914, 393, § 2.
20 Ftek 494.
13 Gray, 83.
126 Mass. 282.

SECTION 122. In each county, except Suffolk and Nantucket, the judge and register of the probate court and the clerk of the courts shall be a board of examiners; and if two of said offices are held by the same person in any county, the sheriff shall be a member of the board. The members of said board shall each be paid at the rate of three dollars a day for every day employed in the performance of their duties and ten cents a mile for travel to and from the place of their meeting; and their accounts shall be audited and settled by the county treasurer. Said board shall meet on the first Wednesday of the month following an election for county commissioners or associate commissioners and shall examine such copies, determine what persons appear to be elected, issue certificates of election to them and give notice to the state secretary of the name, residence and number of votes received by each candidate in each city and town, with the name and term of office of every person so elected, and shall, within three days thereafter deposit said copies in the office of the clerk of the courts.

Correction of Records.

When records incomplete, etc., new returns to be made, etc.
1882, 28, § 1.
1884, 209, § 35.
1885, 108, 229.
1890, 423, § 122.
1893, 417, § 193.
1898, 548, § 252.
R. L. 11, § 255.
1907, 569,
§§ 288, 456.
1913, 835,
§§ 320, 503.

SECTION 123. If it shall appear to the governor and council, to the board of examiners, to the election commissioners or to the county commissioners, that any copy of a record of votes examined by them is incomplete or erroneous, they may order a new copy of the records to be made and transmitted to them. Such new copy shall be transmitted by the city or town clerk within seven days thereafter, and if found to be correct and in conformity to the requirements of law, shall have the same force as a first copy.

153 Mass. 108.

Examination and Certification of Records of Votes for Representative.

1 SECTION 124. If a district for the election of representatives in the
 2 general court is composed of one city or town, or one or more wards of a
 3 city, the aldermen or selectmen shall forthwith examine the records of
 4 the votes and determine who appear to be elected. The city or town
 5 clerk shall record the names of all persons for whom votes for repre-
 6 sentative were cast, and the number of votes for each.

R. L. 11, § 256. 1907, 560, §§ 289, 456. 1913, 835, §§ 321, 503.

Representative district composed of one city or town, etc., examination, record 1890, 423, § 153, 1893, 417, § 194, 1898, 548, § 253.

1 SECTION 125. In other representative districts, the election officers
 2 in every voting precinct, and the selectmen and town clerk of each town
 3 therein not divided into voting precincts, shall, as soon as the vote for
 4 representatives has been recorded, cause a complete copy of such record
 5 to be made, and shall certify, seal and deliver it to the city or town clerk.
 6 The city and town clerks in such districts shall meet at the place
 7 designated at noon on the tenth day following the day of the election;
 8 but on the fourth day following the day of an election to fill a vacancy.
 9 They shall examine the copies of the records of votes of every such voting
 10 precinct and town, and determine who appear to be elected to the office
 11 of representative. They shall, in words at length, make and certify a
 12 schedule of the names of all persons for whom votes for representative
 13 were cast in the district and the number of votes for each, and the clerk
 14 of each city and town shall record such schedule within four days after
 15 the day of the meeting.

In other districts clerks to meet and determine election, etc. 1874, 376, §§ 25, 27, 28, P. S. 8, §§ 8, 10, 12, 1886, 262, § 5, 1890, 423, §§ 149, 151, 152, 1893, 417, § 195, 1898, 548, § 254, R. L. 11, § 257, 1907, 560, §§ 290, 456, 1913, 835, §§ 322, 503.

1 SECTION 126. If a representative district is included under the pre-
 2 ceding section, the officers authorized to divide the county into represent-
 3 ative districts shall, in making such division, designate a place in each
 4 such district or adjacent thereto at which the clerks shall meet to deter-
 5 mine the result of the election. Such place of meeting may be changed
 6 on petition of two of such clerks after a hearing. Notice of such designa-
 7 tion and of every change thereof shall be given by said officers having
 8 such authority to the state secretary, and to every city and town clerk in
 9 the district.

1893, 417, § 196. 1898, 548, § 255. 1907, 560, §§ 291, 456.
 1897, 475, § 1. R. L. 11, § 258. 1913, 835, §§ 323, 503.

Designation, change and notice of places of meeting of clerks. Const. amend 21 (Const. Rev. art. 53) 1874, 376, § 26, P. S. 8, § 9, 1890, 423, §§ 149, 150.

1 SECTION 127. If an error appears in the copies of the records of votes
 2 for a representative, the city and town clerks shall forthwith give notice
 3 thereof to the election officers, who shall thereupon make an additional
 4 record on oath and transmit a copy thereof to said clerks. Such addi-
 5 tional copy shall be examined by them if received within two days from
 6 the time appointed for their meeting; and for such purpose their meeting
 7 may be adjourned for not more than two days.

1898, 548, § 256. 1907, 560, §§ 292, 456.
 R. L. 11, § 259. 1913, 835, §§ 324, 503.

Correction of errors in records of votes for representative. 1874, 376, § 27, P. S. 8, § 10, 1890, 423, § 151, 1893, 417, § 197.

1 SECTION 128. The aldermen, the selectmen, or the city or town clerks
 2 acting in a representative district shall make duplicate certificates of
 3 election of the persons appearing to be elected and shall, within fifteen
 4 days after the day of the election, or within ten days after the day of an
 5 election to fill a vacancy, transmit one certificate to the state secretary,
 6 and shall transmit the other certificate, by a constable or other officer,

Certificate in duplicate of election of representative, transmission, form, return of officer. 1874, 376, §§ 29-31, 34, P. S. 8, §§ 13-15, 18.

1885, 107
1890, 423,
§§ 153, 154,
156, 159
1893, 417,
§ 198
1898, 548,
§ 257
R. L. 11, § 260.
1907, 560,
§§ 293, 456.
1913, 835,
§§ 325, 503.
251 Mass. 95.

to the person elected. Such certificates of election shall be in the following form:

Commonwealth of Massachusetts, county of . At a meeting of the qualified voters of Representative District Number , held on the day of November instant, for the choice of Representatives in the General Court to be holden on the first Wednesday of January next, were elected to said office.

Dated at the day of in the year one thousand nine hundred and .

Sections one to four, inclusive, of chapter three, this section and section one hundred and forty-one of this chapter shall be printed on every such form. The officer transmitting the certificate shall make a return of his doings.

Returns of votes to state secretary.
1890, 423,
§ 155.
1893, 417,
§ 199.
1898, 548, § 258.
R. L. 11, § 261.

SECTION 129. City and town clerks shall, within fifteen days after an election for representative in the general court, transmit to the state secretary an attested copy of the record of votes cast for all candidates for said office in each voting precinct and in each town not divided into voting precincts.

1907, 560, §§ 294, 456.

1913, 835, §§ 326, 503.

General Provisions relative to Records.

Whole number of ballots to be stated in words at length, etc.
1874, 376, § 35.
P. S. 8, § 19.
1890, 423, § 160.

SECTION 130. The whole number of ballots cast at elections shall be stated in words at length in the records of votes and in all copies thereof, but if not so stated, the record or copy shall not be invalid if the true result can be ascertained therefrom.

1893, 417, § 200.
1898, 548, § 259.

R. L. 11, § 262.
1907, 560, §§ 295, 456.

1913, 835, §§ 327, 503.

Violation of certain provisions not to affect record, etc.
1891, 328, § 6.
1893, 417,
§ 201.
1898, 548, § 260.
R. L. 11, § 263.
1907, 560,
§§ 296, 456.

SECTION 131. A violation by a public officer or election officer of laws relative to providing ballot boxes, blank forms and other apparatus or to the care and preservation thereof, or to the manner of canvassing and counting votes, shall not invalidate any record or copy of a record or certificate made by a city, precinct or town clerk, or affect the title of a person declared to be elected to office.

1913, 835, §§ 328, 503.

Information to be certified by City and Town Clerks.

Number of names checked to be certified to state secretary, etc.
1890, 253, § 2;
425, § 109.
1893, 417,
§ 203.
1898, 548,
§ 261.
R. L. 11, § 264.
1907, 560,
§§ 297, 456.
1913, 835,
§§ 329, 503.

SECTION 132. The city or town clerk shall, within fifteen days after an election of state, city or town officers, certify to the state secretary the total number of names of voters checked on the voting list at such election in each voting precinct or town, and a duplicate copy thereof sealed, to be by him transmitted to the governor and council; and the committee of the council tabulating the returns of votes shall include in their report thereon the number of ballots cast in a district wherein a question is submitted to the voters and a return thereon is made to the state secretary.

1917, 109, § 3.

1921, 209, § 6.

Secretary's Report of Assessed Polls, etc.

Report of number of assessed polls, registered voters, etc.

SECTION 133. The state secretary shall before February first of each year report to the general court the number of assessed polls and the number of registered voters in each city and town at the date of the last

4 preceding state, and city or town election, as the case may be, and the
 5 total number of persons who voted at each such election in every city
 6 and town, and in every voting precinct therein, and, in the year following
 7 a state election, the number of votes received by each candidate for nomi-
 8 nation and for election for a state office, and for election for a state com-
 9 mittee, arranged by cities, towns and districts, and a concise statement of
 10 other matters relating to elections, with such suggestions as he deems
 11 advisable.

Const. amend.
 61, §§ 1, 4
 (Const. Rev.
 art. 20)
 1800, 223, § 3,
 425, § 118
 1891, 329, § 4,
 1893, 117,
 § 204
 1891, 200
 1898, 518,
 § 262
 R. L. 11, § 265.

1907, 560, §§ 298, 456.

1913, 686; 835, §§ 330, 503.

1921, 209, § 7.

RECOUNTS OF VOTES.

1 SECTION 134. If a person who has received votes for any office at an
 2 election shall, within thirty days thereafter, himself or by his agent
 3 serve upon a city or town clerk a written claim to such office or a declara-
 4 tion of an intention to contest the election of any other person, the clerk
 5 shall retain the envelopes containing the ballots for such office until such
 6 claim is withdrawn or the contest is determined. The envelopes and
 7 ballots shall be subject to the order of the body to which such person
 8 claims to be elected, or of the officers required by law finally to examine
 9 the records and to issue certificates of election to such office, or of any
 10 court having jurisdiction thereof. Such body or officers may require the
 11 clerk to produce such envelopes and ballots, and may recount the ballots
 12 and amend any record or copy thereof in relation to such office.

Contested
 election,
 ballots to be
 retained.
 Power to
 recount, etc.
 1876, 188, § 2,
 P. S. 7, § 35
 1884, 299, § 29
 1890, 423,
 § 103
 1893, 117,
 § 206
 1898, 548,
 § 263
 R. L. 11, § 266.
 1907, 560,
 §§ 299, 456.
 1913, 835,
 §§ 331, 503.

157 Mass. 403.

182 Mass. 524.

192 Mass. 409.

1 SECTION 135. If, on or before five o'clock in the afternoon on the
 2 third day following an election in a ward of a city or in a town, ten or
 3 more voters of such ward or town, except Boston, and in Boston fifty or
 4 more voters of a ward, shall sign in person, adding thereto their respec-
 5 tive residences on the preceding April first, and cause to be filed with
 6 the city or town clerk a statement sworn to by one of the subscribers
 7 that they have reason to believe and do believe that the records, or copies
 8 of records, made by the election officers of certain precincts in such ward
 9 or town, or in case of a town not voting by precincts, by the election
 10 officers of such town, are erroneous, specifying wherein they deem them
 11 to be in error and that they believe a recount of the ballots cast in such
 12 precincts or town will affect the election of one or more candidates voted
 13 for at such election, specifying the candidates, or will affect the decision
 14 of a question voted upon at such election, specifying the question, the
 15 city or town clerk shall forthwith transmit such statement and the
 16 envelope containing the ballots, sealed, to the registrars of voters, who
 17 shall, without unnecessary delay, but not before the last hour for filing
 18 requests for recounts as aforesaid, open the envelopes, recount the ballots
 19 and determine the questions raised; but upon a recount of votes for
 20 town officers in a town where the selectmen are members of the board of
 21 registrars of voters, the recount shall be made by the moderator, who
 22 shall have all the powers and perform all the duties conferred or imposed
 23 by this section upon registrars of voters.

Local or
 state-wide
 recount,
 how and by
 whom con-
 ducted, notice
 of result,
 amendment of
 record, etc.
 1876, 188, § 4,
 P. S. 7, § 36.
 1883, 42
 1884, 299,
 §§ 30, 31,
 1886, 262,
 §§ 1-5
 1890, 423,
 §§ 104-106,
 226
 1892, 224,
 1893, 417,
 §§ 207-212
 1904, 132, § 2;
 385
 1895, 89; 299.
 1898, 548,
 § 264
 R. L. 11, § 267.
 1893, 474, § 12.
 1904, 293, § 1.
 1906, 444, § 11.
 1907, 560,
 §§ 400, 456.
 1909, 440, § 2.
 1913, 835,
 §§ 332, 503.
 1925, 118, § 1.
 156 Mass. 683.
 182 Mass. 524
 192 Mass. 409.
 200 Mass. 378.

24 State-wide recounts in cases of offices to be filled or questions to be
 25 voted upon at the state election by all the voters of the commonwealth
 26 may be requested as provided in the foregoing provisions so far as
 27 applicable, except that any petition therefor shall be signed in the aggre-
 28 gate by at least one thousand voters, not less than two hundred and

fifty to be from each of four different counties, and shall be submitted 29
 on or before five o'clock in the afternoon of the twelfth day following 30
 such election to the registrars of voters of the city or town in which the 31
 signers appear to be voters, who shall forthwith certify thereon the 32
 number of signatures which are names of voters in said city or town, 33
 and except that such petitions for recount shall be filed with the state 34
 secretary on or before five o'clock in the afternoon of the fifteenth day 35
 following such election. He shall hold such petitions for recount until 36
 after the official tabulation of votes by the governor and council and if 37
 it then appears that the difference in the number of votes cast for the 38
 two leading candidates for the office, or in the number of affirmative 39
 and negative votes on a question, for which the recount is desired, is 40
 more than one per cent of the total number of votes cast for such office 41
 or on such question, the petitions for recount shall be void. If such dif- 42
 ference in the votes so cast appears to be one per cent or less of the total 43
 votes cast for such office or on such question, he shall forthwith order 44
 the clerk of each city and town of the commonwealth to transmit forth- 45
 with, and said clerk shall so transmit, the envelopes containing the bal- 46
 lots, sealed except in the case of those containing ballots which have 47
 already been recounted in respect to said office or question under author- 48
 ity of the preceding paragraph, to the registrars of the city or town who 49
 shall, without unnecessary delay, open the envelopes, recount the ballots 50
 cast for said office or on said question and determine the questions 51
 raised. If a state-wide recount is petitioned for, all ballots cast at a 52
 state election shall be held, except as otherwise provided herein, by the 53
 city and town clerks until the expiration of sixty days after said election. 54

Candidates
 and persons
 representing
 petitioners to
 be notified,
 etc.

The registrars shall, before proceeding to recount the ballots, give 55
 written notice to the several candidates interested in such recount and 56
 likely to be affected thereby, or to such person as shall be designated by 57
 the petitioners for a recount of ballots cast upon questions submitted to 58
 the voters, of the time and place of making the recount, and each such 59
 candidate or person representing petitioners as aforesaid shall be allowed 60
 to be present and witness such recount, either in person, accompanied 61
 with counsel if he so desires, or by an agent appointed by him in writing. 62
 In the case of a recount of ballots cast for offices which are filled by all 63
 the voters of the commonwealth, such notice may be given to the duly 64
 organized state political committees. In the case of a recount of the 65
 ballots cast upon a question submitted to all the voters as aforesaid, 66
 one representative from any committee organized to favor or to oppose 67
 the question so submitted shall be permitted to be present and witness 68
 the recount. 69

Recounts to be
 upon questions
 designated in
 statements,
 etc.

All recounts shall be upon the questions designated in the statements 70
 or petitions filed, and no other count shall be made, or allowed to be made, 71
 or other information taken, or allowed to be taken, from the ballots on 72
 such recount. 73

Record and
 notice of result.

The registrars shall, when the recount is complete, enclose all the 74
 ballots in their proper envelopes, seal each envelope with a seal provided 75
 therefor, and certify upon each envelope that it has been opened and 76
 again sealed in conformity to law; and shall likewise make and sign a 77
 statement of their determination of the questions raised. The envelopes, 78
 with such statement, shall be returned to the city or town clerk, who 79
 shall alter and amend, in accordance with such determination, such 80
 records as have been found to be erroneous; and the records so amended 81

82 shall stand as the true records of the election. Copies of such amended
 83 records of votes cast at a state election shall be made and transmitted
 84 as required by law in the case of copies of original records; provided,
 85 that such copies of amended records shall in case of a state-wide recount
 86 be transmitted by the city or town clerk to the state secretary within
 87 four days of the completion of such recount. If, in case of a recount of
 88 votes for town officers, it shall appear that a person was elected other
 89 than the person declared to have been elected, the registrars of voters
 90 shall forthwith make and sign a certificate of such fact, stating therein
 91 the number of votes cast, as determined by the recount, for each candi-
 92 date for the office the election to which is disputed, and shall file the
 93 same with the town clerk. The town clerk shall record the certificate
 94 and shall, within twenty-four hours after such filing, cause a copy of
 95 such certificate, attested by him, to be delivered to or left at the resi-
 96 dence of the person so declared to have been elected, and to the person
 97 who by such certificate appears to be elected.

98 Registrars of voters may employ such clerical assistance as they deem
 99 necessary to enable them to carry out this section.

Clerical
 assistance.

1 SECTION 136. No officer recounting ballots shall, except as required
 2 by law, make any statement or give any information relative to a ballot
 3 cast by a challenged voter.

No information
 to be given
 regarding
 challenged
 voter.

1892, 332, § 1.
 1893, 417, § 213.

1898, 548, § 265.
 R. L. 11, § 268.

1907, 560, §§ 301, 456.
 1913, 835, §§ 333, 503.

1 SECTION 137. The aldermen shall not declare the result of an election
 2 for state or city officers or of a vote upon any question submitted to the
 3 voters until the time for filing a petition for a recount of ballots has
 4 expired, or, if such petition has been filed, until the ballots have been
 5 recounted and the returns amended, notwithstanding any special act
 6 relating to their city. After the ballots have been recounted and the
 7 records amended, they shall forthwith declare the result of the election,
 8 and the city clerk shall thereupon issue certificates of their election to
 9 the persons elected. No person elected to a city office shall act in an
 10 official capacity by virtue of such election before his certificate of elec-
 11 tion has been issued.

In cities,
 election results
 not to be de-
 clared before
 recount or ex-
 piration of
 time therefor.
 No city officer
 to act without
 certificate of
 election.
 1876, 188, § 5.
 P. S. 7, § 38.
 1884, 299, § 32.
 1885, 159.
 1888, 164.
 1890, 423,
 § 107.

1893, 417, § 214.
 1898, 548, § 266.

R. L. 11, § 269.
 1907, 560, §§ 302, 456.

1913, 835, §§ 334, 503.
 182 Mass. 524.

PROCEEDINGS UPON FAILURE TO ELECT, AND VACANCIES IN STATE
 OFFICES.

1 SECTION 138. If, upon examination of the copies of the records of
 2 votes for presidential electors, it appears that a majority of the whole
 3 number of electors has not been chosen, the governor shall forthwith,
 4 by proclamation, call together the general court; and the senators and
 5 representatives assembled in joint convention shall by ballot choose
 6 electors to complete the full number.

Presidential
 electors, failure
 to elect ma-
 jority, vacancy
 or absence
 1832, 169, § 4.
 R. S. 6, § 21.
 1851, 49, § 3.
 G. S. 9,
 §§ 14, 15.
 P. S. 9,
 §§ 14, 15
 1888, 382, § 2.
 1890, 423,
 §§ 174, 175.
 1893, 417,
 §§ 215, 224.

7 If the whole number of electors has not been chosen when the electors
 8 meet on the first Wednesday in January, or if an elector has died or is
 9 then absent, the electors present shall forthwith choose electors from
 10 the citizens of the commonwealth to complete the full number.

1898, 548, §§ 271, 280.
 R. L. 11, §§ 274, 283.

1907, 560, §§ 303, 312, 456.
 1913, 835, §§ 335, 345, 503.

1931, 426, § 175.
 146 U. S. 1.

Failure to elect,
or vacancy;
senator in
congress,
1913, 835,
§ 336,
1922, 57.

SECTION 139. Upon failure to choose a senator in congress or upon a vacancy in said office, the vacancy shall be filled for the unexpired term at the following biennial state election provided said vacancy occurs not less than sixty days prior to the date of the primaries for nominating candidates to be voted for at such election, otherwise at the biennial state election next following. Pending such election the governor shall make a temporary appointment to fill the vacancy, and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy.

Same; repre-
sentative in
congress.
1833, 68, § 4.
R. S. 6, § 6.
1851, 40, § 1.
G. S. 9, § 5.
P. S. 9, §§ 5, 6.
1890, 423,
§§ 167, 168.

SECTION 140. Upon failure to choose a representative in congress or upon a vacancy in said office, the governor shall cause precepts to be issued to the aldermen in every city and the selectmen in every town in the district, directing them to call an election on the day appointed therein for the election of such representative.

1893, 417, § 216.
1898, 548, § 272.

R. L. 11, § 275.
1907, 560, §§ 304, 456.

1913, 835, §§ 337, 503.
1 Op. A. G. 242.

Same; repre-
sentative in
general court.
1874, 376,
§§ 32, 33.
P. S. S.
§§ 16, 17.
1890, 423,
§§ 157, 158.
1895, 417,
§ 217
1898, 548,
§ 273
R. L. 11, § 276.
1907, 560,
§§ 305, 456.
1913, 845,
§§ 338, 503.
1919, 269, § 1.
1922, 142.
1931, 426, § 177.

SECTION 141. Upon failure to choose a representative in the general court at the biennial state election, a certificate thereof shall be transmitted forthwith to the state secretary by the officers required to transmit certificates of election.

Upon a vacancy in the office of representative in the general court or upon failure to elect, the speaker of the house of representatives shall issue precepts to the aldermen of each city and the selectmen of each town comprising the district or any part thereof, appointing such time as the house of representatives may order for an election to fill such vacancy; provided, that if such vacancy occurs during a recess between the first and second annual sessions of the same general court, the speaker may fix the time for an election to fill such vacancy. Upon receipt of such precepts, the aldermen or the selectmen shall call an election, which shall be held in accordance with the precepts.

Same; district
attorney and
county officers.
R. S. 14, § 56.
1856, 173,
§§ 4, 8, 9.
1858, 93, § 12.
G. S. 10,
§§ 10, 13;
17, § 52.
P. S. 10, §§ 10,
13, 18; 158,
§ 18; 159, § 7.
1890, 423,
§§ 197, 200, 205.
1893, 417,
§ 218.
1898, 548,
§§ 274, 277.
R. L. 11,
§§ 277, 280.
1907, 560,
§§ 306, 309, 456.
1913, 835,
§§ 339, 342, 503.
1919, 269, § 1.
191 Mass. 497.
3 Op. A. G. 457.

SECTION 142. Upon failure to choose a district attorney, clerk of the courts or in Suffolk county of the supreme judicial or superior court, register of probate and insolvency or sheriff, the governor shall cause precepts to be issued to the proper officers, directing them to call an election on the day appointed therein for the election of such officer.

Upon a vacancy by removal or otherwise in any of the above named offices, he shall in like manner cause precepts to be issued for an election to fill such vacancy at the next biennial state election for which precepts can be seasonably issued, unless the term of the office expires on the first Wednesday of January following such state election.

Upon a vacancy in the office of district attorney, register of probate and insolvency or sheriff, the governor with the advice and consent of the council may appoint some person thereto until a district attorney, register of probate and insolvency or sheriff is qualified. Upon a vacancy in the office of clerk of the courts in any county, or of the clerk of the supreme judicial court in Suffolk county, the justices of said court may appoint a clerk to hold the office until a clerk is qualified.

Upon a vacancy in the office of a clerk of the superior court in Suffolk county, the justices of said court may appoint a clerk to hold the office until a clerk is qualified.

1 SECTION 143. Upon failure to choose a county treasurer or a register
2 of deeds for a county or district, except Suffolk and Nantucket counties,
3 the county commissioners shall forthwith issue precepts to the aldermen
4 of each city and the selectmen of each town in such county or district,
5 directing them to call an election for the election of such officer on a
6 day appointed therein.

7 Upon a vacancy by removal or otherwise in the office of county treas-
8 urer or of register of deeds in a county or district, except in Suffolk and
9 Nantucket counties, the county commissioners shall in like manner issue
10 precepts for an election to fill such vacancy at the next biennial state
11 election for which precepts can be seasonably issued, unless the term of
12 the office expires on the first Wednesday of January following such state
13 election, and may appoint some person to fill such office until a person
14 is elected thereto and qualified. The person so appointed shall give
15 bond as provided in section three of chapter thirty-five or section three
16 of chapter thirty-six, as the case may be.

17 Upon failure to choose a register of deeds in Suffolk county, or upon
18 a vacancy in that office, the city council of Boston shall call meetings to
19 elect a register of deeds or to fill such vacancy, as is above provided for
20 an election in other counties; and, upon a vacancy in that office in said
21 Suffolk county, the superior court shall appoint some person to the office
22 until a person is elected thereto and qualified.

23 Upon failure to choose a register of deeds in Nantucket county, or
24 upon a vacancy in that office, the selectmen of the town of Nantucket
25 shall call a meeting to elect a register of deeds as is above provided for
26 an election in other counties, and may appoint some person to the office
27 until a person is elected thereto and qualified.

1 SECTION 144. Upon failure to choose a county commissioner or asso-
2 ciate commissioner, the board of examiners shall forthwith issue precepts
3 to the aldermen of each city and to the selectmen of each town in such
4 county, directing them to call an election to elect such officer on a day
5 appointed therein. In Middlesex county, such precept shall also be
6 issued to the aldermen of Revere and the selectmen of Winthrop.

7 Upon a vacancy by removal or otherwise in the office of county com-
8 missioner or associate commissioner, the board of examiners shall in like
9 manner issue precepts for an election to fill such vacancy at the next
10 biennial state election for which precepts can be seasonably issued, unless
11 the term of office of the commissioner whose office is so vacant expires
12 on the first Wednesday of January following such election.

13 Upon a vacancy in said offices, the county commissioners or the two
14 remaining county commissioners, as the case may be, and the clerk of
15 the courts for the county, or a majority of them, may appoint some
16 person to fill such office until a person is elected thereto and qualified.

1913, 835, §§ 341, 342, 503.

1919, 269, § 1.

1 SECTION 145. If a person elected to any of the offices mentioned in
2 the three preceding sections dies before the first Wednesday of January
3 following his election, the office shall be filled as in case of a vacancy.

1917, 255, § 1.

1918, 114, § 2.

1919, 269, § 26.

1 SECTION 146. The county commissioners in each county shall forth-
2 with notify the state secretary of any vacancy in the office of county
3 treasurer or of register of deeds; and the board of examiners shall give

Same; county
Treasurer, regis-
ter of deeds.
1785, 76, § 1.
1827, 145, § 1.
R. S. 11,
§ 46, 106, 107,
1850, 118
G. S. 10,
§ 12, 15, 17,
§ 38, 87
P. S. 10, §§ 12,
15, 17, 19,
1860, 423,
§§ 199, 202,
204, 205
1895, 417,
§ 219
1898, 548,
§§ 275, 277.
R. L. 11,
§ 278, 280.
1907, 560,
§§ 307, 309, 456
1908, 391, § 1.
1913, 835,
§§ 340, 342,
503
1919, 269, § 1.

Same; county
or associate
commissioner.
1835, 152,
§ 3, 4.
R. S. 14,
§§ 19, 20, 22
1850, 299, § 2.
1852, 53.
G. S. 10,
§ 11, 14
1872, 87, § 3.
P. S. 10,
§ 11, 14.
1890, 423,
§§ 198, 201.
1892, 115,
§ 1, 2.
1893, 417,
§ 220.
1898, 548,
§§ 276, 277.
R. L. 11,
§ 279, 280
1902, 544, § 2.
1907, 560,
§§ 308, 309,
456.

Death after
election and
before begin-
ning of term
of office, effect.

State secre-
tary to be
notified, etc.
1860, 423,
§§ 120, 121, 207.

1893, 417, § 221
1898, 548, § 278.
R. L. 11, § 281.

like notice to the state secretary in the office of county commissioner or associate commissioner, and in each case they shall send him a copy of the precepts issued by them for an election.

1907, 560, §§ 310, 456.

1913, 835, §§ 343, 503.

Elections to fill vacancies, proceedings, 1833, 68, § 4, 5.

SECTION 147. At elections held because of a failure to elect or to fill vacancies, the proceedings shall be the same, so far as applicable, as in elections to the same office at the biennial state election.

R. S. 6, §§ 6, 7.
G. S. 9, §§ 5, 6.
1874, 370, § 33.
P. S. 8, § 17, 9, §§ 5, 6.

1890, 423, §§ 158,
167, 168, 198, 199.
1893, 417, § 222.
1898, 548, § 279.

R. L. 11, § 282.
1907, 560, §§ 311, 456.
1913, 835, §§ 344, 503.
1919, 269, § 1.

PROCEEDINGS OF PRESIDENTIAL ELECTORS.

Presidential electors, meeting, organization, proceedings, record of, U. S. Const. amend. 12, 1 U. S. Comp. Sts., § 199 et seq. 1832, 169, § 4 R. S. 6, §§ 21, 22.

SECTION 148. The persons chosen as presidential electors shall meet at the state house on the first Wednesday in January next following their election at three o'clock in the afternoon and organize by the choice of a presiding officer and secretary. The state secretary shall call the meeting to order, call the roll of electors, and preside until a presiding officer shall be chosen. The secretary of the electors shall keep a journal of their proceedings and deposit the same in the office of the state secretary, where it shall be recorded and filed.

G. S. 9, §§ 15, 16.
P. S. 8, §§ 15, 16.
1888, 382, §§ 2, 3.
1890, 423, §§ 175, 176.

1893, 417, § 224.
1898, 548, § 280.
R. L. 11, § 283.

1907, 560, §§ 312, 456.
1913, 835, §§ 345, 503.
1931, 426, § 176.

Compensation, 1832, 169, § 4, R. S. 6, § 23, G. S. 9, § 17, P. S. 9, § 17.

SECTION 149. Each elector shall receive from the commonwealth three dollars for each day of attendance, and one dollar for every five miles of travel from his residence to the place of meeting.

1890, 423, § 177.
1893, 417, § 225.

1898, 548, § 281.
R. L. 11, § 284.

1907, 560, §§ 313, 456.
1913, 835, §§ 346, 503.

OFFICERS TO BE ELECTED AT STATE ELECTIONS.

State officers to be elected biennially, Const. amend. 64, §§ 1, 4 (Const. Rev. art. 39.) G. S. 8, § 1, P. S. 8, § 1, 1890, 423, § 147, 1893, 417, § 247 1898, 548, § 311.

SECTION 150. At the biennial state election there shall be chosen by the voters of the commonwealth, as prescribed by the constitution, a governor, lieutenant governor, state secretary, state treasurer, state auditor and attorney general; by the voters in each councillor district, one councillor; by the voters in each senatorial district, one senator; and by the voters in each representative district, such number of representatives as the district is entitled to elect.

R. L. 11, § 314.
1907, 560, §§ 342, 456.

1908, 597, § 1.
1913, 835, §§ 379, 503.

1919, 269, § 1.

Presidential electors, R. S. 6, § 13, G. S. 9, §§ 9, 10, P. S. 9, §§ 9, 10, 1890, 423, § 170, 171, 1893, 417, § 248, 1898, 548, § 312.

SECTION 151. At the biennial state election in each year in which presidential electors are required to be elected, a number of electors, equal to the whole number of senators and representatives in congress to which the commonwealth is entitled, shall be chosen by the voters of the commonwealth.

R. L. 11, § 315.
1907, 560, §§ 343, 456.

1913, 835, §§ 350, 503.
1919, 269, § 1.

Senators in congress, 1913, 835, § 381, 1919, 269, § 16.

SECTION 152. At the biennial state election in nineteen hundred and twenty-two, and in every sixth year thereafter, and in nineteen hundred and twenty-four, and in every sixth year thereafter, a senator in congress shall be chosen by the voters of the commonwealth.

1 SECTION 153. At each biennial state election a representative in
2 congress shall be chosen by the voters in each congressional district.

1833, 68, § 3.	G. S. 9, § 3.	1893, 417, § 249.	1907, 560, §§ 344, 456.
R. S. 6, § 3.	P. S. 9, § 3.	1898, 548, § 313.	1913, 835, §§ 382, 503.
1856, 224.	1890, 423, § 165.	R. L. 11, § 316.	1919, 269, § 17.

Representatives in congress.

1 SECTION 154. At the biennial state election in nineteen hundred and
2 twenty-two, and in every fourth year thereafter, a district attorney shall
3 be chosen by the voters in each of the districts into which the common-
4 wealth is divided for the administration of the criminal law.

G. S. 10, § 2.	1893, 417, § 250.	1907, 560, §§ 345, 456.
P. S. 10, § 2.	1898, 548, § 314.	1913, 835, §§ 383, 503.
1890, 423, § 189.	R. L. 11, § 317.	1919, 269, § 18.

District attorneys.
1807, 18
1832, 130, § 9
R. S. 13, § 37.
1856, 173,
§§ 1, 5.

1 SECTION 155. At the biennial state election in nineteen hundred and
2 twenty-two, and in every sixth year thereafter, the clerk of the courts in
3 counties other than Suffolk, and in Suffolk the clerk of the supreme
4 judicial court for that county and the clerks of the superior court for
5 civil and for criminal business therein, shall be chosen by the voters of
6 their respective counties.

1893, 417, § 251.	R. L. 11, § 318.	1913, 835, §§ 384, 503.
1898, 548, § 315	1907, 560, §§ 346, 456.	1919, 269, § 19.

Clerks of courts.
1853, 176,
§§ 2, 6, 7.
1857, 1
G. S. 10, § 3.
P. S. 10, § 3.
1890, 423,
§ 190.

1 SECTION 156. At the biennial state election in nineteen hundred and
2 twenty-four, and in every sixth year thereafter, a register of probate and
3 insolvency shall be chosen by the voters of each county.

G. S. 10, § 4.	1893, 417, § 252.	1907, 560, §§ 347, 456.
P. S. 10, § 4.	1898, 548, § 316.	1913, 835, §§ 385, 503.
1890, 423, § 191.	R. L. 11, § 319.	1919, 269, § 20.

Registers of probate and insolvency
1858, 93, § 4.

1 SECTION 157. At the biennial state election in nineteen hundred and
2 twenty-two, and in every sixth year thereafter, a register of deeds shall
3 be chosen by the voters of each district for the registry of deeds, and of
4 each county not divided into districts.

1835, 79-92, § 1.	1890, 423, § 196.	1906, 76.
1836, 118.	1893, 417, § 253.	1907, 560, §§ 348, 456.
G. S. 10, § 9.	1898, 548, § 317.	1913, 835, §§ 386, 503.
P. S. 10, § 9.	R. L. 11, § 320.	1919, 269, § 21.

Registers of deeds.
1783, 60
R. S. 14, § 101.
1837, 186.

1 SECTION 158. At the biennial state election in nineteen hundred and
2 twenty-four, and in every fourth year thereafter, there shall be chosen
3 by the voters of Middlesex county and of Revere and Winthrop two
4 county commissioners for said county, city and town, and by the voters
5 of each of the other counties, except Suffolk and Nantucket, two county
6 commissioners for the county; and at the biennial state election in nine-
7 teen hundred and twenty-two, and in every fourth year thereafter, there
8 shall be chosen by the voters of Middlesex county and of Revere and
9 Winthrop one county commissioner for said county, city and town, and
10 by the voters of each of the other counties, except Suffolk and Nantucket,
11 one county commissioner for the county.

12 At the biennial state election in nineteen hundred and twenty-two,
13 and in every fourth year thereafter, there shall likewise be chosen by
14 the voters of Middlesex county and of Revere and Winthrop two asso-
15 ciate commissioners for said county, city and town, and by the voters
16 of each of the other counties, except Suffolk and Nantucket, two associate
17 commissioners for the county.

18 Not more than one of the county commissioners and associate commis-
19 sioners shall be chosen from the same city or town. If two persons re-
20 siding in the same city or town shall appear to have been chosen to said

County commissioners
1835, 152,
§§ 2, 4.
R. S. 14, §§ 16,
21, 23.
1850, 299, § 2.
1852, 53.
1854, 77,
§§ 3, 6.
G. S. 10,
§§ 6-8.
1872, 87, § 3.
1874, 329, § 1.
P. S. 10,
§§ 6-8.
1890, 423,
§§ 193-195.
1893, 417,
§ 255.
1898, 217, § 2;
548, § 318
1900, 198
R. L. 11, § 321.
1907, 560,
§§ 349, 456.
1913, 835,
§§ 387, 503.
1919, 269, § 22.
3 Gray, 126
250 Mass. 188.

offices, only the person receiving the larger number of votes shall be declared elected; but if they shall receive an equal number of votes, no person shall be declared elected. If a person residing in a city or town where a county commissioner or an associate commissioner who is to remain in office also resides, shall appear to have been chosen, he shall not be declared elected. If the person is not declared elected by reason of the above provisions, the person receiving the next highest number of votes for the office, and who resides in another city or town, shall be declared elected.

Sheriffs.
1856, 173, § 1.
G. S. 10, § 5.
P. S. 10, § 5.
1890, 423, § 192.

SECTION 159. At the biennial state election in nineteen hundred and twenty-six, and in every sixth year thereafter, a sheriff shall be chosen by the voters in each county.

1893, 417, § 256.	1907, 560, §§ 350, 456.	1913, 835, §§ 388, 503.
1898, 548, § 319.	1910, 246, § 1.	1919, 269, § 23.
R. L. 11, § 322.		

County
treasurers.
1785, 76, § 1.
R. S. 14, § 43.
1855, 92, § 1.

SECTION 160. At the biennial state election in nineteen hundred and twenty-four, and in every sixth year thereafter, a county treasurer shall be chosen by the voters in each county, except Suffolk and Nantucket.

G. S. 10, § 9.	1898, 548, § 320.	1918, 114, § 1.
P. S. 10, § 9.	R. L. 11, § 323.	1919, 269, § 24.
1890, 423, § 196.	1907, 560, §§ 351, 456.	2 Gray, 370.
1893, 417, § 257.	1913, 835, §§ 389, 503.	

Commissioners
to apportion
Suffolk county
into representa-
tive districts,
decennial
election.
1897, 287, § 1.
1898, 548,
§ 321.
R. L. 11, § 324.
1905, 386, § 9.
1906, 298, § 1.
1907, 560,
§§ 352, 456.
1913, 835,
§§ 390, 503.
1919, 269, § 25.
1924, 424, § 1.
224 Mass. 508.
225 Mass. 55,
124.

SECTION 161. At the biennial state election in nineteen hundred and twenty-four, and in every tenth year thereafter, nine commissioners shall be elected to apportion Suffolk county into representative districts under section five of chapter fifty-seven. For the purpose of electing commissioners as aforesaid, the city of Boston is hereby divided into the five following districts, each comprising the territory within the wards, as constituted on January first, nineteen hundred and twenty-four, which are hereinafter assigned to it:

First district, wards one, two, three, four, five.

Second district, wards seven, eight, twenty-five, twenty-six.

Third district, wards six, twelve, thirteen, fourteen, fifteen.

Fourth district, wards nine, ten, eleven, seventeen, eighteen, twenty.

Fifth district, wards sixteen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four.

One of said commissioners shall be a resident of and voter in each of the aforesaid districts and shall be elected by the voters of that district; two shall be residents of and voters in Chelsea and shall be elected by the voters thereof; one shall be a resident of and a voter in Winthrop and shall be elected by the voters thereof; and one shall be a resident of and a voter in Revere and shall be elected by the voters thereof. Said commissioners shall hold office for two years from the first Wednesday of January next after their election. At their first meeting, they shall organize by choosing a chairman, who shall be one of their number, and a clerk. The city of Boston shall provide them with a suitable office and room for hearings and shall allow and pay to them for compensation a sum not exceeding five hundred dollars each, said sum to be determined by the governor and council, and a further sum of not more than seven hundred dollars for clerk hire, stationery and incidental expenses.

CHAPTER 55.

CORRUPT PRACTICES AND ELECTION INQUESTS.

SECT.

POLITICAL EXPENSES OF CANDIDATES.

1. Campaign expenses of candidates limited and defined.
2. Candidates to keep detailed accounts, with vouchers.
3. Candidates for United States senator and representative to be subject to United States laws in case of conflict.

POLITICAL COMMITTEES.

4. Political committees, organization, etc., regulated; statements to be filed with state secretary, etc. Treasurer; qualification, duties, etc.
5. Payments by political committees restricted.

POLITICAL CONTRIBUTIONS.

6. Receipts or disbursements regulated. Rendering of certain services not prohibited.
7. Political contributions by corporations, and soliciting or receiving such contributions, forbidden.
8. Payments, etc., to be in true name of donor.
9. Soliciting, etc., from candidates forbidden.
10. Political committees not to demand or solicit money for nomination papers.
11. Public officers and employees forbidden to solicit political contributions.
12. Soliciting political contributions in public buildings forbidden.
13. Making political contributions within the public service forbidden in certain cases.
14. Persons in public service not required to contribute or otherwise render political service.
15. Certain persons in state and municipal service not to be affected by failure to contribute.

STATEMENTS OF POLITICAL EXPENSES OF CANDIDATES AND COMMITTEES.

16. Candidates to file statements. Time limits.
17. Treasurer to file statement, contents, etc.
18. Persons acting for committees to give accounts and vouchers to treasurer.

SECT.

19. Filing of statement, duplicate, oath.
20. Statements to be preserved, etc.
21. Blanks to be furnished for statements.
22. Statements to be inspected and delinquents notified.
23. Attorney general to be notified, etc.
24. Courts may compel filing of statements, etc.
25. Immunity of witness.

CERTAIN PRACTICES FORBIDDEN.

26. Bribery and corruption forbidden.
27. Influencing voter in connection with employment forbidden.
28. Certain promises of appointment, etc., forbidden.
29. Promise of appointment, etc., for political action forbidden.
30. Use of official authority or influence to affect political action forbidden.
31. Certain officers, etc., not to promote or oppose for hire certain measures to be voted on at elections.
32. Payments for editorial support, and their receipt, forbidden.
33. Publication of unsigned political advertisements forbidden. Advertisements to be marked as such.
- 33A. Use of names of political parties by certain organizations regulated.
34. Certain unsigned circulars and posters forbidden.
- 34A. False statements in relation to candidates forbidden.
35. Payments for naturalization fees, etc., forbidden.

GENERAL PROVISIONS RELATIVE TO CORRUPT PRACTICES.

36. Corrupt practice by candidate defined.
37. Election petitions for corrupt practices.
38. Preceding sections to apply to elections, primaries, etc.

ELECTION INQUESTS.

39. Inquests upon violations of election laws.
40. Conduct of hearings.
41. Witnesses, attendance, fees, etc.
42. Stenographer.
43. Witnesses may be bound over.
44. Certain persons may be apprehended.
45. Guilty party may be forced to testify, and receive immunity.

POLITICAL EXPENSES OF CANDIDATES.

Campaign expenses of candidates limited and defined
 1892, 416,
 §§ 1, 3, 4,
 1893, 417,
 §§ 226, 228,
 229
 1898, 548,
 §§ 282, 284,
 285
 R. L. 11,
 §§ 285,
 287-289,
 1907, 560,
 1907, 560,
 §§ 316, 317,
 456,
 1911, 679,
 §§ 1, 2,
 1913, 835,
 §§ 348, 349,
 503,
 1914, 783,
 §§ 2, 3
 1918, 257, § 18.
 1919, 5,
 1920, 2, 149,
 1923, 110
 See 1918, 146
 3 Op. A. G. 497.
 Op. A. G.
 (1917) 143.

SECTION 1. No person, in order to aid or promote his own nomination or election to public office, shall himself or through another person give, pay, expend or contribute any money or other thing of value, or promise so to do, in excess of the following amounts:

	Primary.	Election.
United States Senator,	\$5,000	\$10,000
Governor,	5,000	10,000
Lieutenant Governor, State Secretary, State Treasurer, State Auditor, Attorney General,	3,000	6,000
Representative in Congress,	3,000	6,000
State Senator,	1,000	1,000
Representative in the General Court:—		
Each candidate may spend:		
In a district entitled to three representatives,	600	600
In a district entitled to two representatives,	500	500
In a district entitled to one representative,	400	400

A candidate for any other office may expend an amount not exceeding fifty dollars for each one thousand, or major portion thereof, of the registered voters qualified to vote for candidates for the office in question at the next preceding election; but no such candidate shall expend more than fifteen hundred dollars for the expenses of a primary, nor more than three thousand dollars for the expenses of an election. Any candidate may, however, expend a sum not exceeding two hundred dollars for primary or election expenses. Contributions by a candidate to political committees shall be included in the foregoing sums.

The sums hereby authorized shall include all contributions from individuals, political committees or other sources to a candidate or person acting in his behalf, and shall include every payment or promise of payment for any purpose, made directly or indirectly by, or for the benefit of, a candidate, except that a political committee may make and incur expenses not for the sole benefit of an individual candidate, or which it is permitted by section five to make for an individual candidate; and the gift, payment, contribution or promise of any money or thing of value in excess of those sums, by a candidate directly or indirectly, or by any persons for his benefit, shall be deemed a corrupt practice.

Candidates to keep detailed accounts, with vouchers
 1892, 416, § 20.
 1893, 417,
 1898, 548,
 § 301.
 R. L. 11, § 304.
 1907, 560,
 § 332
 1913, 835,
 §§ 399, 503,
 1914, 783, § 2.
 1918, 257, § 18.
 1919, 5,
 1920, 2,
 See 1918, 146.

SECTION 2. Every candidate for nomination or election to a public office shall keep detailed accounts of all money or other things of value received by or promised to him or any person acting under his authority, and of all expenditures and disbursements made by him or by any person acting under his authority. Said accounts may be kept by an agent duly authorized thereto, but the candidate shall be responsible for them. They shall be kept separate and distinct from all other accounts and shall include money or other things of value contributed or paid by the candidate from his personal funds.

Every payment shall, unless the total expense payable to any one person is less than five dollars, be vouched for by a receipted bill, stating the particulars of the expense, and every voucher, receipt or account hereby required shall be preserved for six months after the primary or election to which it relates. Failure by a candidate so to preserve such vouchers, receipts and accounts shall be deemed prima facie evidence of a corrupt practice.

1 SECTION 3. Candidates for nomination or election to the senate or
2 house of representatives of the United States shall be subject to the
3 laws of the United States in so far as sections one, two and five may con-
4 flict with such laws.

1914, 783, § 2.

1918, 257, § 18.

1919, 5.

1920, 2.

Candidates for United States senator and representative to be subject to United States laws in case of conflict.

POLITICAL COMMITTEES.

1 SECTION 4. Every non-elected political committee shall have a
2 treasurer, and a chairman who shall, not later than the day preceding
3 the election in connection with which said committee is organized to
4 function, file with the state secretary, or, when organized for the pur-
5 poses of a municipal election only, with the city or town clerk, the names
6 and addresses of such treasurer and chairman and of at least three
7 additional members thereof and a statement of the purpose for which
8 organized; and, in the event of a change in such officers or as to such
9 additional members, a statement of such change shall forthwith be filed
10 as in the case of the officers first chosen. The treasurer of every non-
11 elected and of every elected political committee shall qualify for his
12 office by filing a written acceptance thereof with the state secretary, or,
13 in the case of a municipal election as aforesaid, with the city or town
14 clerk, and said treasurer shall remain subject to all the duties and liabil-
15 ities imposed by this chapter until his written resignation of the office or
16 his successor's written acceptance is filed as aforesaid. No person
17 acting under the authority or in behalf of any political committee shall
18 receive any money or other thing of value, or expend or disburse the
19 same or incur expenses, while it has no treasurer qualified as aforesaid,
20 or while the name or address of any of its officers, as originally or sub-
21 sequently chosen, or of any such additional member is not filed if and
22 as required by this section or chapter fifty-two, as the case may be.
23 Every treasurer of a political committee shall keep and preserve detailed
24 accounts, vouchers and receipts, as prescribed for an individual candi-
25 date.

Political committees, organization, etc., regulated; statements to be filed with state secretary, etc. Treasurer; qualification, duties, etc. 1892, 416, § 6. 1893, 417, § 251. 1898, 548, § 287. R. L. 11, § 290. 1907, 560, § 321. 1908, 518, § 1. 1913, 845, §§ 358, 303. 1914, 783, § 4. 1928, 212, §§ 5, 13. [Penalty, Chap. 56, § 66]

1 SECTION 5. Political committees, duly organized, may receive, pay
2 and expend money or other things of value for the following purposes,
3 and no others: advertising, writing, printing and distributing circulars
4 or other publications, hire and maintenance of political headquarters,
5 and clerical hire incidental thereto, meetings, refreshments, not includ-
6 ing intoxicating liquors, but including cigars and tobacco, decorations
7 and music, postage, stationery, printing, expressage, traveling expenses,
8 telephone, telegraph and messenger service, and the hire of conveyances
9 and workers at polling places.

Payments by political committees restricted. 1914, 783, § 3. 1918, 257, § 18. 1919, 5. 1920, 2. See 1918, 146. Op. A. G. (1920) 41.

10 Such committee may contribute to other political committees. A
11 political committee may contribute to the personal fund of a candidate;
12 but no such committee shall pay, directly or indirectly, any expenses of
13 any candidate for nomination or election, or for his sole benefit, other
14 than decorations, music, and traveling expenses of members of the com-
15 mittee and speakers, except by a contribution to the fund of the candi-
16 date. Political committees may hire conveyances and workers at elec-
17 tions only, and not more than one such conveyance and not more than
18 two persons at each polling place shall be hired to represent the same
19 political party or principle.

POLITICAL CONTRIBUTIONS.

Receipts or disbursements regulated.
 Rendering of certain services not prohibited.
 1892, 416, § 9.
 1893, 417, § 241.
 1898, 548, § 290.
 R. L. 11, § 293.
 1907, 560, § 324.
 1913, 835, § 361, 503.
 1914, 783, § 5.
 1928, 212, § 6.
 Op. A. G. (1920) 41.

SECTION 6. No person or combination of persons shall in connection with any nomination or election receive money or its equivalent, expend or disburse or promise to expend or disburse the same, except as authorized by this chapter. A political committee or a person acting under the authority or on behalf of such a committee may receive money or its equivalent, or expend or disburse or promise to expend or disburse the same for the purpose of aiding or promoting the success or defeat of a political party or principle in a public election or favoring or opposing the adoption or rejection of a question submitted to the voters, and for other purposes expressly authorized by this chapter subject, however, to the provisions thereof. Any individual, not a candidate, may contribute to political committees or to candidates a sum which in the aggregate of all contributions by him shall not exceed one thousand dollars in any election and primary preliminary thereto. This section shall not prohibit the rendering of services by speakers, publishers, editors, writers, checkers and watchers at the polls or by other persons for which no compensation is asked, given or promised, expressly or by implication; nor shall it prohibit the payment by themselves of such personal expenses as may be incidental to the rendering of such services; nor shall it prohibit the free use of property belonging to an individual and the exercise of ordinary hospitality for which no compensation is asked, given or promised, expressly or by implication.

Political contributions by corporations, and soliciting or receiving such contributions, forbidden.
 1907, 576, § 22;
 581, § 3.
 1908, 483, § 1.
 1911, 422.
 1912, 229, § 1.
 1943, 835, § 353, 356, 503.
 [Penalty, Chap. 56, § 58.]

SECTION 7. No corporation carrying on the business of a bank, trust, surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat, power, canal, aqueduct, or water company, or any company having the right to take land by eminent domain or to exercise franchises in public ways, granted by the commonwealth or by any county, city or town, no trustee or trustees owning or holding the majority of the stock of such a corporation, no business corporation incorporated under the laws of or doing business in the commonwealth and no officer or agent acting in behalf of any corporation mentioned in this section, shall directly or indirectly give, pay, expend or contribute, or promise to give, pay, expend or contribute, any money or other valuable thing in order to aid, promote or prevent the nomination or election of any person to public office, or to aid, promote or antagonize the interests of any political party, or to influence or affect the vote on any question submitted to the voters. No person or persons, no political committee, and no person acting under the authority of a political committee, or in its behalf, shall solicit or receive from such corporation or such holders of stock any such gift, payment, expenditure, contribution or promise to give, pay, expend or contribute; except that such a corporation, or such trustee or trustees, may in good faith publish or circulate paid matter when, under a question submitted to the voters, the taking, purchasing or acquiring of any of the property, business or assets of the corporation is involved, provided that the name of the corporation appears therein in the nature of a signature, and that, if inserted as reading matter, such matter is preceded or followed by the word "Advertisement", in the manner required by section thirty-three.

1 SECTION 8. No person shall, directly or indirectly, make a payment
 2 or promise of payment to a political committee or to any person acting
 3 under its authority or in its behalf, in any name except his own; nor
 4 shall such committee or person knowingly receive a payment or promise
 5 of payment, or enter or cause the same to be entered in the accounts or
 6 records of such committee, in any other name than that of the person by
 7 whom it is made.

Payments, etc.,
 to be in true
 name of donor
 1892, 416, § 10
 1893, 417,
 § 235,
 1898, 548,
 § 291,
 R. L. 11, § 294,
 1907, 560,
 § 318.

1913, 835, §§ 350, 503.

1 SECTION 9. No person, no political committee and no person acting
 2 under the authority of a political committee or in its behalf, shall de-
 3 mand, solicit, ask or invite from a candidate for nomination or election
 4 to public office, or a person occupying an elective public office, any pay-
 5 ment or gift of money or other valuable thing, or promise of payment or
 6 gift of money or other valuable thing for advertising, gratuities, dona-
 7 tions, tickets, programs, or any other purpose whatsoever; and no
 8 such candidate for nomination or election, and no one occupying an
 9 elective public office, shall make any such payment or gift, or promise to
 10 make any such payment or gift, to any person, political committee, or
 11 any person acting under the authority of a political committee, if such
 12 person or political committee has demanded, solicited, asked, or invited
 13 from him any such payment, gift or promise of payment or gift; but
 14 this section shall not apply to the soliciting or making in good faith of
 15 gifts for charitable or religious purposes.

Soliciting, etc.,
 from candidates
 forbidden.
 1892, 416, § 11.
 1893, 417,
 § 236,
 1898, 548,
 § 292.
 R. L. 11, § 295,
 1907, 560,
 § 319,
 1911, 679, § 3.
 1913, 835,
 §§ 351, 503.

1 SECTION 10. No political committee, and no person acting under
 2 its authority or in its behalf, shall demand or solicit from any candidate
 3 for nomination to elective office, or from any one acting in his behalf, a
 4 payment of money or a promise of payment of money, as a prerequisite
 5 to his obtaining from such committee or its agent the nomination papers
 6 required by sections ninety-five to one hundred and one, inclusive, of
 7 chapter fifty-three.

Political com-
 mittees not to
 demand or
 solicit money
 for nomina-
 tion papers.
 1908, 85,
 § 319,
 1913, 835,
 §§ 352, 503.
 [Penalty, Chap
 56, § 59]

1 SECTION 11. No person holding any public office or employment,
 2 under the commonwealth or any county, city or town, shall directly or
 3 indirectly demand, solicit or receive, or be concerned in demanding,
 4 soliciting or receiving any gift, payment, contribution, assessment, sub-
 5 scription or promise of money or other thing of value for the political
 6 campaign purposes of any candidate for public office or of any political
 7 committee, or for any political purpose whatever; but this section shall
 8 not prevent such persons from being members of political organizations
 9 or committees.

Public officers
 and employees
 forbidden to
 solicit political
 contributions.
 1881, 320, § 6.
 R. L. 19, § 26,
 1918, 146, § 1.

[Penalties,
 Chap. 56, § 60.]

1 SECTION 12. No person shall in any building or part thereof occu-
 2 pied for state, county or municipal purposes demand, solicit or receive
 3 any payment or gift of money or other thing of value for the purposes
 4 set forth in section eleven.

Soliciting po-
 litical contri-
 butions in
 public build-
 ings forbidden.

1884, 320, § 7.

R. L. 19, § 27.

1918, 146, § 2.

[Penalties, Chap. 56, §§ 56, 60.]

1 SECTION 13. No officer, clerk or other person in the service of the
 2 commonwealth or of any county, city or town shall, directly or indirectly,
 3 give or deliver to an officer, clerk or person in said service, or to any

Making po-
 litical contri-
 butions within
 the public
 service for-

hidden in
certain cases.
1884, 320, § 9.
R. L. 19, § 29.
See 1918, 146.

councillor, member of the general court, alderman, councilman or com- 4
missioner, any money or other valuable thing on account of, or to be 5
applied to, the promotion of any political object whatever. 6

[Penalty, Chap. 56, § 61.]

Persons in
public service
not required to
contribute to
or otherwise
render political
service.

SECTION 14. No person in the public service shall, for that reason, 1
be under obligation to contribute to any political fund, or to render any 2
political service, and shall not be removed or otherwise prejudiced for 3
refusing to do so. 4

1884, 320, § 11.

R. L. 19, § 31.

142 Mass. 90.

See 1918, 146.

[Penalty, Chap. 56, § 61.]

Certain persons
in state and
municipal
service not to
be affected by
failure to
contribute.
1884, 320, § 8.
R. L. 19, § 28.

SECTION 15. No officer or employee of the commonwealth or of any 1
county, city or town shall discharge, promote, or degrade an officer or 2
employee, or change his official rank or compensation, or promise or 3
threaten so to do, for giving, withholding or neglecting to make a con- 4
tribution of money or other valuable thing for a political purpose. 5

142 Mass. 90.

See 1918, 146.

[Penalty, Chap. 56, § 61.]

STATEMENTS OF POLITICAL EXPENSES OF CANDIDATES AND COMMITTEES.

Candidates to
file statements.
Time limits.
1904, 380, § 3.
1907, 560,
§ 325.
1911, 679, § 4.
1913, 835,
§§ 362, 503.
1914, 783, § 6.
1917, 83.
1928, 212, § 7.
1930, 36.

SECTION 16. Every candidate for nomination for or election to a 1
public office shall file a statement setting forth each sum of money and 2
thing of value paid or promised to him or to a person on his behalf, and 3
each sum of money and thing of value expended, contributed or prom- 4
ised by him or by a person on his behalf, for the purpose of securing or 5
in any way affecting his nomination or election to the office, and the 6
name of the person or political committee to or by whom the payment, 7
contribution or promise was made and the date thereof, or, if nothing 8
has been paid or promised to him or to a person on his behalf or contrib- 9
uted, expended or promised by him or by a person on his behalf, a 10
statement to that effect. Such a statement shall be filed by a candidate 11
for nomination as aforesaid at a primary or caucus preceding a special 12
state, city or town election, within seven days after such primary or 13
caucus, and by a candidate for nomination as aforesaid at any other 14
primary or caucus, within sixteen days thereafter, and by a candidate 15
for election as aforesaid, within fourteen days after the election. 16

Treasurer to
file statement,
contents, etc.
1892, 416, § 8.
1893, 417,
§ 233.
1898, 548,
§ 281.
1909, 307.
R. L. 11, § 292.
1907, 560,
§ 323.
1913, 835,
§§ 360, 503.
1925, 57.

SECTION 17. The treasurer of every political committee which re- 1
ceives, expends or disburses any money or its equivalent, or incurs any 2
liability to pay money, in connection with any nomination or election 3
to an amount exceeding twenty dollars, shall, within thirty days after 4
such election, file a statement setting forth all the receipts, expenditures, 5
disbursements and liabilities of the committee and of every officer and 6
other person acting under its authority or in its behalf. It shall include 7
the amount in each case received, the name of the person or committee 8
from whom received, the date of its receipt, the amount of every expendi- 9
ture or disbursement, the name of the person or committee to whom it 10
was made, and the date thereof; and, unless such expenditure or dis- 11
bursement was made to another political committee, shall clearly state 12
the purpose of such expenditure or disbursement; also the date and 13
amount of every existing promise or liability, both to and from such 14
committee, remaining unfulfilled and in force when the statement is 15
made, the name of the person or committee to or from whom the unful- 16
filled promise or liability exists, and a clear statement of the purpose for 17

18 which the promise or liability was made or incurred. If the aggregate
 19 receipts or disbursements of a political committee in connection with
 20 any nomination or election shall not exceed twenty dollars, or if such a
 21 committee has not received, expended or disbursed any money or its
 22 equivalent, or incurred any liability, in connection with any nomination
 23 or election, the treasurer of the committee shall, within thirty days after
 24 the election, file a statement setting forth the fact.

1 SECTION 18. Whoever, acting under the authority or in behalf of a
 2 political committee, receives any money or its equivalent, or promise
 3 of the same, or expends or incurs any liability to pay the same, shall, on
 4 demand, and in any event within fourteen days after such receipt, ex-
 5 penditure, promise or liability, give to the treasurer a detailed account
 6 of the same, with all vouchers required by this chapter, which shall be
 7 a part of the accounts and files of such treasurer.

Persons acting
 for committees to
 give accounts
 and vouchers
 to treasurer
 1892, 416, § 7.
 1893, 417,
 § 292.
 1898, 548,
 § 288.

R. L. 11, § 291. 1907, 560, § 322. 1913, 835, § 359.

1 SECTION 19. The statement required to be filed by a candidate,
 2 treasurer or other person shall be filed with the clerk of the city or town
 3 where such candidate, treasurer or other person is a voter. If the nomi-
 4 nation to which such statement relates is a nomination to a state or
 5 national office, or the election is a state or national election, a duplicate
 6 shall be filed with the state secretary. Whoever makes such a state-
 7 ment shall make oath that it is in all respects correct and true to the best
 8 of his knowledge and belief.

Filing of
 statement, oath,
 duplicate, oath.
 1892, 416,
 §§ 12, 16.
 1893, 417,
 § 238.
 1894, 218.
 1898, 548,
 R. L. 11, § 297.
 1904, 375, § 1.

1907, 560, § 326. 1913, 835, §§ 363, 503. 1914, 783, § 7.

1 SECTION 20. All statements shall be preserved for fifteen months
 2 after the election to which they relate and shall, under reasonable regu-
 3 lations, be open to public inspection.

Statements to
 be preserved,
 etc.

1892, 416, § 17. 1898, 548, § 300. 1907, 560, § 331. 1914, 783, § 7.
 1893, 417, § 242. R. L. 11, § 303. 1913, 835, §§ 368, 503.

1 SECTION 21. The state secretary shall at the expense of the common-
 2 wealth furnish to city and town clerks blanks in form approved by him
 3 and by the attorney general, suitable for the statements required by
 4 law. On receipt of a list of candidates for public office before a caucus
 5 or primary, or upon the filing of a nomination before a municipal elec-
 6 tion the city or town clerk shall transmit to the candidate or candidates
 7 put in nomination, and to the treasurers of political committees, the
 8 blanks above described. Upon the filing of a nomination before a state
 9 or national election, the state secretary shall transmit to the candidate
 10 or candidates put in nomination, and to the treasurers of the political
 11 committees, the blanks above described. Such blanks shall be furnished,
 12 upon application, to any person required to file a statement.

Blanks to be
 furnished for
 statements.
 1892, 416, § 18.
 1893, 417,
 § 245.
 1898, 548,
 § 302.
 R. L. 11, § 305.
 1904, 375, § 6.
 1907, 560,
 § 333.
 1913, 835,
 §§ 370, 503.

1 SECTION 22. The state secretary shall inspect all statements of candi-
 2 dates filed with him, and the clerks of cities or towns shall inspect all such
 3 statements relating to nominations and to city or town elections filed with
 4 them, within thirty days, and all other statements within sixty days, after
 5 the election to which they relate, and if upon examination of the official
 6 ballot it appears that any person has failed to file a statement as required
 7 by law, or if it appears to the state secretary that any such statement filed
 8 with him does not conform to law, or if it appears to a city or town clerk
 9 that such statement relating to a city or town nomination or election

Statements to
 be inspected
 and delin-
 quents notified.
 1894, 248,
 §§ 1-3, 5.
 1895, 242,
 §§ 1-3, 5.
 1898, 548,
 §§ 295, 297.
 R. L. 11,
 §§ 298, 300.
 1904, 375,
 §§ 2, 4.
 1907, 560,
 § 327.

1913, 835,
§ 364
1914, 783, § 8.
1928, 212, § 8.

does not conform to law, or upon written complaint by five registered voters that a statement does not conform to law, or that any person has failed to file a statement required by law, the state secretary or city or town clerk shall in writing notify the delinquent person. Such complaint shall state in detail the grounds of objection, shall be sworn to by one of the subscribers, and shall be filed with the state secretary or with the proper city or town clerk within forty days after the election in question, or within ten days after the filing of a statement or amended statement.

Attorney general to be notified, etc.
1892, 416, § 13.
1893, 417, § 239.
1894, 248, §§ 4, 5.
1895, 242, §§ 4, 5.
1898, 548, §§ 296, 297.
R. L. 11, §§ 299, 300.
1904, 375, §§ 3, 4.
1907, 560, § 328.

SECTION 23. Upon failure to file a statement within ten days after receiving notice under the preceding section, or if any statement filed after receiving such notice discloses any violation of any provision of this chapter, the state secretary or the city or town clerk, as the case may be, shall notify the attorney general thereof and shall furnish him with copies of all papers relating thereto, and the attorney general, within two months thereafter, shall examine every such case, and if satisfied that there is cause, he shall in the name of the commonwealth institute appropriate civil proceedings or refer the case to the proper district attorney for such action as may be appropriate in the criminal courts.

1913, 835, §§ 365, 503.

1928, 212, § 9.

165 Mass. 169.

Courts may compel filing of statements, etc.
1892, 416, § 13.
1893, 417, § 239.
1898, 548, § 298.
R. L. 11, § 301.
1904, 375, § 5.
1907, 560, § 329.
1913, 835, §§ 366, 503.
165 Mass. 169.

SECTION 24. The supreme judicial or superior court may compel any person failing to file a statement as above required, or filing a statement not conforming to the foregoing requirements in respect to its truth, sufficiently in detail, or otherwise, to file a sufficient statement, upon the application of the attorney general or district attorney or petition of any candidate voted for, or of any five persons qualified to vote at the election on account of which the expenditures, or any part thereof, were made or are alleged to have been made. Such petition shall be filed within sixty days after such election, if the statement was filed within the thirty days required, but a petition may be filed within thirty days of any payment not included in the statement so filed. Proceedings under this section shall be advanced for speedy trial upon the request of either party. No petition brought under this chapter shall be discontinued without the consent of the attorney general.

Immunity of witness.
1892, 416, § 14.
1893, 417, § 240.
1898, 548, § 299.
R. L. 11, § 302.
1907, 560, § 330.

SECTION 25. No person compelled to testify in any proceedings under the preceding section shall be liable to criminal prosecution for any matters or causes in respect of which he shall be examined or to which his testimony shall relate, except to prosecution for perjury committed in such testimony.

1913, 835, §§ 367, 503.

CERTAIN PRACTICES FORBIDDEN.

Bribery and corruption forbidden.
1876, 172, § 2.
P. S. 7, § 61.

SECTION 26. No person shall, directly or indirectly, pay, give or promise to a voter, any gift or reward to influence his vote or to induce him to withhold his vote.

1890, 423, §§ 136, 137.
1893, 417, § 338.

1898, 548, § 411.
R. L. 11, § 415.

1907, 560, § 449.
1913, 835, §§ 490, 503.

[Penalty, Chap. 56, § 63.]

Influencing voter in connection with employment forbidden.

SECTION 27. No person shall, by threatening to discharge a person from his employment or to reduce his wages, or by promising to give him employment at higher wages, attempt to influence a voter to give

4 or to withhold his vote, or, because of the giving or withholding of a
5 vote, discharge a person from his employment or reduce his wages.

1890, 423, § 136. 1898, 548, § 410. 1907, 560, § 448
1893, 417, § 337. R L. 11, § 414. 1913, 835, §§ 489, 503.
1894, 209, § 1; 508, §§ 5, 58.

[Penalty, Chap. 56, § 63.]

1 SECTION 28. No person shall, to aid or promote his nomination or
2 election to a public office, directly or indirectly promise to appoint or
3 to secure or assist in securing the appointment, nomination or election
4 of another person to a public position or employment or to a position of
5 honor, trust or emolument, except that he may announce or define what
6 is his choice or purpose in relation to an election in which he may be
7 called to take part, if elected.

1913, 835, §§ 347, 503.

Certain
promises of
appointment,
etc., forbidden.
1892, 416, § 2.
1893, 417,
§ 227.
1898, 548,
§ 283.
R L. 11, § 286.
1907, 560, § 315.

1 SECTION 29. No person holding a public office or in nomination for,
2 or seeking a nomination for, or appointment to, an office, shall corruptly
3 use or promise to use, directly or indirectly, any official authority or
4 influence to confer upon any person, or to aid a person to obtain, an
5 office or public employment, or a nomination, confirmation, promotion
6 or increase of salary, upon the consideration or condition that the vote,
7 political influence or action of any person shall be given or used in behalf
8 of a candidate, officer or party, or upon any other corrupt condition or
9 consideration.

Promise of
appointment,
etc., for politi-
cal action for-
bidden.
1884, 320, § 12.
R L. 19, § 32.

[Penalty, Chap. 56, § 61.]

1 SECTION 30. No person in the service of the commonwealth or of
2 any county, city or town shall use his official authority or influence to
3 coerce the political action of any person or body, or to interfere with any
4 election.

1884, 320, § 10.

R. L. 19, § 30.

[Penalty, Chap. 56, § 61.]

Use of official
authority or
influence to
affect political
action for-
bidden.

1 SECTION 31. No member of the general court or paid officer or em-
2 ployee of the commonwealth shall promote or oppose, for a valuable
3 consideration other than reimbursement for expenses actually incurred,
4 the acceptance by the voters of any political subdivision of the common-
5 wealth of any law conditioned to take effect therein upon such accept-
6 ance, or of any law or proposed law or constitutional amendment sub-
7 mitted under the forty-eighth amendment to the constitution, or an
8 expression of opinion by the voters on any question of public policy.

[Penalty, Chap. 56, § 64.]

Certain
officers, etc.,
not to promote
or oppose for
hire certain
measures to be
voted on at
elections.
(Const. Rev.
arts. 76-107.)
1919, 196,
§§ 1, 3.

1 SECTION 32. No person shall pay the owner, editor, publisher, or
2 agent of a newspaper or other periodical to induce him editorially to
3 advocate or oppose any candidate for public office or political principle,
4 or any question submitted to the voters; and no such owner, editor,
5 publisher, or agent shall accept such payment. This section shall not
6 apply to the outright purchase of such newspaper or periodical.

[Penalty, Chap. 56, § 62.]

Payments for
editorial sup-
port, and their
receipt, for-
bidden.
1907, 581, § 2.
1910, 55, § 2.
1913, 835,
§§ 355, 503.

1 SECTION 33. No person shall publish or cause to be published in a
2 newspaper or other periodical, either in its advertising or reading columns,
3 any paid matter designed or tending to aid, injure, or defeat any candi-
4 date for public office or any question submitted to the voters, unless the
5 name of the chairman or secretary or the names of two officers of the
6 political or other organization inserting the same, or the name of some

Publication of
unsigned politi-
cal advertise-
ments for-
bidden. Ad-
vertisements
to be marked
as such.
1907, 581,
§ 1.
1910, 55, § 1.

1913, 835, § 354, 503, 1920, 256.
[Penalty, Chap. 56, § 62.]

voter who is responsible therefor, with his residence and the street and number thereof, if any, appear therein in the nature of a signature. Such matter inserted in reading columns shall be preceded or followed by the word "Advertisement" in a separate line, in type not smaller than that of the body type of the newspaper or other periodical. This section shall not authorize expenditures otherwise prohibited by this chapter.

Use of names of political parties by certain organizations regulated. 1923, 98, § 1.
[Penalty, Chap. 56, § 62A.]

SECTION 33A. No organization consisting of two or more persons, other than a political committee duly elected in accordance with law or a corporation organized prior to January first, nineteen hundred and twenty-three, under the laws of this commonwealth and having as a part of its name the name of a political party, as defined by law, shall, in order to promote the success or defeat of a political party or principle or of a candidate in a public election, in any circular, advertisement or publication use in its organization name the name of such a political party, except with the written consent of the duly elected state committee representing such political party.

Certain un-designed circulars and posters forbidden. 1890, 381, 1893, 417, § 322, 1898, 548, § 294, R. L. 11, § 398, 1907, 560, § 430, 1910, 55, § 3, 1913, 835, § 470, 503.
[Penalty, Chap. 56, § 65.]

SECTION 34. No person shall intentionally write, print, post or distribute, or cause to be written, printed, posted or distributed, a circular or poster designed or tending to injure or defeat any candidate for nomination or election to any public office, by criticising his personal character or political action, or designed or tending to aid, injure, or defeat any question submitted to the voters, unless there appears upon such circular or poster in a conspicuous place either the names of the chairman and secretary, or of two officers of the political or other organization issuing the same, or of some voter who is responsible therefor, with his name and residence, and the street and number thereof, if any.

False statements in relation to candidates forbidden 1922, 269, § 1, 1926, 101.

SECTION 34A. No person shall make or publish, or cause to be made or published, any false statement in relation to any candidate for nomination or election to public office, which is designed or tends to aid or to injure or defeat such candidate.

[Penalty, Chap. 56, § 64A.]

Payments for naturalization fees, etc., forbidden. 1893, 376; 417, § 237, 1898, 548, § 293.

SECTION 35. No political committee and no person required to file a statement shall make any payment or promise of payment of money to or in behalf of any person for naturalization fees or for services as counsel or otherwise in assisting any one to obtain naturalization.

R. L. 11, § 296. 1907, 560, § 320. 1913, 835, §§ 357, 503.

GENERAL PROVISIONS RELATIVE TO CORRUPT PRACTICES.

Corrupt practice by candidate defined. 1914, 784, §§ 7, 9, 1918, 146, §§ 3, 4, 1922, 269, § 2, 228 Mass. 63.
[Penalties, Chap. 56, §§ 56, 60.]

SECTION 36. A candidate shall be deemed to have committed a corrupt practice who, either by himself or by another, commits any of the following offences:

Violation of the provisions of section one relative to the expenditure of money in excess of the amounts therein authorized.

Violation of any provision of section eleven or twelve.

Making a false return in any statement filed under sections sixteen and nineteen.

Violation of any provision of section twenty-six.

Violation of any provision of section thirty-four A.

[Penalty, Chap. 56, § 63.]

[Penalty, Chap. 56, § 61A.]

11 Aiding or abetting, either by himself or another, a person not entitled
 12 to vote, in voting or attempting to vote at a primary or election, or in
 13 voting or attempting to vote under a name other than his own, or in
 14 casting or attempting to cast more than one ballot.

15 Either by himself or another, fraudulently and wilfully obstructing and
 16 delaying a voter, interfering with, hindering or preventing an election
 17 officer from performing his duties, forging an endorsement upon, alter-
 18 ing, destroying or defacing a ballot, tampering with or injuring or at-
 19 tempting to injure any voting machine or ballot box to be used or being
 20 used in a primary or election, or preventing or attempting to prevent
 21 the correct operation of such machine or box.

1 SECTION 37. (a) If five or more voters have reasonable cause to
 2 believe that a corrupt practice, as defined in the preceding section, has
 3 been committed by any successful candidate, other than a candidate
 4 for the United States congress, or for the general court, for whom such
 5 voters had the right to vote, with reference to his election, or by any other
 6 person in his interest or behalf with reference thereto, such voters may
 7 apply to a justice of the superior court, sitting in equity within and for
 8 Suffolk county, for leave to bring an election petition against such can-
 9 didate praying that the election of such candidate be declared void. Such
 10 application shall be subscribed and sworn to by the petitioners and it
 11 shall be heard ex parte by the justice of the superior court in a summary
 12 manner and upon such evidence as he may require; and if the petitioners
 13 shall establish to his satisfaction that there is reasonable cause to be-
 14 lieve that a corrupt practice has been committed with reference to the
 15 election of the candidate in question, and that upon the evidence obtain-
 16 able there is reasonable cause to believe that such violations may be
 17 proved, he shall make an order granting leave to the petitioners to bring
 18 an election petition against such candidate.

19 (b) After the entry of such order, and within two months after the
 20 election to which it relates, the election petition may be filed in the
 21 superior court within and for Suffolk county.

22 Notice of the petition shall be by writ of subpoena according to the
 23 usual course of proceedings in equity and shall be returnable fourteen
 24 days after the date on which the petition is filed.

25 A subpoena issued upon an election petition shall be served not less
 26 than seven days before the return day.

27 A defence to an election petition shall be by answer, filed within seven
 28 days after the return day, and no replication need be filed.

29 Election petitions shall be entered on the equity docket.

30 (c) Election petitions and all motions and other applications, whether
 31 interlocutory or final, and all hearings on the merits or upon the making,
 32 entering or modifying of decrees therein shall be heard and determined
 33 by three justices of the superior court who shall, immediately following
 34 the filing of an election petition, be assigned by the chief justice of said
 35 court for the hearing and determination of all matters arising under elec-
 36 tion petitions prior to the next state election. No reference to a master
 37 shall be had upon any matter arising under an election petition, except
 38 in matters of fact relating to financial statements and the examination
 39 of accounts and vouchers. All proceedings under election petitions shall
 40 have precedence over any case of a different nature pending in any court,
 41 and the justices of the superior court may from time to time make such
 42 rules regulating the practice and proceedings in matters of such election

[Penalty, Chap.
56, § 35.]

[Penalties,
Chap. 56, §§ 36,
37, 43, 44,
46-49, 52.]

Election peti-
tions for cor-
rupt practices.
1914, 783, § 10.
1918, 257, § 19.
1919, 5.
1920, 2.
223 Mass. 516.
228 Mass. 63.

Entry, notice,
procedure.

To be heard by
three justices,
etc.
228 Mass. 63.

petitions, not inconsistent with this chapter, as they deem expedient. 43
 In the absence of any such rules, the practice and procedure in election 44
 petitions shall be governed by such laws or rules of court, not inconsistent 45
 with this chapter, as may from time to time be in force relating to the 46
 practice and proceedings in matters of equity. 47

Decision of
 three justices
 to be final
 Case may be
 reported.

(d) Upon an election petition the decision of the three justices of the 48
 superior court assigned as aforesaid, or of a majority of them, shall be 49
 final and conclusive upon all matters in controversy, whether inter- 50
 locutory or final, and whether in matters of fact or matters of law. But 51
 the said justices, or a majority of them, may, after a finding of facts, 52
 either of their own motion or at the request of either party, report the 53
 case to the supreme judicial court for determination by the full court; 54
 and thereupon like proceedings shall be had as upon a report after a 55
 finding of facts by a justice of the superior court in equity proceedings. 56

Defences.

(c) If upon an election petition one or more violations of the preced- 57
 ing section are proved, it shall be a defence to the petition if the de- 58
 fendant establishes to the satisfaction of a majority of the justices hear- 59
 ing the same, with reference to all of said violations, the following: 60

As to every such violation, either that 61

(1) Such violation was not committed by the candidate or by any 62
 person with his knowledge and in his behalf, but was committed con- 63
 trary to the orders and without the sanction or connivance of the 64
 candidate; 65

(2) The participation, if any, of the candidate in such violation, arose 66
 from inadvertence or from accidental miscalculation, or from some other 67
 reasonable cause of a like nature, and in any case did not arise from any 68
 want of good faith; 69

(3) The candidate took all reasonable means for preventing the com- 70
 mission of violations of this chapter with reference to the election in 71
 question; 72

(4) The violations in question were of a trivial, unimportant and 73
 limited character. 74

Court may
 make final
 disposition
 conditional,
 etc.

(f) The court may by an order make the final disposition of an election 75
 petition conditional upon the filing of a statement required by this chap- 76
 ter in a modified form, or within an extended time, and upon compli- 77
 ance with such other terms as the court may deem best calculated to 78
 carry into effect the objects hereof, and in such case the court shall 79
 require, within a time certain, further proof as to the compliance with 80
 the conditions of such order, whereupon a final decree shall be entered. 81

Decree upon
 finding of
 corrupt
 practice.

(g) If upon the hearing of an election petition a majority of the justices 82
 hearing the same shall find that in relation to the election of the candi- 83
 date in question a corrupt practice, as defined in the preceding sec- 84
 tion, was committed, either by the defendant or by any person in his 85
 interest or behalf, a decree shall be entered subject to the limitations and 86
 conditions hereinbefore prescribed, declaring void the election of the 87
 defendant to the office in question, and ousting and excluding him from 88
 such office and declaring the office vacant. 89

Immunity,
 etc., of witness.

(h) No person called to testify upon an election petition shall be ex- 90
 cused from testifying or producing any papers on the ground that his 91
 testimony may tend to criminate him or subject him to a penalty or 92
 forfeiture; but he shall not be prosecuted or subjected to any penalty 93
 or forfeiture except forfeiture of election to office, for or on account of 94
 any action, matter or thing concerning which he may so testify, except 95
 for perjury committed in such testimony. 96

97 (i) No decree entered upon an election petition shall be a bar to or
98 affect in any way any criminal prosecution of any candidate or other
99 person, or any inquest in accordance with sections thirty-nine to forty-
100 five, inclusive.

Decree no bar
to criminal
prosecution,
etc.

101 (j) A certified copy of any final decree entered upon an election peti-
102 tion, as provided by this chapter, shall forthwith be transmitted by the
103 clerk to the state secretary; and any vacancy in any office created by
104 any such decree shall be filled in the manner provided by law in case
105 of the death of the incumbent, but in no case shall the candidate so ex-
106 cluded from the office be eligible therefor.

Certified copy
to secretary
of common-
wealth; filling
of vacancy.

107 (k) If upon the hearing of an election petition it shall appear to a
108 majority of the justices hearing the same that with reference to the elec-
109 tion in question there is a reasonable presumption that any violation
110 of this chapter was committed, they shall cause notice of the facts to
111 be given by the clerk of said court to the district attorney for the county
112 where the violation appears to have been committed, with a list of the
113 witnesses to establish the violation, and any other information which
114 they may consider proper; and thereupon the district attorney shall
115 cause complaint therefor to be made before a court or magistrate hav-
116 ing jurisdiction thereof, or shall present the evidence thereof to the
117 grand jury. If it shall appear that a successful candidate for district
118 attorney has been guilty of any such violation, a majority of said jus-
119 tices shall order the notice of the facts to be given to the attorney gen-
120 eral, who shall designate a district attorney to make such complaint or
121 presentment. A majority of said justices may issue process for the ap-
122 prehension of any person so appearing to have committed a violation of
123 this chapter, and may bind over, as in criminal prosecutions, such wit-
124 nesses as they deem necessary to appear and testify at the court having
125 jurisdiction of the crime.

Notice to dis-
trict attorney,
process, etc.

1 SECTION 38. Sections one to thirty-seven, inclusive, shall apply to
2 all public elections, except of town officers in towns of less than ten
3 thousand inhabitants, and to elections by the general court and by city
4 councils, and by either branch thereof, and, so far as applicable, to the
5 nomination by primaries, caucuses, conventions and nomination papers
6 of candidates to be voted for at such elections. The term "political
7 committee" as defined in section one of chapter fifty shall not apply to
8 the proprietors and publishers of publications issued at regular inter-
9 vals, in respect to the ordinary conduct of their business, nor shall they,
10 in respect thereto, be subject to sections two to five, inclusive, of this
11 chapter.

Preceding sec-
tions to apply
to elections,
primaries, etc.
1892, 416, § 21.
1893, 417,
§ 246.
1898, 548,
§ 303.
R. L. 11, § 306.
1907, 560,
§ 334.
1913, 835,
§§ 371, 503.
1914, 783, § 11.
1928, 212, § 10.
See 1903, 454,
228 Mass. 63.

ELECTION INQUESTS.

1 SECTION 39. Upon a complaint subscribed and sworn to by any
2 person before a district court or trial justice, alleging that reasonable
3 grounds exist for believing that any law relating to the assessment,
4 qualification or registration of voters, or to voting lists or ballots, or to
5 primaries, caucuses, conventions and elections, or to any matters per-
6 taining thereto, has been violated, such court or justice may at once
7 hold an inquest to inquire into such alleged violation of law.

Inquests upon
violations of
election laws.
1893, 355, § 1.
1898, 548,
§ 304.
R. L. 11, § 307.
1907, 560,
§ 335.
1913, 835,
§§ 372, 503.
See 1903, 454.

1 SECTION 40. The court or trial justice may exclude all persons whose
2 presence is not necessary at such inquest; and may also direct the wit-
3 nesses to be kept so separated that they cannot converse with each other

Conduct of
hearings.
1893, 355, § 2.
1898, 548,
§ 305.

R. L. 11, § 308. until they have been examined. The attorney general, the district 4
 1907, 560, attorney, or some person designated by either, shall attend the inquest 5
 § 336. and examine the witnesses. 6
 1913, 835,
 §§ 373, 503.

Witnesses, SECTION 41. Such court, justice or attorney may issue subpoenas 1
 attendance, for witnesses, who shall be allowed the same fees, whose attendance 2
fee, etc. may be enforced in the same manner, and who shall be subject to the 3
 1895, 355, § 3. same penalties, as if served with a subpoena in behalf of the common- 4
 1898, 548, wealth in a criminal prosecution before such court or trial justice. 5
 § 306.
 R. L. 11, § 309. same penalties, as if served with a subpoena in behalf of the common- 4
 1907, 560, wealth in a criminal prosecution before such court or trial justice. 5
 § 357. 1913, 835, §§ 374, 503.

Stenographer. SECTION 42. Such court or trial justice may employ a stenographer 1
 1895, 355, § 4. and may have the proceedings reduced to writing; and if he finds that 2
 1898, 548, the law has been violated, shall report to the superior court all the ma- 3
 § 307. terial facts and the names of any persons guilty of any such violation. 4
 R. L. 11, § 310. 1913, 835, §§ 375, 503.

Witnesses may SECTION 43. The court or trial justice may bind over, as in criminal 1
 be bound over. prosecutions, such witnesses as are necessary, or as said attorney may 2
 1895, 355, § 5. designate, to appear and testify in the superior court. 3
 1898, 548, § 308. R. L. 11, § 311. 1907, 560, § 339. 1913, 835, §§ 376, 503.

Certain persons may be apprehended. SECTION 44. If a person charged by the report with the commission 1
 1895, 355, § 6. of an offence is not in custody, the court or trial justice shall forthwith 2
 1898, 548, issue a process for his apprehension; but such process may issue before 3
 § 309. the filing of said report, if otherwise lawful. 4
 R. L. 11, § 312. 1907, 560, § 340. 1913, 835, §§ 377, 503.

Guilty party SECTION 45. No person shall be excused from testifying or producing 1
 may be forced to testify, and any papers in any inquest proceedings under sections thirty-nine to 2
 receive immunity. forty-four, inclusive, on the ground that his testimony may tend to crim- 3
 1895, 355, § 7. inate him or subject him to a penalty or forfeiture, but he shall not be 4
 1898, 548, § 310. prosecuted or be subjected to a penalty or forfeiture for or on account 5
 R. L. 11, § 313. of any action, matter or thing concerning which he may be required so 6
 1907, 560, § 341. to testify, except for perjury committed in such testimony. 7
 1913, 835, §§ 378, 503.

CHAPTER 56.

VIOLATIONS OF ELECTION LAWS.

SECT.	SECT.
PENALTIES FOR OFFENCES CONCERNING ASSESSMENT, LISTING AND REGISTRATION OF VOTERS.	
1. False entry by assessor or assistant.	7. False oath, etc.
2. False listing in cities and towns having listing boards.	8. Aiding or abetting false oath, etc.
3. Misconduct of registrar or assistant registrar.	9. Illegal registration, etc.
4. Neglect of duty by member of listing board or police officer in cities and towns having listing boards.	10. Misconduct at registration.
5. Failure or refusal to give name or information to assessor, etc.	11. Interference with supervisor.
6. Giving false information to same officials.	12. Defacing or removing notice or voting list.
	PENALTIES FOR OFFENCES CONCERNING CERTIFICATES OF NOMINATION, NOMINATION PAPERS, PETITIONS, ETC.
	13. Forgery, etc., of nomination paper, etc.
	14. Subscribing to false statement in nomination paper.

SECT.

PENALTIES ON OFFICERS FOR OFFENCES IN THE CONDUCT OF PRIMARIES, CAUCUSES, CONVENTIONS AND ELECTIONS.

15. Misconduct of officer of primary, caucus or convention. Failure to recount ballots when required.
16. Failure to observe laws relative to voting at caucuses.
17. Misconduct by supervisor of elections.
18. Statement by election officer before public declaration of vote.
19. Failure to make proper entry on ballot of challenged voter.
20. Giving information relative to vote of challenged voter.
21. Reading names on ballot at certain elections.
22. Failure to comply with laws relating to disposition of ballots and lists.
23. Unlawful examination of ballots after election.
24. Failure to make and transmit copies of record of election.
25. False certificates of result of election.
26. Violation of rules relative to conduct of primary, caucus or election.
27. Misconduct relating to absent voting.
28. General penalty on officer.

PENALTIES ON INDIVIDUALS FOR OFFENCES RELATING TO THE CONDUCT OF PRIMARIES, CAUCUSES AND ELECTIONS.

Defacing Notices, etc.

29. Penalty for defacing or removing notice or warrant for primary, caucus or election.
30. Defacing, etc., list of candidates, instructions for voters, etc.

Offences by Voters.

31. Disclosing vote, false answer, etc., by voter.
32. Illegal voting at caucus.
33. Illegal voting or attempt to vote.
34. Violation of laws relative to absent voting.

Interference with Voting.

35. Aiding or abetting illegal voting.
36. Interfering with voter.
37. Wilfully obstructing voting.
38. Illegal challenging.
39. Distributing cards, etc., in or near polling place.

Disorderly Conduct.

40. Disorderly conduct at polling place.
41. Failure to remove cigar, liquor, etc.
42. Disobeying election officer, etc.

SECT.

Interference with Officers.

43. Interference with supervisor of elections.
44. Interference with election officer, city or town clerk, or election commissioner.

Tampering with Ballots, etc.

45. Obstructing transmission of ballots or returns.
46. Altering ballots, etc.
47. Malicious injury, etc., of ballot box, etc.
48. Tampering with voting machine, ballot box, etc.
49. False endorsement, delay in delivery of ballots, etc.
50. Placing identifying mark on ballot.
51. Removing ballot from within guard rail.
52. Fraudulent alteration, etc., of ballot.
53. Giving information as to vote of challenged voter.

PENALTIES FOR CORRUPT PRACTICES.

54. Person found guilty of corrupt practice to be disfranchised, etc., for three years.
55. Enforcement of preceding section.
56. Removal upon conviction of soliciting contributions.
57. [Repealed.]
58. Penalty for contributions by corporations.
59. Soliciting money for nomination papers by committees.
60. Solicitation of contribution by public officer or in public building.
61. Political contributions and corrupt practices in the public service.
62. Payments for editorial support, and unsigned or unmarked advertisements.
- 62A. Unlawful use of names of political parties, etc.
63. Bribery, corruption, and influencing voter in connection with employment.
64. Promoting or opposing for hire measures to be voted on at elections.
- 64A. Making false statements relative to candidates.
65. Unsigned circulars and posters.
66. Corrupt practice in general.

PROCEDURE AND ENFORCEMENT.

67. Arrest without warrant.
68. Prosecution not to be placed on file, etc.
69. Jurisdiction of supreme judicial and superior courts.

PENALTIES FOR OFFENCES CONCERNING ASSESSMENT, LISTING AND REGISTRATION OF VOTERS.

False entry by assessor or assistant	SECTION 1. An assessor or assistant assessor who knowingly enters on any list of assessed polls, or causes or allows to be entered thereon, the name of any person as a resident of a building, who is not a resident thereof, shall be punished by imprisonment for not more than six months.	1 2 3 4
1890, 423, § 12 1892, 351, § 41 1893, 417, § 295.	1898, 548, § 362. R. L. 11, § 366. 1907, 560, § 394. 1913, 835, §§ 134, 503.	
False listing in cities and towns having listing boards	SECTION 2. A member of the listing board or a police officer or interpreter in a city or town having a listing board who knowingly enters on any list of persons, or causes, or allows to be entered thereon, or reports the name of any person as a resident of a building, who is not a resident thereof, shall be punished by imprisonment for not more than one year.	1 2 3 4 5
1903, 279, § 11. 1907, 560, § 396. 1914, 835, § 436, 503 1915, 91, § 8.	1917, 29, § 13; 106, § 17. 1919, 108, § 17. 1923, 131, § 16. 1918, 282, § 17. 1921, 114, § 6.	
Misconduct of registrar or assistant registrar	SECTION 3. A registrar or assistant registrar who refuses or wilfully neglects to require, under section forty-four of chapter fifty-one, an applicant for registration to read the five lines from the constitution of the commonwealth in such manner as to show that he is neither prompted nor reciting from memory, or to write his name in the register, unless he is prevented by physical disability from so doing, or unless he had the right to vote on May first, eighteen hundred and fifty-seven, or distinctly to announce the name of an applicant for registration before entering his name upon the register, or who knowingly prevents or seeks to prevent the registration of any legal voter, or who knowingly registers the name of any person not qualified to vote, or who is guilty of any fraud or corrupt conduct in the execution of the duties of his office, shall be punished by imprisonment for not more than six months.	1 2 3 4 5 6 7 8 9 10 11 12 13
1874, 376, § 18. P. S. 6, § 30 1881, 298, § 51. 1890, 423, § 61. 1892, 351, § 42. 1893, 417, § 296 1898, 548, § 363 R. L. 11, § 367. 1907, 560, § 395 1913, 835, § 437, 503 11 Miss. 350. 12 Pick. 485. 5 Met. 298.		
Neglect of duty by member of listing board or police officer in cities and towns having listing boards	SECTION 4. A member of the listing board or a police officer in a city or town having a listing board upon whom a duty is imposed by any law relating to the listing or registration of voters, who refuses or wilfully fails to perform such duty, or who wilfully performs it contrary to law, shall, if no other penalty is specifically provided, be punished by imprisonment for not more than one year.	1 2 3 4 5 6
1903, 279, § 12. 1907, 560, § 397.	1913, 835, §§ 437, 503. 1917, 106, § 8. 1923, 131, § 17.	
Failure or refusal to give name or information to assessor, etc.	SECTION 5. Whoever, being an inmate of a building and a resident twenty years of age or upward, refuses or neglects to give his or her true name when asked by an assessor or assistant assessor or, in a city or town having a listing board, by a member of the listing board or a police officer, or whoever, being an owner or occupant of a building, or a clerk, superintendent, manager or other person having in charge the affairs of a hotel or lodging house, refuses or neglects to give the full and true information within his or her knowledge relating to all persons residing in such building, when asked by such assessor or other officer, shall be punished by imprisonment for not more than three months.	1 2 3 4 5 6 7 8 9 10
1890, 423, § 13. 1892, 351, § 40. 1893, 417, § 313 1898, 548, § 383 R. L. 11, § 387. 1903, 279, § 13. 1905, 318, § 1. 1907, 360, § 417, 418. 1913, 835, § 457, 458, 503.	1915, 91, § 9. 1918, 282, § 18. 1921, 114, § 7. 1917, 29, § 14; 106, § 18. 1919, 108, § 18. 1923, 131, § 18.	
Giving false information to same officials	SECTION 6. Whoever knowingly gives to an assessor or assistant assessor, for the purpose of the assessment of a poll tax or in a city or town having a listing board to a member of the listing board or a police officer,	1 2 3
1892, 351, § 46. 1893, 417, § 314.		

4 for the purpose of making a list of residents twenty years of age or up-
 5 ward or a report under the laws relating to listing and registration of
 6 voters in said cities and towns, the name of any person as a resident of a
 7 building, who is not a resident thereof, shall be punished by imprison-
 8 ment for not more than one year.

1915, 91, § 10. 1918, 282, § 19. 1921, 114, § 8
 1917, 29, § 13; 106, § 19. 1919, 108, § 19. 1923, 131, § 19.

1898, 548,
 § 384.
 R. L. 11, § 388.
 1903, 279, § 14
 1907, 560,
 § 419
 1913, 835,
 §§ 159, 503.

1 SECTION 7. Whoever knowingly or wilfully makes a false affidavit,
 2 takes a false oath or signs a false certificate relative to the qualifications of
 3 any person for assessment, listing or registration, or in Chelsea, Revere
 4 or Watertown for being given a certificate of residence by the assessors,
 5 shall be punished by imprisonment for not more than one year.

1884, 298, § 33. 1903, 279, § 15. 1919, 5; 108, § 20.
 1890, 423, § 63. 1907, 560, § 420. 1920, 2.
 1892, 351, § 41. 1913, 835, §§ 460, 503. 1921, 486, § 14.
 1893, 417, § 315. 1915, 91, § 11. 1923, 131, § 20.
 1898, 548, § 382. 1917, 29, § 16; 106, § 20. 1925, 84, § 10.
 R. L. 11, § 389. 1918, 257, § 24; 282, § 20. 7 Allen, 155.

False oath, etc
 1813, 68, § 4.
 R. S. 3, § 8
 G. S. 6, § 10.
 1874, 376, § 16
 1881, 210, § 7.
 P. S. 6, § 31.

1 SECTION 8. Whoever in a city or town having a listing board aids or
 2 abets a person in knowingly or wilfully making a false affidavit, taking a
 3 false oath or signing a false certificate, relative to the qualifications of
 4 any person for being listed as a resident thereof, or in Chelsea, Revere or
 5 Watertown for being given a certificate of such residence by the assessors,
 6 shall be punished by imprisonment for not more than one year.

1919, 5; 108, § 21. 1920, 2. 1923, 131, § 21. 1925, 84, § 11.

Aiding or
 abetting false
 oath, etc
 1904, 245, § 1.
 1907, 560, § 421.
 1913, 835,
 §§ 461, 503.
 1915, 91, § 12
 1918, 257, § 25.

1 SECTION 9. Whoever causes or attempts to cause his name to be
 2 registered, knowing that he is not a qualified voter in the place of such
 3 registration or attempted registration; whoever registers or attempts
 4 to register under a name other than his own; whoever represents or
 5 attempts to represent himself as some other person to any election com-
 6 missioner, registrar or assistant registrar; whoever gives a false answer to
 7 any election commissioner, registrar or assistant registrar respecting any
 8 matter relating to his registration or his right to vote; whoever other-
 9 wise illegally registers or attempts to register; or whoever aids or abets
 10 any other person in doing any of the acts above mentioned, shall be
 11 punished by imprisonment for not more than one year.

1904, 310, § 2. 1907, 560, § 422. 1913, 835, §§ 462, 503. 7 Allen, 155.

Illegal regis-
 tration, etc.
 1813, 68, § 4.
 R. S. 3, § 8
 G. S. 6, § 10.
 1874, 376, § 16.
 1881, 210, § 7.
 P. S. 6, § 31
 1884, 298, § 32.
 1890, 423, § 62.
 1892, 351, § 45.
 1893, 417,
 § 316
 1896, 547, § 7.
 1897, 296, § 7.
 1898, 548,
 § 386.
 R. L. 11, § 390.

1 SECTION 10. Whoever refuses to obey the lawful orders or directions
 2 of an election commissioner, a registrar or assistant registrar, or interrupts
 3 or disturbs the proceedings at any registration shall be punished by a
 4 fine of not more than one hundred dollars.

1898, 548, § 387. R. L. 11, § 391. 1907, 560, § 423. 1913, 835, §§ 463, 503.

Misconduct at
 registration
 1884, 298, § 41
 1892, 351, § 47.
 1893, 417,
 § 317.

1 SECTION 11. Whoever interferes with, or aids or abets any person
 2 in interfering with, any supervisor of registration in the performance of
 3 his duty, shall be punished by imprisonment for not more than one year.

1898, 548, § 388. R. L. 11, § 392. 1907, 560, § 424. 1913, 835, §§ 464, 503.

Interference
 with supervisor.
 1884, 298, § 50.
 1892, 351, § 44.
 1893, 417,
 § 318.

1 SECTION 12. Whoever wilfully defaces or removes a notice relating
 2 to the registration of voters, or a voting list, posted according to law,
 3 shall be punished by imprisonment for not more than one year.

1883, 156. 1892, 351, § 44. R. L. 11, § 393.
 1887, 147. 1893, 417, § 319. 1907, 560, § 425.
 1890, 423, § 64. 1898, 548, § 389. 1913, 835, §§ 465, 503.

Defacing or
 removing
 notice or
 voting list.

PENALTIES FOR OFFENCES CONCERNING CERTIFICATES OF NOMINATION, NOMINATION PAPERS, PETITIONS, ETC.

Forgery, etc., of nomination paper, etc. 1888, 436, § 29. 1889, 413, § 29. 1893, 417, § 321. 1897, 539, § 15. 1898, 548, § 392. R. L. 11, § 296. 1907, 560, § 428. 1913, 835, §§ 468, 503.

SECTION 13. Whoever falsely makes or wilfully alters, defaces, mutilates, destroys or suppresses a certificate of nomination or nomination paper, or letter of withdrawal of a name from such paper, or an initiative petition or a petition for the submission of a question to the voters, or unlawfully signs any such certificate, paper, letter or petition, or files any such certificate, paper, letter or petition, knowing the same to be falsely made or altered, shall be punished by imprisonment for not more than one year.

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1923, 183. 163 Mass. 539. 260 Mass. 423.

Subscribing to false statement in nomination paper 1911, 550, § 5.

SECTION 14. Whoever knowingly subscribes falsely to a statement on a primary nomination paper shall be punished by imprisonment for not more than five days or by a fine not exceeding fifty dollars.

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1913, 835, §§ 133, 503.

PENALTIES ON OFFICERS FOR OFFENCES IN THE CONDUCT OF PRIMARIES, CAUCUSES, CONVENTIONS AND ELECTIONS.

Misconduct of officer of primary, caucus or convention. Failure to recount ballots when required. 1888, 441, § 7. 1893, 417, § 297. 1896, 435, § 5. 1898, 548, § 394. R. L. 11, § 368. 1907, 560, § 398. 1913, 835, §§ 438, 503.

SECTION 15. An officer of a primary, caucus or convention who knowingly makes any false count of ballots or votes, or makes a false statement or declaration of the result of a ballot or vote, or knowingly refuses to receive any ballot offered by a person qualified to vote at such primary, caucus or convention, or wilfully alters, defaces or destroys any ballot east, or voting list used thereat, before the requirements of law have been complied with, or refuses or wilfully fails to receive any written request made as thereby required, or refuses or wilfully fails to perform any duty or obligation imposed thereby shall be punished by imprisonment for not more than three months.

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Any presiding officer, secretary or clerk of a caucus who wilfully neglects or refuses to comply with section eighty-seven of chapter fifty-three shall be punished by a fine of not more than fifty dollars.

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Failure to observe laws relative to voting at caucuses.

SECTION 16. A caucus officer violating any provision of section seventy-six of chapter fifty-three shall be punished by imprisonment for not more than one year.

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1898, 548, § 365. R. L. 11, § 369. 1907, 560, § 399. 1913, 835, §§ 439, 503.

Misconduct by supervisor of elections 1891, 264, § 1. 1893, 417, § 298.

SECTION 17. A supervisor appointed under section twenty-three of chapter fifty-four, violating any provision thereof, shall be punished by imprisonment for not more than one year.

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1898, 548, § 366. R. L. 11, § 370. 1907, 560, § 400. 1913, 835, §§ 440, 503.

Statement by election officer before public declaration of vote.

SECTION 18. Any election officer who violates any provision of section sixty-eight of chapter fifty-four shall be punished by imprisonment for not more than one month.

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1874, 376, §§ 54, 55. 1893, 417, § 299. 1907, 560, § 401. P. S. 7, §§ 53, 54. 1898, 548, § 367. 1913, 835, §§ 441, 503. 1888, 203. R. L. 11, § 371. 1930, 204, § 3. 1890, 423, § 124.

Failure to make proper entry on ballot of challenged voter.

SECTION 19. A presiding officer at a caucus, primary or state or city election, or at an election in a town or district at which official ballots are used, who, when the right of a person offering to vote is challenged for

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4 any legal cause, wilfully or negligently fails to require the name and resi-
 5 dence of such person to be written upon the ballot offered by him, and
 6 to add thereto the name of the person challenging and the assigned cause,
 7 before such ballot is received, shall be punished by imprisonment for not
 8 more than one year.

1877, 206.
 P. S. 7,
 §§ 22, 24.
 1890, 423, § 93
 1893, 417,
 § 300
 1898, 518,
 § 368.

R. L. 11, § 372. 1903, 454, §§ 1, 7. 1907, 560, § 402. 1913, 835, §§ 442, 503.

1 SECTION 20. A primary, election or other officer whose duty it is to
 2 recount the ballots cast at a primary or election, who makes any state-
 3 ment or gives any information in regard to a ballot cast by a voter chal-
 4 lenged at such primary or election, except as required by law, shall be
 5 punished by imprisonment for not more than one year.

Giving infor-
 mation relative
 to vote of
 challenged
 voter.
 1892, 332, § 2
 1893, 417,
 § 301.

1898, 548, § 369. 1903, 454, §§ 1, 7. 1913, 835, §§ 443, 503.
 R. L. 11, § 373. 1907, 560, § 403.

1 SECTION 21. A presiding officer who, at a town election at which
 2 official ballots are not used, before the polls are closed and without the
 3 consent of a voter, reads or examines or permits to be read or examined,
 4 the names written or printed on the ballot of such voter, in order to
 5 ascertain the persons voted for by him, shall be punished by imprison-
 6 ment for not more than one month.

Reading
 names on
 ballot at
 certain
 elections.
 1811, 9, § 3.
 R. S. 15, § 31.
 G. S. 18, § 30.
 P. S. 27, § 63.

1890, 423, § 221. 1898, 548, § 370. 1907, 560, § 404.
 1893, 417, § 302. R. L. 11, § 374. 1913, 835, §§ 444, 503.

1 SECTION 22. A primary or election officer who wilfully or negli-
 2 gently violates any provision relating to the enclosing in envelopes, seal-
 3 ing, endorsing and delivering or transmitting of ballots and voting lists,
 4 after the votes have been counted and recorded, shall be punished by
 5 imprisonment for not more than one year.

Failure to
 comply with
 laws relating
 to disposition
 of ballots and
 lists.
 1874, 376, § 45.

P. S. 7, § 30. 1898, 548, § 371. 1907, 560, § 405.
 1890, 423, § 99. R. L. 11, § 375. 1913, 835, §§ 445, 503.
 1893, 417, § 303. 1903, 454, §§ 1, 7.

1 SECTION 23. A city or town clerk or an election commissioner who
 2 examines or permits to be examined, except as required by law, ballots
 3 cast at an election, which are received and retained by him under section
 4 one hundred and nine of chapter fifty-four, shall be punished by a fine of
 5 not more than two hundred dollars.

Unlawful exam-
 ination of
 ballots after
 election.
 1876, 188, § 1.
 1879, 203
 P. S. 7, § 34.

1884, 299, § 26. 1898, 548, § 372. 1907, 560, § 406.
 1890, 423, § 101. R. L. 11, § 376. 1913, 835, §§ 446, 503.
 1893, 417, § 304.

1 SECTION 24. A city or town clerk or an election commissioner who
 2 fails to make a record of votes cast at an election and to make and trans-
 3 mit copies of any such record, as required by chapter fifty-four, shall be
 4 punished by a fine of not more than two hundred dollars; but if a copy
 5 of the records is deposited in the post office within the time fixed for
 6 transmission or delivery, postpaid and properly addressed, it shall be a
 7 bar to any complaint for delinquency.

Failure to
 make and
 transmit
 copies of record
 of election.
 1856, 255, § 1.
 G. S. 7, §§ 18,
 35.
 P. S. 7, §§ 41,
 66.

1890, 423, §§ 110, 141. R. L. 11, § 377. 1913, 835, §§ 447, 503.
 1893, 417, §§ 202, 305. 1907, 560, § 407. 180 Mass. 382.
 1898, 548, § 373.

1 SECTION 25. A city or town clerk, precinct clerk, election commis-
 2 sioner, mayor, alderman, selectman or other officer, who wilfully signs
 3 or issues a certificate not in accordance with the result of an election as
 4 appearing by the records and copies of records of votes cast, or by a re-
 5 count of votes, shall be punished by imprisonment for not more than one
 6 year.

False certifi-
 cates of result
 of election.
 1874, 376,
 §§ 36, 37.
 P. S. 8, §§ 20,
 21.
 1890, 423,
 §§ 161, 162.

1893, 417, §§ 306, 307. 1907, 560, §§ 408, 409. 1919, 5.
 1898, 548, §§ 374, 375. 1913, 835, §§ 448, 449, 503. 1920, 2.
 R. L. 11, §§ 378, 379. 1918, 257, § 20.

Violation of rules relative to conduct of primary, caucus or election.
 1884, 299, § 18.
 1890, 423, § 94.
 1893, 417.
 §§ 324, 343.

SECTION 26. Whoever refuses or wilfully neglects to comply with any regulation made by the election commissioners, aldermen or selectmen relative to the manner of receiving, counting and returning votes cast at a primary, caucus or election, or relative to the use of seals and ballot boxes, shall be punished by imprisonment for not more than six months.

1898, 548, § 397.	1907, 560, § 434.	1919, 5.
R. L. 11, § 407.	1913, 835, §§ 475, 503.	1920, 2.
1903, 454, §§ 1, 7.	1918, 257, § 27.	

Misconduct relating to absent voting.
 1918, 293, § 31.
 1919, 289.
 §§ 22, 23.

SECTION 27. Whoever, being an officer trusted with the execution of the laws relative to absent voting, wilfully violates any provision thereof, shall be punished by a fine of not more than five hundred dollars and by imprisonment in jail for not more than one year.

General penalty on officer.
 1835, 152, § 10.
 R. S. 4, § 11;
 6, § 12; 14, § 28.
 1839, 42, § 6.
 G. S. 6, § 12;
 7, § 34; 9, § 8;
 10, § 16.
 P. S. 7, § 65;
 9, § 8; 10, § 16.
 1888, 436, § 30.

SECTION 28. A public officer, primary, caucus or election officer, or officer or member of a political committee or convention, upon whom a duty is imposed by law, who refuses or wilfully fails to perform such duty, or who wilfully performs it contrary to law, shall, if no other penalty is specifically provided, be punished by a fine of not less than five nor more than one thousand dollars, or by imprisonment for not more than one year, or both.

1889, 413, § 30.	1893, 417, § 308.	R. L. 11, § 380.
1890, 423, §§ 82.	1896, 547, § 7.	1906, 444, § 13.
119, 140, 161, 203.	1907, 296, § 7;	1907, 560, § 410.
1891, 328.	530, § 19.	1913, 835, §§ 450, 503.
1892, 351, § 43.	1898, 548, § 376.	200 Mass. 318.

PENALTIES ON INDIVIDUALS FOR OFFENCES RELATING TO THE CONDUCT OF PRIMARIES, CAUCUSES AND ELECTIONS.

Defacing Notices, etc.

Penalty for defacing or removing notices or warrant for primary, caucus or election.

SECTION 29. Whoever wilfully defaces or removes a notice or warrant for a primary, caucus or election posted according to law, shall be punished by imprisonment for not more than one year.

1883, 156.	1893, 417, § 319.	1903, 454, §§ 1, 7.
1887, 147.	1898, 548, § 389.	1907, 560, § 425.
1890, 423, § 64.	R. L. 11, § 393.	1913, 835, §§ 465, 503.
1892, 351, § 44.		

Defacing, etc., list of candidates, instructions for voters, etc.
 1888, 436, § 28.
 1889, 413, § 28.
 1893, 417, § 327.
 1898, 548, § 400.
 R. L. 11, § 404.
 1903, 454, § 1, 7.

SECTION 30. Whoever, before a primary or election, wilfully defaces or destroys any list of candidates posted according to law, or, during a primary, caucus or election, wilfully defaces, tears down, removes or destroys any card of instruction or specimen ballot posted for the instruction of voters, or during a primary, caucus or election, wilfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare his ballot, shall be punished by a fine of not more than one hundred dollars.

1907, 560, § 438.	1913, 835, §§ 479, 503.
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Offences by Voters.

Disclosing vote, false answer, etc., by voter.
 1800, 74, § 4.
 R. S. 4, § 8.
 G. S. 7, § 30.
 P. S. 7, § 59.
 1888, 436, § 27.

SECTION 31. Whoever, at a primary, caucus or election, places any distinguishing mark upon his ballot, or makes a false statement as to his ability to mark his ballot, or allows the marking of his ballot to be seen by any person for any purpose not authorized by law, or gives a false answer to or makes a false oath before a presiding officer, shall be pun-

6 ished by imprisonment for not more than six months or by a fine of not 1889, 413, § 27.
7 more than one hundred dollars. 1890, 423, § 135.

1892, 368	1903, 454, §§ 1, 7.	1918, 257, §§ 21, 22.
1893, 417, §§ 309, 310, 312.	1907, 560, §§ 411, 413,	1919, 5.
1897, 530, § 16.	414, 416.	1920, 2.
1898, 548, §§ 377, 379.	1913, 835, §§ 451, 453,	7 Met. 52.
380, 382.	454, 456, 503.	181 Mass. 184.
R. L. 11, §§ 381, 383, 384, 386.		

1 SECTION 32. A voter violating any provision of section seventy-six 11legal
2 of chapter fifty-three shall be punished by imprisonment for not more voting at
3 than one year. caucuses.

1898, 548, § 378.	R. L. 11, § 382.	1907, 560, § 412.	1913, 835, §§ 452, 503.
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1 SECTION 33. Whoever, knowing that he is not a qualified voter in 11legal voting
2 any place, wilfully votes or attempts to vote therein; whoever votes or or attempt to
3 attempts to vote more than once on his own name, his name having been vote.
4 registered more than once; whoever votes or attempts to vote in more 1890, 74, § 3.
5 than one voting precinct or town, his name having been registered in 1815, 65,
6 more than one voting precinct or town; whoever votes or attempts to § 1, 2.
7 vote on any name other than his own, or knowingly casts or attempts R. S. 4, §§ 6, 7.
8 to cast more than one ballot at one time of balloting; or whoever votes G. S. 7,
9 or attempts to vote otherwise illegally; shall be punished by imprison- § 28, 29.
10 ment for not more than one year. This section shall apply to primaries, 1874, 344.
11 caucuses and elections. 1875, 172, § 1.
P. S. 7,
§ 55-57.
1884, 299, § 41
1885, 351, § 2.
1890, 423,
§ 129, 133,
219.

1893, 417, § 311.	1907, 560, § 415.	1920, 2.
1898, 548, § 381.	1913, 835, §§ 455, 503.	9 Met. 268.
R. L. 11, § 385.	1918, 257, § 23.	122 Mass. 12.
1903, 454, §§ 1, 7.	1919, 5.	144 Mass. 144.
1904, 310, § 1.		

1 SECTION 34. Whoever not being entitled to vote under the laws 11Violation of
2 relative to absent voting votes or attempts to vote thereunder, or who laws relative
3 ever being entitled to vote under said laws, knowingly votes or attempts to absent
4 to vote in violation thereof, shall be punished by a fine of not more than voting.
5 five hundred dollars and by imprisonment in jail for not more than one 1919, 289, § 22.

Interference with Voting.

1 SECTION 35. Whoever, at a primary, caucus or election, aids or abets 11Aiding or
2 a person, who is not entitled to vote, in voting or attempting to vote, or abetting illegal
3 in voting or attempting to vote under a name other than his own, or in voting.
4 casting or attempting to cast more than one ballot, shall be punished by 1897, 530, § 17.
5 imprisonment for not more than one year. 1898, 548,
§ 390.
R. L. 11, § 394.

1903, 454, §§ 1, 7.	1913, 835, §§ 466, 503.	1919, 5.
1907, 560, § 426.	1918, 257, § 26.	1920, 2.

[Additional penalties on candidate in certain cases, §§ 54, 55. See Chap. 55, §§ 36, 37.]

1 SECTION 36. Whoever wilfully and without lawful authority hinders, 11Interfering
2 delays or interferes with, or aids in hindering, delaying or interfering with voter.
3 with a voter while on his way to a primary, caucus or election, while 1884, 299, § 40.
4 within the guard rail, while marking his ballot or while voting or attempt- 1888, 436, § 27.
5 ing to vote, or endeavors to induce a voter, before depositing his ballot, 1889, 413, § 27.
6 to disclose how he marks or has marked it, shall be punished by imprison- 1890, 423,
7 ment for not more than one year. § 128.
1893, 417,
§ 329, 330.
1897, 530, § 17.

1898, 548, §§ 390, 402, 403.	1907, 560, §§ 426, 440, 441.	1918, 257, §§ 26, 28.
R. L. 11, §§ 394, 406, 407.	1913, 835, §§ 466, 481,	1919, 5.
1903, 454, §§ 1, 7.	482, 503.	1920, 2.

[Additional penalties on candidate in certain cases, §§ 54, 55. See Chap. 55, §§ 36, 37.]

Wilfully obstructing voting
1880, 413, § 28.
1893, 417, § 331.

SECTION 37. Whoever wilfully obstructs the voting at a primary, caucus or election shall be punished by a fine not of more than one hundred dollars.

1898, 548, § 404.	1907, 560, § 442.	1919, 5.
R. L. 11, § 408.	1913, 835, §§ 483, 503.	1920, 2.
1903, 454, §§ 1, 7.	1918, 257, § 29.	

Illegal challenging.
1918, 41.

SECTION 38. Any person challenging a qualified voter for purposes of intimidation, or of ascertaining how he voted, or for any other illegal purpose, shall be punished by a fine of not more than one hundred dollars.

Distributing cards, etc., in or near polling place.
1895, 275, § 2.
1898, 548, § 395.
R. L. 11, § 399.
1907, 560, § 432.
1913, 835, §§ 472, 503.

SECTION 39. Whoever posts, exhibits, circulates or distributes any poster, card, handbill, placard, picture or circular, except a paster to be placed upon the official ballot, intended to influence the action of a voter, in the polling place, in the building where the polling place is located or on the walls thereof, on the premises on which the building stands, or on the sidewalk adjoining said premises, or within one hundred and fifty feet of the entrance to such polling place, shall be punished by a fine of not more than twenty dollars.

Disorderly Conduct.

Disorderly conduct at polling place.
1795, 55, § 4.
R. S. 4, § 10.
G. S. 7, § 33.
P. S. 7, § 63.

SECTION 40. Whoever, at a primary, caucus or election, behaves in a disorderly manner, and, after notice from the presiding officer, persists in such behavior and refuses to withdraw from the polling place, shall be punished by imprisonment for not more than one month.

1890, 423, §§ 138, 220.	R. L. 11, § 416.	1913, 835, §§ 491, 503.
1893, 417, § 339.	1903, 454, §§ 1, 7.	16 Mass. 385.
1898, 548, § 412.	1907, 560, § 450.	

Failure to remove cigar, liquor, etc.
1881, 273
P. S. 7, § 64.
1890, 423, § 139.
1893, 417, § 341.

SECTION 41. Whoever, when so ordered by the presiding officer of an election, caucus, primary or meeting, refuses or fails to remove any pipe, cigar, cigarette or liquor, or to withdraw from the polling place, as provided by section seventy-three of chapter fifty-four, shall be punished by a fine of not more than twenty dollars.

1898, 548, § 414.	1903, 454, §§ 1, 7.	1913, 835, §§ 493, 503.
R. L. 11, § 418.	1907, 560, § 452.	

Disobeying election officer, etc.
1884, 299, § 40.
1890, 423, § 128.

SECTION 42. Whoever wilfully disobeys any lawful command of an election, caucus or primary officer shall be punished by imprisonment for not more than one month.

1893, 417, § 340.	R. L. 11, § 417.	1907, 560, § 451.
1898, 548, § 413.	1903, 454, §§ 1, 7.	1913, 835, §§ 492, 503.

Interference with Officers.

Interference with supervisor of elections.
1891, 204, § 1.
1893, 417, § 325.
1898, 548, § 398.

SECTION 43. Whoever prevents a supervisor of elections from doing any of the acts authorized by section twenty-three of chapter fifty-four, or hinders or molests him in doing any such acts, or aids or abets in preventing, hindering or molesting him in doing any of such acts, shall be punished by imprisonment for not more than one year.

R. L. 11, § 402.	1907, 560, § 436.	1913, 835, §§ 477, 503.
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Interference with election officer, city or town clerk, or election commissioner.

SECTION 44. Whoever interferes, or aids or abets any person in interfering with an election commissioner, city or town clerk, or election officer, in the performance of his duties shall be punished by imprisonment for not more than one year.

1907, 429, § 18; 560, § 435.	1913, 835, §§ 476, 503.
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[Additional penalties on candidate in certain cases, §§ 54, 55. See Chap. 55, §§ 36, 37.]

Tampering with Ballots, etc.

- 1 SECTION 45. Whoever wilfully obstructs or interferes with the trans- Obstructing
2 mission of ballots or returns to or from a polling place shall be punished transmission
3 by imprisonment for not more than one year. of ballots or
returns.
- 1907, 429, § 17; 560, § 431. 1913, 835, §§ 471, 503.
- 1 SECTION 46. Whoever alters a ballot cast at a primary or caucus or, Altering bal-
2 not being authorized thereto, deposits a ballot in a ballot box or en- lots, etc.
3 velope used at a primary or caucus, or removes a ballot from such ballot 1897, 530, § 18
4 box or envelope, shall be punished by imprisonment in jail for not more 1898, 518,
5 than two and one half years. § 391
R. L. 11, § 395
1903, 454,
§§ 1, 7.
- 1907, 560, § 427. 1918, 257, § 464. 1920, 2.
1913, 835, §§ 467, 503. 1919, 5.
- 1 SECTION 47. Whoever wilfully or maliciously injures or destroys a Malicious in-
2 ballot box or any of the blank forms or apparatus furnished to a city or jury, etc., of
3 town under sections twenty-six and twenty-seven of chapter fifty-four, ballot box, etc.
4 shall be punished by imprisonment for not more than one year. 1884, 299, § 15
1890, 423, § 88
- 1891, 328, § 5. 1898, 548, § 396. 1907, 560, § 433.
1893, 417, § 323. R. L. 11, § 400. 1913, 835, §§ 473, 503.
- 1 SECTION 48. Any person who shall tamper with or injure or attempt Tampering
2 to injure any voting machine or ballot box to be used or being used in an with voting
3 election, or who shall prevent or attempt to prevent the correct opera- machine, bal-
4 tion of such machine or box, or any unauthorized person who shall make lot box, etc.
5 or have in his possession a key to a voting machine or ballot box to be 1912, 641, § 11
6 used or being used in an election, shall be punished by a fine of not less 1913, 835,
7 than one hundred nor more than five hundred dollars, or by imprison- §§ 474, 503.
8 ment in the state prison for not less than one nor more than five years, 9 or both.
- 1 SECTION 49. Whoever forges or falsely makes the official endorse- False endorse-
2 ment on any ballot, or wilfully destroys or defaces a ballot, or wilfully ment, delay in
3 delays the delivery of any ballots, shall be punished by imprisonment delivery of
4 for not more than one year. ballots, etc.
1885, 248, § 2.
- 1888, 436, § 29. 1898, 548, § 401. 1907, 560, § 439
1890, 413, § 29. R. L. 11, § 405. 1913, 835, §§ 480, 503.
1893, 417, § 328.
- 1 SECTION 50. Whoever places a mark against a name on a ballot not Placing iden-
2 cast by himself, or places a distinguishing mark on a ballot not cast by tifying mark
3 himself, except as authorized by law, shall be punished by imprisonment on ballot
4 in jail for not more than two and one half years. 1892, 398,
1893, 417,
§ 333.
- 1898, 548, § 406. 1913, 835, §§ 485, 503. 1919, 5.
R. L. 11, § 410. 1918, 257, § 464. 1920, 2.
1907, 560, § 444.
- 1 SECTION 51. Whoever removes a ballot from the space enclosed by Removing bal-
2 the guard rail before the close of the polls shall be punished by imprison- lot from within
3 ment for not more than one year. guard rail
- 1889, 413, § 29. 1898, 548, § 408. 1907, 560, § 446
1893, 417, § 335. R. L. 11, § 412. 1913, 835, §§ 487, 503.
- 1 SECTION 52. Whoever, with intent to defraud, alters a ballot cast Fraudulent
2 at a primary, caucus or election; or, with such intent, deposits a ballot alteration,
3 in the ballot box used at a primary, caucus or election, or in an envelope etc., of ballot
4 provided by law for the preservation of ballots cast at a primary, caucus 1884, 299, § 43
5 or election; or, with such intent, removes a ballot from any such ballot 1890, 423, § 131
1893, 417,
§ 334
1898, 548,
§ 407.

R. L. 11, § 411. box or envelope; shall be punished by imprisonment in jail for not more than two and one half years. 6
1903, 454, 7
§§ 1, 7.

1907, 560, § 445. 1918, 257, §§ 31, 464. 1920, 2. 157 Mass. 403.
1913, 835, §§ 480, 503. 1919, 5. 145 Mass. 257.

Giving information as to vote of challenged voter. SECTION 53. Whoever gives any information derived from a recount of votes, relative to a ballot cast by a challenged voter at an election, caucus or primary, except as required by law, shall be punished by imprisonment for not more than one year. 1
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3
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R. L. 11, § 419. 1907, 560, § 453.
1903, 454, §§ 1, 7. 1913, 835, §§ 494, 503.

PENALTIES FOR CORRUPT PRACTICES.

Person found guilty of corrupt practice to be disfranchised, etc., for three years. SECTION 54. Whoever is found by final judgment upon an election petition, as provided in section thirty-seven of chapter fifty-five, to have committed a corrupt practice, and, in accordance with such finding, forfeits the office to which he has been elected, or whoever is convicted in a criminal proceeding of violating any provision of law relating to corrupt practices in elections, shall be disqualified as a voter for a period of three years following the date of such judgment or conviction, and shall be ineligible to hold public office for said period. 1
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Enforcement of preceding section. SECTION 55. The state secretary in proceedings based upon an election petition, as provided in section thirty-seven of chapter fifty-five, and the clerk of the court wherein a person is convicted of a violation of any provision of law relating to corrupt practices in elections, shall, within ten days after final judgment on such election petition or conviction, forward to the clerk of the city or town where the defendant resides a certified copy of the record of the final judgment or conviction, and the name of such person shall forthwith be stricken from the roll of registered voters of the city or town for a period of three years. 1
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Removal upon conviction of soliciting contributions. SECTION 56. Any appointed officer or employee convicted of violating any provision of section eleven or twelve of chapter fifty-five may be removed by the appointing authority without a hearing. 1
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SECTION 57. [REPEALED, 1928, 212, § 11.] 1

Penalty for contributions by corporations. SECTION 58. Any corporation violating any provision of section seven of chapter fifty-five shall be punished by a fine of not more than ten thousand dollars, and any officer, director or agent of a corporation violating any provision thereof or authorizing such violation, or any person who violates or in any way knowingly aids or abets the violation of any provision thereof, shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than six months. 1
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Soliciting money for nomination papers by committees. SECTION 59. Violation of section ten of chapter fifty-five shall be punished by a fine of not more than one hundred dollars. 1
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1908, 85, § 2. 1913, 835, §§ 495, 503.

Solicitation of contribution by public officer or in public building. SECTION 60. Violation of any provision of section eleven or twelve of chapter fifty-five shall be punished by imprisonment for not more than six months, or by a fine of not more than one thousand dollars. 1
2
3

1918, 146, § 3.

1 SECTION 61. Violation of any provision of section thirteen, fourteen, Political contributions and
 2 fifteen, twenty-nine or thirty of chapter fifty-five shall be punished by corrupt practices in the
 3 a fine of not less than one hundred nor more than one thousand dollars. public service.

1884, 320, § 24. 1895, 501, § 5. 1896, 517, § 7. R. L. 19, § 35.

1 SECTION 62. Any corporation violating any provision of section Payments for
 2 thirty-two or thirty-three of chapter fifty-five, relative to payments for editorial
 3 newspapers and periodicals, and to political advertising, shall be punished support, and
 4 ished by a fine of not more than ten thousand dollars, and any officer, unsigned or
 5 director or agent of a corporation violating any such provision, who unmarked
 6 authorized such violation, or any person who violates, or in any way advertisements,
 7 knowingly aids or abets the violation of, any such provision, shall be 1907, 381, § 4.
 8 punished by a fine of not more than one thousand dollars, or by im- 1913, 845.
 9 prisonment for not more than one year. §§ 199, 303.

1 SECTION 62A. Any member of an organization subject to section Unlawful use
 2 thirty-three A of chapter fifty-five who participates in a violation of of names of
 3 any provision of said section shall be punished by imprisonment for political parties,
 4 not more than six months or by a fine of not more than one thousand etc.
 5 dollars, or both. 1923, 98, § 2.

1 SECTION 63. Violation of section twenty-six or twenty-seven of Bribery,
 2 chapter fifty-five shall be punished by imprisonment for not more than corruption,
 3 one year. and influencing
 voter in con-
 junction with
 employment.

1852, 321. 1893, 417, §§ 337, 338. 1907, 560, §§ 448, 449.
 G. S. 7, § 31. 1894, 209, § 1. 1913, 835, §§ 489,
 1876, 172, § 2. 508, §§ 5, 58. 490, 503
 P. S. 7, §§ 60, 61. 1898, 548, §§ 410, 411. 184 Mass. 409.
 1890, 423, §§ 136, 137. R. L. 11, §§ 414, 415.

1 SECTION 64. Any person taking or giving employment in violation Promoting or
 2 of section thirty-one of chapter fifty-five shall be punished by a fine of opposing
 3 not more than one thousand dollars, or by imprisonment for not more hire measures
 4 than one year, or both. to be voted on
 at elections
 1919, 196, § 2.

1 SECTION 64A. Whoever knowingly violates section thirty-four A of Making false
 2 chapter fifty-five shall be punished by a fine of not more than one thou- statements
 3 sand dollars or by imprisonment for not more than six months. relative to
 candidates.
 1922, 269, § 3.

1 SECTION 65. Violation of section thirty-four of chapter fifty-five Unsigned cir-
 2 shall be punished by imprisonment for not more than six months. culars and
 posters.

1890, 381. R. L. 11, § 398. 1910, 55, § 3
 1893, 417, § 322. 1907, 560, § 430. 1913, 835, §§ 470, 503.
 1898, 548, § 394.

1 SECTION 66. Violation of any provision of chapter fifty-five, the Corrupt prac-
 2 punishment for which is not specifically provided, shall be punished by tices in general.
 3 imprisonment for not more than one year or by a fine of not more than 1892, 416, § 22.
 4 one thousand dollars. 1893, 376,
 §§ 1, 2; 417,
 § 344.

1897, 530, § 14. 1904, 375, § 7. 1913, 835, §§ 501, 503.
 1898, 548, § 416. 1907, 560, § 454. 1928, 212, § 12.
 R. L. 11, § 420.

PROCEDURE AND ENFORCEMENT.

1 SECTION 67. Police officers and constables shall arrest without a Arrest without
 2 warrant any person detected in the act of violating any provision of warrant.
 3 chapters fifty to fifty-six, inclusive. 1897, 530, § 20.

1898, 548, § 417. 1903, 318, § 1. 1913, 835, §§ 502, 503.
 R. L. 11, § 421. 1907, 429, § 13; 560, § 455.

Prosecution not to be placed on file, c^t.
1903, 318, § 1.
1907, 429, § 13;
509, § 455.
1913, 835,
§§ 502, 503.

SECTION 68. A prosecution for the violation of any provision of chapters fifty to fifty-six, inclusive, shall not, unless the purposes of justice require such disposition, be placed on file or disposed of except by trial and judgment according to the regular course of criminal proceedings. It shall be disposed of otherwise only upon written motion stating specifically the reasons therefor and verified by affidavit if facts are relied on. If the court or magistrate certifies in writing that he is satisfied that the cause relied on exists and that the interests of public justice require the allowance of the motion, the motion shall be allowed and the certificate of the court or magistrate shall be filed in the case.

Jurisdiction of supreme judicial and superior courts.
1895, 489, § 17;
507, § 32
1897, 530, § 20.
1898, 548,
§ 417.
R L, 11, § 421.
1903, 318, § 1.
1907, 429, § 13;
560, § 455.
1913, 835,
§§ 502, 503,
1927, 207.
180 Mass. 547.
224 Mass. 598.

SECTION 69. The supreme judicial and superior courts shall have jurisdiction at law, in equity or by mandamus to enforce the provisions of chapters fifty to fifty-six, inclusive. The supreme judicial court shall also have jurisdiction of any petition for a writ of mandamus relative to the division of a county into representative districts and the apportionment of representatives thereto under Article XXI of the amendments of the constitution or under section five of chapter fifty-seven. Every such petition shall be filed in court within thirty days after the filing of the report of such division and apportionment unless the court for cause shown extends the time.

CHAPTER 57.

CONGRESSIONAL, COUNCILLOR AND SENATORIAL DISTRICTS, AND APPOINTMENT OF REPRESENTATIVES.

SECT.

CONGRESSIONAL DISTRICTS.

1. State divided into fifteen congressional districts.

COUNCILLOR DISTRICTS.

2. State divided into eight councillor districts.

SECT.

SENATORIAL DISTRICTS.

3. State divided into forty senatorial districts.

APPOINTMENT OF REPRESENTATIVES.

4. Representatives apportioned to the several counties.
5. Apportionment of Suffolk county into representative districts.

CONGRESSIONAL DISTRICTS.

State divided into fifteen congressional districts.
1852, 143.
G. S. 9,
§§ 1, 2
1872, 300.
1876, 114
P. S. 9, §§ 1, 2.
1882, 253
1891, 396.
1896, 519.
1901, 511
R L, 11, § 422.
1905, 255, § 7.
1912, 674
1916, 226,
Sp. 282, § 6
1920, 178, § 6.

SECTION 1. For the purpose of electing representatives in the Congress of the United States, until otherwise provided by law, the commonwealth is divided into the following fifteen districts, each of which shall elect one representative:

Number One, -- Consisting of North Adams, Pittsfield and the towns in Berkshire county; Ashfield, Bernardston, Buckland, Charlemont, Colrain, Conway, Deerfield, Erving, Gill, Greenfield, Hawley, Heath, Leverett, Leyden, Monroe, Montague, New Salem, Northfield, Orange, Rowe, Shelburne, Shutesbury, Sunderland, Warwick, Wendell and Whately in Franklin county; Blandford, Chester, Granville, Holyoke, Montgomery, Russell, Southwick, Tolland and Westfield in Hampden

- 12 county; Belchertown, Chesterfield, Cummington, Enfield, Goshen, 1926, 372, § 1.
 13 Greenwich, Huntington, Middlefield, Pelham, Plainfield, Prescott, 1931, 438
 14 Southampton, Westhampton, Williamsburg and Worthington in Hamp- 1 Op. A G 331
 15 shire county; and Athol and Royalston in Worcester county.
- 16 Number Two, — Consisting of Agawam, Chicopee, East Longmeadow,
 17 Hampden, Longmeadow, Ludlow, Springfield, West Springfield and Wil-
 18 braham in Hampden county; and Amherst, Easthampton, Granby,
 19 Hadley, Hatfield, Northampton and South Hadley in Hampshire county.
- 20 Number Three, — Consisting of Ashburnham, Barre, Berlin, Bolton,
 21 Brookfield, Charlton, Clinton, Dana, Dudley, East Brookfield, Fitch-
 22 burg, Gardner, Hardwick, Harvard, Hubbardston, Lancaster, Leicester,
 23 Leonminster, Lunenburg, New Braintree, North Brookfield, Oakham,
 24 Oxford, Paxton, Petersham, Phillipston, Princeton, Rutland, South-
 25 bridge, Spencer, Sterling, Sturbridge, Templeton, Warren, Webster,
 26 West Brookfield, Westminster and Winchendon in Worcester county;
 27 Ware in Hampshire county; Brimfield, Holland, Monson, Palmer and
 28 Wales in Hampden county; and Ashby, Boxborough, Framingham,
 29 Hudson, Marlborough, Maynard, Pepperell, Shirley, Stow, Sudbury,
 30 Townsend and Wayland in Middlesex county.
- 31 Number Four, — Consisting of Auburn, Boylston, Douglas, Grafton,
 32 Holden, Hopedale, Mendon, Milford, Millbury, Millville, Northborough,
 33 Northbridge, Shrewsbury, Southborough, Sutton, Upton, Uxbridge,
 34 Westborough, West Boylston and Worcester in Worcester county; and
 35 Ashland and Hopkinton in Middlesex county.
- 36 Number Five, — Consisting of Acton, Arlington, Ayer, Bedford, Bel-
 37 mont, Billerica, Burlington, ward-numbered eleven in Cambridge, Car-
 38 lisle, Chelmsford, Concord, Dracut, Dunstable, Groton, Lexington,
 39 Littleton, Lowell, Melrose, Reading, Stoneham, Tewksbury, Tyngs-
 40 borough, Westford, Wilmington, Winchester and Woburn in Middlesex
 41 county.
- 42 Number Six, — Consisting of Amesbury, Beverly, Boxford, Danvers,
 43 Essex, Georgetown, Gloucester, Groveland, Hamilton, Haverhill, Ips-
 44 wich, Manchester, Marblehead, Merrimac, Methuen, Middleton, New-
 45 bury, Newburyport, North Andover, Rockport, Rowley, wards numbered
 46 one, two, three, five and six in Salem, Salisbury, Swampscott, Topsfield,
 47 Wenham and West Newbury in Essex county.
- 48 Number Seven, — Consisting of Andover, Lawrence, Lynn, Lynnfield,
 49 Nahant, Peabody, ward numbered four in Salem, and Saugus in Essex
 50 county; North Reading and Wakefield in Middlesex county; and Revere
 51 and Winthrop in Suffolk county.
- 52 Number Eight, — Consisting of wards numbered two and three in
 53 Cambridge, Everett, Malden, Medford and Somerville in Middlesex
 54 county.
- 55 Number Nine, — Consisting of wards numbered four, five, six, seven,
 56 eight, nine and ten in Cambridge, Lincoln, Newton, Waltham, Watertown
 57 and Weston in Middlesex county; ward numbered twenty-two in Boston
 58 in Suffolk county; and Brookline and Wellesley in Norfolk county.
- 59 Number Ten, — Consisting of wards numbered four, five, nine, ten,
 60 eleven, twelve, nineteen, twenty and twenty-one in Boston in Suffolk
 61 county.
- 62 Number Eleven, — Consisting of wards numbered one, two and three,
 63 and precincts numbered one, two, three, four, five, six, seven, eight and
 64 nine in ward numbered eight in Boston, and Chelsea in Suffolk county;
 65 and ward numbered one in Cambridge in Middlesex county.

Number Twelve, — Consisting of wards numbered six and seven, and precincts numbered ten, eleven, twelve, thirteen and fourteen in ward numbered eight, and wards numbered thirteen, fourteen, fifteen, sixteen, seventeen and eighteen in Boston in Suffolk county.	66 67 68 69
Number Thirteen, — Consisting of Avon, Braintree, Canton, Dedham, Dover, Holbrook, Milton, Needham, Norwood, Quincy, Randolph, Stoughton, Westwood and Weymouth in Norfolk county; Natick in Middlesex county; and Brockton in Plymouth county.	70 71 72 73
Number Fourteen, — Consisting of Attleboro, Berkley, Dighton, Easton, Fall River, Freetown, Mansfield, North Attleborough, Norton, Raynham, Rehoboth, Seekonk, Somerset, Swansea, Taunton and Westport in Bristol county; Bellingham, Foxborough, Franklin, Medfield, Medway, Millis, Norfolk, Plainville, Sharon, Walpole and Wrentham in Norfolk county; Holliston and Sherborn in Middlesex county; and Blackstone in Worcester county.	74 75 76 77 78 79 80
Number Fifteen, — Consisting of Abington, Bridgewater, Carver, Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Lakeville, Marion, Marshfield, Mattapoisett, Middleborough, Norwell, Pembroke, Plymouth, Plympton, Rochester, Rockland, Scituate, Wareham, West Bridgewater and Whitman in Plymouth county; Chilmark, Edgartown, Gay Head, Gosnold, Oak Bluffs, Tisbury and West Tisbury in Dukes county; Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet and Yarmouth in Barnstable county; Nantucket in Nantucket county; Cohasset in Norfolk county; and Acushnet, Dartmouth, Fairhaven and New Bedford in Bristol county.	81 82 83 84 85 86 87 88 89 90 91

COUNCILLOR DISTRICTS.

State divided into eight councillor districts
Const. amend. 16.
(Const. Rev. art. 132.)
1856, 307
1857, 310
C. S. 8, §§ 2, 3.
1866, 224
1876, 222
P. S. 8, §§ 2, 3.
1886, 348,
§§ 1-9
1896, 509,
§§ 11-19
R. L. 11, § 423
1905, 255, § 7.
1906, 497,
§§ 12-20
1916, 270,
§§ 14-22
1926, 372, § 2.

SECTION 2. For the purpose of choosing councillors until the next decennial apportionment, the commonwealth is divided, agreeably to the constitution, into the following eight councillor districts:	1 2 3
First, — Consisting of the Cape and Plymouth, the Plymouth, and the first, second and third Bristol senatorial districts.	4 5
Second, — Consisting of the Norfolk, Norfolk and Plymouth, Norfolk and Middlesex, and the sixth and eighth Suffolk senatorial districts.	6 7
Third, — Consisting of the third Suffolk, the Norfolk and Suffolk and the first, second and fifth Middlesex senatorial districts.	8 9
Fourth, — Consisting of the first, second, fourth, fifth and seventh Suffolk senatorial districts.	10 11
Fifth, — Consisting of the first, second, third, fourth and fifth Essex senatorial districts.	12 13
Sixth, — Consisting of the third, fourth, sixth, seventh and eighth Middlesex senatorial districts.	14 15
Seventh, — Consisting of the first, second, third and fourth Worcester and the Worcester and Hampden senatorial districts.	16 17
Eighth, — Consisting of the Berkshire, the Berkshire, Hampshire and Hampden, the Franklin and Hampshire and the first and second Hampden senatorial districts.	18 19 20

SENATORIAL DISTRICTS.

1 SECTION 3. For the purpose of choosing senators until the next de- State divided
 2 cennial apportionment, the commonwealth is divided, agreeably to the into forty
 3 constitution, into the following forty senatorial districts:

Const. pt. 2, c. 1, § 2, art. 1.	G. S. 8, §§ 4, 5.	R. L. 11, § 424
Const. amend. 22	1866, 120.	1903, 255, § 7
(Const. Rev. art. 45.)	1876, 190	1906, 497, §§ 1-10.
1832, 155	P. S. 8, §§ 4, 5.	1916, 270, §§ 1-12, Sp. 282, § 6.
R. S. 7, § 2.	1886, 338	1929, 178, § 6.
1857, 309.	1896, 509, §§ 1-10.	1926, 372, § 3.

4 Cape and Plymouth, — Consisting of the towns in Barnstable, Dukes Cape and
 5 and Nantucket counties, and Duxbury, Halifax, Hanson, Kingston, Plymouth
 6 Marion, Mattapoisett, Pembroke, Plymouth, Plympton, Rochester, district.

7 Wareham and Whitman in Plymouth county.

8 First Bristol, — Consisting of Attleboro, Berkley, Dighton, Easton, Bristol
 9 Freetown, Mansfield, North Attleborough, Norton, Raynham, Rehoboth, districts.

10 Seekonk and Taunton.

11 Second Bristol, — Consisting of Fall River, Somerset and Swansea.

12 Third Bristol, — Consisting of Acushnet, Dartmouth, Fairhaven, New

13 Bedford and Westport.

14 Plymouth, — Consisting of Bridgewater, Brockton, Carver, East Plymouth
 15 Bridgewater, Lakeville, Middleborough and West Bridgewater. district.

16 Norfolk and Plymouth, — Consisting of Avon, Canton, Cohasset, Norfolk and
 17 Foxborough, Holbrook, Sharon, Stoughton and Weymouth in Norfolk Plymouth
 18 county; and Abington, Hanover, Hingham, Hull, Marshfield, Norwell, district.

19 Rockland and Scituate in Plymouth county.

20 Norfolk, — Consisting of Braintree, Milton, Quiney and Randolph. Norfolk
 21 Norfolk and Middlesex, — Consisting of Dedham, Dover, Medfield, district.

22 Medway, Millis, Needham, Norfolk, Norwood, Wellesley, Walpole and Norfolk and
 23 Westwood in Norfolk county; and Ashland, Holliston, Hopkinton, Middlesex
 24 Natick and Sherborn in Middlesex county. district.

25 Norfolk and Suffolk, — Consisting of Brookline in Norfolk county; Norfolk and
 26 and wards numbered twenty-one and twenty-two in Boston in Suffolk Suffolk
 27 county. district.

28 First Suffolk, — Consisting of Chelsea, Revere and Winthrop in Suffolk Suffolk
 29 county; and Saugus in Essex county. districts.

30 Second Suffolk, — Consisting of wards numbered one, two and three in Suffolk
 31 Boston. districts.

32 Third Suffolk, — Consisting of wards numbered four and five in Suffolk
 33 ton in Suffolk county, and wards numbered one, two and three in Cam- Suffolk
 34 bridge in Middlesex county. districts.

35 Fourth Suffolk, — Consisting of wards numbered six, seven and eight Suffolk
 36 in Boston. districts.

37 Fifth Suffolk, — Consisting of wards numbered nine, ten and eleven in Suffolk
 38 Boston. districts.

39 Sixth Suffolk, — Consisting of wards numbered twelve, nineteen and Suffolk
 40 twenty in Boston. districts.

41 Seventh Suffolk, — Consisting of wards numbered thirteen, fifteen and Suffolk
 42 sixteen in Boston. districts.

43 Eighth Suffolk, — Consisting of wards numbered fourteen, seventeen Suffolk
 44 and eighteen in Boston. districts.

45 First Essex, — Consisting of Lynn, Nahant and Swampscott. Essex districts.

46 Second Essex, — Consisting of Beverly, Danvers, Marblehead and Essex districts.
 47 Salem.

	Third Essex, — Consisting of Essex, Gloucester, Hamilton, Ipswich, Lynnfield, Manchester, Middleton, Newbury, Newburyport, Peabody, Rockport, Rowley, Topsfield, Wenham and West Newbury.	48 49 50
	Fourth Essex, — Consisting of Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Merrimac, North Andover and Salisbury.	51 52
	Fifth Essex, — Consisting of Lawrence and Methuen.	53
Middlesex districts.	First Middlesex, — Consisting of Framingham, Marlborough, Newton, Wayland and Weston.	54 55
	Second Middlesex, — Consisting of Belmont and wards numbered four, five, six, seven, eight, nine, ten and eleven in Cambridge.	56 57
	Third Middlesex, — Consisting of Somerville.	58
	Fourth Middlesex, — Consisting of Everett, Malden and Melrose.	59
	Fifth Middlesex, — Consisting of Acton, Boxborough, Concord, Hudson, Lincoln, Maynard, Stow, Sudbury, Waltham and Watertown.	60 61
	Sixth Middlesex, — Consisting of Arlington, Medford, Winchester and Woburn.	62 63
	Seventh Middlesex, — Consisting of wards numbered one, nine and ten in Lowell, and Bedford, Billerica, Burlington, Lexington, North Reading, Reading, Stoncham, Tewksbury, Wakefield and Wilmington in Middlesex county.	64 65 66 67
	Eighth Middlesex, — Consisting of wards numbered two, three, four, five, six, seven, eight and eleven in Lowell, and Ashby, Ayer, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, Pepperell, Shirley, Townsend, Tyngsborough and Westford.	68 69 70 71
Worcester districts.	First Worcester, — Consisting of wards numbered five, six, seven, eight and nine in Worcester.	72 73
	Second Worcester, — Consisting of wards numbered one, two, three, four and ten in Worcester.	74 75
	Third Worcester, — Consisting of Ashburnham, Athol, Fitchburg, Gardner, Leominster, Lunenburg, Phillipston, Royalston, Templeton, Westminster and Winchendon.	76 77 78
	Fourth Worcester, — Consisting of Auburn, Blackstone, Douglas, Grafton, Hopedale, Mendon, Milford, Millbury, Millville, Northborough, Northbridge, Oxford, Shrewsbury, Southborough, Sutton, Upton, Uxbridge, Webster and Westborough in Worcester county, and Bellingham, Franklin, Plainville and Wrentham in Norfolk county.	79 80 81 82 83
Worcester and Hampden district.	Worcester and Hampden, — Consisting of Barre, Berlin, Bolton, Boylston, Brookfield, Charlton, Clinton, Dana, Dudley, East Brookfield, Hardwick, Harvard, Holden, Hubbardston, Lancaster, Leicester, New Braintree, North Brookfield, Oakham, Paxton, Petersham, Princeton, Rutland, Southbridge, Spencer, Sterling, Sturbridge, Warren, West Boylston and West Brookfield in Worcester county, and Brimfield, Hampden, Holland, Ludlow, Monson, Palmer, Wales and Wilbraham in Hampden county.	84 85 86 87 88 89 90 91
Berkshire district.	Berkshire, — Consisting of Adams, Cheshire, Clarksburg, Dalton, Florida, Hancock, Hinsdale, Lanesborough, New Ashford, North Adams, Peru, Pittsfield, Savoy, Williamstown and Windsor.	92 93 94
Berkshire, Hampshire and Hampden district.	Berkshire, Hampshire and Hampden, — Consisting of Alford, Becket, Egremont, Great Barrington, Lee, Lenox, Monterey, Mount Washington, New Marlborough, Otis, Richmond, Sandisfield, Sheffield, Stockbridge, Tyringham, Washington and West Stockbridge in Berkshire county, Easthampton, Huntington, Northampton, Southampton and Westhampton in Hampshire county, and Agawam, Blandford, Chester, 100	95 96 97 98 99 100

- 101 Granville, Montgomery, Russell, Southwick, Tolland, West Springfield
- 102 and Westfield in Hampden county.
- 103 Franklin and Hampshire, — Consisting of the towns in Franklin
- 104 county and Amherst, Belchertown, Chesterfield, Cummington, Enfield,
- 105 Goshen, Granby, Greenwich, Hadley, Hatfield, Middlefield, Pelham,
- 106 Plainfield, Prescott, South Hadley, Ware, Williamsburg and Worthington
- 107 in Hampshire county.
- 108 First Hampden, — Consisting of wards numbered two, three, four,
- 109 five, six, seven and eight in Springfield, and East Longmeadow and
- 110 Longmeadow.
- 111 Second Hampden, — Consisting of Chicopee, Holyoke and ward num-
- 112 bered one in Springfield.

Franklin and Hampshire district

Hampden districts

APPORTIONMENT OF REPRESENTATIVES.

1 SECTION 4. The two hundred and forty members of the house of
 2 representatives are apportioned to the several counties, agreeably to the
 3 constitution, until the next decennial apportionment as follows:

Representatives apportioned to the several counties, Const. pt. 2, c. 1, § 3; art. 1 Const. amend. 21 (Const. Rev. arts. 52, 53) 1813, 68, § 1. R. S. 5, § 3, 1857, 398. G. S. 8, § 6. 1866, 103, § 1. 1876, 15, § 1. P. S. 8, § 6. 1886, 256, § 1. 1896, 509, § 21. R. L. 11, § 425. 1906, 497, § 22. 1916, 270, § 24. 1926, 372, § 4.

COUNTY.	Number of Representatives.	COUNTY.	Number of Representatives.
Barnstable	2	Hampshire	4
Berkshire	7	Middlesex	52
Bristol	19	Nantucket	1
Dukes	1	Norfolk (excluding Cohasset)	17
Essex	31	Plymouth (including Cohasset)	11
Franklin	3	Suffolk	48
Hampden	16	Worcester	28

1 SECTION 5. The commissioners to apportion Suffolk county into
 2 representative districts shall, within thirty days after the state secretary
 3 shall have certified to them the number of representatives to which said
 4 county may be entitled, as determined by the general court, assemble in
 5 Boston and, as soon as may be, shall proceed to divide said county into
 6 representative districts of contiguous territory and assign representatives
 7 thereto, so that each representative in such county will represent, as
 8 nearly as may be, an equal number of legal voters, as such term is used
 9 in Articles XXI and XXII of the amendments to the constitution. Such
 10 districts shall be so formed that no ward of a city and no town shall be
 11 divided, and no district shall be so formed that it shall be entitled to elect
 12 more than three representatives. The districts shall be numbered by the
 13 commissioners, and a description of each district, its number and the
 14 number of legal voters, as such term is used in Articles XXI and XXII
 15 of the amendments to the constitution, therein shall be transmitted to the
 16 state secretary, to the board of election commissioners of Boston, to the
 17 city treasurer of Boston, to the city clerk of Boston, to the city clerk of
 18 Chelsea, to the city clerk of Revere and to the town clerk of Winthrop,
 19 and shall be filed and kept in their respective offices.

Apportionment of Suffolk county into representative districts. Const. amend. 21. (Const. Rev. art. 53) 1897, 287, § 2. R. L. 11, § 426. 1906, 298, § 2. 1907, 500. § 352, 456. 1913, 835, § 390. 1919, 269, § 25. 1924, 424, § 2. 1931, 426, § 178. 224 Mass. 398. 225 Mass. 55, 124

TITLE IX.

TAXATION.

- CHAPTER 58. General Provisions relative to Taxation.
 CHAPTER 58A. Board of Tax Appeals.
 CHAPTER 59. Assessment of Local Taxes.
 CHAPTER 60. Collection of Local Taxes.
 CHAPTER 60A. Excise Tax on Registered Motor Vehicles in Lieu of Local Tax.
 CHAPTER 61. Taxation of Forest Products and Classification and Taxation of Forest Lands.
 CHAPTER 62. Taxation of Incomes.
 CHAPTER 63. Taxation of Corporations.
 CHAPTER 64. Taxation of Stock Transfers.
 CHAPTER 64A. Taxation of Sales of Gasoline and Certain Other Motor Vehicle Fuel.
 CHAPTER 65. Taxation of Legacies and Successions.
 CHAPTER 65A. Taxation of Transfers of Certain Estates.

CHAPTER 58.

GENERAL PROVISIONS RELATIVE TO TAXATION.

SECT.

SUPERVISION OF LOCAL TAXATION.

1. General powers and duties of commissioner relative to assessment of local taxes.
2. Commissioner to forward to assessors lists of corporations and other information.
3. Information relative to property and instruction to assessors, etc.
4. Correction of improper methods of assessors.
5. Instructions relative to assessors' notices and lists.
6. Collection, etc., of information as to real estate values.
7. Commissioner to obtain information, etc., as to unpaid taxes.
8. Proceedings against certain delinquent collectors. Abatement of certain uncollected taxes.

STATE TAX.

9. Commissioner to report apportionment of state tax triennially to general court.
10. Commissioner to prepare abstracts, obtain information, etc.
- 10A. [Repealed.]

SECT.

ADJUSTMENT OF VETERANS' EXEMPTION.

11. One third of veterans' exemption to be credited to cities and towns making it, and charged against all cities and towns.
12. Commissioner to certify charges and credits to treasurer, who shall withhold or allow them.

REIMBURSEMENT FOR LOSS OF TAXES ON LAND USED FOR PUBLIC INSTITUTIONS, ETC.

13. Valuation of certain state and county lands every five years.
14. Notice to assessors. Appeal.
15. Effect of determination. Valuation of newly acquired land and state forests.
16. Annual statement to state treasurer.
17. Rate of reimbursement.
- 17A. Taxation of land held for county tuberculosis hospitals.

DISTRIBUTION OF TAXES.

18. Distribution of income tax.
19. [Repealed.]
20. Distribution of business corporation tax.

<p>SECT.</p> <p>21. Distribution of certain corporate franchise taxes.</p> <p>22. Distribution of franchise tax of electric railroads and street railways.</p> <p>23. Distribution of franchise tax of railroads and telephone and telegraph companies.</p> <p>24. Distribution of franchise tax of gas, electric and water companies.</p> <p>24A. Distribution of interest on certain corporation taxes.</p> <p>25. Commissioner to determine amounts due to cities and towns. Partial distributions.</p> <p>25A. Annual estimates of returns to cities and towns under §§ 17-25.</p> <p>26. Guardians, executors, administrators, trustees and partnerships to make returns of certain stock held.</p>	<p>SECT.</p> <p>REPAYMENT OF ILLEGAL TAXES.</p> <p>27. Taxes illegally, etc., exacted may be abated and repaid upon reasonable application. Equalization of burden of repayment.</p> <p>ASSESSMENT FOR DEPOSITS WITH STATE TREASURER.</p> <p>28. Commissioner to make assessment on trust funds, etc.</p> <p>REPORTS.</p> <p>29. Commissioner to make reports annually to general court.</p> <p>DESTRUCTION OF CERTAIN DOCUMENTS.</p> <p>30. Commissioner may destroy returns, etc.</p>
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SUPERVISION OF LOCAL TAXATION.

1 SECTION 1. The commissioner of corporations and taxation, in
 2 chapters fifty-eight to sixty-five A, inclusive, called the commissioner,
 3 may visit any town, inspect the work of its assessors and give them such
 4 information and require of them such action as will tend to produce uni-
 5 formity throughout the commonwealth in valuation and assessments.
 6 He shall prepare and issue printed instructions to assessors as a guide to
 7 them in carrying out said purpose, which shall be adapted to varying
 8 local circumstances and to differences in the character and condition of
 9 property subject to local taxation. He may furnish to local assessors
 10 blank forms for use in valuing such property. He may cause an assessor
 11 to be prosecuted, either in the county where said officer resides or in an
 12 adjoining county, for any violation of law relative to assessment of taxes
 13 for which a penalty is imposed. He may appear before the superior
 14 court or any board of county commissioners sitting for the abatement of
 15 taxes. He shall give his opinion to assessors and collectors upon any
 16 question arising under any statute relating to the assessment and collec-
 17 tion of taxes, and may obtain the opinion of the attorney general upon
 18 such question. He may perform his duties under this section himself or
 19 by his duly authorized representative.

General powers and duties of commissioner relative to assessment of local taxes.
 1898, 507, § 3.
 R. L. 14, § 5.
 1908, 433, § 1, 2;
 530, § 2
 1909, 490, 111, § 5.
 1916, 173, 1918, 257, § 32.
 1919, 5, 350, §§ 53-55.
 1920, 2
 1931, 426, § 64 Op. A. G.
 (1919) 123.

1 SECTION 2. The commissioner shall annually, on or before April
 2 first, forward to each board of assessors a list of all corporations known to
 3 him to be liable on said day to taxation under chapters fifty-nine and
 4 sixty-three, with such other information as in his judgment will assist
 5 them in the assessment of taxes.

Commissioner to forward to assessors lists of corporations and other information
 1867, 188, § 2

1870, 144, § 1.	1906, 271, § 1.	1909, 490, 111, § 4.
P. S. 13, §§ 3, 4.	1908, 468.	1914, 198, § 2.
R. L. 14, § 4.		

1 SECTION 3. The commissioner shall annually, on or before April
 2 first, furnish to each board of assessors all the information relating to
 3 the assessment, valuation and ownership of property taxable in their
 4 town that has come into possession of his department, particularly under
 5 chapter sixty-five. He shall give to said assessors any further instruc-
 6 tion and supervision as to their duties needed to secure uniform assess-
 7 ment and just taxation, and to equalize the valuation of property for
 8 purposes of state, county and local taxation.

Information relative to property and instruction to assessors, etc.
 1908, 550, § 4
 1909, 490, 111, § 6
 1914, 198, § 2.
 1919, 350, §§ 54, 55.
 218 Mass. 69.

Correction of improper methods of assessors—1908, 530, § 3, 1909, 490, III, § 7.

SECTION 4. Whenever it appears to the commissioner that the property or any part thereof in any town is not valued for taxation in accordance with law, and that such failure to comply with law is the result of inadequate methods in keeping the records of valuation or ownership of property, or is due to failure on the part of its assessors or any of them properly to examine the records of the registry of deeds and probate court, or to make use of the information required to be furnished to assessors by the commissioner, he shall forthwith direct said assessors to adopt such methods of keeping their records or to make such examination of the records of the registry of deeds and probate court, or to make such use of the information that he has furnished to them, as he deems necessary. On failure by any assessor to comply with such directions of the commissioner, he shall forthwith notify the mayor or selectmen of said failure, with any recommendations which he deems necessary or expedient.

Instructions relative to assessors' notices and lists. 1882, 217, § 3, 1894, 294 R. L. 12, § 42, 1909, 490, I, § 42; 513.

SECTION 5. The commissioner shall annually give instructions for preparing the notice and bringing in the lists required by section twenty-nine of chapter fifty-nine, and shall prescribe forms therefor so arranged that the statement of the person bringing in such a list will include all assessable property held by him. The commissioner shall cause to be printed and distributed to assessors forms for the lists and statements required therein relative to property held for literary, temperance, benevolent, charitable or scientific purposes.

Collection, etc., of information as to real estate values. 1917, 171.

SECTION 6. The commissioner may collect and tabulate information as to the sale price and actual value of real estate in the several towns. For this purpose he may require assessors to furnish him with any information in their possession, may consult persons likely to have knowledge as to the sale price and actual value of separate parcels of real estate, and may examine probate and other records.

Commissioner to obtain information, etc., as to unpaid taxes. 1912, 272, § 1.

SECTION 7. The commissioner shall from time to time secure information as to any unpaid taxes in any town, may examine the books, records and papers of collectors and assessors, and of other town officers, and may require them to make reports to him.

Proceedings against certain delinquent collectors. Abatement of certain uncollected taxes. 1912, 272, §§ 2, 3, 1918, 257, § 33, 1919, 5, 1920, 2, 1922, 34, 1925, 283, 1931, 133.

SECTION 8. Whenever it appears to the commissioner that at the end of two years from the commitment of any warrant to a collector any taxes upon such warrant remain uncollected, or if collected have not been turned over to the town treasurer, the commissioner shall within three months bring the matter to the attention of the attorney general, who may bring or cause to be brought an action of contract in the name of the town against the collector and upon his bond, in the superior court for the county where the town lies. Any amount recovered under this section shall be paid into the treasury of the town in whose name the action is prosecuted; but all reasonable expenses incurred by the attorney general in any such action shall be borne by the town, and may be recovered from it by the commonwealth in contract. If, at any time after the expiration of one year from the commitment of any warrant to a collector, the commissioner is of the opinion that any taxes thereon remaining uncollected should be abated, he may authorize the assessors, in writing, to abate any part or the whole of such taxes, either by items or by abatement of a sum total, stated in such written authorization. The assessors may thereupon

18 make the abatement authorized and enter the same in their record of
 19 abatements, making reference in said record to such authorization as the
 20 cause or reason for the abatement.

STATE TAX.

1 SECTION 9. In nineteen hundred and twenty-nine and in every third
 2 year thereafter, the commissioner shall, on or before April first report to
 3 the general court an equalization and apportionment upon the several
 4 towns, of the number of polls, the amount of property, and the propor-
 5 tion of every one thousand dollars of state or county tax, including polls
 6 at one tenth of a mill each, which should be assessed upon each town.

Commissioner
 to report
 apportion-
 ment of state
 tax triennially
 to general
 court
 1881, 163, § 1.
 P. S. 11, § 96.

R. L. 12, § 100. 1909, 490, I, § 100. 1921, 379, § 1. 1928, 330, § 2.

1 SECTION 10. To aid in making the equalization and apportionment
 2 required by the preceding section, and to assist the general court to
 3 determine the amount of state tax to be imposed upon the several towns,
 4 the commissioner shall prepare and submit to the general court abstracts
 5 showing the amount of the corporate franchise value of domestic corpora-
 6 tions, of the excise value as determined by the commissioner of domestic
 7 business and domestic manufacturing corporations and of foreign manu-
 8 facturing and other foreign corporations, and of the value produced by
 9 capitalizing at the state rate taxes paid by banks which are subject to
 10 taxation under section two of chapter sixty-three and which have been
 11 distributed according to law to each town. He may require from state
 12 and town officers such further returns and statements relative to the
 13 amount and value of taxable property in the several towns as he deems
 14 necessary. He shall to the best of his judgment and discretion prepare
 15 said equalization and apportionment upon the basis of the returns and
 16 statements provided for and authorized, and of any other information
 17 in his possession. He shall give notice of so much of said equalization
 18 and apportionment as may be prepared upon the basis of such other
 19 information in his possession to the assessors of any town affected thereby,
 20 and upon their request shall give his reasons therefor, and such informa-
 21 tion as he may properly divulge.

Commissioner
 to prepare
 abstracts,
 obtain infor-
 mation,
 etc.
 1881, 163,
 §§ 1, 2.
 P. S. 11, § 97.
 R. L. 12, § 101
 1909, 449, 490,
 I, § 101
 1911, 366,
 1914, 198, § 5;
 689
 1921, 379, § 2.
 1925, 344,
 § 12, 13.
 1926, 222,
 1930, 220, § 8.

1 SECTION 10A. [INSERTED, 1921, 375, § 2; REPEALED, 1924, 206, § 1.]

ADJUSTMENT OF VETERANS' EXEMPTION.

1 SECTION 11. The commissioner, from the returns made by assessors
 2 under section eighty-five of chapter fifty-nine, or otherwise, shall deter-
 3 mine the total amount of taxes exempted throughout the commonwealth
 4 under clauses twenty-second and twenty-third of section five of said
 5 chapter, and shall apportion one third of such taxes among the towns
 6 according to the basis determined by him for an apportionment of the
 7 state tax under section nine of this chapter, and the amount so appor-
 8 tioned to each town shall be a charge against it. He shall also determine
 9 the amount of taxes so exempted in each town, and one third thereof shall
 10 be a credit to the town making the exemption. He shall forthwith give
 11 written notice by mail or at their office to the assessors of each town
 12 thereby affected of the amounts so charged against and credited to it,
 13 and they may within ten days after the date of the notice appeal from his
 14 determination to the board of tax appeals.

One third
 of veterans'
 exemption to
 be credited to
 cities and
 towns making
 it, and charged
 against all
 cities and
 towns
 1916, 290, § 4.
 1930, 416, § 3.

Commissioner to certify charges and credits to treasurer, who shall withhold or allow them. 1916, 299, § 5. 1930, 416, § 4.

SECTION 12. The commissioner, at the expiration of ten days after notice under the preceding section or upon being informed of the decision of the board of tax appeals, if an appeal is taken, shall certify to the state treasurer the amount of charges against and credits to each town as determined thereunder, and the treasurer shall thereupon withhold out of any sums payable by the commonwealth to each town against which a charge is certified, and shall allow or pay over to each town to which a credit is certified, as the case may be, the amount so certified.

REIMBURSEMENT FOR LOSS OF TAXES ON LAND USED FOR PUBLIC INSTITUTIONS, ETC.

Valuation of certain state and county lands every five years. 1910, 607, §§ 1, 2. 1921, 486, § 15. 1923, 271, § 1. 1931, 426, § 179.

SECTION 13. In nineteen hundred and twenty-five and in every fifth year thereafter the commissioner shall between April first and June first determine as of April first the fair cash value of all land in every town owned by the commonwealth and used for the purposes of a public institution, a fish hatchery, game preserve or wild life sanctuary, a state military camp ground or a state forest; and he shall between April first and June first in the year nineteen hundred and twenty-five and in every fifth year thereafter, determine as of April first the fair cash value of all land in every town held by county commissioners for hospital purposes under sections seventy-eight to ninety, inclusive, of chapter one hundred and eleven. This determination shall be in such detail as to lots, subdivisions or acreage as the commissioner may deem necessary, and to assist him in making it he may require oral or written information from any officer or agent of the commonwealth or of any county or town therein and from any other inhabitant thereof, and may require such information to be on oath. Such officers, agents and persons, so far as able, shall furnish the commissioner with the required information in such form as he may indicate, within fifteen days after being so requested by him.

Notice to assessors. Appeal. 1910, 607, § 3. 1911, 478, § 2. 1923, 271, § 2. 1930, 416, § 5.

SECTION 14. The commissioner, not later than June tenth of each year in which he makes such determination, shall notify the assessors of each town where the commonwealth owns, or the county commissioners hold, land for the purposes named in the preceding section, of his determination of the value of such land in such town. A board of assessors aggrieved by said determination may, within ten days after the date of the notice, apply for a correction thereof to the board of tax appeals. Said board shall give a hearing to such assessors not later than July fifteenth following, and shall seasonably notify them and the commissioner of the time and place of the hearing. After the hearing said board shall notify said board of assessors and the commissioner of its finding as to the value of the land in question, and its decision shall be conclusive.

Effect of determination. Valuation of newly acquired land and state forests. 1910, 607, § 4. 1911, 478, § 3. 1921, 282, § 1. 1923, 271, § 3. 1930, 416, § 6.

SECTION 15. The valuation determined under the two preceding sections shall be in effect for the purposes of sections seventeen and seventeen A during the year in which such valuation is made and the four succeeding years, and until another valuation is made under sections thirteen and fourteen, except that whenever land is acquired by the commonwealth or by county commissioners for the purposes set forth in section thirteen the commissioner shall adopt the assessed valuation of said land made in the year last preceding such acquisition, and such assessed valuation shall be the valuation of the land for the purposes of sections seventeen and seventeen A, until a new valuation is made by the

11 commissioner or by the board of tax appeals under section thirteen or
 12 fourteen; provided, that as to land used for a state forest such assessed
 13 valuation shall be reduced by deducting therefrom the value of all forest
 14 products removed from such land between April first on which it was
 15 last assessed and April first in the year for which the reimbursement is
 16 to be made, the amount thereof to be certified annually before May first
 17 to the commissioner by the state forester.

1 SECTION 16. In every year, not later than August first, the commis- Annual state-
 2 sioner shall deliver to the state treasurer a statement as to the value of treasurer
 3 land owned by the commonwealth for the purposes named in section 1910, 607, § 5.
 4 thirteen in each town, and of the amount of money to be paid to each 1931, 426,
 5 of such towns as determined by the following section. § 190.

1 SECTION 17. The treasurer in every year, not later than November Rate of reim-
 2 twentieth, shall reimburse each town in which the commonwealth owns bursement
 3 land for the purposes named in section thirteen an amount in lieu of § 6.
 4 taxes upon the value of such land as reported to him by the commissioner 1911, 478, § 4
 5 under the preceding section, determined by multiplying each thousand 1922, 54, § 1.
 6 dollars of valuation or fractional part thereof by the rate provided for
 7 under section fifty-eight of chapter sixty-three.

1 SECTION 17A. The assessors of any town in which county commis- Taxation
 2 sioners hold land for the purposes set forth in section thirteen shall assess of land held
 3 such land to the county in the annual valuation and tax list at the value for county tu-
 4 determined by the commissioner or the board of tax appeals under sec- bernulous hos-
 5 tion thirteen or fourteen, or adopted by the commissioner as provided in pitals
 6 section fifteen, and at the tax rate of the town for that year. If notifica- 1923, 271, § 4.
 7 tion as provided in said section fourteen is not received by the assessors 1930, 416, § 7.
 8 in time to make the assessment in the manner above provided, the land
 9 shall be assessed at said value under the provisions of section seventy-five
 10 of chapter fifty-nine. The tax bill for land so assessed shall be sent to
 11 the county treasurer who shall pay the same from funds available for
 12 carrying out the provisions of section eighty-five of said chapter one
 13 hundred and eleven, and such payment shall be deemed a part of the cost
 14 of hospital maintenance for said year within the meaning of said section
 15 eighty-five.

DISTRIBUTION OF TAXES.

1 SECTION 18. The state treasurer shall annually on or before Novem- Distribution
 2 ber twentieth distribute to the several cities and towns, in proportion to of income tax.
 3 the amounts of state tax imposed upon such cities and towns in that year, 1918, 219
 4 the proceeds of the taxes collected by the commonwealth on incomes 1919, 314;
 5 under chapter sixty-two, after deducting a sum sufficient to reimburse 363, § 1.
 6 the commonwealth for the expenses incurred in the collection and dis- 1922, 54, § 2.
 7 tribution of said income taxes and for such of said taxes as have been 1924, 222, § 1.
 8 refunded under said chapter sixty-two or section twenty-seven of this 1927, 222, § 1.
 9 chapter during said year, together with any interest or costs paid on 1931, 426,
 10 account of refunds, which shall be retained by the commonwealth, and § 181
 11 after deducting also a sufficient sum to be distributed under Part I of 234 Mass. 42
 12 chapter seventy. 237 Mass. 50,
 493.

1 SECTION 19. [REPEALED, 1931, 428, § 1.]

Distribution of business corporation tax
 1919, 355, § 13, 31.
 1922, 362, § 1.
 1927, 222, § 2.
 1930, 220, § 9.

SECTION 20. From the total taxes paid in any state fiscal year by 1
 domestic business and domestic manufacturing corporations and foreign 2
 manufacturing and other foreign corporations under sections thirty to 3
 fifty-one, inclusive, of chapter sixty-three there shall be deducted such 4
 taxes paid under said sections as have been refunded under said chapter 5
 or section twenty-seven of this chapter during said year, together with 6
 any interest or costs paid such corporations on account of refunds. One 7
 sixth of the balance shall be retained by the commonwealth, and five 8
 sixths shall be distributed, credited and paid to each of the several towns 9
 in the proportion that the value of the tangible property owned by all 10
 corporations taxable under any provision of sections thirty to fifty-one, 11
 inclusive, of chapter sixty-three and situated in each town, bears to the 12
 value of the total tangible property owned by all such corporations and 13
 situated within the commonwealth, as determined by the commissioner 14
 from the returns of the previous taxable year or in such other manner as 15
 he may deem just and equitable. 16

Distribution of certain corporate franchise taxes.
 1864, 208, § 8, 15.
 1865, 283, § 15.
 1866, 291, § 2.
 P S 13, § 57.
 1887, 228.
 1888, 413, § 23.
 1898, 417;
 578, §§ 4, 26.
 1900, 413, § 5.
 1901, 413, § 4.
 R L 14, § 61.
 1903, 437, § 86.
 1906, 463, II, § 216,
 III, § 131;
 516, § 20
 1908, 614.
 1909, 490,
 III, § 64.

SECTION 21. Such proportion of the tax paid by each corporation, 1
 company or association under sections fifty-three to sixty, inclusive, of 2
 chapter sixty-three, except railroad, street railway, electric railroad, tele- 3
 phone, telegraph, gas, electric light, gas and electric light and water com- 4
 panies, as corresponds to the proportion of its stock owned by persons 5
 residing in this commonwealth, shall be distributed, credited and paid 6
 to the several towns in which, from the returns or other evidence, it 7
 appears that such persons resided on April first preceeding, according to 8
 the number of shares so held in such towns respectively. If stock is held 9
 by a fiduciary, the beneficiary shall be regarded as the shareholder for 10
 the purpose of distribution under this section, and if a town is a share- 11
 holder, the distribution shall be the same as if the stock were owned by 12
 a resident thereof. 13

1910, 456,	1916, 299, §§ 1, 2,	190 Mass. 123.
1912, 695,	1919, 349, § 21,	1 Op. A. G. 570.
1914, 198, § 6.	184 Mass. 460.	4 Op. A. G. 82.

Distribution of franchise tax of electric railroads and street railways.
 1864, 208, § 8, 15.
 1865, 283, § 15.
 1866, 291, § 2.
 P S 13, § 57.
 1887, 228.
 1888, 413, § 23.
 1898, 417; 578,
 § 4, 26.
 1900, 413, § 5.
 1901, 413, § 4.
 R L 14, § 61.
 1903, 437, § 86.
 1906, 463, II,
 § 216, III,
 § 131; 516, § 20.

SECTION 22. The tax paid by each electric railroad and street rail- 1
 way company under sections fifty-three to sixty, inclusive, of chapter 2
 sixty-three shall be apportioned among the several towns in proportion 3
 to the length of tracks operated by such company in said towns respec- 4
 tively. The share of the tax paid by a street railway or an electric rail- 5
 road company in respect of its tracks upon locations granted by the 6
 board having charge of metropolitan parks, of the Wachusett mountain 7
 state reservation or of the Greylock reservation shall be apportioned to 8
 the commonwealth, and credited by the state treasurer to the sinking 9
 fund of the loan to which the expenditure for the road, boulevard, park 10
 or reservation in which the tracks are located was charged. 11

1908, 614,	1912, 695,	1919, 349, § 21,
1909, 490, III, § 64.	1914, 198, § 6,	207 Mass. 514.

Distribution of franchise tax of railroads and telephone and telegraph companies
 1916, 299, § 1.

SECTION 23. The corporate franchise tax paid by railroad, telephone 1
 and telegraph companies shall be distributed, credited and paid to the 2
 towns of the commonwealth or shall be retained by the commonwealth 3
 in the manner following: Such part of said tax paid by each of said 4
 corporations as is paid on account of shares of its stock owned by non- 5
 residents of Massachusetts shall be retained by the commonwealth. 6

7 The remainder of said tax shall be distributed, credited and paid to
8 the several towns in proportion to the total assessed value of property
9 actually taxed in each town for the preceding year.

1 SECTION 24. The corporate franchise tax paid by gas, electric light,
2 gas and electric light and water companies shall be distributed, credited
3 and paid to towns of the commonwealth or shall be retained by the com-
4 monwealth in the manner following: Such part of said tax paid by
5 each of said corporations as is paid on account of shares of its stock owned
6 by non-residents of Massachusetts shall be retained by the common-
7 wealth. The remainder of such tax shall be distributed, credited and
8 paid to the town of the commonwealth where the business of the cor-
9 poration is carried on; and if any such corporation carries on its busi-
10 ness in more than one such town, this part of the tax paid by it shall be
11 distributed, credited and paid to such towns in proportion to the value of
12 the works, structures, real estate, machinery, poles, underground con-
13 duits, wires and pipes of the corporation in each of them on April first,
14 as determined from the returns or in any other manner.

Distribution
of franchise
tax of gas,
electric and
water com-
panies.
1916, 299, § 2.

1 SECTION 24A. Interest received by the commonwealth on overdue
2 taxes from corporations under section seventy of chapter sixty-three,
3 shall be distributed, credited and paid to the several towns in the same
4 manner and proportions as the principal of such taxes is distributed,
5 credited and paid. Any sum abated from a tax distributable to the several
6 towns under sections twenty-one to twenty-four, inclusive, and refunded,
7 and any interest or costs paid on account of such refund, shall be deducted
8 from the amount to be distributed, credited or paid.

Distribution
of interest
on certain
corporation
taxes.
1921, 375, § 1.
1927, 222, § 3.

1 SECTION 25. The commissioner shall ascertain and determine the
2 amount due to each town under sections twenty to twenty-four A, inclu-
3 sive, notify the treasurer of each town thereof, and certify the amount as
4 determined to the state treasurer, who shall thereupon pay the same.
5 The commissioner in his discretion may from time to time within the
6 fiscal year make partial distributions of taxes paid therein and distribut-
7 able under the provisions of section twenty, withholding such sums as
8 may to him seem proper to provide for refunds and abatements. Any
9 decision made by the commissioner under sections twenty-one to twenty-
10 four A, inclusive, shall be subject to appeal to the board of tax appeals.

Commissioner
to determine
amounts due
to cities and
towns. Partial
distributions.
1865, 283, § 15
P. S. 13, § 58.
1898, 578,
§§ 4, 5.
R. L. 14, § 62.
1903, 437, § 87.
1906, 463,
11, § 217,
11, § 132;
516, § 21.
1909, 490,
11, § 65.

1921, 375, § 3.
1922, 362, § 2.

1924, 396, § 2.
1930, 416, § 8.

212 Mass. 434.

1 SECTION 25A. Annually on or before August first the commissioner
2 shall, upon the basis of the information then in his possession, estimate
3 the amount each town is to receive under section seventeen, and sections
4 eighteen to twenty-five, inclusive, of this chapter and sections five and
5 six of chapter sixty-three and notify the assessors of such town thereof.
6 Said assessors, in determining the rate of taxation to be levied upon
7 taxable property for the year, shall include in the estimated receipts
8 lawfully applicable to the payment of expenditures the aforesaid amount.

Annual
estimates of
returns to
cities and towns
under §§ 17-25
1931, 428, § 2.

1 SECTION 26. A guardian who holds, or whose ward holds, shares of
2 stock in any corporation the tax on whose shares is distributed in whole
3 or in part according to the residence of the shareholder, including banks

Guardians,
executors, ad-
ministrators,
trustees and
partnerships

to make returns of certain stock held.
1864, 208, § 4.
1865, 283.
§ 2, 14.
1873, 141, § 9;
315, § 15.
P. 8 13, § 7.
R. L. 14.
§ 8, 55.
1909, 490,
III, § 8, 59;
528
1914, 198,
§ 2, 6.

Penalty.

located in the commonwealth liable to taxation, and an executor, administrator, trustee or other person who holds in trust any such stock, shall annually, between April first and tenth, return under oath to the commissioner the names and residences, on the first day of that month, of themselves and of all such wards or other persons to whom any part of the income from such stock is payable, the number of shares of stock so held and the name and location of the corporation.

A partnership shall annually, between April first and tenth, make a like return, stating the amount of such stock owned by the firm, the names and residences of all the partners and the proportional interest or ownership of each partner in said stock.

If a guardian, executor, administrator, trustee or partnership neglects to make the returns required by this section on or before April tenth of each year, the commissioner shall give notice by mail, postage prepaid, to such fiduciary or partnership of such default. If such fiduciary or partnership omits to file said return within thirty days after such notice of default has been given, he or it shall forfeit to the commonwealth not less than five nor more than ten dollars for each day for fifteen days after the expiration of said thirty days, and not less than ten nor more than two hundred dollars for each day thereafter during which such default continues, or any other sum, not greater than the maximum forfeiture, which the court may deem just and equitable. Such forfeiture may be recovered as provided in chapter sixty-three.

REPAYMENT OF ILLEGAL TAXES.

Taxes illegally, etc., exacted may be abated and repaid upon reasonable application.
Equalization of burden of repayment.
1919, 146.
1922, 382.
1926, 287, § 1.
1931, 426,
§ 182.
257 Mass. 43.
269 Mass. 352.
273 Mass. 212.

SECTION 27. If it shall appear that an income tax, a legacy and succession tax, or a tax or excise upon a corporation, foreign or domestic, was in whole or in part illegally assessed or levied, or was excessive or unwarranted, the commissioner may, with the approval of the attorney general, issue a certificate that the party aggrieved by such tax or excise is entitled to an abatement, stating the amount thereof. If the tax or excise has been paid, the state treasurer shall pay the amount thus certified in such manner and with or without interest as the certificate shall provide, without any appropriation therefor by the general court. No certificate for the abatement of any tax or excise shall be issued under this section unless application therefor is made to the commissioner within two years after the date of the bill for said tax or excise, or for an amount exceeding the sum which in equity and good conscience ought to be abated under all the circumstances of the case. In issuing certificates hereunder, the commissioner and attorney general may, if they deem it expedient, equalize the burden of repayment by providing in the certificate for postponement of payment, or for payment by instalments. The decision of the commissioner and attorney general shall be final. The state treasurer shall retain from the sums next to be distributed to any city or town under sections eighteen to twenty-four A, inclusive, an amount equal to the sum which has already been paid to such city or town on account of any tax or excise refunded under this section. This section shall be in addition to and not in modification of any other remedies.

ASSESSMENT FOR DEPOSITS WITH STATE TREASURER.

1 SECTION 28. The commissioner shall annually assess upon every cor-
 2 poration or organization required by law to make deposits in trust with
 3 the state treasurer one twentieth of one per cent of the average of such
 4 deposits by it for the year last preceding such assessment. Such assess-
 5 ment shall be collected in the same manner as taxes upon corporations.

Commissioner
to make assess-
ment on
trust funds,
etc.
1891, 233.
1901, 281.
R. L. 6, § 6.

REPORTS.

1 SECTION 29. In addition to the report required by section nine the
 2 commissioner shall annually make the following reports to the general
 3 court:

Commissioner
to make reports
annually to
general court.

4 (1) In January a report of the transactions of his office for the pre-
 5 ceding year, including tabular statements of the amounts of exempted
 6 property returned under section eighty-six of chapter fifty-nine, and
 7 an abstract of such particulars from the lists of property held for literary,
 8 benevolent, charitable or scientific purposes as he shall deem for the
 9 public interest.

Regular
annual report.
1873, 321, § 2.
1874, 227, § 3.
1881, 284, § 4.
P. S. 13, § 6.
1882, 217, § 3.
1894, 484
R. L. 14, § 3.

1909, 490, III, § 3.

10 (2) A printed compilation of the aggregate returns under section forty-
 11 seven of chapter fifty-nine from the cities and towns, arranged by coun-
 12 ties so as to exhibit the total valuation of the towns, cities, counties, and
 13 the commonwealth.

Compilation
of tables of
aggregates.
1861, 167, § 4.
P. S. 11, § 57.

R. L. 12, § 63.

1908, 314.

1909, 490, I, § 62.

14 (3) A similar compilation of the returns of omitted assessments made
 15 under section forty-eight of said chapter. This shall be printed and fur-
 16 nished to the general court as soon as may be after such returns are filed.

Same from
omitted
assessments.
1912, 312, § 2.
1913, 694.

17 (4) On or before May first a report of the amount of income assessed
 18 under chapter sixty-two, and also an estimate of the probable amount
 19 of taxes that will be levied upon incomes thereunder.

Report of
income assessed
for taxation.
1916, 176.

DESTRUCTION OF CERTAIN DOCUMENTS.

1 SECTION 30. The commissioner may, after the lapse of five years from
 2 the date of their receipt, destroy returns made to him under section
 3 twenty-six of this chapter, copies, returns and statements made under
 4 sections forty-nine, eighty-three and eighty-six of chapter fifty-nine,
 5 and returns and copies made under sections three, thirteen, seventeen,
 6 twenty, twenty-five, thirty-five, forty, fifty-three and fifty-four of chap-
 7 ter sixty-three.

Commissioner
may destroy
returns, etc.
1916, 281.
1931, 426, § 65.

CHAPTER 58A.

BOARD OF TAX APPEALS.

SECT.

1. Board of tax appeals, establishment, etc.
2. Principal office, meetings, hearings.
3. Reports and opinions, publication and sale.
4. Annual report.
5. Traveling, etc., expenses. Clerk, employees and expenditures.
6. Jurisdiction.
7. Appeals to board, petition, abatement by appellee, answer, entry fee, etc.

SECT.

8. Hearings.
9. Service of process, etc.
10. Stenographic reports of proceedings.
11. Oaths, administering of. Witnesses. Depositions.
12. Costs.
13. Findings, decisions and opinions, reports of. Appeals to supreme judicial court.

Board of tax appeals, establishment, etc.
1930, 416, § 1.

SECTION 1. There shall be in the department of the state treasurer, but in no manner subject to his control, a board of tax appeals, in this chapter referred to as the board, consisting of three members appointed by the governor, with the advice and consent of the council, who shall be designated in their initial appointments to serve respectively for two, four and six years from December first in the year of appointment. The governor shall designate one of the members as chairman. Upon the expiration of the term of office of a member, his successor shall be appointed in the manner aforesaid for six years. The chairman shall receive a salary of seventy-five hundred dollars and each other member shall receive a salary of seven thousand dollars.

No member of the board shall, while he remains a member, act as attorney, counsellor or accountant in any contested matter of taxation before the department of corporations and taxation, before any board of assessors or before the courts of the commonwealth; but the foregoing shall not be construed to prevent a member of the board from acting as attorney, counsellor or accountant in any tax matters other than those dealing with taxes levied by the commonwealth or by a subdivision thereof. The majority of the members of the board shall constitute a quorum for the transaction of its business. A vacancy in the board shall not impair its powers nor affect its duties. The board shall have a seal which shall be judicially noticed.

Principal office, meetings, hearings.
1930, 416, § 1.

SECTION 2. The principal office of the board shall be in Boston but it may sit at any place within the commonwealth. The time and place of its meetings shall be prescribed by the chairman. The county commissioners shall provide the board with suitable rooms in courthouses or other buildings when necessary for hearings outside the city of Boston. Adequate offices and a hearing room in the state house or elsewhere in said city shall be provided for the board.

Reports and opinions, publication and sale.
1930, 416, § 1.

SECTION 3. The board shall provide for the publication and sale or distribution of such of its reports and opinions as are of public interest, in such form and manner as it may deem best adapted for public convenience and use, upon such terms and conditions as may be approved by the governor and council.

1 SECTION 4. The board shall make to the general court an annual
2 report containing such suggestions and recommendations for the amend-
3 ment, alteration and modification of existing laws relative to taxation
4 and related matters, as it may deem desirable, and shall include in such
5 report a statement of the number and type of matters handled by it dur-
6 ing the preceding state fiscal year and the number of matters pending
7 at the end of the year.

Annual report.
1930, 416, § 1.

1 SECTION 5. The members and employees of the board shall receive
2 their necessary traveling expenses and their expenses actually incurred
3 for subsistence while traveling outside the city of Boston in the perform-
4 ance of their duties. The board may, subject to the approval of the
5 governor and council, appoint and fix the compensation of such em-
6 ployees, including a clerk, and make such expenditures, including expend-
7 itures for law books and publications, as may be necessary in order to
8 execute efficiently the functions vested in said board. All expenditures
9 of the board shall be allowed and paid out of moneys appropriated for the
10 purposes of the board, upon presentation of itemized vouchers therefor,
11 signed by the chairman or a person designated by the board for the
12 purpose.

Traveling, etc.
expenses.
Clerk, em-
ployees and
expenditures.
1930, 416, § 1.

1 SECTION 6. The board shall have jurisdiction to decide appeals under
2 the provisions of sections eleven, fourteen and twenty-five of chapter
3 fifty-eight; of clauses seventeenth and twenty-second of section five of
4 chapter fifty-nine; of sections seven, thirty-nine, sixty-four, sixty-five,
5 seventy-three and eighty-one of said chapter fifty-nine; of section two
6 of chapter sixty A; of sections forty-five and fifty-one of chapter sixty-
7 two; of sections two, five, eighteen A, twenty-eight, fifty-one, sixty and
8 seventy-one of chapter sixty-three; of section six of chapter sixty-four;
9 of sections five and ten of chapter sixty-four A; of sections twenty-five
10 and twenty-six of chapter sixty-five; of section four of chapter sixty-five
11 A; and under any other provision of law wherein such jurisdiction is or
12 may be expressly conferred. Except as otherwise provided by law, no
13 appeal to the board shall stay the collection of any tax or excise. When-
14 ever the commissioner of corporations and taxation, in this chapter called
15 the commissioner, or a board of assessors before whom or which a petition
16 for the abatement of a tax is or shall be pending fails to act upon said
17 petition, except with the written consent of the petitioner, within four
18 months of the date of the filing of such petition for abatement, the peti-
19 tion shall be deemed to be denied, and the taxpayer shall have the right to
20 take any appeal from such decision to which he may be entitled by law,
21 in the same manner as though the commissioner or board of assessors had
22 in fact denied the said petition. The period limited in any statute for
23 taking an appeal to the board of tax appeals shall not begin to run until
24 such a petition for abatement of a tax is in fact denied by the commis-
25 sioner or board of assessors.

Jurisdiction.
1930, 416, § 1.

1 SECTION 7. Any party taking an appeal to the board from a decision
2 or determination of the commissioner or of a board of assessors, herein-
3 after referred to as the appellee, shall file a petition with the clerk of the
4 board of tax appeals and serve upon said appellee in the manner pro-
5 vided in section nine a copy thereof. The commissioner shall forthwith
6 furnish a copy of each such petition served upon him to the attorney
7 general. The petition upon such appeal shall set forth specifically the

Appeals to
board, petition,
abatement by
appellee, an-
swer, entry
fee, etc.
1930, 416, § 1.

facts upon which the party taking an appeal, hereinafter called the appellant, relies, together with a statement of the contentions of law which the appellant desires to raise. The appellant shall state upon the petition the address at which service of any pleading, motion, order, notice or process in connection with the appeal can be made upon him. Within twenty days of the date of the filing of such petition upon appeal, the appellee may abate the tax appealed from in whole or in part or change his or its determination. If the portion of the tax in issue is abated only in part, or if abatement is refused, or if the determination in issue is not changed to the satisfaction of the appellant, the appellee shall, unless the appeal is withdrawn by the appellant, file with the board an answer stating fully each finding of fact and ruling of law made with respect to the tax or determination in issue and denying or admitting each and every allegation of fact contained in the petition. A copy of the answer shall be served upon the appellant, in the manner provided in section nine. Within ten days of the filing of the answer, the party taking the appeal shall pay to the clerk of the board an entry fee of ten dollars. The board shall not consider, unless equity and good conscience so require, any issue of fact or contention of law not specifically set out in the petition upon appeal or raised in the answer.

Hearings.
1930, 416, § 1.

SECTION 8. A hearing shall be granted if any party to an appeal so requests, and, upon motion of any party to an appeal or by direction of the board, any appeal may be set down for a hearing. Hearings before the board shall be open to the public and such hearings and all proceedings before the board shall be conducted in accordance with such rules of practice and procedure as the board may make and promulgate.

Service of
process, etc.
1930, 416, § 1.

SECTION 9. The mailing by registered mail, postage prepaid, to the address of any appellant as given on the petition upon appeal, or to the address of his attorney or agent of record, if any, or to the usual place of business of the commissioner or of the board of assessors, shall be deemed sufficient service of any pleading, motion, order, notice or process so served in respect to proceedings before the board. The board may order that further notice be given in any case.

Stenographic
reports of
proceedings.
1930, 416, § 1.

SECTION 10. At the request of any party or on its own motion, the board shall order that all proceedings in a pending appeal be stenographically reported. The board may contract for the reporting of such hearings at the expense of the commonwealth and in such contract may fix the terms and conditions upon which transcripts will be supplied to the board and to other persons and agencies by the stenographer.

Oaths, ad-
ministering of.
Witnesses.
Depositions.
1930, 416, § 1.

SECTION 11. Any member of the board, or any employee of the board designated in writing for the purpose by the chairman, may administer oaths, and any member of the board may summon and examine witnesses and require, by subpoena signed by the member, the production of all returns, books, papers, documents, correspondence and other evidence, pertinent to the matter under inquiry, at any designated place of hearing, and may require the taking of a deposition before any person competent to administer oaths, either within or without the commonwealth. In the case of a deposition, the testimony shall be reduced to writing by the person taking the deposition or under his direction and shall then be subscribed by the deponent.

12 Either party may summon witnesses or may require the production of
13 papers in the same manner in which witnesses may be summoned and
14 papers may be required to be produced for the purpose of trials in the
15 courts. Any witness summoned or whose deposition is taken shall receive
16 the same fees and mileage as witnesses in the courts.

1 SECTION 12. Witness fees and expenses of service of process, together
2 with the entry fee of ten dollars required in section seven, may be taxed
3 as costs against the unsuccessful party to the appeal, in the discretion
4 of the board. In the event that the commonwealth, or any official thereof,
5 is the unsuccessful party to an appeal, the costs shall be paid from the
6 state treasury upon certificate of a member of the board in such form as
7 the board may prescribe by regulation. In the event that a subdivision
8 of the commonwealth, or any official thereof, is the unsuccessful party to
9 an appeal, the costs shall be paid from the treasury of such subdivision
10 by the treasurer thereof upon certificate of a member of the board in such
11 form as the board may prescribe by regulation. In the event that costs
12 are taxed against an unsuccessful taxpayer, a member of the board shall
13 certify the amount of the same and they may be recovered in an action of
14 contract by the state treasurer, in the case of a tax assessed by the com-
15 missioner, or by the treasurer of the subdivision of the commonwealth in
16 behalf of which the tax appealed from was assessed.

Costs.
1930, 416, § 1.

1 SECTION 13. The board shall make findings of fact and a decision in
2 each case before it, and report thereon, in writing, except that the findings
3 of fact and report thereon may be omitted in case of a decision dismissing
4 any proceeding upon motion of the appellant. Such report may, in the
5 discretion of the board, contain an opinion in writing, in addition to the
6 findings of fact and decision. All reports, findings and opinions of the
7 board and all evidence received by the board, including a transcript of
8 the stenographic record of the proceedings, shall be open to the inspection
9 of the public; except that the originals of books, documents, records,
10 models, diagrams and other exhibits introduced in evidence before the
11 board may be withdrawn from the custody of the board in such manner
12 and upon such terms as the board may in its discretion prescribe. The
13 decision of the board shall be final as to findings of fact. From any de-
14 cision of the board upon an appeal from a decision or determination of the
15 commissioner, or of a board of assessors, except decisions of the board
16 under sections twenty-five and twenty-six of chapter sixty-five, an appeal
17 as to matters of law may be taken to the supreme judicial court by either
18 party to the proceedings before the board. A claim of appeal shall be
19 filed with the clerk of the board within twenty days after the date of the
20 decision of the board; and within twenty days thereafter, or within
21 such further time as the board may allow, the appealing party shall enter
22 the appeal in said court, in the county where either party lives or has
23 his usual place of business, or in Suffolk county, and shall file with the
24 clerk of said court a copy of the record before the board, shall serve by
25 registered mail upon the adverse party a copy of the claim of appeal and
26 a notice that he has entered said appeal and shall file an affidavit of such
27 service with said clerk. The record in such an appeal shall include copies
28 of the following: — the tax returns and lists, if any, filed by the taxpayer,
29 so far as material to the controversy, the original assessment or other
30 original determination in issue, so far as material, the request for abate-
31 ment or other petition filed with the commissioner or with the board of

Findings, de-
cisions and
opinions, re-
ports of.
Appeals to
supreme
judicial court.
1930, 416, § 1.
1931, 218,
§ 1, 2.

assessors and the decision or determination thereon, the petition upon 32
appeal to the board, the answer to the petition and other pleadings, if 33
any, filed with the board, the report and findings of the board including 34
any opinions filed, all requests for rulings of law and findings of fact and 35
the disposition of each by the board, the claim of appeal to the supreme 36
judicial court and such portion of the stenographic transcript of the evi- 37
dence before the board as may be necessary for the consideration of any 38
question of law raised before the board, which it is alleged that the board 39
has erroneously decided. Each claim of appeal shall set out separately 40
and particularly each error of law asserted to have been made by the 41
board, with precise references to the portions and particulars of the pro- 42
ceedings before the board in which it is alleged that error of law occurred. 43
Upon the entry of the appeal it shall be heard and determined by the full 44
court. Within ten days from the entry of the appeal in the supreme judi- 45
cial court the appealing party shall give the clerk of said court an order in 46
writing to print the record filed with him and the affidavit of service for 47
transmission to the full court, and, thereupon, in the manner provided 48
in the second paragraph of section one hundred and thirty-five of chapter 49
two hundred and thirty-one for carrying questions of law to the full 50
court, the expense shall be estimated, notified to and paid by the appeal- 51
ing party, said record shall be printed and, together with any original 52
papers, transmitted to the full court, and said appeal shall be entered on 53
the docket of the full court. The court shall not consider any issue of 54
law which does not appear to have been raised in the proceedings before 55
the board. The court upon determination of the appeal may make such 56
order as such determination may require including an order for costs. 57
Upon the entry of such order, with or without an order for costs, a copy 58
thereof shall be transmitted by the clerk of said court to the clerk of said 59
board. If the order grants an abatement of a tax assessed by the com- 60
missioner or by the board of assessors of a town and the tax has been 61
paid, the amount abated with interest at the rate of six per cent per 62
annum from the time when the tax was paid, and, if costs are ordered 63
against the commissioner or against a board of assessors, the amount 64
thereof, shall be paid to the taxpayer by the state treasurer or by the town 65
treasurer, as the case may be, and, if unpaid in the latter case, execution 66
therefor may issue against the town as in actions at law. If costs are 67
ordered against a taxpayer execution shall issue therefor. The appeal 68
to the supreme judicial court under this section shall be the exclusive 69
method of reviewing any action of the board, except action under sections 70
twenty-five and twenty-six of chapter sixty-five. For want of prosecu- 71
tion of an appeal in accordance with the provisions of this section the 72
board, or, if the appeal has been entered in the supreme judicial court a 73
justice of that court, may dismiss the appeal. Upon dismissal of an 74
appeal the decision of the board shall thereupon have full force and effect. 75

CHAPTER 59.

ASSESSMENT OF LOCAL TAXES.

SECT.
PERSONS AND PROPERTY SUBJECT TO TAXATION.

1. Poll tax.
2. Property subject to taxation.
3. Real estate to include buildings, etc.
- 3A. Real estate of municipality used for other than public purpose.
4. Property taxable as personal estate.

PERSONS AND PROPERTY EXEMPT FROM TAXATION.

5. Certain property and polls exempted.

PAYMENT IN LIEU OF TAX ON PROPERTY HELD FOR CERTAIN MUNICIPAL PURPOSES.

6. Land held by city or town, etc., in another, for water supply, etc. Valuation.
7. Determination of valuation of land held under preceding section.

EXCISE TAX ON CERTAIN SHIPS OR VESSELS.

8. Interests in ships and vessels in interstate or foreign carrying trade or in fishing liable only to excise.

WHERE AND TO WHOM POLLS AND PROPERTY SHALL BE ASSESSED.

9. Poll tax, where assessed.
10. Determination of legal residence for poll tax.
11. Land, where and to whom assessed.
12. Taxation of mortgaged land.
13. Value of mortgage interest, how determined.
14. Mortgagors and mortgagees joint owners for taxation.
15. Rights of tenant paying taxes.
16. Taxation of real estate of decedent, liability of heirs, etc., and contribution.
17. Taxation of real estate of decedent if title doubtful, etc.
18. Personal estate, where and to whom assessed.
19. Mortgaged, etc., personal property, who deemed owner.

DUTY AND MANNER OF ASSESSING TAXES.

20. State treasurer to send warrants.
21. Duty of assessors.
22. [Repealed.]
23. Amount of annual assessment.
- 23A. Assessors to notify financial officers in cities and towns.

SECT.

- 23B. Notices of abatements.
24. Interest on debt for railroad subscription to be included in assessment.
25. Assessors may add not more than five per cent to amount of annual assessment.
26. State, county and town taxes in one assessment.
27. County commissioners to appoint, etc., in case of neglect by assessors.
28. Liability of town, etc., for tax not assessed or unpaid.

NOTICES AND LISTS.

29. Assessors to issue notices requiring lists, etc.
30. Assessors to furnish blank lists.
31. Lists to be verified by oath.
32. Inspection of lists.
33. Storage warehouses to give certain information to assessors.
34. Statement by mortgagor or mortgagee.
35. Lists to be taken as true, unless, etc.
36. Estimate of value in default of list.
37. Estimate to be conclusive, when.

VALUATION OF PROPERTY.

38. Valuation of property subject to taxation.
39. Valuation of machinery, poles, wires, etc., of telephone and telegraph companies.
40. Assessors to inform commissioner, etc.
41. Telephone and telegraph companies to make returns, etc.
42. Estimate by commissioner in default of return.

BOOKS, LISTS, TABLES AND RETURNS OF ASSESSORS.

43. Valuation and assessment to be made in books, and list to be open to public.
44. List to contain polls and estates of inhabitants, estates of non-residents, etc.
45. Commissioner to furnish books to assessors. Form.
46. Directions to assessors in making lists in books.
47. Assessors to prepare table of aggregates and deposit copy annually with commissioner.

SECT.

48. Same subject. December assessments.
49. Assessors to deposit copies of valuation books with commissioner every third year.
50. Books to contain copies of law, etc.
51. Entry on valuation list of certain exempted property.
52. Statement of assessors on valuation list. Penalty.
- COLLECTOR'S LIST AND WARRANT.
53. Commitment of tax list, for collection.
54. Form of tax list.
55. Warrant, contents and form.
56. New warrant if original lost, etc.

INTEREST AND DISCOUNT ON TAXES.

57. Date for payment of taxes. Interest.
58. No discount to be allowed on taxes.

ABATEMENTS.

59. Abatements.
60. Records of abatements.
61. Conditions of abatement.
62. Prepayment of costs.
63. Notice of decision.
64. Appeal to county commissioners. Election by town to have appeal heard, etc., by board of tax appeals. Proceedings.
65. Appeal to board of tax appeals. Proceedings.
66. [Repealed.]
67. [Repealed.]
68. [Repealed.]
- 68A. [Repealed.]
69. Person receiving abatement to be reimbursed, etc.
70. Certificate of abatement.
71. Abatement of uncollectable taxes, certification to collector.
72. Abatement by authority of commissioner of tax on land of insufficient value to meet charges, etc.
73. Telephone or telegraph company may apply for abatement of commissioner's valuation of property taxable locally, etc.
74. Commissioner to be notified of abatement of local taxes to corporations liable to franchise tax.

OMITTED ASSESSMENTS.

75. Property omitted from assessment to be assessed in December, etc.

SECT.

76. Commissioner may recommend revision of assessments.

REASSESSMENT OF TAXES.

77. Reassessment of taxes.
78. Collection of reassessed taxes.

APPORTIONMENT OF TAXES ON REAL ESTATE SUBSEQUENTLY DIVIDED.

79. Tax on real estate divided after assessment to be apportioned in certain cases.
80. Notice to persons affected by apportionment.
81. Appeal from apportionment.

ILLEGAL ASSESSMENTS.

82. Assessment valid except as to illegal excess.

ADDITIONAL DUTIES OF ASSESSORS.

83. Returns by assessors of names of certain corporations, and assessed value of certain corporate property and motor vehicles. Penalty.
84. Assessors to state cause of diminished valuations.
85. Returns by assessors to commissioner of certain exempted property.
86. Assessors to make returns of exempted property, etc.

RESPONSIBILITY AND COMPENSATION OF ASSESSORS.

87. Responsibility of assessors.
88. [Repealed.]

EVASION OF TAXATION.

89. Proposing, etc., to compromise assessment to keep residence penalized.
90. Evasion of taxation, etc., by concealment or change of residence, etc., penalized.
91. False or fraudulent list penalized.
92. Refusal, etc., of information by keepers of taverns, etc., penalized.

NEGLECT BY ASSESSORS.

93. Failure to assess taxes required by law penalized.
94. Violation of §§ 46-49, 84 penalized.

PERSONS AND PROPERTY SUBJECT TO TAXATION.

1 SECTION 1. In the year nineteen hundred and twenty-four and annu- Poll tax
2 ally thereafter a poll tax of two dollars shall be assessed on every male 1780, 43.
3 inhabitant of the commonwealth above the age of twenty, whether a 1830, 151, § 2.
4 citizen of the United States or an alien. R. S. 7, § 1.
1843, 87.

1844, 145.
G. S. 11, § 1.
P. S. 11, § 1.
1901, 424, § 1.

R. L. 12, § 1.
1909, 490, I, § 1.
7 Mass. 523.

1 Met. 580.
4 Met. 181.
Op. A. G. (1920) 216.

[Rates, 1919-23, see 1919, 283, § 10.]

1 SECTION 2. All property, real and personal, situated within the Property
2 commonwealth, and all personal property of the inhabitants of the subject to
3 commonwealth wherever situated, unless expressly exempt, shall be taxation.
4 subject to taxation. 1780, 43.
1830, 151, § 2.

R. S. 7, § 2. 16 Gray, 292.
G. S. 11, § 2. 6 Allen, 538.
P. S. 11, § 2. 14 Allen, 366.
R. L. 12, § 2. 101 Mass. 317, 329.
1909, 490, I, § 2. 193 Mass. 190.
4 Cush. 1. 200 Mass. 378.

204 Mass. 138.
209 Mass. 450.
214 Mass. 477.
215 Mass. 598.
222 Mass. 51, 331.

227 Mass. 225.
261 Mass. 110, 523.
199 U. S. 194.
232 U. S. 1.
Op. A. G. (1920) 37.

1 SECTION 3. Real estate for the purpose of taxation shall include all Real estate
2 land within the commonwealth and all buildings and other things erected to include
3 thereon or affixed thereto. buildings, etc.
R. S. 7, § 3.
G. S. 11, § 3.
P. S. 11, § 3.
R. L. 12, § 3.
1909, 490,
I, § 3.
1913, 636.
22 Pick. 22.
10 Cush. 514.
101 Mass. 319.

4 Mortgages upon buildings or other things, which with the land upon
5 which they are erected or to which they are affixed are taxable as real
6 estate as defined herein, shall be deemed mortgages of real estate for the
7 purpose of taxation, and shall be taxed under sections eleven to fourteen,
8 inclusive.

102 Mass. 76. 130 Mass. 428.
118 Mass. 386. 147 Mass. 31.
125 Mass. 567. 149 Mass. 238.

153 Mass. 141.
189 Mass. 182.

213 Mass. 54.
238 Mass. 396.

1 SECTION 3A. Real estate owned by or held in trust for the benefit of a Real estate of
2 city or town, if used or occupied for other than public purposes, shall be municipality
3 taxed to the lessee or lessees thereof, or their assigns, or to the occupant used for other
4 or person in possession thereof, in the same manner and to the same than public
5 extent as if the said lessee or lessees or their assigns or the occupant or purpose
6 person in possession were the owners thereof in fee, free of any trust. 1928, 111, § 1.
7 This section shall apply to real estate which shall have been acquired by
8 virtue of the provisions of a will or deed, and held by any city or town
9 in trust for public charitable purposes, whether or not the same is subject
10 to a duly recorded lease which provides that the lessee shall assume or
11 pay all taxes assessed thereon. Payment of the aforesaid taxes shall not
12 be enforced by any lien upon or sale of the said real estate but in the case
13 of any leasehold subject to taxation as aforesaid the interest of the lessee
14 or lessees or their assigns therein may be sold by the collector of taxes of
15 such city or town for the nonpayment of the tax assessed as aforesaid in
16 the manner provided by law for the sale of real estate for nonpayment of
17 local taxes. Said collectors shall have for the collection of taxes assessed
18 under this section all other remedies provided by chapter sixty for the
19 collection of taxes by collectors of cities and towns.

Property taxable as personal estate. 1821, 107, § 2.

SECTION 4. Except as provided in the following section and in chapters sixty-two and sixty-three, personal estate for the purpose of taxation shall include: 1 2 3

1830, 151, § 2.	P. S. 11, § 4	1902, 374, § 4
R 8 7, § 4	1882, 76.	1909, 440, § 2; 490, 1, § 4.
1839, 139, § 2.	1888, 563	1914, 198, § 2.
G 8 11, § 4	R L 12, § 4.	232 U. S. 1.
1881, 284, § 1; 304, § 6.		

15 Wall. 300.
241 Mass. 96.
244 Mass. 40.
265 Mass. 333.

First, Goods, chattels, money and effects, wherever they are; ships and vessels at home or abroad, except as provided in section eight of this chapter and in section sixty-seven of chapter sixty-three. 4 5 6

15 Pick. 376.
10 Met. 334.
106 Mass. 540.
136 Mass. 129.
137 Mass. 111.
138 Mass. 414.
159 Mass. 551.
193 Mass. 190,
522.

Second, Money at interest, and other debts due the person to be taxed more than he is indebted or pays interest for; but not including in such debts due him or indebtedness from him any loan on mortgage of real estate, taxable as real estate, except the excess of such loan above the assessed value of the mortgaged real estate. 7 8 9 10 11

200 Mass. 378.	215 Mass. 493	226 Mass. 268.	3 Op. A. G. 24,
208 Mass. 497.	219 Mass. 238.	245 Mass. 75.	431.
210 Mass. 471.	222 Mass. 331.	252 Mass. 180.	

10 Cush. 128.
10 Allen, 100.
14 Allen, 359
105 Mass. 519.

Third, Public stocks and securities, bonds of railroads and street railways and stocks in turnpikes, bridges and moneyed corporations within or without this commonwealth. 12 13 14

137 Mass. 111.	204 Mass. 138.	215 Mass. 493.
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PERSONS AND PROPERTY EXEMPT FROM TAXATION.

Certain property and polls exempted. R. S. 7, § 5.

SECTION 5. The following property and polls shall be exempt from taxation: 1 2

G. S. 11, § 5.	1 Met. 580	4 Gray. 500.	153 Mass. 141.
P. S. 11, § 5.	4 Met. 564.	1 Allen, 199	170 Mass. 160.
R. L. 12, § 5.	8 Cush. 237.	116 Mass. 193.	208 Mass. 537.
1909, 490, 1, § 5.			

Property of the United States.

First, Property of the United States. 3

1827, 66.	P 8 11, § 5, cl 1.	7 Wall. 16
R 8 7, § 5, cl 1	R L 12, § 5, cl 1	114 U. S. 325.
G. S. 11, § 5, cl. 1.	1909, 490, 1, § 5, cl 1.	

Of the commonwealth:
R 8 7, § 5, cl 1.
1853, 122
G S 11, § 5,
cl. 2.
1867, 101
P 8 11, § 5,
cl. 2.
R L 12, § 5,
cl 2
1904, 385
1909, 490, 1, § 5,
cl. 2, § 12.
1911, 409
1920, 575, § 1.
1921, 389.
1922, 216
1931, 394, § 13.
185 Mass. 325
193 Mass. 387,
586
224 Mass. 31.
1 Op. A. G.
402, 606.
Op. A. G.
(1919) 41.
Op. A. G.
(1920) 241.

Second, Property of the commonwealth, except real estate of which the commonwealth is in possession under a mortgage for condition broken, lands in Boston known as the commonwealth flats, if leased for business purposes, lands and flats lying below high water mark in Provincetown harbor, belonging to the commonwealth of Massachusetts and occupied by private persons by license of the department of public works, together with all wharves, piers and other structures which have been built thereon subsequent to the twenty-second day of May, nineteen hundred and twenty, and those which may hereafter be built on said lands and flats, in conformity with permits or licenses granted therefor by said department, which shall be taxed to the persons holding such permits or licenses, buildings erected by lessees under section twenty-six of chapter seventy-five, structures erected on land in state forests by persons occupying such land under authority conferred by the commissioner of conservation, and property taxable under chapter five hundred and seventy-five of the acts of nineteen hundred and twenty. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18

Of certain institutions and corporations. Exceptions. 1830, 151, § 6. R. S. 7, § 5, cl. 2.

Third, Personal property of literary, benevolent, charitable and scientific institutions and of temperance societies incorporated in the commonwealth, the real estate owned and occupied by them or their officers for the purposes for which they are incorporated, and real estate 19 20 21 22 23

24 purchased by them with the purpose of removal thereto, until such re-^{G S 11, § 5,}
 25 moval, but not for more than two years after such purchase, except as ^{cl 3.}
 26 follows: 1874, 375, § 8.

1878, 214.	129 Mass 178	193 Mass 168
P. S. 11, § 5, cl. 3.	136 Mass. 283.	204 Mass 487.
1882, 217, § 2	142 Mass 24	205 Mass 335
1886, 231.	145 Mass 108, 139.	209 Mass 18, 319.
1888, 158.	147 Mass 396, 427.	210 Mass 414
1889, 465.	153 Mass 185.	212 Mass. 299.
R. L. 12, § 5, cl. 3.	154 Mass 15.	213 Mass 162.
1909, 490, I, § 5, cl. 3.	155 Mass 329.	217 Mass 176.
1914, 518.	160 Mass 409.	218 Mass 14
2 Cusb 611.	167 Mass 505.	219 Mass 46
12 Cusb 54	172 Mass 60	225 Mass. 418.
99 Mass. 59	173 Mass 232.	228 Mass. 196.
101 Mass 319.	174 Mass 144.	232 Mass 141, 402.
104 Mass 470	175 Mass 118, 145, 293.	234 Mass 121.
113 Mass 518.	180 Mass 485.	238 Mass. 396.
114 Mass 337	182 Mass 457	242 Mass 553
116 Mass 181, 189.	185 Mass. 310, 414.	3 Op. A. G 247.
120 Mass 212	188 Mass 409	4 Op. A. G 352.

27 (a) If any of the income or profits of the business of the institution or
 28 corporation is divided among the stockholders or members, or is used or
 29 appropriated for other than literary, educational, benevolent, charitable,
 30 scientific or religious purposes, its property shall not be exempt.

167 Mass. 505.	175 Mass. 293.	258 Mass. 326.
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No exemption if income or profits are distributed, etc.
 145 Mass. 139

31 (b) A corporation coming within the foregoing description shall not
 32 be exempt for any year in which it wilfully omits to bring in to the
 33 assessors the list and statement required by section twenty-nine.

Wilful omission to bring in list prevents exemption.

34 (c) Real or personal property of such an institution or corporation,
 35 occupied or used wholly or partly as or for an insane asylum, insane
 36 hospital, or institution for the insane or for the treatment of mental or
 37 nervous diseases, shall not be exempt unless at least one fourth of all
 38 property so occupied or used, wholly or partly, on the basis of valuation
 39 thereof, and one fourth of the income of all trust and other funds and prop-
 40 erty held for the benefit of such asylum, hospital or institution and not
 41 actually occupied or used by it for such purposes, is used and expended
 42 entirely for the treatment, board, lodging or other direct benefit of in-
 43 digent insane persons, or indigent persons in need of treatment for mental
 44 diseases, as resident patients, without any charge therefor to such persons
 45 either directly or indirectly, except that such a benevolent or charitable
 46 institution or corporation conducting an insane asylum, insane hospital
 47 or institution for the insane to which persons adjudged insane by due
 48 process of law may be committed shall be exempt from taxation on per-
 49 sonal property and buildings so occupied or used, but shall be subject to
 50 taxation on the fair cash value of the land owned by it and used for the
 51 purposes of such asylum, hospital or institution.

Property used for care of insane not exempt unless one fourth devoted to charity, etc. Land not exempt 1922, 451, § 1. 253 Mass. 171, 190.

52 (d) Real estate acquired after May fourth, nineteen hundred and
 53 eleven, by any association or private corporation formed or incorporated
 54 for the care of the insane, shall not be exempt under the preceding para-
 55 graph unless the city council of the city, or the inhabitants of the town, in
 56 which it is situated, have by vote lawfully taken consented to the ac-
 57 quisition of such real estate, to be so exempt.

Real estate acquired without consent of city or town, by institution for insane, not exempt 1911, 400, § 1.

58 Fourth, Real and personal estate of incorporated agricultural societies
 59 and the portions of real estate and buildings of incorporated horticul-
 60 tural societies used for their offices, libraries and exhibitions.

Property of incorporated agricultural societies, etc. 1851, 215.

G S. 11, § 5, cl. 9.	1884, 175.	1909, 490, I, § 5, cl. 4.
P. S. 11, § 5, cl. 9.	R. L. 12, § 5, cl. 4.	116 Mass. 189.

61 Fifth, The real and personal estate belonging to or held in trust for the
 62 benefit of incorporated organizations of veterans of any war in which the
 Of grand army associations, etc.

1882, 217, § 2. 1889, 465 R. L. 12, § 5, cl. 5 1915, 474 1922, 222	United States has been engaged, to the extent of one hundred thousand dollars, if actually used and occupied by such association, and if the net income from said property is used for charitable purposes; but it shall not be exempt for any year in which such association or the trustees holding for the benefit of such association wilfully omit to bring in to the assessors the list and statement required by section twenty-nine.	63 64 65 66 67 68
Of militia unit, etc 1915, 40 1917, 327, § 74, cl. (b).	Sixth, Real estate owned by or held in trust for a regiment, corps, company or other organized unit of the volunteer militia and used exclusively for military purposes, and tangible personal property owned by such an organized unit of the volunteer militia and used by it or its members exclusively for military purposes, for any year in which the trustee or a competent officer of the organization owning such property brings in to the assessors the list and statement required by section twenty-nine.	69 70 71 72 73 74 75
Personal property of fraternal society, etc. 1911, 628, § 30. 1917, 204.	Seventh, Personal property of a fraternal society, order or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing life, sick, accident or other benefits for the members of such society, order or association, or their dependents.	77 78 79 80 81
Personal property of certain retirement or pension associations.	Eighth, Personal property of any retirement association exempted by section thirty-seven of chapter thirty-two.	82 83
1910, 559, § 3.	Ninth, Property of any annuity, pension or endowment association exempted by section forty-one of said chapter.	84 85
Personal property of religious organizations. 1918, 106.	Tenth, Personal property owned by or held in trust within the commonwealth for religious organizations, whether or not incorporated, if the principal or income is used or appropriated for religious, benevolent or charitable purposes.	86 87 88 89
Churches, etc. 1821, 167, § 2. R. S. 7, § 5, cl. 5. 1841, 127. G. S. 11, § 5, cl. 7.	Eleventh, Houses of religious worship owned by, or held in trust for the use of, any religious organization, and the pews and furniture; but the exemption shall not extend to portions of such houses appropriated for purposes other than religious worship or instruction.	90 91 92 93
	1865, 206, § 1. P. S. 11, § 5, cl. 7. R. L. 12, § 5, cl. 7. 1909, 490, 1, § 5, cl. 7. 1 Met. 538.	118 Mass. 164. 127 Mass. 378. 129 Mass. 178. 147 Mass. 396. 155 Mass. 329.
	178 Mass. 404. 185 Mass. 310. 204 Mass. 28. 260 Mass. 129.	
Cemeteries, etc. 1841, 114, § 7.	Twelfth, Cemeteries, tombs and rights of burial, so long as dedicated to the burial of the dead.	94 95
	G. S. 11, § 5, cl. 8. P. S. 11, § 5, cl. 8. R. L. 12, § 5, cl. 8. 1909, 490, 1, § 5, cl. 8.	118 Mass. 354. 150 Mass. 12. 152 Mass. 408. 200 Mass. 378.
Personal property held for cemetery purposes, etc. 1913, 578. 1914, 523. 200 Mass. 129.	Thirteenth, Personal property held by cities, towns, religious societies and cemeteries, whether incorporated or unincorporated, or by the commonwealth or by any corporation, for the perpetual care of graves, cemetery lots and cemeteries, for the placing of flowers upon graves, for the care or renewal of gravestones, monuments or tombs, and for the care and maintenance of burial chapels; but this exemption shall not apply to any such personal property held by a cemetery corporation which distributes any of the income or profits of its business among its stockholders or members, nor shall such property be exempt for any year in which the holder thereof, other than the state treasurer, omits to bring in to the assessors the list and statement required by section twenty-nine.	96 97 98 99 100 101 102 103 104 105 106 107

108 Fourteenth, Any real or personal property of a water company whose
 109 charter exempts such property from taxation, but not of any other water
 110 company unless exempted by clause sixteenth.

1907, 329.

1908, 193.

1909, 490, I, § 11.

192 Mass. 491.

Property ex-
 empted by
 certain cor-
 porate char-
 ters.

111 Fifteenth, Property other than real estate owned by a credit union
 112 incorporated under chapter one hundred and seventy-one; also the cap-
 113 ital stock thereof.

Personal prop-
 erty of credit
 unions.
 1915, 268, § 8.

114 Sixteenth, Property, other than real estate, poles, underground con-
 115 ducts, wires and pipes, and other than machinery used in manufacture or
 116 in supplying or distributing water, owned by Massachusetts savings
 117 banks or co-operative banks, by Massachusetts corporations subject to
 118 taxation under chapter sixty-three except domestic business corporations
 119 as defined in section thirty of said chapter or domestic manufacturing
 120 corporations, as defined in section thirty-eight C of said chapter, or by
 121 foreign corporations subject to taxation under section fifty-eight of said
 122 chapter; also property, other than real estate, poles, underground con-
 123 ducts, wires and pipes, and other than machinery used in the conduct of
 124 the business, owned by domestic business corporations or by foreign
 125 corporations, as defined in section thirty of chapter sixty-three, by do-
 126 mestic manufacturing corporations, as defined in section thirty-eight C
 127 of said chapter, or by foreign manufacturing corporations, as defined in
 128 section forty-two B of said chapter; provided, that the term "machinery
 129 used in the conduct of the business" shall not, as herein used, be deemed
 130 to include stock in trade.

Certain prop-
 erty of certain
 corporations.
 1892, 224, § 12.
 1894, 208, § 15.
 P. S. 13, § 23.
 1890, 63.
 R. L. 14,
 §§ 21, 23.
 1903, 437, § 71
 1909, 490, III,
 §§ 23, 25
 1919, 355,
 §§ 12, 27.
 1920, 415, § 7
 1921, 486, § 16.
 1924, 321, § 1.
 1926, 279, § 1.
 1928, 379, § 3.
 1930, 220, § 10.
 193 Mass. 274.
 194 Mass. 127.
 195 Mass. 385.
 200 Mass. 331.
 217 Mass. 63.
 261 Mass. 110,
 523.
 262 Mass. 439.
 264 Mass. 396.

131 Seventeenth, Property, to the amount of two thousand dollars, of a
 132 widow, of a person above the age of seventy-five, or of any minor whose
 133 father is deceased, who are legal residents of the commonwealth, whether
 134 such property be owned by such persons separately, or jointly, or as
 135 tenants in common; provided, that the whole estate, real and personal,
 136 of such person does not exceed in value the sum of two thousand dollars.
 137 exclusive of property otherwise exempt under the twelfth, twentieth and
 138 twenty-first clauses of this section and exclusive of the value of the mort-
 139 gage interest held by persons other than the person to be exempted in such
 140 mortgaged real estate as may be included in such whole estate; but if
 141 the value of such whole estate being less than two thousand dollars, the
 142 combined value thereof and of such mortgage interest exceeds two thou-
 143 sand dollars, the amount so exempted shall be two thousand dollars. If
 144 the property of a person entitled to such exemption is taxable in more
 145 than one town, or partly without the commonwealth, only such propor-
 146 tion of the two thousand dollars exemption shall be made in any town as
 147 the value of the property taxable in such town bears to the whole of the
 148 taxable property of such person. No property shall be so exempt which
 149 the assessors shall adjudge has been conveyed to such persons to evade
 150 taxation. A person aggrieved by any such judgment may appeal to the
 151 county commissioners or to the board of tax appeals within the time and
 152 in the manner allowed by section sixty-four or sixty-five, as the case may
 153 be.

Property up to
 two thousand
 dollars of cer-
 tain persons.
 1858, 43, § 1.
 G. S. 11, § 5,
 cl. 10
 1878, 206, § 1.
 1880, 143.
 P. S. 11, § 5,
 cl. 10
 1885, 169.
 R. L. 12, § 5,
 cl. 9.
 1909, 490, I,
 § 5, cl. 9.
 1916, 144, § 1.
 1917, 136.
 1924, 17, § 1.
 1927, 11.
 1930, 247;
 416, § 9.
 137 Mass. 266.

154 Eighteenth, The polls and any portion of the estates of persons who
 155 by reason of age, infirmity and poverty are in the judgment of the
 156 assessors unable to contribute fully toward the public charges.

Polls and prop-
 erty of aged,
 infirm and poor
 persons.
 1821, 107, § 6.

R. S. 7, § 5, cl. 8.
 G. S. 11, § 5, cl. 13.

P. S. 11, § 5, cl. 12.
 R. L. 12, § 5, cl. 10.

1909, 490, I, § 5, cl. 10.
 165 Mass. 375.

Certain tangible property situated in other states.

Nineteenth, Merchandise, machinery and animals owned by inhabitants of this commonwealth but situated in another state. 157
158

1909, 516, § 1.

199 U. S. 194.

Wearing apparel, furniture, tools, boats, fishing gear, etc. 1821, 107, § 2.
1829, 27, § 2.
R. S. 7, § 9, cl. 4.
G. S. 11, § 5, cl. 7.
1865, 206, § 1.
P. S. 11, § 5, cl. 6.
R. L. 12, § 5, cl. 11.

Twentieth, The wearing apparel, farming utensils and cash on hand of every person and the tools of his trade if a mechanic, to any amount; and to an amount not exceeding a total value of one thousand dollars in respect to all the articles hereinafter specified in this clause, his household furniture and effects, including jewelry, plate, works of art, musical instruments, radios and garage or stable accessories, used or commonly kept in or about the dwelling which is the place of his domicile, and boats, fishing gear and nets owned and actually used by him in the prosecution of his business if engaged exclusively in commercial fishing. 159
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1909, 490, I, § 5, cl. 11.
1918, 42.
1928, 77, § 1.

1931, 75.
167 Mass. 371.
186 Mass. 140.

227 Mass. 24.
245 Mass. 45.

3 Op. A. G. 66.
Op. A. G. (1917) 41.

Certain animals and fowls. 1821, 107, § 2.
R. S. 7, § 5, cl. 6.

Twenty-first, Mules, horses and neat cattle less than one year old, swine and sheep less than six months old and domestic fowls not exceeding fifteen dollars in value. 168
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G. S. 11, § 5, cl. 11.
P. S. 11, § 5, cl. 11.

1894, 230.
R. L. 12, § 5, cl. 12.

1909, 490, I, § 5, cl. 12.

Property up to two thousand dollars of certain classes, of veterans, their wives and widows. 1894, 315.
1895, 202.
1897, 148.
1898, 370.
R. L. 12, § 5, cl. 13.
1907, 367.
1909, 490, I, § 5, cl. 13.
1915, 144, § 2.
1920, 137.
1930, 416, § 10.

Twenty-second, Property of the following classes of persons who are legal residents of the commonwealth to the amount of two thousand dollars in the case of each person; provided, that only two thousand dollars of the combined estate of any veteran and his wife shall be exempted; and provided, further, that the whole estate, real and personal, of the person so exempted or the combined property of a veteran and his wife does not exceed five thousand dollars, exclusive of the value of the mortgage interest held by persons other than the person to be exempted in such mortgaged real estate as may be included in said whole estate or combined property; but if, said whole estate or combined property being less than two thousand dollars, the sum total thereof and of such mortgage interest exceeds two thousand dollars, the amount so exempted shall be two thousand dollars: 171
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(a) Soldiers and sailors, who served in the military or naval service of the United States in the war of the rebellion, in the Spanish war, in the Philippine insurrection or in the world war, and were honorably discharged or honorably released therefrom, and, by reason of injury received or disease contracted while in such service and in the line of duty, lost the sight of both eyes, or of one eye, the sight of the other having been previously lost, or who lost one or both feet, or one or both hands. 184
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(b) Soldiers and sailors who served and were honorably discharged or honorably released as aforesaid, and who, as the result of disabilities contracted while in such service and in the line of duty, have become permanently incapacitated for the performance of manual labor to an extent equivalent, in the judgment of the assessors, to the loss of a hand or foot. 192
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(c) Wives or widows of soldiers or sailors who would be entitled to exemption under either of the two preceding paragraphs. 198
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If the property of a person entitled to such exemption is taxable in more than one town, or partly without the commonwealth, only such proportion of the two thousand dollars exemption shall be made in any town as the value of the property taxable in such town bears to the whole 200
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204 of the taxable property of such person. The certificate of the granting of
 205 a pension by the United States to a soldier or sailor for an injury or dis-
 206 ability shall, while the pension continues, be sufficient evidence of the
 207 receiving of the injury or disability; but the assessors may receive other
 208 evidence thereof. A person aggrieved by the judgment of the assessors
 209 may appeal to the county commissioners or to the board of tax appeals
 210 within the time and in the manner allowed by section sixty-four or sixty-
 211 five, as the case may be.

212 Twenty-third, Soldiers and sailors who served in the military or naval
 213 service of the United States in the war of the rebellion, in the Spanish war,
 214 in the Philippine insurrection or in the Chinese relief expedition, and
 215 were honorably discharged or honorably released therefrom shall be
 216 assessed for, but shall be exempt at their request from the payment of, a
 217 poll tax, and, if they are not entitled to exemption under the preceding
 218 clause, their property, and the property of their wives or widows, shall
 219 be exempt from taxation to the amount of one thousand dollars in the
 220 case of each person; provided, that the combined exemption of such a
 221 soldier or sailor and his wife shall not exceed one thousand dollars, and
 222 provided, further, that the combined estate, real and personal, of the
 223 person so exempted and of the husband or wife of such person does not
 224 exceed in value the sum of five thousand dollars, exclusive of the value
 225 of the mortgage interest held by persons other than the person to be
 226 exempted in such mortgaged real estate as may be included in said com-
 227 bined estate; but if, said combined estate being less than five thousand
 228 dollars, the sum total thereof and of such mortgage interest exceeds one
 229 thousand dollars, the amount so exempted shall be one thousand dollars.
 230 If the property of a person entitled to such exemption is taxable in more
 231 than one town, or partly without the commonwealth, only such propor-
 232 tion of the one thousand dollars exemption shall be made in any town as
 233 the value of the property taxable in such town bears to the whole of the
 234 taxable property of such person. The widows of soldiers and sailors who
 235 served as aforesaid and who lost their lives in the war of the rebellion,
 236 in the Spanish war, in the Philippine insurrection or in the Chinese relief
 237 expedition, shall be entitled to exemption as specified in the preceding
 238 clause. No exemption shall be made under this clause of the property of
 239 a person not a legal resident of the commonwealth.

240 Twenty-fourth, Bonds, notes or certificates of indebtedness of the
 241 United States.

Polls and property of all other veterans, etc.
 1906, 315,
 § 1, 2.
 1907, 367
 1909, 490, I,
 § 5, cl. 14.
 1910, 333.
 1916, 144, § 3.
 1930, 189.

United States bonds, etc.

1916, 269, § 2 (a).

242 Twenty-fifth, Bonds or certificates of indebtedness of the common-
 243 wealth issued since January first, nineteen hundred and six, and bonds,
 244 notes and certificates of indebtedness of any county, city, town, fire
 245 district, water district, light district or improvement district, in the
 246 commonwealth, issued on or after May first, nineteen hundred and eight,
 247 stating on their face that they are exempt from taxation in Massachusetts.
 248 Twenty-sixth, Land classified under chapter sixty-one, except from
 249 the taxes provided for in said chapter.

Bonds of commonwealth, etc.
 1906, 493.
 1908, 464, § 1;
 594.
 1909, 490, I,
 § 5, cl. 15.
 1914, 83
 264 Mass. 396.

Classified wild or forest lands.
 1878, 131.

1880, 109.	1908, 120.	1918, 257, § 34.
P. S. 11, § 7.	1909, 187; 490, I, § 6.	1919, 5.
R. L. 12, § 6.	1914, 598, §§ 5, 26.	1920, 2.

250 Twenty-seventh, Property the income of which is taxed under chapter
 251 sixty-two, or would be taxable thereunder if the property yielded income.

Property, income of which is taxable.

1916, 269, § 11.	1919, 5; 349, § 4.	1931, 426, § 183.
1918, 257, § 69.	1920, 2.	230 Mass. 503.

Savings banks, etc., deposits. 1862, 224, § 12. 1864, 208, § 15. P. S. 13, § 23.	Twenty-eighth, Deposits in savings banks and other institutions the income of which is exempted from taxation by clause first of subsection (a) of section one of chapter sixty-two.	252 253 254
	R. L. 14, § 21. 1909, 490, III, § 23. 1916, 269, § 2 (a). 1918, 7, 120.	
Shares in certain partnerships, etc.	Twenty-ninth, Shares in partnerships, associations or trusts, in the ease of shares the income of which is taxable under chapter sixty-two.	255 256
	1916, 269, §§ 2 (c), 11. 1919, 5; 349, § 4. 1931, 426, § 183. 1918, 257, § 69. 1920, 2.	
Co-operative bank stock and personal property.	Thirtieth, Capital stock and personal property of co-operative banks.	257 258
	1890, 63. R. L. 14, § 23. 1909, 490, III, § 25.	
Stock in domestic business, manufacturing and insurance corporations. 1919, 355, § 12. 1929, 15, § 1. 1930, 220, § 11.	Thirty-first, Stock in domestic business corporations, as defined in section thirty of chapter sixty-three, stock in domestic manufacturing corporations, as defined in section thirty-eight C of said chapter, and stock in domestic insurance companies subject to taxation under section twenty or twenty-two of said chapter.	259 260 261 262 263
Stock in corporations paying a Massachusetts franchise tax.	Thirty-second, Stock in other corporations, domestic or foreign, subject to taxation under section fifty-eight of said chapter, in those years for which the corporations pay their corporate franchise taxes.	264 265 266
	1864, 208, § 15. 1898, 417. 1909, 490, III, § 64. 1865, 283, § 15. R. L. 14, § 61. 1914, 198, § 6. 1866, 291, § 2. 1906, 463, II, § 216. 1919, 349, § 21. P. S. 11, § 4; 13, § 57. III, § 131; 516, § 20. 1887, 228.	
Intangible property held by fiduciaries.	Thirty-third, Intangible property held by any fiduciary in the commonwealth.	267 268
	1916, 269, § 11. 1919, 349, § 4. 1925, 343, §§ 8, 13. 1918, 257, § 69. 1921, 202. 1926, 222.	
Shares of stock of certain banks. 1925, 343, §§ 8, 13.	Thirty-fourth, Shares of stock of banks, as defined in section one of chapter sixty-three, which banks are taxable under section two of chapter sixty-three.	269 270 271
	1926, 222.	
Motor vehicles taxable under G. L. 60A. 1928, 379, § 4. 1931, 184, § 1.	Thirty-fifth, Motor vehicles subject to taxation under the provisions of chapter sixty A, irrespective of the date of registration thereof under chapter ninety.	272 273 274

PAYMENT IN LIEU OF TAX ON PROPERTY HELD FOR CERTAIN MUNICIPAL PURPOSES.

Land held by city or town, etc., in another, for water supply, etc.—Valuation. 1893, 352, §§ 1, 2. R. L. 12, §§ 10, 11. 1908, 499, § 5. 1909, 243; 490, I, §§ 8, 9. 1911, 353, § 3. 1914, 629, § 1. 1918, 52, § 1. 180 Mass. 32.	SECTION 6. Property held by a city, town or district, including the metropolitan water district, in another city or town for the purpose of a water supply, the protection of its sources, or of sewage disposal, if yielding no rent, shall not be liable to taxation therein; but the city, town or district so holding it shall, annually in September, pay to the city or town where it lies an amount equal to that which such city or town would receive for taxes upon the average of the assessed values of the land, which shall not include buildings or other structures except in the case of land taken for the purpose of protecting the sources of an existing water supply, for the three years last preceding the acquisition thereof, the valuation for each year being reduced by all abatements thereon. Any part of such land or buildings from which any revenue in the nature of rent is received shall be subject to taxation.	1 2 3 4 5 6 7 8 9 10 11 12 13
	If such land is part of a larger tract which has been assessed as a whole, its assessed valuation in any year shall be taken to be that proportional part of the valuation of the whole tract which the value of the land so	14 15 16

17 acquired, exclusive of buildings, bore in that year to the value of the
18 entire estate.

1 SECTION 7. The assessors of a city or town where land is acquired by
2 such other city, town or district for water supply or sewage disposal shall,
3 within one year after such acquisition, determine the average valuation
4 of such land under the preceding section, and certify the amount so
5 determined to such other city, town or district. The mayor or selectmen,
6 the commissioners or prudential committee of a district, or the metro-
7 politan district commission, within six months after receipt of said
8 certificate, may appeal from such determination to the board of tax ap-
9 peals; and said board shall determine the valuation in the manner
10 provided in the preceding section, and section sixty-five, so far as appli-
11 cable, shall govern such appeal.

12 If land within any city or town shall have been taken from it for said
13 purposes, and for any one of the three years prior to the taking shall have
14 been used for any public purpose, and for that reason no taxes shall have
15 been collected thereon, the city or town and the board or officer having
16 charge of the land so taken may within six years after the taking agree
17 as to the value of the land upon which the annual payment is to be made
18 as aforesaid from the time of the taking, and if they cannot agree the
19 board or officer shall notify the city or town thereof, and thereupon the
20 value shall be determined by the board of tax appeals under said section
21 sixty-five, and said notice shall be deemed to be the notice referred to in
22 said section sixty-five. This and the preceding section shall apply to
23 property held for the purposes of the metropolitan water supply, except
24 property situated in Ashland, Boylston, Holden, Hopkinton, Sterling or
25 West Boylston.

Determination
of valuation of
land held
under pre-
ceding section.
1893, 352,
§ 2, 3.
R. L. 12, § 12.
1903, 161
1909, 213; 490,
L. § 10.
1914, 629, § 2.
1918, 52, § 2
1930, 416, § 11.

EXCISE TAX ON CERTAIN SHIPS OR VESSELS.

1 SECTION 8. Individuals or partnerships owning an interest in any
2 ship or vessel which has during the period of its business in the year pre-
3 ceding April first been engaged in interstate or foreign carrying trade or
4 engaged exclusively in fishing and documented and carrying "papers"
5 under the laws of the United States shall annually, within thirty days
6 after said date, make a return on oath to the assessors of the town where
7 such individuals reside or where such partnerships are taxable under
8 clause seventh of section eighteen, respectively, setting forth the name
9 of the ship or vessel, their interest therein, and the value of such interest.
10 If the assessors are satisfied of the truth of the return they shall assess
11 an excise tax of one third of one per cent upon such interest; and the
12 person or partnership making such return shall be exempt from any tax
13 upon said interest other than that assessed under this section.

Interests in
ships and
vessels in
interstate
or foreign
carrying trade
or in fishing
liable only to
excise.
1881, 284,
§§ 1-3, 5, 6.
P. S. 11,
§§ 8-10.
1887, 373.
1889, 286.
1891, 116.
1893, 149.
1898, 453.
R. L. 12,
§§ 7-9.
1902, 374,
§ 3, 375.
1909, 490, L. § 7.

1918, 473, § 2.

1928, 143, § 1.

195 Mass. 385.

198 U. S. 299.

WHERE AND TO WHOM POLLS AND PROPERTY SHALL BE ASSESSED.

1 SECTION 9. The poll tax shall be assessed upon each person liable
2 thereto in the town of which he is an inhabitant on April first in each
3 year, except in cases otherwise provided for by law. The poll tax of
4 minors liable to taxation shall be assessed to, and in the place of the
5 residence of, the parents or guardians having control of the persons of
6 such minors; but if a minor has no parent or guardian within the com-
7 munity, he shall be personally taxed for his poll, as if he were of full
8 age. The poll tax of every other person under guardianship shall be

Poll tax, where
assessed.
1780, 43.
1821, 107, § 3.
1830, 151, § 3.
R. S. 7, § 6.
G. S. 11, § 6.
1876, 225,
§ 1, 7.
P. S. 11, § 11.
R. L. 12, § 13.
1909, 440, § 2;
490, L. § 13.
1914, 198, § 2.

5 Pick. 269.
1 Met. 242.
250
3 Met. 199.
4 Met. 181.
9 Cush. 525.
11 Cush. 362.
12 Cush. 44, 52.
2 Gray, 484.

assessed to his guardian in the place where the guardian is taxed for his own poll. In a city each inhabitant liable to assessment shall be assessed in the ward where he dwells; but no tax shall be invalid by reason of a mistake of the assessors in ascertaining the ward where a person should be assessed.

3 Gray, 493.	4 Allen, 462.	126 Mass. 161, 166.
7 Gray, 299.	12 Allen, 111, 598.	132 Mass. 89.
9 Gray, 357.	111 Mass. 382.	144 Mass. 244.
12 Gray, 21.	112 Mass. 384.	157 Mass. 542.
16 Gray, 337.	124 Mass. 54, 132.	

Determination
of legal resi-
dence for poll
tax
1850, 276.
G. S. 11, § 7.
P. S. 11, § 12.
R. L. 12, § 14.
1909, 440, § 2;
490, 1, § 14.
1914, 198, § 2.

SECTION 10. A person liable to a poll tax, who is in a town on April first, and who, when inquired of by the assessors thereof, refuses to state his legal residence, shall for the purpose of taxation be deemed an inhabitant thereof. If he designates another town as his legal residence, said assessors shall notify the assessors of such other town, who shall thereupon tax him as an inhabitant thereof; but he shall not be exempt from the payment of a tax legally assessed upon him in his legal domicile.

Land, where
and to whom
assessed
1780, 43.
1830, 151, § 3.
R. S. 7.
§§ 7, 10, el. 8.
G. S. 11,
§§ 8, 13.
1881, 304, § 3.
P. S. 11,
§§ 13, 22.
1889, 84.
R. L. 12,
§§ 15, 25.
1902, 113.
1909, 440, § 2;
490, 1, §§ 15, 25.
1911, 409.
1914, 198, § 2.
1915, 237, § 23.
1 Cush. 142.
7 Gray, 125,
277.
4 Allen, 57.
110 Mass. 47.
112 Mass. 535.

SECTION 11. Taxes on real estate shall be assessed, in the town where it lies, to the person who is either the owner or in possession thereof on April first, and the person appearing of record, in the records of the county, or of the district, if such county is divided into districts, where the estate lies, as owner on April first, even though deceased, shall be held to be the true owner thereof, and so shall the person so appearing of record under a tax deed not invalid on its face. Real estate held by a religious society as a ministerial fund shall be assessed to its treasurer in the town where the land lies. Buildings erected on land leased by the commonwealth under section twenty-six of chapter seventy-five shall be assessed to the lessees, or their assignees, at the value of said buildings. Except as provided in the three following sections, mortgagors of real estate shall for the purpose of taxation be deemed the owners until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

117 Mass. 233.	140 Mass. 269.	209 Mass. 111.
129 Mass. 377, 559.	152 Mass. 203, 372.	213 Mass. 239.
132 Mass. 89.	175 Mass. 293.	216 Mass. 8.
138 Mass. 434.	180 Mass. 67.	217 Mass. 520.
139 Mass. 19.	192 Mass. 278.	237 Mass. 378.
143 Mass. 337.	193 Mass. 287.	245 Mass. 75.
147 Mass. 31.	200 Mass. 468.	254 Mass. 516.
148 Mass. 508.	208 Mass. 537.	

Taxation of
mortgaged
land
1881, 304, § 1.
P. S. 11, § 14.
1882, 175, § 3.
R. L. 12, § 16.
1909, 490, 1,
§ 16.
137 Mass. 80.
139 Mass. 551.
179 Mass. 41,
74.
185 Mass. 398.
193 Mass. 190.
198 Mass. 119.
207 Mass. 370.
223 Mass. 134.
226 Mass. 268.
245 Mass. 75.

SECTION 12. If any person has an interest in real estate, not exempt from taxation under section five, as holder of a duly recorded mortgage given to secure the payment of a fixed and certain sum of money, the amount of his interest as mortgagee shall be assessed as real estate in the town where the land lies; and the mortgagor shall be assessed only for the value of such real estate after deducting the assessed value of the interest therein of such mortgagee. If such estate is situated in two or more towns, the amount of the mortgagee's interest to be assessed in each town shall be proportioned to the assessed value of the mortgaged real estate in the respective towns, deducting therefrom the taxable amount of prior mortgages, if any, thereon.

Op. A. G. (1920) 146.

Value of
mortgage
interest, how
determined
1881, 304, § 2.
P. S. 11, § 15.
R. L. 12, § 17.

SECTION 13. If the holder of such mortgage fails to file in the assessors' office a sworn statement of all his estate liable to taxation under the preceding section, including a statement of the full amount remaining unpaid upon such mortgage and of his interest therein, the amount stated

5 in the mortgage shall be conclusive as to the extent of such interest; but
 6 his interest in such real estate shall not be assessed at a greater sum than
 7 the fair cash valuation of the land and the structures thereon or affixed
 8 thereto; and the amount of a mortgage interest in an estate divided
 9 after the creation of such mortgage need not be apportioned upon the
 10 several parts of such estate, except as provided in sections seventy-nine
 11 to eighty-one, inclusive. Whenever, in any case of mortgaged real es-
 12 tate, such statement is not brought in, no tax on such real estate for
 13 the year then current shall be invalidated for the reason that a mort-
 14 gagee's interest therein has not been assessed to him.

1902, 112.
 1909, 490, 1,
 § 17.
 179 Mass. 41.
 193 Mass. 190.
 198 Mass. 149.
 226 Mass. 268.
 245 Mass. 75.

1 SECTION 14. Mortgagors and mortgagees referred to in the two pre-
 2 ceding sections shall for the purpose of taxation be deemed joint owners
 3 until the mortgagee takes possession; and until such possession is taken
 4 by a first mortgagee, an assessor or the collector of taxes, upon applica-
 5 tion, shall give to any such mortgagee or mortgagor a tax bill showing the
 6 whole tax on the mortgaged estate and the amount included in the valu-
 7 ation thereof as the interest of each mortgagee and of the mortgagor
 8 respectively. If the first mortgagee is in possession, he shall be deemed
 9 sole owner; and any other mortgagee in possession shall be deemed joint
 10 owner with prior mortgagees.

Mortgagors
 and mortgagees
 joint owners
 for taxation
 1881, 204, § 3.
 P. S. 11, § 16.
 R. L. 12, § 18.
 1909, 490,
 I, § 18
 147 Mass. 80.
 179 Mass. 41.
 193 Mass. 190.
 223 Mass. 134.
 226 Mass. 268.
 245 Mass. 75.

1 SECTION 15. If a tenant paying rent for real estate is taxed therefor,
 2 he may retain out of his rent the taxes paid by him, or may recover the
 3 same in an action against his landlord, unless there is a different agree-
 4 ment between them.

Rights of
 tenant paying
 taxes.
 1821, 107, § 3.
 1830, 151, § 3.

R. S. 7, § 8.	R. L. 12, § 20.	193 Mass. 387.
G. S. 11, § 9.	1909, 490, 1, § 20.	214 Mass. 134.
P. S. 11, § 17.	189 Mass. 182.	263 Mass. 255.

1 SECTION 16. The undivided real estate of a deceased person may be
 2 assessed to his heirs or devisees, without designating any of them by
 3 name, until they have given notice to the assessors of the division of the
 4 estate and of the names of the several heirs or devisees; and each heir
 5 or devisee shall be liable for the whole of such tax, and when paid by
 6 him he may recover of the other heirs or devisees their respective pro-
 7 portions thereof.

Taxation of
 real estate
 of decedent,
 liability of
 heirs, etc., and
 contribution.
 R. S. 7, § 12.
 G. S. 11, § 10.
 P. S. 11, § 18.
 R. L. 12, § 21.
 1909, 490, 1,
 § 21.

142 Mass. 586.	149 Mass. 270.	152 Mass. 219.	209 Mass. 111.
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1 SECTION 17. The real estate of a person deceased, the right or title
 2 to which is doubtful or unascertained by reason of litigation concerning
 3 the will of the deceased or the validity thereof, may be assessed in general
 4 terms to his estate, and said tax shall constitute a lien upon the land so
 5 assessed and may be enforced by sale of the same or a part thereof, as
 6 provided for enforcing other liens for taxes on real estate.

Taxation of
 real estate of
 decedent if
 title doubtful,
 etc.
 1847, 226.
 G. S. 11, § 11.
 P. S. 11, § 19.
 R. L. 12, § 22

1909, 490, 1, § 22.	149 Mass. 270.
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[For assessment of real estate held under tax title by city or town, see Chap. 60, § 78.]

1 SECTION 18. All taxable personal estate within or without the com-
 2 monwealth shall be assessed to the owner in the town where he is an
 3 inhabitant on April first, except as provided in chapter sixty-three and in
 4 the following clauses of this section:

Personal
 estate, where
 and to whom
 assessed.
 1830, 151, § 2
 R. S. 7, §§ 9, 10.

1839, 139, § 2.	1909, 440, § 2; 490, 1, § 23.	9 Gray, 433.
1855, 106.	1911, 383, § 2.	16 Gray, 292, 337.
1859, 258.	1914, 198, § 2.	14 Allen, 306.
G. S. 11, § 12.	1916, 271.	124 Mass. 132.
P. S. 11, § 20.	1918, 129.	126 Mass. 161, 166.
1882, 165.	1 Met. 242, 250.	181 Mass. 162, 195.
1894, 490.	11 Cush. 362.	217 Mass. 286.
R. L. 12, § 23.	3 Gray, 493.	232 U. S. 1.

Tangible personal property except trade or fishing vessels
1821, 167,
§ 3, 5,
1830, 151, § 2.

First, All tangible personal property, including that of persons not inhabitants of the commonwealth, except ships and vessels used in or designed for use in carrying trade or commercial fishing, shall, unless exempted by section five, be taxed to the owner in the town where it is situated on April first.

R. S. 7, § 10, els. 1, 3.	10 Cush. 65.	150 Mass. 155.
1837, 86.	6 Gray, 579.	151 Mass. 242.
1839, 139, §§ 1, 2.	7 Gray, 277.	152 Mass. 594.
1857, 301, § 1.	13 Gray, 488.	158 Mass. 461.
1859, 114.	16 Gray, 292.	161 Mass. 8, 326.
G. S. 11, § 12, els. 1, 3.	4 Allen, 462.	180 Mass. 40.
P. S. 11, § 20, els. 1, 3.	8 Allen, 330.	187 Mass. 168.
R. L. 12, § 23, els. 1, 3.	101 Mass. 329.	193 Mass. 545.
1903, 437, § 71.	103 Mass. 278.	195 Mass. 385.
1909, 490, 1, § 23, els. 1, 3;	104 Mass. 587.	200 Mass. 331.
516, § 2.	109 Mass. 270.	214 Mass. 477.
1916, 271.	125 Mass. 348.	226 Mass. 64.
1918, 129, § 1, cl. 1.	131 Mass. 124.	227 Mass. 24.
1929, 40, § 1.	135 Mass. 258.	229 Mass. 313, 494.
4 Met. 181.	137 Mass. 332.	234 Mass. 121.
4 Cush. 543.	139 Mass. 17, 266.	265 Mass. 333.

Machinery.
1830, 151, § 2.
R. S. 7, § 10,
cl. 2
1837, 86.
G. S. 11, § 12,
cl. 2.
P. S. 11, § 20,
cl. 2.
1887, 125.
1889, 446.
1894, 304.
R. L. 12, § 23,
cl. 2.
1907, 229.
1908, 193.
1909, 490, 1,
§ 11, 23, cl. 2;
516, § 2.
1918, 129, § 1,
cl. 2.
1924, 321, § 2.
1930, 220, § 12.
4 Met. 181.

Second, Machinery employed in any branch of manufacture or in supplying or distributing water, including machines used or operated under a stipulation providing for the payment of a royalty or compensation in the nature of a royalty for the privilege of using or operating the same, and all tangible personal property within the commonwealth leased for profit, or, in the case of domestic business and foreign corporations as defined in section thirty of chapter sixty-three and domestic manufacturing corporations as defined in section thirty-eight C of said chapter and foreign manufacturing corporations as defined in section forty-two B of said chapter, machinery used in the conduct of their business, shall be assessed where such machinery or tangible personal property is situated to the owner or any person having possession of the same on April first.

13 Gray, 488.	152 Mass. 372.	181 Mass. 211.
12 Allen, 75, 316.	164 Mass. 142.	193 Mass. 274.
100 Mass. 183.	167 Mass. 517.	262 Mass. 439.
135 Mass. 258.	170 Mass. 354.	264 Mass. 396.
150 Mass. 155.		

Personal property of deceased persons.
R. S. 7, § 10,
cl. 7.
1848, 235.
1852, 234.
G. S. 11,
§ 12, cl. 7.

Third, Personal property of deceased persons, before the appointment of an executor or administrator, shall be assessed in general terms to the estate of the deceased, and the executor or administrator subsequently appointed shall be liable for the tax so assessed as though assessed to him.

1878, 189, § 2.	5 Pick. 236.	154 Mass. 143.
P. S. 11, § 20, cl. 7.	4 Cush. 1.	161 Mass. 8.
R. L. 12, § 23, cl. 7.	6 Allen, 277.	176 Mass. 77, 384.
1909, 490, 1, § 23, cl. 7.	97 Mass. 321.	211 Mass. 178.
1918, 129, § 1, cl. 3.	102 Mass. 348.	215 Mass. 329, 598.
	149 Mass. 62.	

Personal property of joint owners.
1882, 165.
R. L. 12,
§ 23, cl. 9.

Fourth, Personal property of joint owners or tenants in common other than partners, may be assessed to one or more of such owners, and any person so assessed shall be liable for the whole tax.

1909, 490, 1, § 23, cl. 9.

1918, 129, § 1, cl. 4.

Certain conduits, poles, wires and pipes.
1902, 342, § 1.
1909, 439; 490,
1, § 23, cl. 10.
1913, 458.
1918, 129, § 1,
cl. 5.
193 Mass. 274.
213 Mass. 54.
227 Mass. 547.

Fifth, Underground conduits, wires and pipes laid in public ways, except such as are owned by a street railway company, and poles, underground conduits and pipes, together with the wires thereon or therein laid in or erected upon private property or in a railroad location by any corporation, except poles, underground conduits, wires and pipes of a railroad corporation laid in or erected upon the location of such railroad and except poles, underground conduits, wires and pipes laid in or erected upon any right of way owned by a street railway company, shall be assessed to the owners thereof in the towns where laid or erected.

40 Sixth, Partners, whether residing in the same or different towns, shall
 41 be jointly taxed under their firm name, for all tangible personal property
 42 belonging to the partnership, except ships and vessels used in or designed
 43 for use in carrying trade or commercial fishing, in the place where such
 44 property is situated. Each partner shall be liable for the whole tax.

Partnership
 property.
 R. S. 7, § 13.
 1859, 114
 G. S. 11, § 15.
 P. S. 11, § 24.
 R. L. 12, § 27.
 1909, 490, 1,
 § 27.

1925, 64.	130 Mass. 143.	172 Mass. 383, 464.
1929, 40, § 1.	133 Mass. 499.	215 Mass. 1, 31.
9 Cush. 298.	137 Mass. 227.	219 Mass. 238.
10 Gray, 97.	140 Mass. 346.	241 Mass. 96.
103 Mass. 519.	163 Mass. 414.	

45 Seventh, Ships or vessels, other than yachts and other pleasure craft,
 46 owned by a partnership, shall be assessed to the several partners in their
 47 places of residence, if within the commonwealth, proportionally to their
 48 interests therein; but the interests of the several partners residing without
 49 the commonwealth shall be assessed to the partnership in the place where
 50 its business is carried on.

Certain ships,
 etc., owned by
 partnership.
 1859, 114
 G. S. 11, § 16.
 1870, 328, § 1.
 P. S. 11, § 25.
 R. L. 12, § 28.
 1909, 490, 1,
 § 28.

1928, 143, § 2.	1929, 40, § 1.	10 Gray, 97.	125 Mass. 348.
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1 SECTION 19. Personal property mortgaged or pledged shall for the
 2 purpose of taxation be deemed the property of the party in possession
 3 thereof on April first.

Mortgaged,
 etc., personal
 property, who
 deemed
 owner.

R. S. 7, § 11.	1909, 440, § 2;	10 Allen, 100
G. S. 11, § 14.	490, 1, § 26	193 Mass. 190, 522.
P. S. 11, § 23.	1914, 198, § 2.	224 Mass. 181.
R. L. 12, § 26.	10 Met. 334.	

DUTY AND MANNER OF ASSESSING TAXES.

1 SECTION 20. When a state tax is to be assessed, or an assessment is
 2 required to reimburse the commonwealth under section forty-one of
 3 chapter forty-four, for expenses incurred under sections thirty-five to
 4 forty, inclusive, of said chapter, the state treasurer shall send his war-
 5 rants for the assessment thereof by mail to the assessors of the several
 6 towns.

State treasurer
 to send war-
 rants.
 R. S. 7, § 14.
 G. S. 11, § 17.
 1867, 166
 P. S. 11, § 31.
 R. L. 12, § 34.

1909, 490, I, § 34	1910, 598, § 6.
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1 SECTION 21. The assessors shall assess state taxes including all law-
 2 ful assessments by the commonwealth for which they receive warrants
 3 under the preceding section, county taxes duly certified to them, town
 4 taxes voted by their respective towns and all taxes duly voted and cer-
 5 tified by fire, water, light and improvement districts therein. Such
 6 district taxes shall be subject to the law relative to the assessment and
 7 collection of town taxes, so far as applicable. Except as otherwise pro-
 8 vided, all taxes shall be assessed as of April first.

Duty of
 assessors.
 1785, 50,
 §§ 4, 8.
 1821, 107, § 7.
 R. S. 7, § 16.
 G. S. 11, § 18.
 1870, 352, § 2.
 P. S. 11, § 32.
 R. L. 12, § 35.
 1909, 440, § 1;
 490, 1, § 35.
 1914, 198, § 1.

1919, 319, §§ 1, 2.	12 Met. 178	217 Mass. 520.	258 Mass. 4.
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[Separate list of district taxes, see § 53]

1 SECTION 22. [REPEALED, 1925, 343, § 9. (But see 1925, 343, § 13, as
 2 amended by 1926, 222.)]

1 SECTION 23. The assessors shall annually assess taxes to an amount
 2 not less than the aggregate of all amounts appropriated, granted or
 3 lawfully expended by their respective towns since the last preceding
 4 annual assessment and not provided for therein, of all amounts required
 5 by law to be raised by taxation by said towns during said year, of all
 6 debt and interest charges matured and maturing during the year and not
 7 otherwise provided for, of all amounts necessary to satisfy final judg-
 8 ments against said towns, and of all abatements granted on account of the

Amount of
 annual assess-
 ment.
 1875, 209, § 1.
 P. S. 11, § 34.
 R. L. 12, § 37.
 1909, 490, 1,
 § 37.
 1916, 269, § 24.
 1918, 28.
 1921, 348.
 1928, 379, § 5.
 1931, 428, § 3.
 10 Allen, 571.

233 Mass. 6.
258 Mass. 139.
268 Mass. 480.

tax assessment of any year in excess of the overlay of that year and not otherwise provided for; but such assessments shall not include liabilities for the payment of which towns have lawfully voted to contract debts. The assessors may deduct from the amount required to be assessed the amount of all estimated receipts of their respective towns lawfully applicable to the payment of the expenditures of the year, excluding sums to be received from the commonwealth or county for highway purposes and excluding estimated receipts from loans and taxes but including, however, estimated receipts from the excise levied under chapter sixty A and receipts estimated by the commissioner under section twenty-five A of chapter fifty-eight. Deductions made by the assessors on account of estimated receipts other than those estimated by the commissioner as aforesaid shall not exceed the aggregate amount of actual receipts received during the preceding financial year from the same sources, and deductions shall not be made on account of available funds, unless in either case approval in writing shall have been obtained from the commissioner.

Assessors to notify financial officers in cities and towns.
1922, 118.

SECTION 23A. The assessors, as soon as the tax rate is fixed for the year, shall notify the auditor or similar officer in cities and in towns, the town accountant, if any, otherwise the town treasurer, of the amount to be raised for state, county, and city or town purposes, and for overlay, specifying the amounts to be levied on real and personal property, on polls, and to accrue from estimated receipts.

Notices of abatements.
1922, 118.

SECTION 23B. The assessors shall, as often as once a month, notify the auditor or similar officer in cities and in towns, the town accountant, if any, otherwise the town treasurer, of the amounts of abatements of taxes, specifying whether granted on account of assessments on property or on polls.

Interest on debt for railroad subscription to be included in assessment.
1876, 133, § 3.
P. S. 11, § 35.
R. L. 12, § 38.
1909, 490, 1, § 38.

SECTION 24. The assessors of a town owing debts incurred to obtain funds for subscriptions for the capital stock and securities of a railroad corporation shall annually assess, in addition to the other amounts required by law, an amount sufficient to pay the excess of such interest payable by such town over any income received from such stock or securities.

Assessors may add not more than five per cent to amount of annual assessment.
1785, 50, § 11.
1828, 143, § 4.
R. S. 7, § 28.
G. S. 11, § 32.
P. S. 11, § 49.
1887, 226.
1893, 445.
R. L. 12, § 55.
1909, 490, 1, § 54.
1913, 649; 823.
1918, 257, § 37.
1919, 5.
1920, 2.

SECTION 25. The assessors in any city or town, except Boston, may add to the amount to be assessed not more than five per cent thereof, although the limit of taxation as fixed in any city may by such overlay be exceeded, such amount to be used only for avoiding fractional divisions of the amount to be assessed in the apportionment thereof and for abatements granted on account of polls or property assessed in the year in which the overlay is made or of taxes in the warrant of which the overlay is a part; but any balance in the overlay account, in excess of the amount of the warrant remaining to be collected or abated, shall be transferred to a reserve fund to be used for extraordinary or unforeseen expenses.

126 Mass. 97.

State, county and town taxes in one assessment.

SECTION 26. The assessors may include state, county, city and town taxes, or any two of them, in the same assessment.

1785, 50, § 14.
1823, 138, § 2.
R. L. 7, § 25.

G. S. 11, § 29.
P. S. 11, § 46.

R. L. 12, § 52.
1909, 490, 1, § 51.

1 SECTION 27. If assessors neglect to assess a state, county, city, town
2 or district tax required by law, the county commissioners shall forthwith
3 appoint other persons in accordance with section twenty-seven of chap-
4 ter forty-one.

1785, 50, § 1
R. S. 7, §§ 17, 18.

G. S. 11, § 19
P. S. 11, § 36

R. L. 12, § 39
1909, 490, I, § 39.

[Penalty, § 93.]

County com-
missioners to
appoint, etc.,
in case of
neglect by
assessors.

1 SECTION 28. If a state or county tax is not assessed, and paid by the
2 town, within the time prescribed, and remains unpaid at the expiration
3 of five months after the receipt of a warrant from the state treasurer or
4 of a certificate from the county commissioners requiring its assessment,
5 the amount of the tax may be recovered of the town in contract by
6 the state treasurer or the treasurer of the county respectively.

P. S. 11, § 37.
R. L. 12, § 40.

1909, 490, I, § 40.
1918, 257, § 140.

1919, 5,
1920, 2.

Liability of
town, etc., for
tax not
assessed or
unpaid
1851, 64,
§§ 2, 3
R. S. 8, § 37.
G. S. 11, § 20.

NOTICES AND LISTS.

1 SECTION 29. Assessors before making an assessment shall give season-
2 able notice thereof to all persons subject to taxation in their respective
3 towns. Such notice shall be posted in one or more public places in each
4 town, or shall be given in some other sufficient manner, and shall require
5 the said persons to bring in to the assessors, before a date therein specified,
6 in case of residents a true list, containing the items required by the com-
7 missioner in the form prescribed by him under section five of chapter
8 fifty-eight of all their polls and personal estate not exempt from taxation,
9 except intangible property the income of which is included in a return
10 filed the same year in accordance with sections twenty-two to twenty-
11 five, inclusive, of chapter sixty-two, and in case of non-residents and
12 foreign corporations such a true list of all their personal estate in that
13 town not exempt from taxation, and may or may not require such list to
14 include their real estate subject to taxation in that town. It shall also
15 require all persons, except corporations making returns to the commis-
16 sioner of insurance as required by section thirty-eight of chapter one
17 hundred and seventy-six, to bring in to the assessors before a date therein
18 specified, which shall not be later than June first following, unless the
19 assessors for cause shown extend the time to July first, true lists, simi-
20 larly itemized, of all real and personal estate held by them respectively for
21 literary, temperance, benevolent, charitable or scientific purposes on
22 the day first preceding, or at the election of any such corporation on the last
23 day of its fiscal year last preceding said April first, and to state the amount
24 of receipts and expenditures for said purposes during the year last pre-
25 ceding said days. The notice shall contain the provisions of section
26 thirty-four. The assessors may require from any person claiming under
27 the seventeenth, eighteenth, twenty-second or twenty-third clause of
28 section five an exemption from taxation, a full list of all such person's
29 taxable property, both real and personal.

262 Mass. 439.

271 Mass. 1.

189 U. S. 255.

Op. A. G. (1917) 114.

Assessors to
issue notices
requiring
lists, etc.
1785, 50, § 9.
R. S. 7, § 19.
G. S. 11, § 22.
1877, 160, § 1.
P. S. 11, § 38.
1882, 175, § 2;
217, §§ 1, 4.
1888, 323.
R. L. 12, § 41.
1903, 157.
1909, 440, § 2,
3; 490, I, § 41.
1914, 198, § 5.
1918, 257, § 36.
1919, 5.
1920, 2.
1931, 150, § 1.
12 Met. 211.
8 Cush. 55.
5 Gray, 365.
8 Gray, 569.
1 Allen, 199.
101 Mass. 87.
131 Mass. 424.
135 Mass. 566.
137 Mass. 266.
154 Mass. 143.
160 Mass. 217.
166 Mass. 298.
179 Mass. 486.
186 Mass. 351.
193 Mass. 168.
200 Mass. 82.
201 Mass. 320.
205 Mass. 558.
213 Mass. 162.
214 Mass. 79.
241, 348.
215 Mass. 329.
216 Mass. 508.
219 Mass. 730.
221 Mass. 417.
228 Mass. 231.
252 Mass. 141,
402.
233 Mass. 190.
249 Mass. 167.

1894, 294.

R. L. 12, § 42.

1909, 490, I, § 42; 515.

216 Mass. 508.

Assessors to
furnish blank
lists.
1882, 217, § 3.

1 SECTION 30. The assessors shall furnish a blank list prescribed by
2 the commissioner under section five of chapter fifty-eight to any person
3 liable to taxation.

1 SECTION 31. The assessors shall in all cases require a person bringing
2 in a list to make oath that it is true. The oath may be administered by

Lists to be
verified by
oath.

1785, 50, § 9.
R. S. 7, § 20.
G. S. 11, § 23.
P. S. 11, § 39.
1891, 381.
R. L. 12, § 43.
1909, 490,
1, § 43.

any of the assessors or by their secretary or head clerk, or by any notary public, whose jurat shall be duly authenticated by his seal, or, in this commonwealth, by a justice of the peace. So much of this section as relates to administering the oath shall not apply to Boston.

1916, 130, § 1; 294.	1 Allen, 199 131 Mass. 424.	193 Mass. 168. 215 Mass. 329.	232 Mass. 402. 233 Mass. 190.
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[NOTE: Special provision as to Boston, 1916, G. A. 294, § 2.]

Inspection
of lists.
1898, 507, § 1.
R. L. 12, § 44.
1909, 490,
1, § 44.

SECTION 32. Such lists shall be open to the inspection of the assessors, their assistants and clerks and of the commissioner and his deputies, the director of the division of local taxation and the supervisors of assessors; but so much of the lists as shows the details of the personal estate to that of no other person except by order of a court. The lists shall be preserved by the assessors until the commissioner orders them destroyed.

Storage ware-
houses to give
certain infor-
mation to
assessors.
1912, 621.

SECTION 33. All persons engaged in the business of storing or keeping merchandise in storage warehouses shall, within ten days after a request therefor by the assessors of the town where said property is so stored or kept, permit said assessors to copy from their records a list of the names and addresses of all persons who appear, on April first in such year, to have any such property stored or kept in any such warehouse; but such persons shall not be required to furnish lists of persons having property stored in warehouses which is composed of imported goods in original packages and owned by the importer, or of goods that have been received for export trade. Failure to comply with this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days.

Statement by
mortgagor or
mortgagee.
1882, 175, § 1.
R. L. 12, § 45.
1909, 490,
1, § 45.
193 Mass. 190.
198 Mass. 119.

SECTION 34. A mortgagor or mortgagee of real estate may bring in to the assessors of the town where it lies, within the time prescribed by the notice under section twenty-nine, a sworn statement of the amount secured thereon or on each separate parcel thereof, with the name and residence of every holder of an interest therein as mortgagor or mortgagee. If such property is situated in two or more places, or if a recorded mortgage includes two or more estates or parts of an estate as security for one sum, such statement shall include an estimate of the interest of the mortgagee in each estate or part thereof. The assessors shall, from such statement or otherwise, ascertain the proportionate interests of the mortgagor or mortgagee respectively in said estates, and shall assess the same accordingly. If, in any year, such statement is not brought in, the tax for that year on such real estate shall not be invalid merely for the reason that the interest of the mortgagee therein has not been assessed to him.

Lists to be
taken as true,
unless, etc.
1785, 50, § 9.
R. S. 7, § 22.
G. S. 11, § 25.
P. S. 11, § 40.

SECTION 35. Assessors shall receive as true, except as to valuation, the list brought in by each person, unless, on being thereto required by the assessors, such person refuses to answer on oath all necessary inquiries as to the nature and amount of his property.

R. L. 12, § 46	112 Mass. 218.	214 Mass. 241.
1909, 490, 1, § 46.	131 Mass. 424.	215 Mass. 329.
12 Met. 211.	131 Mass. 431.	217 Mass. 63.
8 Cush. 57.	169 Mass. 298.	220 Mass. 109.
10 Allen, 109.	193 Mass. 522.	

Estimate of
value in de-
fault of list
1785, 50, § 1.

SECTION 36. Assessors shall ascertain as nearly as possible the particulars of the personal estate, and of the real estate in possession or

3 occupation, as owner or otherwise, of any person not bringing in such
 4 list, and shall estimate its just value, according to their best informa-
 5 tion and belief.

R. L. 12, § 47.	2 Allen, 594.	137 Mass. 266.	179 Mass. 486.
1909, 490, I, § 47.	130 Mass. 561.	152 Mass. 372.	189 U. S. 255.
8 Cush. 55.			

R. S. 7, § 23.
 G. S. 11, § 27.
 P. S. 11, § 41.

1 SECTION 37. Such estimate shall be entered in the valuation book,
 2 and, except as provided in section sixty-one, shall be conclusive upon any
 3 person not seasonably bringing in such list, unless he shows a reasonable
 4 excuse for the omission.

G. S. 11, § 28.	R. L. 12, § 48.	8 Cush. 55.
P. S. 11, § 42.	1909, 490, I, § 48.	3 Allen, 546.

Estimate to
 be conclusive,
 when
 1785, 50, § 9.
 R. S. 7, § 24.

VALUATION OF PROPERTY.

1 SECTION 38. The assessors of each city and town shall at the time
 2 appointed therefor make a fair cash valuation of all the estate, real and
 3 personal, subject to taxation therein, and, in cities, the assessors may, in
 4 any year, divide the city into convenient assessment districts.

G. S. 11, § 24.	1909, 490, I, § 50.	163 Mass. 283.	233 Mass. 190.
P. S. 11, § 45.	1919, 51.	167 Mass. 517.	271 Mass. 1.
1889, 115.	152 Mass. 372.	214 Mass. 79.	272 Mass. 396.
R. L. 12, § 51.			

Valuation of
 property subject
 to taxation.
 1785, 50, § 1
 R. S. 7, § 24.
 1853, 319, § 1.

1 SECTION 39. The valuation at which the machinery, poles, wires and
 2 underground conduits, wires and pipes of all telephone and telegraph
 3 companies shall be assessed by the assessors of the respective towns
 4 where such property is subject to taxation shall be determined annually
 5 by the commissioner, subject to appeal to the board of tax appeals, as
 6 hereinafter provided, and shall by him be certified to the assessors on
 7 or before June fifteenth. A board of assessors aggrieved by a valuation
 8 made by the commissioner under this section may, within ten days
 9 after notice of his valuation, apply to said board of tax appeals. Said
 10 board shall hear and decide the subject matter of such appeal and give
 11 notice of its decision to the commissioner and to the assessors; and its
 12 decision as to the valuation of the property shall be final and conclusive,
 13 except as provided in section seventy-three, relative to abatements.
 14 The assessors shall, in the manner provided by law, assess the machin-
 15 ery, poles, wires and underground conduits, wires and pipes of all tele-
 16 phone and telegraph companies as certified and at the value determined
 17 by the commissioner or by the board of tax appeals, and such assess-
 18 ment by a board of assessors shall be deemed to be a full compliance
 19 with the oath of office of each assessor and a full performance of his
 20 official duty with relation to the assessment of such property, except as
 21 provided in the following section.

Valuation of
 machinery,
 poles, wires,
 etc., of tele-
 phone and
 telegraph
 companies
 1915, 137, § 1.
 1918, 138.
 1930, 416, § 12.

1 SECTION 40. Every board of assessors shall, as and when required by
 2 the commissioner, furnish him with any and all information in its knowl-
 3 edge or possession relating to any property, the value of which he is
 4 required to determine by the preceding section.

Assessors to
 inform com-
 missioner, etc.
 1915, 137, § 2.

1 SECTION 41. Every telephone or telegraph company owning any
 2 property required to be valued by the commissioner under section
 3 thirty-nine shall annually, on or before a date determined by the com-
 4 missioner but in no case later than June first, make a return to the com-
 5 missioner signed and sworn to by its treasurer. This return shall be in

Telephone and
 telegraph com-
 panies to make
 returns, etc.
 1915, 137, § 3.

the form and detail prescribed by the commissioner and shall contain 6
 all information which he shall consider necessary to enable him to make 7
 the valuations required by section thirty-nine, and shall relate, so far 8
 as is possible, to the situation of the company and its property on April 9
 first of the year when made. Property returned to the commissioner as 10
 herein provided need not be included in the list required to be filed by a 11
 telephone or telegraph company under section twenty-nine. 12

Estimate by
 commissioner
 in default of
 return.
 1915, 137, § 4.

SECTION 42. If any company, or any treasurer thereof, shall in any 1
 year refuse or neglect to make the return required by the preceding sec- 2
 tion, the commissioner shall estimate the value of the property of the 3
 company, and in such case the value determined by the commissioner 4
 shall not be less than twice the value determined in the previous year. 5

BOOKS, LISTS, TABLES AND RETURNS OF ASSESSORS.

Valuation and
 assessment to
 be made in
 books, and list
 to be open to
 public.
 1785, 50, § 8.
 1823, 139, § 3.
 R. S. 7, § 29.
 G. S. 11, § 33.
 1861, 167.
 P. S. 11, § 50.
 1888, 207.
 1898, 507, § 2.
 R. L. 12, § 56.
 1909, 490,
 I, § 55.
 1928, 14, § 1.

SECTION 43. The assessors shall make, on the books furnished under 1
 section forty-five, a list of the valuation and the assessment thereon, in 2
 the following manner: In each column provided in the book or books 3
 so furnished shall be entered the valuation of that portion, if any, of the 4
 personal property of each person and corporation, indicated by the 5
 heading thereof. The total amount of the taxable personal property 6
 shall be shown, but without other detail or specification than is provided 7
 for herein. Before the taxes are committed for collection they shall 8
 deposit the books, or an attested copy thereof, in their office or, if there 9
 is no office, with their chairman, for public inspection. 10

2 Gray, 298.	102 Mass. 148.	192 Mass. 278.	218 Mass. 501.
2 Allen, 594.	127 Mass. 502.	206 Mass. 380.	222 Mass. 504.

List to contain
 polls and
 assessment of in-
 habitants,
 estates of non-
 residents, etc.
 1828, 143, § 5.
 R. S. 7, § 30.
 G. S. 11, § 34.
 1861, 167.
 P. S. 11, § 51.
 R. L. 12, § 57.
 1908, 387, § 1.

SECTION 44. The list shall exhibit the valuation and assessment of 1
 the polls and estates of the inhabitants assessed; and the valuation and 2
 assessment of the estates of non-resident owners, and shall contain the 3
 names of the non-resident owners of the property assessed, or such 4
 description of them as can be given, their places of abode, if known, 5
 the description of their estate, the true value of such estate, and the 6
 tax thereon. 7

1909, 490, I, § 56.	21 Pick. 64.	151 Mass. 226.
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Commissioner
 to furnish
 books to
 assessors.
 Form.
 1861, 167, § 1.
 1879, 72, § 2.
 P. S. 11, § 52.
 1883, 41, § 1.
 1887, 86, § 2.
 1890, 242, § 2.
 1891, 65.
 1898, 507, § 2.
 R. L. 12, § 58.
 1907, 181.
 1908, 314;
 387, § 2.
 1909, 440, § 2;
 490, I, § 57.
 1914, 198, § 2.
 1920, 307.
 1925, 343,
 § 11, 13.
 1926, 222.

SECTION 45. The commissioner shall provide each city and town, on 1
 or before April first annually, suitable books for the use of the assessors 2
 in the assessment of taxes, which shall contain blank columns, with uni- 3
 form headings for a valuation list, and blank tables for aggregates, in 4
 the following form or in such other form as the commissioner shall from 5
 time to time determine; provided, that in lieu of the valuation list pro- 6
 vided for in this section and the preceding two sections, the assessors of 7
 any city or town may, with the assent of the commissioner, prepare a 8
 valuation list upon books furnished by the city or town and in such 9
 form as the commissioner shall approve, and that, for the separate listing 10
 of poll taxes under section four of chapter sixty, such portion of the 11
 books furnished by the commissioner as he shall determine may contain 12
 only the first three columns of said form. 13

1928, 14, § 2.	143 Mass. 299.	253 Mass. 564.
13 Pick. 492.	185 Mass. 114.	

VALUATION LIST FOR THE

OF

APRIL 1, 19

NAMES AND RESIDENCES OF PERSONS ASSESSED (Give street and number of residence.)	Number of taxable polls.	Total cash tax on polls	Value of each person's whole stock in trade	Value of machinery used in manufacture	Number of live stock, each kind specified separately.	Value of each kind of live stock.	Value of all other ratable personal estate in one item	Aggregate of each person's ratable personal estate	Total tax on personal estate.

Buildings of all kinds, described by naming their uses.	Value of buildings, exclusive of land.	Description, by name or otherwise, of each and every lot of land owned by each person.	Number of acres or feet in each lot of land.		Value of same.	Total value of each parcel of real estate	Aggregate value of real estate	Total tax on real estate.	Total cash tax on polls, personal and real estate.
			Acres.	Feet.					

TABLE OF AGGREGATES.

FOR THE OF OF POLLS, PROPERTY, TAXES, ETC., AS ASSESSED APRIL 1, 19

Number of residents assessed on property.	Number of non-residents assessed on property.	Number of persons assessed.	Number of male polls assessed.	Tax on each male poll	Value of assessed personal estate	Value of assessed real estate	Total valuation of assessed estate April 1, 19
Individuals.	Individuals.	† On property				Buildings, excluding land	
* All others.	* All others.	For poll tax only.				Land, excluding buildings	
Total.	Total.	Total.			Total.	Total.	

* Firms, corporations, associations, institutions, trustees, etc.

† On property; the total of the first two columns.

Tax for state, county and city or town purposes, including overlayings		Rate of total tax per \$1,000	Number of horses assessed	Number of cows assessed.	Number of sheep assessed.	Number of neat cattle, other than cows, assessed.	Number of swine assessed.	Number of dwelling houses assessed.	Number of acres of land assessed	Number and value of fowl assessed.
Dollars.	Cts									
On personal estate										Number.
On real estate										Value.
On polls.										
Total.										

Directions to assessors in making lists in books.
1861, 167, § 2.
1879, 72, § 1.
P. S. 11, § 53.
1883, 41, § 2.
1898, 507, § 2.

SECTION 46. The assessors shall enter in the books so furnished the valuation and assessment of the polls and estates of the persons assessed, as directed in the headings of the various columns and shall state the value of each building described, including therein water wheels but excluding land and water power and machinery used in the building.

R. L. 12, § 59. 1920, 2. 151 Mass. 226.
1909, 490, 1, § 58. 1928, 14, § 3. 152 Mass. 372.
1918, 257, § 38. 127 Mass. 502. 185 Mass. 114.
1919, 5. 143 Mass. 299.

[Penalty, § 94.]

Assessors to prepare table of aggregates and deposit copy annually with commissioner.

SECTION 47. The assessors shall fill up the table of aggregates by an enumeration of the necessary items included in the lists of valuation and assessments, and shall annually, on or before October first, deposit in the office of the commissioner an attested copy of the same.

1861, 167, § 3. 1887, 86, § 1. 1925, 343, §§ 10, 13.
1864, 210, § 2. 1890, 242, § 1. 1926, 222.
1879, 72, § 2. 1891, 65. 1928, 14, § 4.
P. S. 11, § 54. R. L. 12, § 60. 207 Mass. 172.
1885, 106. 1908, 314. 253 Mass. 564.
1886, 56. 1909, 490, 1, § 59. 261 Mass. 169.

[Penalty, § 94.]

Same subject December assessments.
1912, 312, § 1.
[Penalty, § 94.]

SECTION 48. Annually on or before January fifteenth, assessors shall report to the commissioner in the form prescribed for tables of aggregates by the two preceding sections the facts as to any and all assessments made between December tenth and twentieth preceding, both inclusive, under section seventy-five.

Assessors to deposit copies of valuation books with commissioner every third year.
1861, 167, § 3.
1864, 210, § 1.
P. S. 11, § 55.
1883, 91.
1894, 318.
R. L. 12, § 61.

SECTION 49. The assessors, except those of Boston, on or before October first, nineteen hundred and twenty-two, and in every third year thereafter, shall deposit in the office of the commissioner, in books to be by him provided for the purpose, a copy of the assessors' valuation books of those years, to be by them certified under oath. This shall not excuse, in such years, the filing of a separate copy of the table of aggregates under section forty-seven.

1908, 314. 1909, 490, 1, § 60.

[Penalty, § 94.]

1 SECTION 50. The books provided by the commissioner for the use of
 2 assessors shall contain a copy of this section, of the seven preceding sec-
 3 tions and of sections eighty-four and ninety-four, and such certificates
 4 as are required by law to be signed by the assessors, with such explana-
 5 tory notes as he considers necessary to secure uniformity of returns
 6 under the several headings.

Books to
 contain copies
 of law, etc.
 R. L. 12, § 63.
 1909, 490,
 1, § 62.

1 SECTION 51. The assessors shall enter upon the valuation list, in the
 2 appropriate columns after the enumeration of the persons and estates
 3 liable to taxation therein contained, a statement and description of all
 4 the property and estate, with the fair cash value thereof, which is ex-
 5 empted from taxation in their respective towns pursuant to the provi-
 6 sions of the first fifteen clauses of section five, or for the reason that it is
 7 owned by a county, city, town or district and put to a public use, with
 8 the names of the persons or corporations owning the same and the
 9 purpose for which it is used, and with a reference to the law, if any, by
 10 which such exemption is allowed.

Entry on
 valuation list
 of certain
 exempted
 property.
 1874, 227, § 1
 P. S. 11, § 58
 R. L. 12, § 64
 1909, 490,
 1, § 63
 1923, 421.

1 SECTION 52. The assessors, or other persons authorized to assess
 2 taxes, shall, at the end of said valuation list, subscribe the following
 3 statement:

Statement of
 assessors on
 valuation list.

We, the assessors (or other persons so authorized, as the case may be,) of
 , do severally state, that the foregoing list is a full and true list of
 the names of all persons known to us, who are liable to taxation in
 (here insert the name of the city or town,) during the present year, and that the
 real and personal estate contained in said list, and assessed upon each person
 in said list, is a full and accurate assessment upon all the property of each per-
 son, liable to taxation, at its full and fair cash value, according to our best
 knowledge and belief. This statement is made under the penalties of perjury.

Penalty.
 1785, 50, § 5.
 R. S. 15, § 55.
 1853, 319, § 2.
 G. S. 11, § 36.
 P. S. 11, § 59.
 R. L. 12, § 65.
 1909, 490,
 1, § 64
 1928, 14, § 5.
 208 Mass. 480.

4 Failure to subscribe the foregoing statement shall not invalidate a tax
 5 otherwise legally assessed; but whoever assesses taxes in a town with-
 6 out having subscribed the same shall be punished by a fine of ten dollars.

1857, 306,
 §§ 1, 2.
 G. S. 11, § 37.
 P. S. 11, § 60.
 R. L. 12, § 66.

COLLECTOR'S LIST AND WARRANT.

1 SECTION 53. The assessors shall, within a reasonable time, commit
 2 the tax list with their warrant to the collector of taxes, and, if there is a
 3 fire, water, light or improvement district in the town, they shall commit
 4 to him a separate list and warrant for the district taxes. If no collector
 5 has been chosen, they shall commit such list with their warrants, to a
 6 constable; or, if there is no constable, to the sheriff or his deputy; but
 7 the assessors of a town shall not commit a tax list to the collector until
 8 the bonds of such collector and of the town treasurer have been given
 9 and approved as required by law.

Commitment
 of tax list, for
 collection.
 1785, 50,
 § 6; 70, §§ 1, 3
 1815, 130, § 4.
 R. S. 7,
 §§ 32, 34.
 G. S. 11, § 38.
 1879, 157, § 1
 P. S. 11, § 62
 R. L. 12, § 67.
 1909, 490,
 1, § 66.

1919, 319, § 1.

13 Met. 85.

6 Gray, 387.

1 SECTION 54. The tax list committed to the collector shall be in a form
 2 approved by the commissioner.

Form of tax
 list.

1828, 143, § 6.
 R. S. 7, § 31.
 G. S. 11, § 35.

P. S. 11, § 61.
 1887, 235, § 1.
 R. L. 12, § 68.

1909, 490, I, § 67.
 1926, 65, § 5.
 2 Gray, 298

1 SECTION 55. The warrant shall specify the duties of the collector
 2 as prescribed by law in the collection of taxes, the times when and the

Warrant,
 contents and
 form.

1785, 50, § 6; 70, § 1. R. S. 7, §§ 32, 33.	person to whom he shall pay them, shall be substantially in the form heretofore used, and need not be under seal.	3 4
	G. S. 11, § 39. P. S. 11, § 63. R. L. 12, § 69. 1909, 490, I, § 68.	1 Met. 328. 6 Met. 340. 13 Met. 85.
		99 Mass. 472. 127 Mass. 502. 139 Mass. 384.

New warrant if original lost, etc. 1799, 83. R. S. 8, § 51.	SECTION 56. If a warrant issued for the collection of taxes is lost or destroyed, the assessors may issue a new warrant therefor, which shall have the same force and effect as the original warrant.	1 2 3
	G. S. 11, § 40. P. S. 11, § 64.	R. L. 12, § 70. 1909, 490, I, § 69.

INTEREST AND DISCOUNT ON TAXES.

Date for payment of taxes. Interest. 1873, 225, § 1. 1878, 185, § 1. 1879, 74. P. S. 11, §§ 67, 68. 1909, 168. R. L. 12, § 72. 1909, 490, I, § 71. 1913, 688, § 1. 1915, 237, § 21. 1916, 103. 1918, 190, § 1. 1920, 469. 1926, 269, § 2. 149 Mass. 476. 242 Mass. 168. 271 Mass. 1. 4 Op. A. G. 509. Op. A. G. (1915) 47. Op. A. G. (1920) 235.	SECTION 57. Taxes shall be payable in every city, town and district in which the same are assessed, and bills for the same shall be sent out, not later than October fifteenth of each year, unless by ordinance, by-law or vote of the city, town or district, an earlier date of payment is fixed. On all taxes remaining unpaid after the expiration of seventeen days from said October fifteenth, or after such longer time as may be fixed by any city, town or district which fixes an earlier date for payment, but not exceeding thirty days from such earlier date, interest shall be paid at the following rates computed from the date on which the taxes become payable: at the rate of six per cent per annum on all taxes and, by way of penalty, at the additional rate of two per cent per annum on the amount of all taxes in excess of two hundred dollars assessed to any taxpayer, in any one city or town, if such taxes remain unpaid after the expiration of three months from the date on which they became payable, but if, in any case, the tax bill is sent out later than the day prescribed, interest shall be computed only from the expiration of such seventeen days or said longer time. In no case shall interest be added to taxes paid prior to the expiration of seventeen days from the date when they are payable, nor shall any city or town so fix an earlier date of payment and longer time within which taxes may be paid without interest as would permit the payment of any taxes without interest after November first of the year in which they are due. Bills for taxes assessed under section seventy-five shall be sent out not later than December twenty-sixth, and such taxes shall be payable not later than December thirty-first. If they remain unpaid after that date, interest shall be paid at the rates above specified, computed from December thirty-first until the day of payment, but if, in any case, the tax bill is sent out later than December twenty-sixth, said taxes shall be payable not later than ten days from the day upon which said bill is sent out, and interest shall be computed from the fifteenth day following the date when the tax becomes due. In all cases where interest is payable it shall be added to and become a part of the tax.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
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No discount to be allowed on taxes.	SECTION 58. Towns shall not allow any discount on taxes.	1
	1815, 130, §§ 2, 4. R. S. 7, §§ 35, 36. G. S. 11, §§ 41, 42.	P. S. 11, §§ 65, 66. R. L. 12, § 71.
		1909, 490, I, § 70. 1913, 688, §§ 3, 5.

ABATEMENTS.

Abatements. 1785, 50, § 10. R. S. 7, §§ 37, 41. G. S. 11, §§ 43, 47. 1877, 160, § 2. P. S. 11, §§ 69, 74.	SECTION 59. A person aggrieved by the taxes assessed upon him may, within one year after April first of the year to which the tax relates, apply to the assessors for an abatement thereof; and if they find him taxed at more than his just proportion, or upon an assessment of any of his property in excess of its fair cash value, they shall make a reasonable abate-	1 2 3 4 5
---	---	-----------------------

6 ment. A tenant of real estate paying rent therefor and under obligation
 7 to pay more than a moiety of the taxes thereon may apply for such
 8 abatement.

1926, 71, § 2.	125 Mass. 348.	186 Mass. 361.
6 Pick. 38.	139 Mass. 143, 478, 561.	192 Mass. 491.
12 Pick. 7.	146 Mass. 403.	193 Mass. 168.
9 Met. 199.	147 Mass. 31.	196 Mass. 290.
5 Cush. 93.	148 Mass. 508.	200 Mass. 378, 468.
7 Cush. 273.	150 Mass. 237.	215 Mass. 329.
8 Cush. 55.	151 Mass. 227.	221 Mass. 355.
2 Gray, 494.	152 Mass. 372.	232 Mass. 402.
8 Gray, 569.	155 Mass. 313.	233 Mass. 190.
13 Gray, 321.	159 Mass. 383.	234 Mass. 188.
3 Allen, 546.	165 Mass. 375.	259 Mass. 1.
13 Allen, 119.	166 Mass. 216, 298.	261 Mass. 432.
102 Mass. 348.	174 Mass. 396.	268 Mass. 32.
109 Mass. 279.	175 Mass. 293.	271 Mass. 1, 358.
114 Mass. 214.	178 Mass. 469.	189 U. S. 255.
121 Mass. 351.	179 Mass. 486.	

1888, 315.
 R. L. 12, § 73.
 1909, 190, 1,
 § 73.

1 SECTION 60. Every board of assessors shall keep a record of all abate-
 2 ments of taxes. The record of abatement of the whole or any part of any
 3 tax shall show plainly the following details, viz.:

Records of
 abatements.
 1909, 517, § 1.
 1921, 18.
 239 Mass. 1.

- 4 First, The name or title in which the tax stands assessed.
- 5 Second, The year in which the tax was assessed.
- 6 Third, The total amount of the tax.
- 7 Fourth, The date when the abatement was made.
- 8 Fifth, The sum abated on poll tax.
- 9 Sixth, The sum abated on personal estate.
- 10 Seventh, The sum abated on real estate.
- 11 Eighth, The total sum abated.
- 12 Ninth, In case of an abatement to put into effect a statutory exemp-
- 13 tion, exact reference to the statutory provision under which the exemp-
- 14 tion is granted and in all other cases a statement of the cause or reason
- 15 for the abatement.
- 16 If the record of an abatement is made as a part of the record of a meet-
- 17 ing of the board of assessors it shall be signed by the clerk or secretary
- 18 of the board for that meeting; otherwise by a majority of the board.
- 19 The assessors shall forthwith upon making an abatement furnish the
- 20 tax collector with a copy thereof.

1 SECTION 61. A person shall not have an abatement of a tax imposed
 2 upon his personal property subject to taxation, except as otherwise pro-
 3 vided, unless he has brought in to the assessors a list of his personal
 4 estate as required by section twenty-nine. If such a list of his personal
 5 estate is not filed within the time specified in the notice required by said
 6 section twenty-nine, no part of the tax assessed on the personal estate
 7 shall be abated unless the applicant shows to the assessors a reasonable
 8 excuse for the delay, or unless such tax exceeds by fifty per cent the
 9 amount which would have been assessed on such estate, if the list had
 10 been seasonably brought in, and in such case only the excess over such
 11 fifty per cent shall be abated. An owner of real estate or a tenant of real
 12 estate paying rent and under obligation to pay more than one half of the
 13 taxes thereon may have an abatement of any assessment or tax upon real
 14 estate although no list of the owner's estate was brought in as required
 15 by the said notice; provided, that in any application for an abatement of
 16 such an assessment or tax the applicant shall include a sufficient descrip-
 17 tion of the particular real estate as to which an abatement is requested.

Conditions of
 abatement.
 1785, 59, § 9.
 R. S. 7, § 40.
 1853, 319, § 3.
 1857, 306, § 3.
 G. S. 11, § 46.
 1865, 121.
 1877, 160, § 1.
 P. S. 11, §§ 38,
 72, 73.
 1888, 315.
 1894, 354.
 R. L. 12, § 74.
 1909, 499, 1,
 § 73, 517, § 2.
 1918, 59, § 2.
 1931, 150, § 2.
 6 Cush. 477.
 8 Cush. 55.
 5 Gray, 365.
 8 Gray, 509.
 1 Allen, 199.
 3 Allen, 546.
 101 Mass. 87.
 112 Mass. 218.
 146 Mass. 424.
 146 Mass. 403.
 151 Mass. 227.
 155 Mass. 313.

166 Mass. 216, 298.	214 Mass. 348.	241 Mass. 96.
167 Mass. 517.	215 Mass. 329.	249 Mass. 167.
170 Mass. 568.	216 Mass. 508.	259 Mass. 1.
176 Mass. 384.	221 Mass. 437.	261 Mass. 432.
186 Mass. 361.	228 Mass. 231.	262 Mass. 439.
200 Mass. 82, 378.	231 Mass. 291.	271 Mass. 1.

Prepayment
of costs.
R. S. 7, § 38.

SECTION 62. A person applying for an abatement shall pay the legal costs accruing before it is made. 1 2

G. S. 11, § 44
P. S. 11, § 70

R. L. 12, § 75.
1909, 490, 1, § 74.

182 Mass. 598.
259 Mass. 1

Notice of
decision
1890, 127, § 6.

SECTION 63. Assessors shall, within ten days after their decision on an application for an abatement, give written notice thereof to the applicant. 1 2

R. L. 12, § 76.

1909, 490, 1, § 75.

186 Mass. 361.

259 Mass. 1.

Appeal to
county com-
missioners.
Election by
town to have
appeal heard,
etc., by board
of tax appeals.
Proceedings.
1785, 90,
§§ 9, 10.
R. S. 7,
§§ 39, 40.
1853, 319, § 3.
1857, 306, § 3.
G. S. 11, §§ 45,
46
1870, 337, § 2.
P. S. 11, §§ 71,
72
1882, 218
R. L. 12, § 77.
1909, 490, 1,
§ 76.
1930, 416, § 13.
1931, 150, § 3.
6 Allen, 131
146 Mass. 403.
155 Mass. 313.
159 Mass. 383.
205 Mass. 558.
208 Mass. 208.
213 Mass. 162.
214 Mass. 79,
348.
221 Mass. 435.
228 Mass. 231.
249 Mass. 167.
259 Mass. 1.
268 Mass. 32.
Op. A. G.
(1920) 289.

SECTION 64. A person aggrieved by the refusal of assessors to abate a tax may, within thirty days after receiving the notice provided in the preceding section, appeal therefrom by filing a complaint with the clerk of the county commissioners, or of the board authorized to hear and determine such complaints, for the county where the property taxed lies, and if on hearing the board finds that the property has been overrated, it shall make a reasonable abatement and an order as to costs. If the list of personal property required to be brought in to the assessors was not brought in within the time specified in the notice required by section twenty-nine, no tax upon personal property shall be abated unless the appellate board finds good cause for this delay or unless the assessors have so found as provided in section sixty-one. A tax or assessment upon real estate may be abated whether or not a list of property was brought in within the time specified by the notice required by section twenty-nine; provided, that the application for an abatement of such a tax or assessment included a sufficient description of the particular real estate as to which an abatement is requested. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17

Upon the filing of a complaint under this section the clerk of the county commissioners or of the board authorized to hear and determine the same shall forthwith transmit a certified copy of such complaint to the assessors and the assessors or the city solicitor or town counsel may within thirty days after receipt of said copy give written notice to said clerk and to the complainant that the town elects to have the same heard and determined by the board of tax appeals. Thereupon, the clerk of the county commissioners or of the board authorized to hear and determine such complaints shall forward all papers with respect to such complaint then in the file of the county commissioners or other such board to the clerk of the board of tax appeals and proceedings with respect to such complaint shall thenceforth be continued as provided in chapter fifty-eight A. If upon hearing the board of tax appeals finds that the complainant is duly entitled to an abatement, it may grant him such reasonable abatement as justice may require, and shall enter an order directing the treasurer of the town to refund said amount, if the tax sought to be abated has been paid, together with all charges and interest on the amount of the abatement from the date of the payment of the tax. The board may make such order with respect to the payment of costs as justice may require. 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36

Appeal to
board of tax
appeals.
Proceedings.
1890, 127, §§ 1,
2, 4.
R. L. 12, § 78.
1909, 490, 1,
§ 77
1918, 257, § 39.
1919, 5.
1929, 2.
1930, 416, § 14

SECTION 65. A person aggrieved as aforesaid may, instead of pursuing the remedy provided in section sixty-four, but subject to the same conditions, appeal to the board of tax appeals by filing a petition with such board within thirty days of the giving of the notice required by section sixty-three. Such appeal shall be heard and determined by said board in the manner provided by chapter fifty-eight A. The board may enter such order as justice may require in the manner provided in the preceding 1 2 3 4 5 6 7

8 section with respect to complaints removed from the county commis- 152 Mass. 594.
9 sioners. 155 Mass. 313.

175 Mass. 237.	214 Mass. 79	245 Mass. 45
178 Mass. 469	215 Mass. 231.	247 Mass. 69
182 Mass. 598.	221 Mass. 435.	250 Mass. 543.
186 Mass. 361.	228 Mass. 519.	258 Mass. 726.
200 Mass. 468.	232 Mass. 492.	259 Mass. 1.
205 Mass. 591, 558.	233 Mass. 190.	268 Mass. 32.
208 Mass. 208.	237 Mass. 135.	271 Mass. 1.
211 Mass. 178.	244 Mass. 150.	272 Mass. 396.

1 SECTION 66. [REPEALED, 1930, 416, § 2.]

1 SECTION 67. [REPEALED, 1930, 416, § 2.]

1 SECTION 68. [REPEALED, 1930, 416, § 2.]

1 SECTION 68A. [INSERTED, 1926, 312; REPEALED, 1930, 416, § 2.]

1 SECTION 69. A person whose tax has been abated shall, if the tax has
2 been paid, be reimbursed by the town to the amount of the abatement
3 allowed, with interest from the time of payment of said tax and all
4 charges paid therewith except legal costs paid as provided in section
5 sixty-two.

Person receiving abatement to be reimbursed, etc. 1785, 50, § 10. R. S. 7, § 42. G. S. 11, § 48.

P. S. 11, § 75.	1909, 490, 1, § 81.	259 Mass. 1.
1894, 297.	3 Allen, 546, 550.	268 Mass. 32.
1895, 75.	159 Mass. 383.	271 Mass. 1.
R. L. 12, § 82.	165 Mass. 265.	

1 SECTION 70. A person whose tax has been abated shall be entitled
2 to a certificate thereof from the assessors, clerk of the commissioners or
3 other proper officer.

Certificate of abatement. R. S. 7, § 43. G. S. 11, § 49.

P. S. 11, § 76.	159 Mass. 383.	268 Mass. 32.
R. L. 12, § 83	259 Mass. 1.	Op. A. G. (1920) 289.
1909, 490, 1, § 82.		

1 SECTION 71. If a collector is satisfied that a poll tax or tax upon per-
2 sonal property, or any portion of said tax, committed to him or to any
3 of his predecessors in office for collection, cannot be collected by reason
4 of the death, absence, poverty, insolvency, bankruptcy or other inability
5 of the person assessed to pay, he shall notify the assessors thereof in
6 writing, on oath, stating why such tax cannot be collected. The as-
7 sessors shall act on such notification within thirty days after its receipt
8 and, after due inquiry, may abate such tax or any part thereof, and
9 shall certify such abatement in writing to the collector; and said certi-
10 cate shall discharge the collector from further obligation to collect the
11 tax so abated.

Abatement of uncollectable taxes, certification to collector. 1878, 77. 1879, 43. P. S. 11, § 77. R. L. 12, § 84. 1902, 91. 1909, 490, 1, § 83. 1913, 226. 1928, 1. 165 Mass. 375. 206 Mass. 380. 259 Mass. 1.

1 SECTION 72. Whenever the commissioner deems any lands to have
2 been assessed at a valuation insufficient to meet the charges and expenses
3 of collecting the tax thereon, he may in writing authorize the assessors
4 to abate the tax of their own motion as a tax which ought not to have
5 been assessed. The authorization shall form a part of the assessors'
6 records of abatements.

Abatement by authority of commissioner of tax on land of insufficient value to meet charges, etc. 1915, 36, § 4. 259 Mass. 1.

1 SECTION 73. Any company aggrieved by the taxes assessed on it
2 relating to any property valued in accordance with section thirty-nine
3 may, within one year after April first of the year to which the tax relates,
4 apply to the commissioner for an abatement thereof; and if the com-
5 missioner's valuation of

Telephone or telegraph company may apply for abatement of commissioner's valuation of

property taxable locally, etc. 1915, 137, § 5. 1926, 71, § 3. 259 Mass. 1.

missioner finds that the company is taxed at more than its just proportion, or upon an assessment of any of its said property in excess of its fair cash value, he shall make a reasonable abatement. No company which has not duly filed the return required by section forty-one shall have an abatement unless it shall furnish to the commissioner a reasonable excuse for the delay, or unless such tax exceeds by more than fifty per cent the amount of the tax which would have been assessed on such property if the return had been seasonably filed, and in such case only the excess over such fifty per cent shall be abated. Whenever any application for abatement hereunder is made, the commissioner shall give notice thereof to the assessors of the town in which is located any of the property with reference to which an abatement of the tax is asked for, and such assessors may appear before the commissioner and be heard by him with relation to the subject of the abatement. The commissioner shall, within ten days after his decision on an application for abatement hereunder, give written notice thereof to the applicant and to the assessors. A company aggrieved by the refusal of the commissioner to abate a tax hereunder may prosecute an appeal from his decision in the manner and to the tribunals provided for a person aggrieved by the refusal of assessors to abate a tax, and all laws relating to such an appeal from a refusal of assessors to abate a tax shall apply in proceedings hereunder.

Commissioner to be notified of abatement of local taxes to corporations liable to franchise tax 1904, 442, § 1. 1909, 440, § 2; 490, 1, § 84. 1914, 188, § 5. 1926, 279, § 2. 1928, 379, § 6. 259 Mass. 1.

SECTION 74. Whenever an abatement is finally made to any corporation taxable under chapter sixty-three upon any tax assessed by the assessors of any town, upon or in respect of works, structures, real estate, motor vehicles, machinery, poles, underground conduits, wires and pipes, the assessors, commissioners or court granting such abatement shall forthwith notify the commissioner thereof, and shall state in such notice what sum was determined by such assessors, commissioners or court to have been the full and fair cash value of such works, structures, real estate, machinery, poles, underground conduits, wires and pipes on the first day of April on which the tax so abated was originally assessed or to have been the proper value of any such motor vehicle owned by such corporation and assessed under chapter sixty A.

OMITTED ASSESSMENTS.

Property omitted from assessment to be assessed in December, etc. 1868, 320. 1873, 272. P. S. 11, § 78. 1886, 85. 1888, 362. R. L. 12, § 85. 1909, 490, 1, § 85. 1911, 89. 130 Mass. 561. 137 Mass. 266. 204 Mass. 563.

SECTION 75. If the real or personal estate of a person, to an amount not less than one hundred dollars and liable to taxation, has been omitted from the annual assessment of taxes, the assessors shall between December tenth and twentieth following, both inclusive, assess such person for such estate. The taxes so assessed shall be entered on the tax list of the collector, who shall collect and pay over the same. Such additional assessment shall not render the tax of the town invalid although its amount, in consequence thereof, shall exceed the amount authorized by law to be raised.

208 Mass. 188.
215 Mass. 329.

218 Mass. 60.
221 Mass. 437.

241 Mass. 96.
267 Mass. 333.

Commissioner may recommend revision of assessments. 1910, 260. 218 Mass. 60.

SECTION 76. If the commissioner deems any property subject to taxation not properly valued, he may recommend to the assessors a revision of its valuation, and they may make an assessment upon the additional value in the manner and within the time provided by the preceding section and subject to its provisions.

REASSESSMENT OF TAXES.

1 SECTION 77. Every tax except a poll tax, which is invalid by reason
 2 of error or irregularity in the assessment and which has not been paid,
 3 or which has been recovered back, may be reassessed by the assessors
 4 for the time being, to the just amount to which, and upon the estate or
 5 to the person to whom, it ought at first to have been assessed, whether
 6 such person has continued an inhabitant of the same city or town or not.
 7 An alienation of the real estate assessed shall not defeat a reassessment,
 8 if made within two years after the tax first assessed was committed to
 9 the collector; but the lien provided by section thirty-seven of chapter
 10 sixty shall terminate as therein provided.

Reassessment
 of taxes
 1859, 118, § 1.
 G. S. 11, § 53.
 1881, 391, § 7.
 P. S. 11, § 79.
 R. L. 12, § 86.
 1909, 490, I,
 § 86.
 1915, 237, § 17.
 1918, 257, § 47.
 1919, 5.
 1920, 2.
 13 Allen, 269.
 99 Mass. 29.
 102 Mass. 72.

112 Mass. 535. 127 Mass. 502. 137 Mass. 266, 407. 165 Mass. 287.
 121 Mass. 173. 129 Mass. 377. 149 Mass. 269. 204 Mass. 563.
 126 Mass. 97. 136 Mass. 129.

1 SECTION 78. Taxes reassessed under the preceding section shall be
 2 committed to, and collected and paid over by, the collector for the time
 3 being, in the same manner as other taxes, except that the name of the
 4 person to whom they were originally assessed shall be stated in the tax
 5 list; and the bond of such collector shall apply to such reassessed taxes.

Collection of
 reassessed
 taxes.
 1870, 394.
 P. S. 11, § 80.
 R. L. 12, § 87.
 1909, 490, I,
 § 87.
 102 Mass. 72.

149 Mass. 269.

APPORTIONMENT OF TAXES ON REAL ESTATE SUBSEQUENTLY DIVIDED.

1 SECTION 79. If real estate is divided by sale, mortgage, upon a peti-
 2 tion for partition or otherwise after a tax has been assessed thereon and
 3 such division has been duly recorded in the registry of deeds, the assess-
 4 sors, at any time before said real estate has been advertised for sale for
 5 nonpayment of taxes, upon the written request of the owner or mort-
 6 gagee of any portion thereof, shall apportion said tax, with costs and
 7 interest upon the several parcels thereof, in proportion to the value of
 8 each, and only the portion of said tax, interest and costs so apportioned
 9 upon any such parcel shall continue to be a lien upon it; and the owners
 10 or mortgagees shall be liable only for the tax apportioned upon the parcel
 11 owned in whole or in part by them respectively.

Tax on real
 estate divided
 after assess-
 ment to be
 apportioned in
 certain cases.
 1878, 182, § 1.
 P. S. 11, § 81.
 R. L. 12, § 88.
 1909, 490,
 I, § 88.
 1913, 599, § 1.
 198 Mass. 434.
 204 Mass. 594.
 225 Mass. 399.

1 SECTION 80. Assessors shall send notice of the request for such appor-
 2 tionment and of the time appointed therefor, by mail, to every person
 3 interested in said real estate whose address is known to them.

Notice to
 persons affected
 by appor-
 tionment.

1878, 182, § 2. P. S. 11, § 82. R. L. 12, § 89. 1909, 490, I, § 89.

1 SECTION 81. A person aggrieved by any action of the assessors in
 2 making such apportionment may within seven days thereafter appeal in
 3 like manner as in case of an overassessment, and the decision upon such
 4 appeal shall be final.

Appeal from
 appor-
 tionment
 1878, 182, § 3.
 P. S. 11, § 83.

R. L. 12, § 90. 1909, 490, I, § 90.

ILLEGAL ASSESSMENTS.

1 SECTION 82. If, by reason of an erroneous or illegal assessment or
 2 apportionment of taxes, a person is assessed more than his due propor-
 3 tion, the tax and assessment shall be valid except as to the illegal excess.

Assessment
 valid except
 as to illegal
 excess.
 1859, 118, § 4.

G. S. 11, § 54. R. L. 12, § 91. 126 Mass. 97.
 P. S. 11, § 84. 1909, 490, I, § 91. 151 Mass. 226.

ADDITIONAL DUTIES OF ASSESSORS.

Returns by assessors of names of certain corporations, and assessed value of certain corporate property and motor vehicles.
Penalty.
1864, 208, § 1.
1865, 283,
§§ 1, 14.
P. S. 11,
§§ 86, 87.
R. L. 12, § 93.
1904, 181
1906, 271, § 11.
1909, 440, § 2;
490, I, § 93.
1913, 453, § 1.
1914, 198,
§§ 2, 5
1926, 279, § 3.

SECTION 83. Assessors shall annually, on or before the first Monday of July, return to the commissioner the names of all domestic and foreign corporations, except banks of issue and deposit, having a capital stock divided into shares, organized for the purposes of business or profit and established in their respective towns or owning real estate therein, and a detailed statement of the works, structures, real estate, machinery, poles, underground conduits, wires and pipes owned by each of said corporations and situated in such town, with the value thereof, on April first preceding, and the amount at which the same is assessed in said town for the then current year. The assessors shall at the same time return to the commissioner a detailed statement of all motor vehicles owned by each such corporation and the amount at which each such vehicle is assessed under chapter sixty A for said year. An assessor neglecting to comply with this section shall be punished by a fine of one hundred dollars.

1928, 379, § 7.

12 Allen, 75, 391.

Assessors to state cause of diminished valuations.
1864, 210,
§§ 3, 4, 6
P. S. 11,
§§ 88, 89.
R. L. 12, § 94.
1908, 314

SECTION 84. If the assessors of a town ascertain that the aggregate valuation thereof has been diminished since April first of the preceding year, they shall return with the table of aggregates, or with the books, which they are required by sections forty-seven, forty-eight and forty-nine to deposit in the office of the commissioner, a statement, on oath, of the causes which in their opinion have produced such diminution.

1909, 440, § 2; 490, I, § 94.

1914, 198, § 2.

[Penalty, § 94.]

Returns by assessors to commissioner of certain exempted property.
1916, 299, § 3.

SECTION 85. Assessors shall annually, on or before September first, make a return to the commissioner, in such form as he may prescribe, of the value of property exempted from taxation under clauses twenty-second and twenty-third of section five, together with the amount of taxes which would have been assessed on such property but for said exemption.

Assessors to make returns of exempted property, etc.
1874, 227, § 2.
1881, 284, § 4.
P. S. 11, § 90.
1882, 217, § 3.
R. L. 12, § 95.
1909, 490,
I, § 95.

SECTION 86. Assessors shall annually, on or before October first, forward to the commissioner a statement showing the whole amount of exempted property entered upon the valuation lists of their respective towns in accordance with section fifty-one, and the amount in each class, and stating separately the aggregate amount belonging to each class embraced in clause third of section five, and shall also forward such lists and statements required by section twenty-nine relative to real and personal property exempt from taxation under said clause as have been received by them.

RESPONSIBILITY AND COMPENSATION OF ASSESSORS.

Responsibility of assessors.
1823, 138, § 5.
1833, 166
R. S. 7, § 44.
G. S. 11, § 51.
1872, 310.

SECTION 87. Assessors shall not be responsible for the assessment of a tax assessed by them in pursuance of a vote for that purpose, certified to them by the clerk or other proper officer of a city, town or district, except for the want of integrity and fidelity on their own part.

P. S. 11, § 91
R. L. 12, § 98.
1909, 490, I, § 98.
4 Pick. 399
5 Pick. 451, 498.
7 Pick. 106.

21 Pick. 382.
11 Met. 339.
4 Gray, 42.
3 Allen, 409.
4 Allen, 382.
97 Mass. 421.

98 Mass. 460.
99 Mass. 208.
119 Mass. 77.
125 Mass. 553.
268 Mass. 480.

EVASION OF TAXATION.

1 SECTION 89. Whoever in any way directly or indirectly proposes or
 2 agrees to an assessment on any specific or limited amount less than that
 3 for which he may lawfully be taxed, with the purpose of making, or as
 4 an inducement to make, any particular place his residence or place of
 5 business, and an assessor guilty of making or assenting to any such pro-
 6 posal, shall be punished by a fine of one thousand dollars.

Proposing, etc.,
 to compromise
 assessment to
 keep residence
 penalized.
 G. S. 11, § 26.
 P. S. 11, § 26.
 R. L. 12, § 29.
 1909, 490,
 1, § 29.

1918, 257, § 35.

1919, 5.

1920, 2.

1 SECTION 90. Whoever avoids taxation by wilfully and designedly
 2 changing or concealing his residence, or by any other act with the intent
 3 so to avoid taxation, shall be punished by a fine of twice the amount of
 4 the last tax paid by him, or, if he has paid no tax in the commonwealth,
 5 by a fine of not less than one hundred nor more than five thousand dollars;
 6 and he may be indicted either in the county where any of the acts or
 7 things made criminal by this section are done or in the county where he
 8 is liable to taxation.

Evasion of
 taxation, etc.,
 by concealment
 or change of
 residence, etc.,
 penalized.
 1864, 172,
 §§ 1, 2.
 P. S. 11, § 27.
 R. L. 12, § 30.
 1909, 490,
 1, § 30.

17 Prek. 231.

124 Mass. 53, 132.

1 SECTION 91. Whoever, with intent to defeat or evade any provision
 2 of law as to the assessment or payment of taxes, delivers or discloses to
 3 an assessor or assistant assessor a false or fraudulent list, return or
 4 schedule of property, as and for a true list of his estate not exempt from
 5 taxation, shall be punished by a fine of not more than one thousand dol-
 6 lars or by imprisonment for not more than one year.

False or
 fraudulent list
 delivered.
 1869, 190
 P. S. 11, § 29.
 R. L. 12, § 32.
 1909, 490,
 1, § 32.

1 SECTION 92. Keepers of taverns and boarding houses and masters
 2 and mistresses of dwelling houses, upon application of an assessor or
 3 assistant assessor of the town where their house is situated, shall give the
 4 names of all persons residing therein liable to be assessed for taxes.
 5 Every such keeper, master or mistress refusing to give such information,
 6 or knowingly giving false information, shall be punished by a fine of
 7 twenty dollars.

Refusal, etc.,
 of information
 by keepers of
 taverns, etc.,
 penalized.
 1837, 176.
 G. S. 11, § 21.
 P. S. 11, § 30.
 R. L. 12, § 33.
 1909, 490,
 1, § 33.

NEGLECT BY ASSESSORS.

1 SECTION 93. An assessor who neglects to assess a state, county or dis-
 2 trict tax required by law shall be punished by a fine of not more than two
 3 hundred dollars.

Failure to
 assess taxes
 required by
 law penalized.

1785, 50, § 4
 R. S. 7, §§ 17, 18.

G. S. 11, § 19.
 P. S. 11, § 36.

R. L. 12, § 39.
 1909, 490, 1, § 39.

1 SECTION 94. An assessor who neglects to comply with sections forty-
 2 six, forty-seven, forty-eight, forty-nine or eighty-four shall be punished
 3 by a fine of not more than two hundred dollars.

Violation of
 §§ 46-49, 84
 penalized.

1861, 167, § 5.
 P. S. 11, § 56.

R. L. 12, § 62.
 1909, 490, 1, §§ 61, 94.

1912, 312, § 3.
 1 Op. A. G. 73.

CHAPTER 60.

COLLECTION OF LOCAL TAXES.

SECT.	SECT.
	CERTIFICATE OF TAXES AND OTHER ASSESSMENTS ON REAL ESTATE.
DEFINITIONS.	
1. Certain terms defined.	23. Certain collectors to furnish statements of all liens. Fee, etc.
GENERAL DUTIES OF COLLECTORS.	COLLECTION BY DISTRESS.
2. Collection and payment over of taxes. Return thereof.	24. Distress and sale of personal estate for taxes. Property included. Exemptions.
TAX BILL.	25. Detention, notice, sale.
3. Tax bills and notices, dates, etc.	26. Adjournment, notice.
COLLECTION OF POLL TAXES.	27. Levy of tax on land by distress of stock or produce.
4. Assessors may give collector certificate of poll taxes at any time after assessment.	28. Collector to account to owner for any surplus.
5. Collector to collect same.	COLLECTION BY IMPRISONMENT.
COLLECTOR'S BOOKS, RECORDS, ACCOUNTS AND VOUCHERS.	29. Collector may arrest and imprison in certain cases.
6. Collector to keep tax book.	30. Collector to give certificate to keeper of jail.
7. To keep cash books.	31. Proceedings for release of person imprisoned for non-payment of tax.
8. Collector's books, etc., to belong to city or town and be open to examination.	32. Collector liable for tax, etc., after discharge, in certain cases.
9. Accounts, records, etc., of collectors, deposit with city or town clerk, when.	33. Collector may require aid, etc.
10. [Repealed.]	34. Warrant to officer. Release after service of warrant, and re-arrest.
11. [Repealed.]	34A. Release from custody of delinquent taxpayer upon furnishing bond.
12. Clerk or assessor to demand any books, etc., that should be in his custody.	COLLECTION BY SUIT.
BOND OF COLLECTOR.	35. Collector may maintain action after three months.
13. Collector to give bond, etc.	36. Collection of tax against estate of deceased, etc.
SPECIAL COLLECTOR.	COLLECTION BY SALE OR TAKING OF LAND.
14. Appointment, when. Bond.	37. Lien of tax upon real estate, levy by sale, validity of title.
FEES.	38. Mortgagee may give notice requiring demand to be made on him.
15. Fees of collector.	39. Designation of place at which notice shall be served.
PROCEEDINGS PRIOR TO SALE, DISTRESS OR ARREST.	40. Notice to be published before sale.
16. Demand.	41. Description in case of change of local name.
17. Collection of unpaid taxes, etc., when made.	42. Notice to be posted in addition.
18. Summons.	43. Conduct of sale, etc.
19. Special warrant of assessors for distress or imprisonment without demand.	44. Adjournment.
20. Person claiming abatement to exhibit certificate, etc.	45. Collector's deed, contents and effect.
21. Error in name not to prevent collection of tax.	46. Reimbursement of purchaser if title invalid. Procedure.
22. Partial payment of tax.	47. Tax title owner to file statement of residence, etc.

- SECT.
- 48. Collector to purchase for city or town if bid insufficient.
 - 49. Sale to be void, and city or town deemed purchaser, if price not paid.
 - 50. Deed to city or town. Contents, custody, proceedings for foreclosure.
 - 51. Sale together of several parcels of small value, etc.
 - 52. Management and sale of lands, etc.
 - 53. Taking for taxes. Notice.
 - 54. Instrument of taking, form, contents, effect.
 - 55. Fees for taking.
 - 56. Taking in name of one or more of several owners. To be of whole estate.
 - 57. Affidavit of collector, etc., to be evidence.
 - 58. Mortgagee may pay tax and add to debt, when.
 - 59. Mortgagor or mortgagee may pay tax. To be added to or deducted from mortgage debt in certain cases.
 - 60. Payment of taxes by person other than owner of fee.

COLLECTION OF TAXES SUBSEQUENT TO SALE OR TAKING.

- 61. Lien for subsequent taxes to continue after sale or taking. Payment on foreclosure, etc.

REDEMPTION.

- 62. Redemption of land taken or sold for taxes.
- 63. Person paying collector to receive certificate which releases tax title, etc.

TAX TITLES.

- 64. Tax title to be absolute after foreclosure.
- 65. Petition for foreclosure of rights of redemption under tax title.
- 66. Examination of title, notice, etc.
- 67. Default.
- 68. Answer, offer to redeem, finding of court for redemption.
- 69. Decree barring redemption, when.
- 70. Questions of validity of title, how raised. Decree of court.
- 71. Jury trial, claim, issues.
- 72. Report, etc., of questions of law.
- 73. Costs and fees. Deposit, etc.
- 74. Notice of filing and disposition of petition to be recorded.
- 75. Practice and procedure in general.
- 76. Petition for redemption in superior court, time for filing, procedure.

- SECT.
- 77. Title of city or town after foreclosure.
 - 78. Assessment of taxes on land taken or purchased by city or town.
- SALE OF LANDS OF LOW VALUE HELD BY CITY OR TOWN UNDER TAX TITLES.
- 79. Sale without foreclosure of lands taken or purchased by city or town in certain cases.
 - 80. Proceedings upon lack of bids, etc., at such sale.
 - 81. [Repealed.]

PROCEEDINGS IF TAX TITLE IS DEEMED INVALID.

- 82. Collector to notify holder of title deemed invalid, etc.
- 83. To record affidavit of notice if title not released. Effect.
- 84. Reassessment or collection of taxes where tax title invalid. Disclaimer of title held by city or town.
- 84A. Refunds to holders of tax titles judicially adjudged invalid.

LIEN OF CO-TENANTS.

- 85. Co-tenant paying tax to have lien on interest of his co-tenant.
- 86. Enforcement of lien of co-tenant.

MISCELLANEOUS PROVISIONS.

- 87. By-laws, etc., to direct collector to sell or take.
- 88. Sheriff or deputy to post list and warrant thirty days before distress.
- 89. Sheriff's fees for collecting.
- 90. Treasurer as collector may issue warrants, etc.
- 91. Restraint of foreign corporation or non-resident from doing business until tax is paid.
- 92. Aldermen or selectmen may authorize appointment of deputies.
- 93. Money payable by city or town to person owing taxes to be withheld, etc.
- 94. Mayor and aldermen or selectmen may require collector to exhibit accounts and receipts.
- 95. Credits and payments to collector.
- 96. Aldermen or selectmen may remove collector in certain cases.
- 97. Accounts, records, etc., of collectors, deposit with assessors, when. Uncollected tax lists, etc., to be turned over to successor, etc.
- 98. Action to recover back taxes paid, when maintainable.

<p>SECT.</p> <p style="text-align: center;">PENALTIES.</p> <p>99. Penalty on collector for failure to exhibit accounts or receipts.</p> <p>100. Penalty on collector, etc., for failure to turn over accounts, etc.</p> <p>101. Penalty for failure to give up accounts, etc., on demand.</p> <p>102. Penalty for failure to pay over money or exhibit books, etc.</p>	<p>SECT.</p> <p>103. Penalty for failure to aid collector when required.</p> <p>104. Penalty for exorbitant charge for redemption from tax title.</p> <p style="text-align: center;">FORMS.</p> <p>105. Forms.</p>
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DEFINITIONS.

Certain terms defined.
 1785, 70, § 7.
 R. S. 8, § 24.
 G. S. 12, § 28.
 1879, 69.
 P. S. 12, § 30.
 1888, 390, § 35.
 1892, 168.
 1899, 425, §§ 1, 2.
 1900, 290
 1901, 108, 150.
 R. L. 13, § 1.
 1909, 490,
 H. § 1.
 1918, 57
 1920, 255.
 209 Mass. 111.

SECTION 1. Terms used in this chapter shall, unless other meaning is clearly apparent from the context, or unless inconsistent with the manifest intent of the legislature, be construed as follows:

“Collector”, a person receiving a tax list and a warrant to collect the same.

“Publication”, as applied to any notice, advertisement or other instrument, the publication of which is required by law, shall mean the act of printing it for three successive weeks in a newspaper published in the town, if any, otherwise in the county, where the land or other property to which the notice or other instrument relates is situated. The last publication shall be made at least one week prior to the date stated for the occurrence of the event to which the publication relates.

“Registry of deeds”, the registry of deeds for the county or district where the land taxed lies.

“Service”, as applied to any notice, summons, demand or other paper, shall, except as otherwise provided in section sixteen, mean delivering it or a copy to the person for whom it is intended, or leaving it or a copy at his last and usual place of abode or of business, or sending it or a copy by mail postpaid addressed to him at his last and usual place of abode or of business or, if such notice, summons or other paper relates to taxes on land, posting it or a copy conspicuously in some convenient and public place and sending a copy by mail postpaid addressed to the person for whom it is intended at the town where such land lies. Such service shall be sufficient whether made by the then collector of taxes or by any predecessor.

The affidavit of the collector, deputy collector, sheriff, deputy sheriff or constable serving the notice, summons, demand or other paper of the manner of service shall be kept on file in the office of the collector, and shall be prima facie evidence that the same was so served.

GENERAL DUTIES OF COLLECTORS.

Collection and payment over of taxes.
 Return thereof.
 R. S. 7, § 34.
 S. §§ 1, 33.
 G. S. 12, § 1.
 P. S. 12, § 1.
 1887, 110, § 4.
 1888, 390,
 § 1, 6.
 1897, 126, § 1.
 R. L. 13, § 2.
 1909, 490,
 H. § 2.
 1918, 267, § 41.
 1919, 5.
 1920, 2.

SECTION 2. Every collector of taxes, constable, sheriff or deputy sheriff, receiving a tax list and warrant from the assessors, shall collect the taxes therein set forth, with interest, and pay over said taxes and interest to the city or town treasurer according to the warrant, and shall make written return thereof with his tax list and of his doings thereon at such times as the assessors shall in writing require. He shall also give to the treasurer an account of all charges and fees collected by him. He shall, once in each week or oftener, pay over to the treasurer all money received by him during the preceding week or lesser period on account of taxes and interest, including any sums received as interest

11 on moneys received by him on account of taxes and interest and depos- 1921, 124.
12 ited in any bank. 1926, 65, § 3.

1931, 287.
7 Gray, 128.
102 Mass. 72.

112 Mass. 75.
159 Mass. 138.

250 Mass. 559.
251 Mass. 440.

[Penalty, § 102.]

TAX BILL.

1 SECTION 3. The collector shall forthwith, after receiving a tax list and Tax bills
2 warrant, send notice to each person assessed, resident or non-resident, of and notices,
3 the amount of his tax; if mailed, it shall be postpaid and directed to the dates, etc.
4 town where the assessed person resided on April first of the year in which 1877, 235, § 1.
5 the tax was assessed, and, if he resides in a city, it shall, if possible, be P. S. 12, § 2.
6 directed to the street and number of his residence. If he is assessed for a 1888, 390, § 2.
7 poll tax only, the notice shall be sent on or before September second of 1889, 334, § 1.
8 the year in which the tax is assessed. An omission to send the notice shall R. L. 13, § 3.
9 not affect the validity either of a tax or of the proceedings for its collection. 1909, 440, § 2;
10 All tax bills or notices issued pursuant to this section shall be dated April 490, II, § 3.
11 first of the year to which the tax relates. The tax notice and bill shall 1914, 198, § 2.
12 state that all checks, drafts or money orders shall be made payable to or 1926, 71, § 1;
13 to the order of the city, town or district and not to or to the order of any 269, § 1.
14 officer, board or commission. 193 Mass. 168.
241 Mass. 96.
[For due date of taxes, and interest charges, see Chap. 59, § 57.]

COLLECTION OF POLL TAXES.

1 SECTION 4. A board of assessors, from time to time in any year after Assessors may
2 their preparation of the whole or any part of the lists of male persons give collector
3 liable to be assessed a poll tax as provided in section four of chapter fifty- certificate of
4 one, may and, on written request from the collector of taxes, shall assess poll taxes at
5 the poll taxes of all persons whose names are contained in said lists and any time after
6 deliver to the collector tax lists containing the names and addresses of all assessment.
7 persons so assessed, and the number of polls assessed to each with the 1913, 679,
8 amount of the respective taxes thereon. The assessors shall also deliver § 1, 3.
9 to the collector their warrants in the customary form for the collection 1918, 257,
10 forthwith of all taxes contained in said lists; but no such list or warrant § 42.
11 shall be issued to any collector until, conformably to law, he has given 1919, 5, 321,
12 bond and has otherwise qualified himself for the performance of his duties. § 1, 3.
13 Poll taxes so committed to the collector shall be subject to the laws relat- 1920, 2.
14 ing to poll taxes committed by warrant under section fifty-three of chap-
15 ter fifty-nine.

1 SECTION 5. A collector of taxes receiving from the assessors a list Collector to
2 and warrant under the preceding section shall forthwith proceed to col- collect same.
3 lect the poll taxes from the persons entered on such list. All laws re- 1913, 679,
4 lating to the collection of taxes, to the duties and powers of collectors, § 2, 3.
5 to money collected as taxes, interest, charges and fees, to the accounting 1918, 257, § 42.
6 for and turning over of money so collected, and to the crediting thereof 1919, 5, 321,
7 to the collector, shall apply to the collection of poll taxes from the persons § 2-5.
8 whose names appear on such lists. 1920, 2.

COLLECTOR'S BOOKS, RECORDS, ACCOUNTS AND VOUCHERS.

1 SECTION 6. The collector shall make and keep in the book contain- Collector to
2 ing the tax list committed to him, against the name of every person keep tax book.
3 assessed for a tax, entries showing the disposition thereof, whether re- 1887, 110, § 2.
4 assessed, abated or paid, and the date of such disposition. 1888, 390, § 3.
1889, 334, § 2.

R. L. 13, § 4.

1909, 490, II, § 4.

To keep cash books.
1887, 110, § 1.
1888, 390, § 4.
R. L. 13, § 5.
1909, 490,
II, § 5.
1918, 48.

SECTION 7. He shall also keep a cash book, in which he shall enter all sums paid to him, as received, specifying the total amount of tax, abatements allowed, all interest charged, the total amount received and the date of receipt, the date and amount of every payment and disbursement made by him, and to whom paid, with such other matters as the town requires.

Collector's books, etc., to belong to city or town and be open to examination.
1887, 110, § 3.
1888, 390, § 5.
1897, 126, § 2.
R. L. 13, § 6.
1909, 490,
II, § 6.
1918, 257, § 43.
1919, 5
1920, 2.
1926, 65, § 4.
[Penalty, § 102.]

SECTION 8. All books kept by the collector, which shall be approved as to form by the commissioner, shall be furnished by, and be the property of, the town, and shall be at all reasonable times open to examination by the auditor of such town or any other agent thereof duly authorized therefor. The collector shall, on demand by the mayor, aldermen or selectmen, exhibit to them or to any persons whom they designate, at any time during ordinary business hours, the books, accounts and vouchers relating to taxes committed to him for collection and to his receipts and payments on account of taxes; and they, or the persons designated by them, shall have full opportunity to examine said books, accounts and vouchers, and to make copies and extracts therefrom.

Accounts, records, etc., of collector, deposit with city or town clerk, when.
1892, 370,
§§ 1, 4.
R. L. 13, § 7.
1909, 490,
II, § 7.
1923, 128, § 1.

SECTION 9. When all the taxes which have been committed to a collector have been collected or abated, or, in any event, at the end of three years from the date of their commitment to him, he shall deposit with the clerk of the town where he held such office all his accounts, records and papers, including his warrant, which relate to the assessment and collection of such taxes, if not required by section ninety-seven to deposit them sooner with the assessors of such town.

[Penalty, § 100.]

SECTION 10. [REPEALED, 1923, 128, § 2.]

SECTION 11. [REPEALED, 1923, 128, § 2.]

Clerk or assessor to demand any books, etc., that should be in his custody.
1892, 370, § 6.

SECTION 12. A town clerk or an assessor, having knowledge of any accounts, records or papers relating to taxes in his town which should be in his custody, shall demand them of any person having them, who shall forthwith deliver them to him.

R. L. 13, § 10.

1909, 490, II, § 10.

1923, 128, § 3.

[Penalties, §§ 100, 101.]

BOND OF COLLECTOR.

Collector to give bond, etc.
R. S. 15, § 80.
G. S. 18, § 72.
P. S. 27, § 124.
1893, 423, § 18.
R. L. 25, § 77.
1916, 131, § 1.
1926, 65, § 2.
9 Met. 499
2 Gray, 298.

SECTION 13. The collector shall, before the commitment to him of any taxes of any year, give bond for the faithful performance of his duties in a form approved by the commissioner and in such sum, not less than the amount established by the commissioner, as shall be fixed by the selectmen or mayor and aldermen. A copy of each such bond shall be delivered to the commissioner.

§ Gray, 613.

185 Mass. 582.

259 Mass. 310.

146 Mass. 476.

250 Mass. 559.

4 Op. A. G. 445, 540.

156 Mass. 403.

SPECIAL COLLECTOR.

Appointment, when Bond.
1910, 272,
§§ 1, 2.
1916, 131, § 2.

SECTION 14. In towns, not cities, if, at the expiration of three years from the date of the commitment of tax lists and warrant to a collector of taxes, any taxes remain uncollected and recovery cannot be made upon the bond of the collector of the amount of such uncollected taxes, the

5 selectmen shall appoint the collector of taxes for the current year or some
6 other person as special collector thereof. He shall furnish a satisfactory
7 bond for the faithful performance of his duties, in such sum as the select-
8 men require, in a form to be approved by the commissioner.

FEES.

1 SECTION 15. The collector shall, unless removed from office or unless
2 his tax list has been transferred to his successor, complete the collection
3 of the taxes committed to him, notwithstanding the expiration of the
4 term of office for which he was elected or appointed. The following
5 charges and fees, and no other, when accrued, shall severally be added
6 to the amount of the tax and collected as a part thereof:—

7 1. For the written demands provided for by law, thirty-five cents;

8 2. For preparing advertisement of sale, fifty cents for each parcel of
9 real estate included in the advertisement;

10 3. For advertisement of sale in newspapers, the cost thereof;

11 4. For posting notices of sale, fifty cents for each parcel of real estate
12 or lot of goods included in the notice;

13 5. For affidavit, twenty-five cents for each parcel of land included
14 therein;

15 6. For recording affidavit, one dollar for each parcel of land included
16 therein;

17 7. For preparing deed, two dollars;

18 8. For each hour's time, or part thereof, actually expended in selling
19 as certified by him under section fifty-one, two dollars;

20 9. For a warrant to distrain or arrest, fifty cents;

21 10. For distraining goods, one dollar and the cost thereof;

22 11. For notice of warrant if collection is made without service or
23 arrest, one dollar;

24 12. For selling goods distrained, the cost thereof;

25 13. For arresting the body, two dollars and travel at the rate of eight
26 cents per mile from the office of the collector to the place where the
27 arrest is made, but in no event more than five dollars;

28 14. For custody of the body arrested, four dollars;

29 15. For service of demand and notice under section fifty-three, if
30 served in the manner required by law for the service of subpoenas on
31 witnesses in civil cases, fifty cents and travel at the rate of eight cents
32 per mile from the office of the collector to the place where service is
33 made, but in no event more than five dollars.

34 The collector shall account to the town treasurer for all charges and
35 fees collected by him; but the town shall reimburse or credit him for
36 all expenses incurred by him hereunder, including all lawful charges
37 and fees paid or credited by him for collecting taxes.

Fees of
collector.
1785, 70, § 8.
R. S. 8, § 2.
G. S. 12, § 2.
1802, 187, § 10.
1878, 206, § 13.
1881, 138, § 2.
P. S. 12,
§ 3, 36, 47.
1888, 390,
§ 7, 29, 41, 55.
1889, 334, § 3.
1890, 331, § 2.
1894, 537, § 5.
R. L. 13, § 13.
1907, 427.
1909, 440.
11, § 13; 512.
1915, 237,
§ 22, 26,
1918, 257,
§ 45, 58.
1919, 5.
1920, 2.
1931, 434
102 Mass. 72.
256 Mass. 340.

PROCEEDINGS PRIOR TO SALE, DISTRESS OR ARREST.

1 SECTION 16. The collector shall, before selling the land of a resident,
2 or non-resident, or distraining the goods of any person, or arresting him
3 for his tax, serve on him a statement of the amount thereof with a de-
4 mand for its payment. If the heirs of a deceased person, co-partners or
5 two or more persons are jointly assessed, service need be made on only
6 one of them. Such demand for the tax upon land may be made upon the
7 person occupying the same on April first of the year in which the tax is

Demand.
1785, 70, § 2.
R. S. 8, § 3.
G. S. 12, § 3.
P. S. 12, § 4.
1888, 390, § 8.
1889, 334, § 4.
R. L. 13, § 14.
1909, 440, § 2;
490, 11, § 14.
1914, 198, § 2.
1918, 57.

185 Mass. 137.
209 Mass. 111.
225 Mass. 215.
228 Mass. 441.

[See Form 1 at
end of chapter.]

assessed. No demand need be made on a mortgagee, unless he has given notice under section thirty-eight, in which case no demand need be made on the owner or occupant. Demand shall be made by the collector by mailing the same to the last or usual place of business or abode, or to the address best known to him, and failure to receive the same shall not invalidate a tax or any proceedings for the enforcement or collection of the same.

Collection of
unpaid taxes,
etc., when
made
1913, 688, § 4.
1914, 625.
1923, 128, § 4.

SECTION 17. If any tax, betterment or special assessment remains unpaid fourteen days after demand therefor, the collector, in the case of any tax, betterment or special assessment upon real estate, within one year from October first in the year of assessment, and, in case of any other tax, within two years from said October first, shall collect the tax, together with all incidental charges and fees, in the manner provided by law.

Summons
1888, 390, § 28.
1889, 334, § 8.
1890, 331, § 1.
R. L. 13, § 15.
1909, 490,
II, § 15.

SECTION 18. The collector may, before making a demand for the payment of a tax due from any person, serve a summons on him, stating therein the amount due and that unless the same, with twenty cents more for the summons, is paid within ten days, he will proceed to collect it according to law.

[See Form 2 at end of chapter.]

Special war-
rant of assess-
ors for distress
or imprison-
ment without
demand
1785, 79, § 2.
1815, 130, § 3.
R. S. 8, § 12.
G. S. 12, § 4
1874, 238.

SECTION 19. If the assessors are of opinion that the credit of a person taxed is doubtful or that he is about to leave the commonwealth, they may, by a special warrant, direct the collector forthwith, without demand or notice, to compel payment by distress or imprisonment, whether the tax is payable immediately or at a future day, by instalments or otherwise.

P. S. 12, § 5.
1888, 390, § 9.

R. L. 13, § 16.
1909, 490, II, § 16.

Person
claiming
abatement to
exhibit cer-
tificate, etc.
R. S. 8, § 4.
G. S. 12, § 5.
P. S. 12, § 6.
1888, 390, § 10.

SECTION 20. If a person claims the benefit of an abatement, he shall exhibit to the collector demanding his taxes the certificate of such abatement authorized by section seventy of chapter fifty-nine; and he shall be liable for all costs and officers' fees incurred before exhibiting such certificate.

R. L. 13, § 17.

1909, 490, II, § 17.

Error in name
not to prevent
collection of
tax.
R. S. 8, § 5.
G. S. 12, § 6.
P. S. 12, § 7.

SECTION 21. If, in the assessors' lists or in their warrant and list committed to the collector, there is an error in the name of a person taxed, the tax assessed to him may be collected of the person intended to be assessed, if he is taxable and can be identified by the assessors.

1888, 390, § 11.
R. L. 13, § 18.
1909, 490, II, § 18.

6 Met. 470.
7 Gray, 125.

97 Mass. 321.
127 Mass. 502.

Partial pay-
ment of tax.
1899, 394.
§§ 1, 2, 4.
R. L. 13, § 19.
1909, 490,
II, § 19
1913, 599, § 2.
1916, 29.
Op. A. G.
(1920) 235.

SECTION 22. After the delivery of a tax, including assessments for betterments or other purposes but not including a poll tax, to a collector for collection, the owner of the estate or person assessed or a person in behalf of said owner or person may, if the tax or assessments are upon real estate, at any time up to the date when advertisements may be prepared for the sale of the same, and if it is a personal tax, at any time up to the date when a warrant or other process may be issued for the enforcement and collection thereof, tender to the collector not less than

9 twenty-five per cent of the tax, which shall be received, receipted for and
 10 applied toward the payment of the tax. The acceptance of any partial
 11 payment in accordance with this section shall not invalidate any demand
 12 made for a tax, prior to the acceptance of such partial payment; pro-
 13 vided that the amount stated in the demand was the amount due at the
 14 date when the demand was made. If in any court it shall be determined
 15 that the tax is more than the amount so paid, judgment shall be entered
 16 for such excess and interest upon the amount thereof to the date of the
 17 judgment, and on the amount paid to the date of payment, with costs if
 18 otherwise recoverable. The part payment authorized by this section
 19 shall not affect a right of tender, lien or other provision of law for the
 20 recovery of the amount of such tax, or interest or costs thereon, remaining
 21 due, but if the part payment is more than the tax, as finally determined,
 22 the excess, without interest, shall be repaid to the person who paid it.

CERTIFICATE OF TAXES AND OTHER ASSESSMENTS ON REAL ESTATE.

1 SECTION 23. The collector of taxes for any city, or for any town
 2 having more than five thousand inhabitants as determined by the last
 3 preceding national or state census, shall, on written application by any
 4 person, and within two days thereafter, furnish to any such applicant
 5 a written statement of all taxes and other assessments which at the time
 6 constitute liens on the parcel of real estate specified in such application
 7 and are payable on account of such real estate. Such statement shall
 8 be itemized and shall show the amounts then payable on account of
 9 all such taxes and assessments so far as such amounts are fixed and
 10 ascertained, and if the same are not then ascertainable, it shall so be
 11 expressed in the statement. Any town officer or board doing any act
 12 towards establishing any such tax, assessment, lien or charge upon any
 13 real estate in the town shall transmit a notice of such act to its collector.
 14 Such collector shall charge one dollar for each statement so issued, and
 15 the money so received shall be paid into the town treasury.

Certain collectors to furnish statements of all liens. Fee, etc.
 1907, 378.
 1908, 299.
 1909, 490, II, § 20.
 250 Mass. 317.
 259 Mass. 310.

COLLECTION BY DISTRESS.

1 SECTION 24. If a person refuses or neglects to pay his tax for four-
 2 teen days after demand, the collector shall without unnecessary delay
 3 levy the same by distress or seizure and sale of his goods, except tools or
 4 implements necessary for his trade or occupation, beasts of the plough
 5 necessary for the cultivation of his improved land, military arms, uni-
 6 forms and equipments, utensils for housekeeping necessary for uphold-
 7 ing life, and bedding and apparel necessary for himself and family.

Distress and sale of personal estate for taxes. Property included. Exemptions.
 1785, 50, § 6.
 R. S. 8, § 7.
 G. S. 12, § 7.
 P. S. 12, § 8;
 14, § 72.
 1887, 411, § 71.

1888, 390, § 12.	1906, 504, § 7.	9 Met. 504.
1890, 425, § 8.	1908, 604, § 106.	7 Gray, 128.
1893, 367, § 71.	1909, 490, II, § 21.	103 Mass. 481.
R. L. 13, § 20; 16, § 85.	1912, 67.	225 Mass. 215.
1905, 465, § 90.	1917, 327, §§ 131, 230.	234 Mass. 279.

1 SECTION 25. The collector shall keep the goods distrained, at the
 2 expense of the owner, for four days at least, and shall, within seven days
 3 after the seizure, sell them by public auction for payment of the tax and
 4 charges of keeping and sale, first posting notice of the sale in some public
 5 place in the town at least forty-eight hours prior thereto.

Detention, notice, sale.
 1785, 50, § 6;
 70, § 2.
 1791, 22, § 3.
 R. S. 8, § 8.
 G. S. 12, § 8.

P. S. 12, § 9.	1909, 490, II, § 22.	11 Cush. 338.
1888, 390, § 13.	14 Pick. 356.	113 Mass. 40.
R. L. 13, § 21.	13 Met. 85.	126 Mass. 97.

[See Form 3 at end of chapter.]

Adjournment,
notice.
R. S. 8, § 9.
G. S. 12, § 9
P. S. 12, § 10.

SECTION 26. The collector may once adjourn such sale for not more than three days, and he shall forthwith post a notice of such adjournment at the place of sale.

1888, 390, § 14.

R. L. 13, § 22

1909, 490, II, § 23.

[See Form 4 at end of chapter.]

Levy of tax on
land by dis-
tress of stock
of produce.
1785, 70, § 14.
R. S. 8,
§§ 16, 17.
G. S. 12, § 21.
P. S. 12, § 23
1888, 390, § 27.
R. L. 13, § 24.
1909, 490,
II, § 25.

SECTION 27. If a person is taxed for land in his occupation, but of which he is not the owner, the collector, after demand for payment, may levy the tax by distress and sale of the cattle, sheep, horses, swine or other stock or produce of such estate, belonging to the owner thereof, which, within nine months after such assessment has been committed to him, may be found upon the premises, in the same manner as if such stock or produce were the property of the person so taxed; but such demand for payment need not be made if the person on whom the tax is assessed resided within the precinct of the collector at the time of the assessment, and subsequently removes therefrom and remains absent three months.

Collector to
account to
owner for any
surplus.
1785, 70, § 2.

SECTION 28. The collector shall upon demand give a written account of every sale on distress or seizure and charges, and pay to the owner any surplus above the taxes, interest and charges of keeping and sale.

R. S. 8, § 10.
G. S. 12, § 12.

P. S. 12, § 13.
1888, 399, § 17.

R. L. 13, § 25.
1909, 490, II, § 26.

COLLECTION BY IMPRISONMENT.

Collector may
arrest and
imprison in
certain cases.
1785, 70, § 2.
R. S. 8, § 11.
G. S. 12, § 13.
P. S. 12, § 14
1888, 390, § 18.
1893, 241.
1901, 408
R. L. 13, § 26.

SECTION 29. If a person refuses or neglects to pay his tax for fourteen days after demand and the collector cannot find sufficient goods on which it may be levied, he may take the body of such person and commit him to jail until he pays the tax and charges of commitment and imprisonment, or is discharged according to law; but a person committed for non-payment of a poll tax shall not be detained in jail more than seven days.

1909, 490, II, § 27.
9 Gray, 190.
13 Gray, 93.

3 Allen, 5.
102 Mass. 72.

188 Mass. 506.
225 Mass. 215.

Collector to
give certificate
to keeper of
jail.
1785, 70, § 11.
R. S. 8, § 13.
G. S. 12, § 14.
P. S. 12, § 15.
1888, 390, § 19.
1889, 334, § 5.
R. L. 13, § 27.

SECTION 30. A collector who commits a person to jail shall give to the keeper thereof a certificate signed by him, stating that he has committed the person for non-payment of his tax for fourteen days after demand therefor, and for want of goods and chattels whereof to make distress, and setting forth the amount said person shall pay for said tax, interest, charges and fees.

1909, 490, II, § 28.

[See Form 5 at end of chapter.]

Proceedings
for release of
person im-
prisoned for
non-payment
of tax
1790, 42,
§§ 1-4
R. S. 8, §§ 48,
49
1857, 141, § 24.
G. S. 12, § 15.
P. S. 12, § 16
1888, 390, § 20.
R. L. 13, § 28.
1902, 490, II,
§ 29.
1927, 334, § 5.

SECTION 31. On request of a person committed to jail for non-payment of a tax, the jailer shall forthwith inform a court having authority to examine debtors under supplementary proceedings that the debtor desires to be examined relative to his property and ability to pay. The court shall thereupon appoint a time and place for the examination of the debtor, and shall direct the jailer to cause the debtor to be present at the examination. The notice required by chapter two hundred and twenty-four to be given to the creditor may be given to any one of the assessors or to the collector of the town where the tax was assessed, any of whom may appear at the examination and do all other things which

11 a creditor might do upon such supplementary proceedings. If a debtor
 12 is unable to pay such tax, he may be discharged in the manner provided
 13 under such proceedings.

1 SECTION 32. The collector shall be liable for the tax and the charges
 2 of imprisonment of a person discharged, unless he arrested and com-
 3 mitted such person within two years after the tax was committed to
 4 him for collection, or unless he shall be exonerated therefrom by the
 5 town to which the tax is due.

Collector
 liable for tax,
 etc., after
 discharge, in
 certain cases.
 1799, 12, § 6.
 R. S. 8, § 50.

G. S. 12, § 16.
 P. S. 12, § 17.
 1888, 390, § 21.

R. L. 13, § 29.
 1909, 490, II, § 30.

1928, 12,
 3 Met. 152.

1 SECTION 33. A collector who is resisted or impeded in the exercise of
 2 the duties of his office may require any suitable person to aid him.

Collector may
 require aid,
 etc.

1782, 61, § 1.
 1785, 70, § 9.
 R. S. 8, § 6.

G. S. 12, § 17.
 P. S. 12, § 18.
 1888, 390, § 22.

R. L. 13, § 30
 1909, 490, II, § 31.

[Penalty, § 103.]

1 SECTION 34. If a tax assessed upon a person remains unpaid for four-
 2 teen days after demand therefor, the collector may issue his warrant to
 3 the sheriff or his deputies of the county, or the deputy collector of taxes
 4 or a constable of the town, wherein the person assessed has his usual
 5 place of abode or of business, directing them and each of them to detain
 6 the property or take the body of the person assessed and to proceed as
 7 required of collectors in like cases; but a collector of taxes who issues a
 8 warrant for the arrest of a person for non-payment of taxes, or the
 9 officer to whom he commits the warrant, may at his discretion, after
 10 the service of the warrant, allow such person to go free for a period
 11 not exceeding fourteen days after said service, at which time, if said
 12 person does not pay his tax with all fees and charges due thereon, in-
 13 cluding the fee for service of said warrant and travel as provided by sec-
 14 tion fifteen, said officer shall then arrest the said person on the aforesaid
 15 warrant, and commit him to the jail of the county where he makes the
 16 arrest. The warrant shall run throughout the commonwealth, and any
 17 officer to whom it is directed as aforesaid may serve it and apprehend
 18 the person in any county. A warrant issued under this section may be
 19 signed by the collector or his deputy; and, if the warrant is sealed by
 20 an impression seal, a facsimile of the signature of the collector shall have
 21 the same validity as his written signature.

Warrant to
 officer.
 Release after
 service of
 warrant,
 and re-arrest.
 1785, 70, § 5.
 R. S. 8, § 14.
 1842, 34.
 G. S. 12, § 18.
 P. S. 12, § 19.
 1888, 390, § 23.
 1889, 334, § 6.
 R. L. 13, § 31.
 1908, 99, § 1.
 1909, 490, II,
 § 32.
 1913, 237.
 1919, 12.
 1931, 409, § 1.
 15 Gray, 427.
 5 Allen, 563.
 99 Mass. 472.
 191 Mass. 503.
 241 Mass. 96.

[See Forms 6
 and 7 at end of
 chapter.]

1 SECTION 34A. A person shall not be committed to jail for the non-
 2 payment of a tax, nor shall a person so committed be further detained
 3 therein, if he gives to the collector or to the officer charged with the
 4 service of the collector's warrant a bond running to the collector suffi-
 5 cient in amount to cover the amount of the tax and all interest and other
 6 charges and fees which are or may become due thereon, conditioned to
 7 pay the same to the collector or officer within thirty days thereafter or
 8 within such further time as the collector or officer may fix, and with
 9 such surety or sureties as the collector or officer or a master in chancery
 10 may approve. A person shall not be committed for such non-payment
 11 until he has been given a reasonable time to procure such a bond.

Release from
 custody of
 delinquent
 taxpayer upon
 furnishing
 bond.
 1931, 409, § 2.

COLLECTION BY SUIT.

Collector may maintain action after three months. 1789, 4.
R. S. 8, § 15, 1859, 171.

SECTION 35. If a tax remains unpaid for three months after commitment to the collector, he may maintain an action in his own name against the person assessed therefor in the same manner as for his own debt.

G. S. 12, § 19.	121 Mass. 222.	225 Mass. 215.
P. S. 12, § 20.	155 Mass. 400.	234 Mass. 279.
1888, 390, § 24.	179 Mass. 486.	240 Mass. 557.
1889, 331, § 7.	189 Mass. 104.	241 Mass. 96.
R. L. 13, § 32.	198 Mass. 434.	254 Mass. 516.
1909, 490, II, § 33.	201 Mass. 190.	189 U. S. 255.
S. Met. 393.		

Collection of tax against estate of deceased, etc. 1818, 235
1852, 234
G. S. 12, § 20.
P. S. 12, § 21.
1888, 390, § 25
R. L. 13, § 33.

SECTION 36. If a person assessed for a tax dies or becomes insolvent before the payment thereof, or if a tax is assessed upon the estate of a deceased person, the executor, administrator or assignee shall, if a demand has been made on him therefor, forthwith on receipt of any money applicable to the payment of the tax, pay the same, and in default shall be personally liable therefor as for his own tax.

1909, 490, II, § 34.	194 Mass. 77.	219 Mass. 320.
97 Mass. 321.	201 Mass. 190.	241 Mass. 96.
149 Mass. 62.	203 Mass. 576.	Op. A. G. (1919) 123.

COLLECTION BY SALE OR TAKING OF LAND.

Lien of tax upon real estate, levy by sale, validity of title. 1830, 151, § 9.
R. S. 8, § 18
1856, 239, § 1.
1859, 118, §§ 1, 2.
G. S. 12, §§ 22, 23.
1878, 266, § 14.
1881, 304, § 1.
P. S. 12, §§ 24, 25.
1888, 390, §§ 30, 31.
1889, 334, § 9.
R. L. 13, § 35.
1909, 440, § 2;
490, II, § 36.
1914, 198, § 2.
1918, 257, § 46.
1919, 5.
1920, 2.
13 Pick. 492.
2 Gray, 185.
99 Mass. 29.
106 Mass. 29.
110 Mass. 387.
114 Mass. 358.
119 Mass. 294.
120 Mass. 297.
124 Mass. 342.
129 Mass. 377.
137 Mass. 407, 444.

SECTION 37. Taxes assessed upon land, including those assessed under sections twelve, thirteen and fourteen of chapter fifty-nine, shall with all incidental charges and fees be a lien thereon from April first in the year of assessment. Such lien shall terminate at the expiration of two years from October first in said year, if the estate has in the meantime been alienated and the instrument alienating the same has been recorded, otherwise it shall continue until a recorded alienation thereof; but if while such lien is in force a tax sale or taking has been made, and the deed or instrument of taking has been duly recorded within thirty days, but the sale or taking is invalid by reason of any error or irregularity in the proceedings subsequent to the assessment, the lien shall continue for ninety days after a release, notice or disclaimer, under sections eighty-two to eighty-four, inclusive, has been duly recorded, or for ninety days after the sale or taking has been finally adjudged invalid by a court of competent jurisdiction. There shall be no lien for taxes reassessed if the property is alienated before the reassessment. Said 16 taxes, if unpaid for fourteen days after demand therefor, may, with said 17 charges and fees, be levied by sale of the real estate, if the lien thereon 18 has not terminated. No tax title shall be held to be invalid by reason 19 of any errors or irregularities in the proceedings of the collector which 20 are neither substantial nor misleading. 21

142 Mass. 576.	178 Mass. 464.	225 Mass. 399.
148 Mass. 508.	185 Mass. 398.	248 Mass. 569.
149 Mass. 106.	189 Mass. 182.	267 Mass. 17.
154 Mass. 208.	213 Mass. 239.	4 Op. A. G. 547.

[See Form 8 at end of chapter.]

Mortgagee may give notice requiring demand to be made on him. 1818, 166, § 1.
G. S. 12, § 24.
P. S. 12, § 26.
1888, 390, § 32.

SECTION 38. If a mortgagee of land situated in the place of his residence, before September first of the year in which the tax is assessed, gives written notice to the collector that he holds a mortgage on land, with a description of the land, the demand for payment shall be made on the mortgagee instead of the mortgagor.

1889, 334, § 10.	R. L. 13, § 36.	1909, 490, II, § 37.
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1 SECTION 39. If a mortgagee or an owner of land causes a notice,
 2 designating a place in the town where such land lies at which all papers
 3 relative to taxes on such land which are to be served on him may be
 4 left, to be recorded in January of any year in the office of the clerk of such
 5 town and, during said month, to be delivered to the collector thereof,
 6 the collector shall serve at such place any notice, summons, demand for
 7 payment or other paper relating to the taxes on such land which is to be
 8 served by him. The collector shall not advertise the sale of such land
 9 for two months after the time of a demand so made.

Designation of
 place at which
 notice shall be
 served
 1794, 68, § 1.
 R. S. 8, §§ 20,
 21
 1848, 166, § 2.
 G. S. 12, §§ 25,
 26
 P. S. 12, §§ 27,
 28
 1888, 390,
 §§ 33, 34.

1889, 334, § 11. 1809, 425, § 1. R. L. 13, § 37. 1909, 490, II, § 38.

1 SECTION 40. The collector shall give notice by publication of the
 2 time and place of sale of land for non-payment of taxes. Such notice
 3 shall contain a substantially accurate description of the several rights,
 4 lots or divisions of the land to be sold, which shall be furnished to the
 5 collector by the assessors upon demand of the collector, the amount of the
 6 tax assessed on each, and the names of all owners known to the collector.
 7 Such notice of the sale of the undivided real estate of a deceased person
 8 assessed to his heirs or devisees or assessed in general terms to his estate
 9 shall contain the names of all the heirs or devisees interested in such real
 10 estate, if the probate records of the county where the land lies disclose
 11 their identity.

Notice to be
 published
 before sale.
 1785, 70, § 7.
 R. S. 8, §§ 24,
 25.
 1848, 166, § 3
 G. S. 12, §§ 28,
 29.
 P. S. 12, §§ 30,
 31.
 1888, 390,
 §§ 35, 36.
 R. L. 13, § 38.
 1909, 490, II,
 § 39
 1913, 255,
 1920, 270.

4 Cush. 260.	135 Mass. 314	197 Mass. 565.
7 Cush. 503.	136 Mass. 32.	209 Mass. 111.
124 Mass. 65	148 Mass. 322	231 Mass. 228
129 Mass. 559.	180 Mass. 411.	Op. A. G. (1917) 47.

[See Form 9 at end of chapter.]

1 SECTION 41. If land to be sold is situated in a town the name of
 2 which has been changed by law within three years preceding the sale, the
 3 collector shall designate such town in his notices of the sale by both its
 4 former and existing name.

Description
 in case of
 change of
 local name.
 1785, 70, § 7.

R. S. 8, § 26.	P. S. 12, § 33	R. L. 13, § 39
G. S. 12, § 31.	1888, 390, § 38.	1909, 490, II, § 40.

1 SECTION 42. The collector shall, three weeks before the sale, post a
 2 notice similar to that required by section forty in some convenient and
 3 public place.

Notice to be
 posted in
 addition.

1785, 70, § 7.	P. S. 12, § 32.	R. L. 13, § 40.
R. S. 8, § 27.	1888, 390, § 37.	1909, 490, II, § 41.
1848, 166, § 4.	1889, 334, § 12.	4 Cush. 260.
G. S. 12, § 30.	1901, 108.	209 Mass. 111.

1 SECTION 43. If the taxes are not paid, the collector shall, at the time
 2 and place appointed for the sale, sell by public auction, for the amount of
 3 the taxes and interest, if any, and necessary intervening charges, the
 4 smallest undivided part of the land which will bring said amount, or the
 5 whole for said amount, if no person offers to take an undivided part;
 6 and may at such sale require of the purchaser an immediate deposit of
 7 such sum as he considers necessary to insure good faith in payment of
 8 the purchase money, and, on failure of the purchaser to make such deposit
 9 forthwith, the sale shall be void and another sale may be made as pro-
 10 vided in this chapter. The word "taxes" as used in this section shall
 11 include all betterment assessments or portions thereof and all other
 12 special assessments which constitute a lien upon the land and which have
 13 lawfully been placed upon the annual tax bill.

Conduct of
 sale, etc.
 1785, 70, § 7.
 R. S. 8,
 §§ 28, 29.
 G. S. 12, § 33.
 P. S. 12, § 35.
 1888, 390, § 40.
 1900, 376.
 R. L. 13, § 41.
 1909, 490,
 II, § 42.
 1918, 257, § 48.
 1919, 5.
 1920, 2
 1923, 377, § 7.
 13 Gray, 77.
 3 Allen, 535.
 124 Mass. 45.
 126 Mass. 280.
 152 Mass. 203.
 154 Mass. 208.

179 Mass. 74.	197 Mass. 565.	209 Mass. 111.
192 Mass. 278.	200 Mass. 354.	213 Mass. 239.

[See Form 10 at end of chapter.]

Adjournment.
R. S. 8, § 30.
G. S. 12, § 34.
P. S. 12, § 37.
1888, 390, § 42.
R. L. 13, § 42.
1909, 490, 11,
§ 43.

SECTION 44. The collector may adjourn the sale from time to time not exceeding seven days in all, and shall give notice of every adjournment by a public declaration thereof at the time and place appointed for the sale.

112 Mass. 535.

Collector's deed, contents and effect.
1785, 70, § 7.
R. S. 8, § 31.
1848, 166, § 5.
G. S. 12, § 35.
P. S. 12, § 38.
1888, 390, § 43.
1901, 197, 519.
R. L. 13, § 43.
1902, 425.
1905, 193.
1909, 490,
11, § 44.
1911, 370.
1915, 257, § 1.
1918, 257, § 49.
1919, 5.
1920, 2.
1931, 356, § 1.
2 Gray, 185.
6 Gray, 551.
6 Allen, 576.
118 Mass. 540.
126 Mass. 278.
127 Mass. 39.
134 Mass. 85.
136 Mass. 32.
142 Mass. 576.
154 Mass. 208.
164 Mass. 335.
178 Mass. 465.
180 Mass. 411.
183 Mass. 333.
192 Mass. 278.
199 Mass. 1.
204 Mass. 563.

SECTION 45. The collector shall execute and deliver to the purchaser a deed of the land, stating the cause of sale, the price for which the land was sold, the name of the person on whom the demand for the tax was made, the places where the notices were posted, the name of the newspaper in which the advertisement of the sale was published, and the residence of the grantee, and shall contain a warranty that the sale has in all particulars been conducted according to law. The deed shall convey the land to the purchaser, subject to the right of redemption. The title thus conveyed shall, until redemption or until the right of redemption is foreclosed as hereinafter provided, be held as security for the repayment of the purchase price, with all intervening costs, terms imposed for redemption and charges, with interest thereon, and the premises conveyed shall also be subject to and have the benefit of all easements and restrictions lawfully existing in, upon or over said land or appurtenant thereto when so taken. Such deed shall not be valid unless recorded within thirty days after the sale. If so recorded it shall be prima facie evidence of all facts essential to the validity of the title thereby conveyed, whether the deed was executed on or before as well as since July first, nineteen hundred and fifteen. No sale hereafter made shall give to the purchaser any right to possession of the land until the expiration of two years after the date of the sale.

207 Mass. 412.

209 Mass. 92, 111.

224 Mass. 184, 261.

225 Mass. 110.

228 Mass. 441.

230 Mass. 580.

231 Mass. 233.

237 Mass. 378.

246 Mass. 377.

256 Mass. 340.

267 Mass. 17.

270 Mass. 92.

[See Form 10 at end of chapter.]

Reimbursement of purchaser if title invalid.
Procedure.

1862, 185, § 6.
1878, 206, § 1.
P. S. 12, § 39.
1882, 243, § 3.
1888, 390,
§§ 44, 47.
1909, 259, § 44.
R. L. 13, § 45.
490, 11, § 45.
1912, 390.
10 Allen, 49.
129 Mass. 559.
151 Mass. 277.
166 Mass. 244.
199 Mass. 1.
207 Mass. 412.
209 Mass. 92,
111.
212 Mass. 296.
227 Mass. 378.
251 Mass. 472.

SECTION 46. If it subsequently appears that, by reason of an error, omission or informality in the assessment or the sale, the purchaser has no claim upon the property sold, he may within six months after the date of the deed, offer by writing given to the collector to surrender and discharge his deed or to assign and transfer to the town all his right, title and interest in the premises, as the collector shall elect. Such offer shall contain a specific statement of the reason why the holder has no claim on the land sold, with the evidence on which he relies, and if such evidence consists of any public record or of facts shown therein, such offer shall contain a specific reference thereto. Upon such surrender and discharge or assignment and transfer, the town shall pay to the purchaser the amount which he paid, with interest at the rate of eight per cent per annum, which payment shall be in full for all damages for any defects in the proceedings or under the warranty in such deed. No town and no treasurer or collector thereof shall pay or be liable for any amount due under this section unless such statement is filed.

Tax title owner to file statement of residence, etc.
1882, 243,
§§ 1, 2.
1888, 390,
§§ 45, 46.
R. L. 13, § 45.

SECTION 47. Whoever has a title to land under a sale for non-payment of taxes or other assessment and is a resident of the town where such land lies shall file with the treasurer thereof and in the registry of deeds a statement of his residence and place of business, with the street and number, if any. Such person, who is not a resident of such town or

6 who removes therefrom, shall appoint an agent residing therein, or in the
 7 town where the tax deed is recorded, authorized to release such land. He
 8 shall also file the statement above required in which he shall also state
 9 the name of such agent and his residence and place of business, with the
 10 street and number, if any. Whenever a person holding a tax title changes
 11 his residence or place of business or agent, he shall file a new certificate.
 12 Tender of payment to, and service of process upon, such agent shall be a
 13 sufficient tender to, or service upon, the holder of such tax title.

1909, 490,
 11, § 46.
 209 Mass. 504.
 210 Mass. 111.
 224 Mass. 184.

1 SECTION 48. If at the time and place of sale no person bids for the
 2 land offered for sale an amount equal to the tax and charges, and if the
 3 sale has been adjourned one or more times, the collector shall then and
 4 there make public declaration of the fact; and, if no bid equal to the tax
 5 and charges is then made, he shall give public notice that he purchases
 6 for the town by which the tax is assessed said land as offered for sale at
 7 the amount of the tax and the charges and expenses of the levy and sale.
 8 Said amount, together with the cost of recording the deed of purchase,
 9 shall be allowed him in his settlement with such town, provided he has
 10 caused the deed to be duly recorded within thirty days after the purchase
 11 and to be delivered to the town treasurer.

Collector to
 purchase for
 city or town if
 bid insufficient.
 1862, 183,
 §§ 1, 5.
 P. S. 12, § 40
 1888, 390, § 48
 R. L. 13, § 46.
 1909, 490,
 11, § 47
 1918, 257, § 50.
 1919, 5,
 1920, 2
 1927, 126, § 1.
 112 Mass. 535.

[See Form 11 at
 end of chapter.]

1 SECTION 49. If the purchaser fails to pay the collector within twenty
 2 days after the sale the amount bid by him, the sale shall be void, and
 3 the town shall be deemed to be the purchaser of the land, under the pre-
 4 ceding section.

Sale to be void,
 and city or
 town deemed
 purchaser, if
 price not paid.

1862, 183, § 3. 1889, 334, § 13. 140 Mass. 578.
 P. S. 12, § 41. R. L. 13, § 47. 199 Mass. 1.
 1888, 390, § 49. 1909, 490, 11, § 48 204 Mass. 540.

[See Form 12 at end of chapter.]

1 SECTION 50. If the town becomes the purchaser, the deed to it, in
 2 addition to the statements required by section forty-five, shall set forth
 3 the fact that no sufficient bid was made at the sale or that the purchaser
 4 failed to pay the amount bid, as the case may be, and shall confer upon
 5 such town the rights and duties of an individual purchaser. Every such
 6 deed and every instrument of taking described in section fifty-four shall
 7 be in the custody of the town treasurer, and there shall be set up on the
 8 books of the town, whether kept by the treasurer or otherwise, a separate
 9 account of each parcel of land covered by any such deed or instrument,
 10 to which shall be charged the amount stated in the deed or instrument,
 11 the cost of recording the same, all uncollected taxes assessed to such
 12 parcel for any year subsequent to that for the taxes for which such parcel
 13 was purchased or taken, with all legal costs and charges, until redemption
 14 or foreclosure. The town treasurer, at the expiration of two years from
 15 the date of any such purchase or taking, shall institute proceedings for
 16 foreclosure.

Deed to city
 or town.
 Contents,
 custody, pro-
 ceedings for
 foreclosure.
 1862, 183,
 §§ 2, 4
 P. S. 12,
 § 42, 43.
 1888, 390,
 §§ 50, 51.
 1889, 334, § 14.
 R. L. 13,
 §§ 48, 52.
 1909, 490,
 11, §§ 49, 53.
 1918, 257, § 51.
 1919, 5,
 1920, 2.
 1927, 126, § 2.
 131 Mass. 56.
 194 Mass. 296.
 230 Mass. 580,
 267 Mass. 17.

[See Forms 11 and 12 at end of chapter.]

1 SECTION 51. If unimproved and unoccupied land does not exceed
 2 four thousand square feet in area, or is laid out in lots or parcels no one
 3 of which exceeds such area, and the taxes unpaid for any one year do not
 4 exceed fifty cents on such land, or on any such lot or parcel thereof, the
 5 collector may give notice of the sale by publication of an advertisement
 6 stating the name of the owner of record of each lot on April first of the
 7 year of assessment, the tax due thereon and the number of such lot on a
 8 street, way or plan, without further description thereof. The collector

Sale together
 of several
 parcels of
 small value, etc.
 1894, 537.
 §§ 1-4
 R. L. 13,
 §§ 49-51.
 1909, 490,
 § 2, 490,
 11, §§ 50-52.
 1914, 198, § 2.
 1915, 237, § 24.
 209 Mass. 111.

may convey in one deed to the same purchaser or convey to the town any number of the lots so advertised and sold, and said deed shall state the name of said owner of record of each lot conveyed therein, on April first of said year, the amount of the taxes and costs due for each lot, and the number on the street, way or plan of each lot respectively, and need contain no further description of the lot, owner or amount due. The cost of the sale shall be apportioned equally among all the lots sold, and the cost of the deed shall be apportioned equally among all the lots conveyed thereby.

Management and sale of lands, etc. 1862, 183, §§ 2, 4.

SECTION 52. Cities and towns may make regulations for the possession, management and sale of such land and for the assignment of tax titles, not inconsistent with law or with the right of redemption.

P. S. 12, § 43.	R. L. 13, § 52.	1919, 5.
1888, 390, § 51.	1909, 490, II, § 53.	1920, 2.
1889, 334, § 14.	1918, 257, § 51.	1927, 126, § 3.

Taking for taxes. Notice. 1878, 266, § 5. 1881, 304, § 4. P. S. 12, § 44. 1888, 390, § 52. R. L. 13, § 53. 1909, 490, II, § 54. 228 Mass. 441.

SECTION 53. If a tax on land is not paid within fourteen days after demand therefor and remains unpaid at the date of taking, the collector may take such land for the town, first giving three weeks' notice of his intention to exercise such power of taking, which notice may be served in the manner required by law for the service of subpoenas on witnesses in civil cases or may be published, and shall conform to the requirements of section forty. He may also post a similar notice under section forty-two.

[See Form 13 at end of chapter.]

Instrument of taking, form, contents, effect. 1878, 266, § 5. P. S. 12, § 46. 1888, 390, § 54. 1892, 109, § 2. R. L. 13, § 54. 1909, 490, II, § 55. 1915, 237, § 2. 1925, 241, § 4. 1931, 356, § 2. 191 Mass. 576.

[See Form 14 at end of chapter.]

SECTION 54. The instrument of taking shall be under the hand and seal of the collector and shall contain a statement of the cause of taking, a substantially accurate description of each parcel of land taken, the name of the person to whom the same was assessed, the amount of the tax thereon, and the incidental expenses and costs to the date of taking. Such an instrument of taking shall not be valid unless recorded within thirty days of the date of taking. If so recorded it shall be prima facie evidence of all facts essential to the validity of the title so taken, whether the taking was made on or before as well as since July first, nineteen hundred and fifteen. Title to the land so taken shall thereupon vest in the town, subject to the right of redemption. Such title shall, until redemption or until the right of redemption is foreclosed as hereinafter provided, be held as security for the repayment of said taxes with all intervening costs, terms of redemption and charges, with interest thereon.

Fees for taking. 1878, 266, § 13. P. S. 12, § 47. 1888, 390, § 55. R. L. 13, § 55. 1909, 490, II, § 56. 1927, 126, § 4.

SECTION 55. If land has been so taken there shall be allowed to the collector and added to the tax the charges and fees fixed by section fifteen, and also the cost of recording the instrument of taking, provided he has caused such instrument to be duly recorded within thirty days after the taking and to be delivered to the town treasurer.

Taking in name of one or more of several owners. To be of whole estate. 1881, 304, § 4. P. S. 12, § 48. 1888, 390, § 56.

SECTION 56. The assessment, sale or taking may be made in the name of one or more of the record owners at the date of assessment, and if so made, shall, subject to section forty-three, be deemed to be in the name of the owner thereof. Every such sale or taking shall be of the whole estate and not of the undivided interest of any joint owner thereof.

R. L. 13, § 56.	175 Mass. 355.	183 Mass. 303.
1909, 490, II, § 57.	180 Mass. 65.	213 Mass. 239.

1 SECTION 57. The affidavit of the collector, deputy collector or dis-
 2 interested person reciting the proceedings required by law in the sale
 3 of land for taxes, with copies of the advertisement and notices annexed
 4 thereto, recorded within three months after such sale in the registry of
 5 deeds, shall be competent evidence of demand, notice and service.

1878, 266, § 5.
 P. S. 12, §§ 34, 45
 1888, 390, §§ 39, 53.

1892, 109, § 1.
 R. L. 13, § 37.

1909, 490, 11, § 58.
 152 Mass. 203.

[See Forms 15-18 at end of chapter.]

Affidavit of
 collector, etc.,
 to be evidence.
 1794, 48.
 R. S. 8.
 §§ 22, 23.
 G. S. 12,
 §§ 27, 32.

1 SECTION 58. If proceedings have been commenced for the taking or
 2 sale of land for a tax assessed thereon, or if the owner of land has neg-
 3 lected to pay such tax within the year for which it is assessed, the
 4 holder of a mortgage thereon may pay such tax, charges and expenses
 5 to the collector; and the amount so paid may be added to the mortgage
 6 debt.

R. L. 13, § 62.
 1909, 490, 11, § 63.
 1918, 257, § 54.

1919, 5.
 1920, 2.
 129 Mass. 289.

131 Mass. 277.
 170 Mass. 551.
 206 Mass. 377.

[See Form 21 at end of chapter.]

Mortgagee
 may pay tax
 and add to
 debt, when
 1890, 239, § 2.
 G. S. 12, § 39
 1878, 266, § 14
 P. S. 12, § 52.
 1888, 390, § 60.

1 SECTION 59. If a tax on land is assessed to a mortgagor and mort-
 2 gagee separately, any part thereof remaining unpaid on January first
 3 following its assessment may be paid by either party. If a mortgagee
 4 pays a tax, interest or costs thereon which by law or by the terms of the
 5 mortgage was payable by the mortgagor, the amount so paid shall be
 6 added to the mortgage debt. If it is by law or by the terms of the mort-
 7 gage payable by the mortgagee, and is paid by the mortgagor, the
 8 amount so paid shall be deducted from the mortgage debt unless the
 9 parties have, in writing, otherwise agreed.

Mortgagor or
 mortgagee may
 pay tax. To
 be added to or
 deducted from
 mortgage debt
 in certain cases.
 1881, 304, § 5.
 P. S. 12, § 55.
 1888, 390, § 63.
 R. L. 13, § 64.
 1909, 490,
 11, § 65.

1 SECTION 60. If a person other than the owner of the fee rightfully
 2 pays the taxes assessed on land to the collector or treasurer, before a
 3 taking or sale, the collector or treasurer shall give him a certificate of
 4 such payment stating the name of the person to whom the land is taxed,
 5 of the person paying the tax, and a substantially accurate description of
 6 the land. Such certificate being recorded in the registry of deeds within
 7 thirty days from its date shall be notice to all persons of such payment
 8 and of the lien therefor. A person whose tax is paid by another shall
 9 upon repaying the same have the same right to recover it from the town,
 10 if illegally assessed, which he would have had if the tax had been paid by
 11 him under written protest.

Payment of
 taxes by person
 other than
 owner of fee.
 1856, 239,
 §§ 1-3.
 G. S. 12, § 41.
 P. S. 12,
 §§ 54, 57.
 1888, 390,
 §§ 62, 63, 65.
 R. L. 13, § 65.
 1909, 490,
 11, § 66.
 206 Mass. 377.

COLLECTION OF TAXES SUBSEQUENT TO SALE OR TAKING.

1 SECTION 61. Whenever a town shall have purchased or taken real
 2 estate for payment of taxes the lien of the town on such real estate for
 3 all taxes assessed subsequently to the assessment for payment of which
 4 the estate was purchased or taken shall continue, and it shall be unneces-
 5 sary for the town to take or sell said real estate for non-payment of said
 6 subsequent taxes, costs and interest; and on either redemption from, or
 7 foreclosure of, the right of redemption under such taking or purchase,
 8 said subsequent taxes, costs and interest shall be paid to the town, and
 9 the payment shall be made a part of the terms of redemption.

Lien for sub-
 sequent taxes
 to continue
 after sale
 or taking.
 Payment on
 foreclosure,
 etc.
 1919, 263.
 267 Mass. 17.

REDEMPTION.

Redemption of land taken or sold for taxes. 1785, 70, § 7. R. S. 8, § 32. 1848, 166, § 6, 8. 1850, 98, § 1, 2. G. S. 12, § 20, 37. 1878, 266, § 9, 14. 1879, 73; 94. 1881, 304, § 4. P. S. 12, § 49, 50. 1888, 390, § 57, 58. 1891, 288. R. L. 13, § 58-60. 1902, 443. 1905, 325, § 1. 1909, 490, II, § 59-61. 1915, 237, § 16. 1918, 257, § 53. 1919, 5. 1920, 2. 1924, 3. 1925, 51; 77; 241, § 5. 1928, 10. II Cush. 289. II Gray, 410. 98 Mass. 44. 124 Mass. 342. 126 Mass. 278, 335. 130 Mass. 124. 136 Mass. 267. 143 Mass. 59. 148 Mass. 444. 166 Mass. 407. 174 Mass. 303. 177 Mass. 431. 179 Mass. 112. 185 Mass. 119, 398. 186 Mass. 440.

SECTION 62. Any person having an interest in land taken or sold for non-payment of taxes, including those assessed under sections twelve, thirteen and fourteen of chapter fifty-nine, or his heirs or assigns, may, at any time prior to the filing of a petition for foreclosure under section sixty-five, redeem the same by paying or tendering to the treasurer, if the estate has been taken or purchased by the town, the amount of the tax, all intervening taxes, charges and fees, and interest on the whole at the rate of eight per cent per annum; or by paying or tendering to the purchaser, or his legal representatives or assigns, the original sum and intervening taxes paid by him and interest on the whole at said rate. In each case he shall also pay for examination of title and a deed of release not more than three dollars in the aggregate; and in addition thereto the actual cost of recording the tax deed or evidence of taking. He may redeem the land by paying to the collector the sum which he would be required to pay to the purchaser, with one dollar additional. If land taken by or sold to a city or town for non-payment of taxes is redeemed, the city treasurer or acting city treasurer, notwithstanding the provisions of the charter of his city, or the town treasurer, as the case may be, shall sign, execute and deliver on behalf of the city or town a release of all the right, title and interest, which it acquired by such taking or purchase, in and to the land so redeemed. No person shall knowingly collect or attempt to collect for the redemption of any such land a sum of money greater than that authorized by this section. Nothing in this section nor in sections sixty-five to seventy-five, inclusive, shall be construed to prevent the title of a person or a city or town purchasing land at a sale under section seventy-nine or eighty from becoming absolute without any foreclosure proceedings under said sections sixty-five to seventy-five, inclusive.

189 Mass. 139.
200 Mass. 354.
204 Mass. 594.
210 Mass. 145.

213 Mass. 199.
214 Mass. 542.
224 Mass. 551.
231 Mass. 233.

251 Mass. 440.
254 Mass. 516.
270 Mass. 92.

[See Form 19 at end of chapter.]

[Penalty, § 104.]

Person paying collector to receive certificate which releases tax title, etc. 1848, 166, § 7. G. S. 12, § 38. P. S. 12, § 51. 1888, 390, § 59. R. L. 13, § 61. 1902, 443. 1905, 325, § 2. 1909, 490, II, § 62. 186 Mass. 440. 210 Mass. 145. 254 Mass. 440.

[See Form 20 at end of chapter.]

SECTION 63. The collector shall receive any money paid to him instead of the purchaser and give to the person paying it a certificate specifying the amount paid, the name of the person to whom and the real estate on which the tax was originally assessed, and the registry of deeds and the book and page of the records therein where the collector's deed is recorded; and the recording of the certificate in said registry shall extinguish all right and title acquired under the collector's deed. The collector shall on demand pay over all money so paid, to the person entitled thereto as determined by him, except that he shall retain one dollar for the use of the town and shall account to it therefor. If the amount so paid is less than the purchaser was entitled to, the balance with interest at eight per cent per annum may after demand therefor be recovered in contract by the purchaser against the person paying such amount, if the action is commenced within three months after such payment to the collector.

TAX TITLES.

1 SECTION 64. The title conveyed by a tax collector's deed or by a
 2 taking of land for taxes shall be absolute after foreclosure of the right of
 3 redemption by decree of the land court as provided in this chapter. The
 4 land court shall have exclusive jurisdiction of the foreclosure of all rights
 5 of redemption from titles conveyed by a tax collector's deed or a taking
 6 of land for taxes, in a proceeding provided for in sections sixty-five to
 7 seventy-five, inclusive.

Tax title to be
 absolute after
 foreclosure
 1915, 237, § 3.
 267 Mass. 17.
 270 Mass. 92.

1 SECTION 65. After two years from a sale or taking of land for taxes,
 2 whoever then holds the title thereby acquired may bring a petition in the
 3 land court for the foreclosure of all rights of redemption thereunder.
 4 Such petition shall be made in the form to be prescribed by said court
 5 and shall set forth a description of the land to which it applies, with its
 6 assessed valuation, the petitioner's source of title, giving a reference to
 7 the place, book and page of record, and such other facts as may be neces-
 8 sary for the information of the court. Two or more parcels of land may
 9 be included in any petition brought by a town, whether under a taking
 10 or as purchaser of such title or titles.

Petition for
 foreclosure of
 rights of re-
 demption under
 tax title.
 1915, 237, § 4.
 230 Mass. 580.
 251 Mass. 440.
 267 Mass. 17.
 270 Mass. 92.

1 SECTION 66. Upon the filing of such a petition the court shall forth-
 2 with cause to be made by one of its official examiners an examination
 3 of the title sufficient only to determine the persons who may be inter-
 4 ested in the same, and shall upon the filing of the examiner's report
 5 notify all persons appearing to be interested, whether as equity owners,
 6 mortgagees, lienors, attaching creditors or otherwise, of the pendency
 7 of the petition, the notice to be sent to each by registered mail and
 8 return of receipt required, the addresses of respondents, so far as may
 9 be ascertained, being furnished by the petitioner. Such other and
 10 further notice by publication or otherwise shall be given as the court
 11 may at any time order. The notice, to be addressed "To all whom it
 12 may concern", shall contain the name of the petitioner, the names of
 13 all known respondents, a description of the land and a statement of the
 14 nature of the petition, shall fix the time within which appearance may
 15 be entered, and shall contain a statement that unless the party notified
 16 shall appear within the time fixed a default will be recorded, the petition
 17 taken as confessed, and the right of redemption forever barred.

Examination of
 title, notice,
 etc.
 1915, 237, § 5.
 267 Mass. 17.
 270 Mass. 92.

1 SECTION 67. After the return day fixed, to be at least twenty days
 2 after the time of the actual issuance of notice, the court shall, if satisfied
 3 that the notice has been properly given, on motion of the petitioner
 4 enter an order defaulting all persons failing to appear, and decreeing that
 5 the petition as to them be taken as confessed.

Default.
 1915, 237, § 6.
 267 Mass. 17.
 270 Mass. 92.

1 SECTION 68. Any person claiming an interest, within ten days after
 2 entering his appearance or within such further time as may on motion be
 3 allowed by the court, shall, if he desires to redeem, file an answer setting
 4 forth his right in the premises, and an offer to redeem upon such terms
 5 as may be fixed by the court. Thereupon the court shall hear the parties,
 6 and may in any case in its discretion make a finding allowing the party to
 7 redeem, within a time fixed by the court, upon payment to the petitioner

Answer, offer
 to redeem,
 fixing of court
 for redemption.
 1915, 237, § 7.
 1929, 207, § 1.
 267 Mass. 17.
 270 Mass. 92.

of an amount sufficient to cover the original sum, costs, interest at the rate of eight per cent per annum, and all subsequent taxes, costs and interest to which the petitioner may be entitled under section sixty-one or sixty-two, together with the costs of the proceeding and such counsel fee as the court deems reasonable. The court may impose such other terms as justice and the circumstances warrant.

Decree barring redemption, when.
1915, 237, § 8.
267 Mass. 17.
270 Mass. 92.

SECTION 69. If a default is entered under section sixty-seven, or on motion for failure to file answer, or if redemption is not made within the time and upon the terms fixed by the court under the preceding section, or if at the time fixed for the hearing the person claiming the right to redeem does not appear to urge his claim, or if upon hearing the court determines that the facts shown do not entitle him to redeem, a decree shall be entered which shall forever bar all rights of redemption.

Questions of validity of title, how raised. Decree of court.
1915, 237, § 9.
267 Mass. 17.
270 Mass. 92.

SECTION 70. If a person claiming an interest desires to raise any question concerning the validity of such a title, he shall do so by answer filed in the proceeding within ten days after filing his appearance, or within such further time as may on motion be allowed by the court, or else be forever barred from contesting or raising the question in any other proceeding. He shall also file specifications setting forth the matters upon which he relies to defeat the title; and unless such specifications are so filed, all questions of the validity or invalidity of the title, whether in form of deed or proceedings relating to the sale or taking, shall be deemed to have been waived. Upon the filing of the specifications the court shall hear the parties, and shall enter a decree in conformity with the law on the facts found.

Jury trial, claim, issues.
1915, 237, § 10.
270 Mass. 92.

SECTION 71. Any party may claim a jury trial within ten days after filing his answer, but unless so claimed the right to jury trial shall be deemed to be waived. Upon such a claim issues shall be framed therefor in accordance with the practice in the land court.

Report, etc., of questions of law.
1915, 237, § 11.
270 Mass. 92.

SECTION 72. Questions of law may be reported by the court or taken to the supreme judicial court for revision by any party aggrieved, in the same manner as in other proceedings in the land court.

Costs and fees. Deposit, etc.
1915, 237, § 12.
270 Mass. 92.

SECTION 73. The petitioner, at the time of filing his petition, shall deposit with the recorder a sum sufficient to cover the costs of the proceedings as estimated by the court, and the fees chargeable by the court as the case proceeds shall be computed in accordance with section thirty-nine of chapter two hundred and sixty-two, so far as applicable, except that the charge for examination of title shall be the actual amount allowed by the title examiner by the court. The money paid into court as aforesaid by the petitioner shall be disbursed directly by the recorder for necessary expenses incurred, and the balance of fees chargeable in each finished case shall be paid over quarterly to the commonwealth.

Notice of filing and disposition of petition to be recorded.

SECTION 74. Notice of filing the petition for foreclosure and notice of the final disposition thereof shall be recorded in the registry of deeds, as provided for in land registration proceedings.

1 SECTION 75. Practice and procedure under sections sixty-four to
 2 seventy-four, inclusive, not therein otherwise provided for, shall con-
 3 form as nearly as possible to the land court practice, rules, regulations
 4 and procedure in relation to matters of land registration.

Practice and
 procedure in
 general
 1915, 247, § 13.

1 SECTION 76. The superior court shall have jurisdiction as to re-
 2 demption in all cases of taking or sale of land for non-payment of taxes
 3 if relief is sought before proceedings for foreclosure of the right of re-
 4 demption have been begun in the land court, and may grant such right
 5 of redemption or other relief as justice may require, fixing the terms
 6 therefor, or may refuse the same. The proceedings shall be begun by a
 7 bill as in equity, and memoranda, both of the beginning and of the final
 8 disposition thereof, shall be recorded or filed in the registry of deeds,
 9 similar to those required by sections fifteen and sixteen of chapter one
 10 hundred and eighty-four in the case of unregistered land, and to those
 11 required by sections eighty-six and eighty-seven of chapter one hundred
 12 and eighty-five in the case of registered land.

Petition for
 redemption in
 superior court,
 time for filing,
 procedure
 1819, 214, § 2.
 1856, 290, § 4.
 G. S. 12, § 12.
 1878, 266, § 14.
 P. S. 12, § 66.
 1888, 300, § 76.
 1900, 477.
 R. L. 13, § 75.
 1905, 325, § 3.
 1908, 226.
 1909, 490,
 H., § 76.
 1915, 237,
 §§ 15, 26.

1918, 257, § 58.	143 Mass. 59.	204 Mass. 594.
1919, 5.	150 Mass. 73.	205 Mass. 350.
1920, 2.	172 Mass. 436.	210 Mass. 145.
11 Cush. 280.	175 Mass. 485.	214 Mass. 542.
11 Gray, 410.	177 Mass. 431.	218 Mass. 339.
98 Mass. 44.	178 Mass. 460.	224 Mass. 184.
112 Mass. 186.	179 Mass. 112.	231 Mass. 233.
126 Mass. 335.	187 Mass. 474.	

1 SECTION 77. After foreclosure by a town of the rights of redemption
 2 under a tax title or taking, as hereinbefore provided, the land shall there-
 3 after be held and disposed of like any land belonging to it and held for
 4 municipal purposes, and shall not while so held be assessed for taxes.

Title of city or
 town after
 foreclosure
 1915, 237, § 18
 230 Mass. 580.

1 SECTION 78. Before foreclosure or redemption, taxes on land taken
 2 or purchased by a town shall be assessed to the person to whom they
 3 would be assessed if the land had not been so taken or purchased. In
 4 case of a sale under the following section, such taxes shall be deducted
 5 from the proceeds thereof, before any surplus is disposed of as therein
 6 provided. In case of foreclosure, any such taxes of which the lien has
 7 not expired shall be credited to the collector as if collected by him.

Assessment of
 taxes on land
 taken or pur-
 chased by city
 or town
 1862, 183, § 8.
 1878, 266, § 10.
 F. S. 12, § 56.
 1888, 300, § 64.
 R. L. 13, § 66.
 1909, 490,
 H., § 67.

1915, 237, § 19.	208 Mass. 537.	230 Mass. 580.	267 Mass. 17.
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SALE OF LANDS OF LOW VALUE HELD BY CITY OR TOWN UNDER TAX
 TITLES.

1 SECTION 79. After two years from the taking or purchase by a town
 2 of any lands for non-payment of taxes, the commissioner may, and on
 3 written application of its treasurer shall, inquire into the value of such
 4 lands. If the commissioner is of opinion that such lands are of insuffi-
 5 cient value to meet the taxes, interest and charges, and all subsequent
 6 taxes and assessments thereon, together with the expenses of a foreclosure
 7 under section sixty-nine, he shall make affidavit of such finding, which
 8 shall be recorded in the registry of deeds for the district where the town
 9 is situated.

Sale without
 foreclosure of
 lands taken or
 purchased by
 city or town in
 certain cases.
 1915, 56, § 1;
 237, § 2.
 1918, 257, § 52.
 1919, 5.
 1920, 2.
 1925, 241, § 6.
 1931, 79, § 1.

10 Upon the recording thereof the treasurer may sell all the parcels in-
 11 cluded therein, severally or together, at public auction to the highest
 12 bidder, first giving notice of the time and place of sale by posting a
 13 notice of the sale in some convenient and public place in the town four-
 14 teen days at least before the sale. If the sale under this section shall

not be made within four years from said taking or purchase, it shall be 15
made by the treasurer for the time being when he deems best, or at once 16
upon service on him of a written demand by any person interested 17
therein. The treasurer shall execute and deliver to the highest bidder 18
a deed, without covenant except that the sale has in all particulars been 19
conducted according to law. Title taken pursuant to a sale under this 20
section shall be absolute upon the recording of the deed of the treasurer 21
in the proper registry of deeds within thirty days of its date. 22

If the amount received from the sale is more than the taxes, interest 23
and charges, and subsequent taxes and assessments, on all lands included 24
in the sale, together with the expenses thereof, the balance shall be de- 25
posited with the town treasurer to be paid to the person entitled thereto, 26
if demanded within five years, otherwise it shall enure to the town. 27
If such surplus results from the sale of several parcels for a lump sum, 28
it shall be held as aforesaid for the several owners in proportion to the 29
prices at which the several parcels were originally taken or purchased 30
by the town. 31

Proceedings
upon lack of
bids, etc., at
such sale.
1915, 56, § 2.
1925, 241, § 7.
1931, 79, § 2.

SECTION 80. If no person bids at such a sale and if the sale has been 1
adjourned one or more times, the treasurer shall then and there make 2
public declaration of the fact, and if no bid is then made he shall give 3
public notice that he purchases for the town by which the tax is as- 4
sessed; or if the person to whom the land is sold does not within ten 5
days pay to the treasurer the sum bid by him the sale shall be void and 6
the town shall be deemed to be the purchaser of the land. If the town 7
becomes the purchaser hereunder, the treasurer shall execute to it a 8
deed which shall set forth the fact that no bid was made at the sale or 9
that the purchaser failed to pay the amount bid, as the case may be. 10
The title of the town to land conveyed by deed of the treasurer under 11
this section shall be absolute upon the recording of said deed in the 12
proper registry of deeds within thirty days of its date. 13

SECTION 81. [REPEALED, 1925, 241, § 8.] 1

PROCEEDINGS IF TAX TITLE IS DEEMED INVALID.

Collector to
notify holder
of title deemed
invalid, etc.
1878, 266, § 2.
P. S. 12, § 59.
1888, 390, § 69.
1889, 334, § 15.
R. L. 13, § 70.
1909, 490,
II, § 71.
207 Mass. 412.
209 Mass. 365.
207 Mass. 17.

[See Forms 22
and 23 at end of
chapter.]

SECTION 82. If a collector has reasonable cause to believe that the 1
title to land sold for non-payment of taxes or of assessments, a lien for 2
which is enforceable by a sale of land, is invalid by reason of an error, 3
omission or informality in the assessment or sale, he may, within two 4
years after the date of the deed of such land, give notice to the record 5
owner thereof, requiring him, within thirty days thereafter, to release 6
any interest which he may have in such land under said deed, and to 7
receive from the town the amount paid thereof with interest at ten 8
per cent or to file with the collector a written statement that he refuses 9
to release such interest. Such statement, if recorded in the registry of 10
deeds, shall release the town from any liability upon the warranty in 11
said deed. 12

To record
affidavit of
notice if title
not released.
Effect.
1878, 266, § 3.
P. S. 12, § 60.

SECTION 83. If, within thirty days after such notice, such owner 1
does not comply therewith, the collector shall cause a copy thereof, with 2
an affidavit by himself or by a disinterested person of the service thereof 3
and of the facts in the case, to be recorded in the registry of deeds. A 4

5 note of reference to the record of said copy shall be made on the margin
6 of the record of the collector's deed therein referred to; and from the
7 time of such record the interest payable by reason of a breach of war-
8 ranty in such deed shall cease, and all right and title acquired under such
9 deed shall be held to be released. The collector shall give notice of such
10 proceedings to the town treasurer, who shall, on reasonable demand,
11 pay over out of any funds in his hands the amount due in respect of said
12 deed to the person entitled thereto.

1888, 390, § 70.
R. L. 13, § 71.
1909, 490,
11, § 72.
209 Mass. 365.

1 SECTION 84. If the invalidity of a title described in section eighty-
2 two was caused by an error, omission or informality in the assessment,
3 the collector, after obtaining from the holder of the deed a release of his
4 interest or after causing a copy of the notice to be filed and recorded as
5 provided in the preceding section, shall forthwith notify the board by
6 which the tax or assessment was laid, which shall forthwith reassess
7 it as provided in section seventy-seven of chapter fifty-nine. If such
8 invalidity was caused by an error, omission or informality in the pro-
9 ceedings of the collector, he shall, after obtaining such release or after
10 filing and recording such copy, forthwith collect the unpaid tax or as-
11 sessment in conformity to law. If the collector has reasonable cause
12 to believe that a tax title, held by a town under a sale or taking for non-
13 payment of a tax, is invalid by reason of any error, omission or informal-
14 ity in the assessment, sale or taking, he may disclaim and release such
15 title by an instrument under his hand and seal, duly recorded in the
16 registry of deeds.

Reassessment
or collection of
taxes where tax
title invalid.
Disclaimor of
title held by
city or town.
1878, 266,
§§ 4, 7.
P. S. 12,
§§ 61, 62.
1888, 390,
§§ 71, 72.
1889, 334, § 15.
R. L. 13, § 72.
1909, 490,
11, § 73.
209 Mass. 365.
267 Mass. 17.

[See Forms 22
and 23 at end of
chapter.]

1 SECTION 84A. If a tax title is for any reason adjudged invalid by a
2 court of competent jurisdiction, said court may order the treasurer of the
3 city or town where the land affected is situated, upon receipt of a release
4 by the holder of said title of all the interest which he may have under his
5 tax deed, to refund to such holder the amount paid therefor but not ex-
6 ceeding the amount received by the city or town, with interest at the rate
7 of ten per cent from the date of the deed. Said order shall specify the
8 cause of the invalidity of the said title. The treasurer shall forthwith
9 record said release in the proper registry of deeds, and thereupon, if the
10 said invalidity was caused by an error, omission or informality in the
11 assessment of the tax, the treasurer shall notify the board by which the
12 tax or assessment was laid, which shall forthwith reassess it as provided in
13 section seventy-seven of chapter fifty-nine; and if such invalidity was
14 caused by an error, omission or informality in the proceedings of the col-
15 lector, the treasurer shall thereupon notify the collector who shall forth-
16 with collect the unpaid tax or assessment in conformity to law.

Refunds to
holders of
tax titles
judicially
adjudged
invalid.
1931, 440.

LIEN OF CO-TENANTS.

1 SECTION 85. A tenant in common or joint tenant, who pays the
2 entire tax assessed upon land held jointly or in common, shall have a
3 lien upon the interest of each of his co-tenants, to secure the payment to
4 him of the proportion of such tax payable by each of said co-tenants
5 respectively, with the costs of enforcing the same; but any person whose
6 tax has been so paid by his co-tenant shall have the same right to re-
7 cover it back if illegally assessed as he would have had if the tax had
8 been paid under a protest by him in writing.

Co-tenant
paying tax to
have lien on
interest of his
co-tenant.
1875, 236, § 1.
P. S. 12, § 63.
1888, 390, § 73.
R. L. 13, § 73.
1909, 490,
11, § 74.
195 Mass. 55.

Enforcement of lien of co-tenant.
1875, 256,
§§ 2-5,
P. S. 12,
§§ 64, 65,
1888, 390,
§§ 74, 75.
R. L. 13, § 74.
1909, 490,
II, § 75
1918, 257, § 57.
1919, 5,
1920, 2,
148 Mass. 414,
195 Mass. 55
231 Mass. 341,
244 Mass. 1.

SECTION 86. Such lien may be enforced in the manner provided in chapter two hundred and fifty-four for enforcing liens on buildings and land under written contracts for the erection, alteration, repair or removal of buildings or structures; but shall be dissolved, unless the person desiring to avail himself thereof, or some one in his behalf, subscribes and makes oath to a certificate setting forth a description, sufficiently accurate for identification, of the property intended to be covered by the lien, the names of the several co-tenants and the interest of each therein, the amount of the tax paid, and the amount due from each co-tenant, and within thirty days after the day of payment of said tax records such certificate in the registry of deeds, and unless a bill in equity to enforce the lien is commenced within sixty days after the date of recording said certificate. Such lien shall have priority over all liens and encumbrances arising after the filing of the certificate required by this section, but shall not be valid against a mortgage actually existing and duly recorded prior to the recording of said certificate, or against any lien existing under section one or section three of chapter two hundred and fifty-four prior to the filing of the certificate. No person except the co-tenant who paid the tax, or a person claiming by, through or under him, shall be made a party plaintiff in a bill brought under this section.

MISCELLANEOUS PROVISIONS.

By-laws, etc., to direct collector to sell or take
1878, 266, § 6.
1879, 169,
P. S. 12, § 67.
1888, 390, § 77.
R. L. 13, § 76.
1909, 490,
II, § 77.

SECTION 87. A city or town may, by ordinance or by-law, respectively, direct whether its collector shall exercise the power of sale or the power of taking to enforce the lien for taxes; and in default of such ordinance or by-law the collector may exercise either power at his discretion; but the passage of any such ordinance or by-law shall not render invalid any proceedings then pending.

Sheriff or deputy to post list and warrant thirty days before distress.
1875, 70,
§§ 3, 4.

SECTION 88. When the tax list and warrant of the assessors is committed to the sheriff or his deputy, he shall forthwith post, in some public place in the town, an attested copy of said list and warrant; and shall make no distress for a tax within thirty days thereafter.

R. S. 8, § 34.
G. S. 12, § 43.

P. S. 12, § 68.
1888, 390, § 78.

R. L. 13, § 77.
1909, 490, II, § 78.

Sheriff's fees for collecting.
1875, 70, § 4.
R. S. 8, § 35.
G. S. 12, § 44.
P. S. 12, § 69.
1888, 390, § 79.
R. L. 13, § 78.
1909, 490,
II, § 79.

SECTION 89. If a person pays his tax within said thirty days, the officer shall receive from him for his fees five per cent on the sum assessed; but if a tax remains unpaid after said thirty days, he shall collect it by distress or imprisonment, or by sale of land as a collector would do. The officer may also levy his fees for service and travel in the collection of each person's tax, as in other cases of distress and commitment, or sale of land.

Treasurer as collector may issue warrants, etc.
1817, 69,
1834, 148,
R. S. 8,
§§ 36, 61.
G. S. 12, § 45.
1874, 28, § 2.
P. S. 12, § 70.

SECTION 90. If a town appoints its treasurer as the collector of taxes, he may issue his warrants to the sheriff of the county, or his deputy, or to any constable of the town, returnable in sixty days, requiring them to collect any or all taxes due. Such warrants shall be substantially in the same form, and shall confer the same powers as warrants by assessors to collectors.

1888, 390, § 80.
R. L. 13, § 79.

1909, 490, II, § 80.
191 Mass. 503.

1 SECTION 91. When any foreign corporation or non-resident person,
 2 doing business in the commonwealth, shall for sixty days neglect, refuse
 3 or omit to pay a tax lawfully assessed and payable, any court having
 4 jurisdiction in equity may on petition of the collector of taxes of the
 5 town where the tax is assessed restrain said corporation or person from
 6 doing business in the commonwealth until said tax, with all incidental
 7 costs and charges, shall have been paid. Service of process upon any
 8 such petition may be made by an officer duly qualified to serve process,
 9 by leaving a duly attested copy thereof at the place where the business
 10 is carried on.

Restraint of
 foreign cor-
 poration or
 non-resident
 from doing
 business until
 tax is paid.
 1902, 349,
 1909, 490,
 II, § 81
 191 Mass. 127.

1 SECTION 92. The board of aldermen or selectmen may empower any
 2 officer authorized to collect taxes to appoint such deputies as he deems
 3 expedient. Any such deputy may be a woman. Such deputies shall
 4 give bond for the faithful performance of their duties in such sum as
 5 the aldermen or selectmen may prescribe and shall have the powers of
 6 collectors.

Aldermen or
 selectmen may
 authorize ap-
 pointment of
 deputies.
 1874, 28, § 1.
 P. S. 12, § 71.
 1888, 390, § 81.
 R. L. 13, § 80.

1908, 247.

1909, 490, II, § 82.

1 SECTION 93. The treasurer or other disbursing officer of any town
 2 may, and if so requested by the collector, shall, withhold payment of any
 3 money payable to any person whose taxes are then due and wholly or
 4 partly unpaid to an amount not exceeding the unpaid tax with interest
 5 and costs. The sum withheld shall be paid or credited to the collector,
 6 who shall, if required, give a written receipt therefor. The person taxed
 7 may in such case have the same remedy as if he had paid such tax after
 8 a levy upon his goods. The collector's rights under this section shall not
 9 be affected by any assignment or trustee process.

Money payable
 by city or town
 to person owing
 taxes to be
 withheld, etc.
 1878, 296, § 8.
 P. S. 12, § 72.
 1888, 390, § 82.
 R. L. 13, § 81.
 1909, 490,
 II, § 85.

1 SECTION 94. The aldermen or selectmen may require the collector
 2 once in two months to exhibit to them a true account of all money re-
 3 ceived on the taxes committed to him, and to produce the treasurer's
 4 receipts for all money paid into the treasury by him.

Mayor and
 aldermen or
 selectmen may
 require col-
 lector to ex-
 hibit accounts
 and receipts.

1783, 66, § 1.
 R. S. 8, § 45.
 G. S. 12, § 46.

P. S. 12, § 73.
 1888, 390, § 83.

R. L. 13, § 82.
 1909, 490, II, § 84.

[Penalty, § 99.]

1 SECTION 95. The collector shall be credited with all sums abated;
 2 with the amount of taxes assessed upon any person committed to jail
 3 for non-payment of his tax within one year from the receipt of the tax
 4 list by the collector, and who has not paid his tax; with any sums which
 5 the town may see fit to abate to him, due from persons committed after
 6 the expiration of a year; with all sums withheld by the treasurer of a
 7 town under section ninety-three; and with the amount of the taxes and
 8 charges where land has been purchased or taken by the town for non-
 9 payment of taxes. When a collector is credited with the amount of taxes
 10 assessed upon any person committed to jail for the non-payment of his
 11 tax, who has not paid his tax, said collector shall also be paid and credited
 12 with the fees and charges which have become a part of said taxes and to
 13 which he or the officer acting under his warrant is entitled.

Credits and
 payments to
 collector.
 1785, 42, § 6.
 R. S. 8, § 45.
 G. S. 12, § 48.
 1862, 183, § 5.
 P. S. 12, § 75.
 1888, 390, § 85.
 R. L. 13, § 83.
 1908, 390, § 2.
 1909, 490,
 II, § 85
 9 Met 499
 13 Gray, 321.

1 SECTION 96. If a collector becomes insane, absconds or removes from
 2 the town or in the judgment of the aldermen or selectmen is about to so
 3 remove or is otherwise unable to discharge his duty, or if he refuses on

Aldermen or
 selectmen may
 remove col-
 lector in
 certain cases.

1783, 10, § 1.
1785, 46, § 15.
1791, 22, § 1.
R. S. 8, § 40.
G. S. 12, § 52.

demand to exhibit to the aldermen or selectmen his books, vouchers and accounts of collections as provided in this chapter, the aldermen or selectmen may remove him from office. 4
5
6

P. S. 12, § 79.
1888, 390, § 89.

R. L. 13, § 84.
1909, 490, 11, § 86.

7 Gray, 128.

Accounts, records, etc., of collectors, deposit with assessors, when. Uncollected tax lists, etc., to be turned over to successor, etc.
1785, 46, § 5;
70, § 1
R. S. 8, § 39.
G. S. 12, § 53.
1881, 138, § 1.
P. S. 12, §§ 80, 81.
1888, 390, §§ 90, 91.
R. L. 13, § 85.
1909, 490, 11, § 87.
1919, 41.
1923, 128, § 5.
1 Met. 524.
[Penalty, § 100.]

SECTION 97. Except as provided in section nine, if a collector ceases to hold the office of collector for any reason other than because of the expiration of the term of office of a collector who is not paid by a fixed salary and his failure to be reappointed or re-elected, all his accounts, records and papers, except his warrant, which relate to the assessment and collection of taxes in his town shall, forthwith after an audit thereof has been made by a competent accountant, be deposited by him, or his executor or administrator, or any other person into whose possession they may come, with the assessors of such town, who thereupon shall turn over his uncollected tax lists to his successor, together with their warrant, which shall cover the uncollected accounts of the original commitment as shown on said lists and shall also turn over all his accounts, records and papers so deposited with them, except said lists, to the clerk of said town. If the collector is his own successor, he shall complete the collection of the taxes as a part of the duties of his new term of office and not as a part of the duties of his former term of office. 1
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Action to recover back taxes paid, when maintainable.
1859, 118, §§ 3, 4.
G. S. 12, § 56.
P. S. 12, § 84.
1888, 390, § 94.
R. L. 13, § 86.
1909, 490, 11, § 88.
13 Gray, 476.
1 Allen, 319.
10 Allen, 48.
99 Mass. 208.
102 Mass. 348.

SECTION 98. No action to recover back a tax shall be maintained, except as provided in sections sixty and eighty-five, unless commenced within three months after payment of the tax nor unless such tax is paid either after an arrest of the person paying it, a levy on his goods, a notice of a sale of his land, a written protest signed by him, or a withholding of money due him under section ninety-three. In an action founded on an error or irregularity in the assessment or apportionment of a tax, only the amount in excess of the tax for which the plaintiff was liable shall be recoverable; and no sale, contract or levy shall be avoided solely by reason of such error or irregularity. 1
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126 Mass. 97.	149 Mass. 238.	256 Mass. 142.
129 Mass. 551.	202 Mass. 258.	259 Mass. 1.
130 Mass. 478.	232 Mass. 402.	263 Mass. 255.
132 Mass. 89.	250 Mass. 317.	265 Mass. 327.

PENALTIES.

Penalty on collector for failure to exhibit accounts or receipts.
1783, 66, § 2.
R. S. 8, § 46.

SECTION 99. A collector who neglects or refuses to exhibit accounts or to produce receipts, as required under section ninety-four, shall forfeit to the town two and one half per cent of the sums committed to him for collection. 1
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G. S. 12, § 47.	1888, 390, § 84.	1909, 490, 11, § 84.
P. S. 12, § 74.	R. L. 13, § 82.	

Penalty on collector, etc., for failure to turn over accounts, etc.
1892, 370, § 7.
R. L. 13, § 11.

SECTION 100. Violation by a collector, former collector, or an executor or administrator of a collector or former collector, of any provision of section nine, twelve or ninety-seven shall be punished by a fine of not more than five hundred dollars. 1
2
3
4

1909, 490, 11, § 11. 1923, 128, § 6.

Penalty for failure to give up accounts, etc., on demand.

SECTION 101. Violation of section twelve by a person of whom demand is made thereunder shall be punished by a fine of not more than five hundred dollars. 1
2
3

1892, 370, § 7.	R. L. 13, § 11.	1909, 490, 11, § 11.
-----------------	-----------------	----------------------

1 SECTION 102. Violation by a collector of section two or section eight
 2 shall be punished by a fine of not less than three hundred dollars. Penalty for failure to pay over money or exhibit books, etc.

1867, 126, § 3. R. L. 13, § 12.	1909, 490, H, § 12. 1918, 357, § 41.	1919, 5. 1920, 2.
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1 SECTION 103. Whoever refuses or neglects to aid a collector when re- Penalty for failure to aid collector when required.
 2 quired under section thirty-three shall forfeit not more than ten dollars.

1782, 61, § 2. 1785, 70, § 9. R. S. 8, § 6.	G. S. 12, § 17. P. S. 12, § 18. 1888, 390, § 22.	R. L. 13, § 20. 1909, 490, H, § 31.
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1 SECTION 104. Violation by a collector, or by a holder of a tax title, Penalty for exorbitant charge for redemption from tax title.
 2 of the last sentence of the first paragraph of section sixty-two, shall be
 3 punished by a fine of not more than one hundred dollars.

1891, 288. R. L. 13, § 59.	1909, 490, H, § 60. 1931, 426, § 66.	210 Mass. 145.
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FORMS.

1 SECTION 105. The following forms may be used in proceedings for the Forms.
 2 collection of taxes under this chapter, and, if substantially followed, they
 3 shall be deemed sufficient for the proceedings to which they respectively
 4 relate; but other suitable forms may also be used. These forms may
 5 also be used, so far as applicable, in the collection of betterments and
 6 other assessments of like character.

	1888, 390, § 96. 1889, 374, § 15. R. L. 13, § 87. 1909, 490, H, § 89. 1913, 311. 180 Mass. 411.
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SCHEDULE OF FORMS.

No. 1. FORM OF DEMAND UNDER SECTION 16.

B, , 19 .

To.....

Herewith find your tax bill due , 19 , amounting to \$. 1913, 311.
 Payment of the same is hereby demanded. Interest at the rate of per 1915, 237.
 cent per annum will be charged from , 19 . You are hereby §§ 22, 26.
 notified that unless your tax is paid in fourteen days from this date, with legal 1915, 103.
 interest and charges, and twenty-five cents for this demand, the collector will 1918, 199, § 1;
257, § 45, 58.
 then proceed to collect the same according to law. 1919, 5.
1920, 2; 460.

.....
Collector of Taxes for the of .

No. 2. FORM OF SUMMONS UNDER SECTION 18.

B, , 19 .

To.....

Your tax for the year 19 , amounting to \$ and interest thereon, is 1913, 311.
 now due. You are required to pay the same within ten days from this date 1915, 237, § 22.
 with twenty cents for this summons. At the expiration of that time, if the tax is 1916, 103.
 not paid, the collector will proceed to collect the same according to law.

.....
Collector of Taxes for the of .

No. 3. FORM OF NOTICE OF SALE OF DISTRAINED PROPERTY UNDER SECTION 25.

COLLECTOR'S SALE.

1913, 311. Distrained upon a warrant of distress for non-payment of taxes, and will be sold by public auction on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., at _____, unless said taxes, interest and charges shall be paid before the sale, the following described property, to wit: [*Here describe the property.*]
 B, _____, 19____.

.....
Collector of Taxes for the _____ of _____.

(Or other authorized officer, as the case may be.)

No. 4. FORM OF NOTICE OF ADJOURNMENT OF SALE UNDER SECTION 26.

1913, 311. [To the original notice of sale, or a copy thereof, add the following, and post at the place of sale:]

The collector hereby gives notice that the above sale stands adjourned to _____, the _____ day of _____, 19____, at the same hour and place.
 B, _____, 19____.

.....
Collector of Taxes for the _____ of _____.

(Or other authorized officer, as the case may be.)

No. 5. FORM OF CERTIFICATE REQUIRED BY SECTION 30 TO BE GIVEN WHEN A COMMITMENT IS MADE.

1913, 311. _____ B, _____, 19____. I hereby certify that the tax assessed in the _____ of _____ as of the first day of April in the year 19____ upon _____ remains unpaid for fourteen days after demand therefor made by me (or the collector of taxes of the town of B) and still remains unpaid; and that for want of goods and chattels whereof to make distress I commit the said person to jail. I also certify that the amount the said person is to pay for said tax, interest, charges, fees, and traveling expenses as provided by statute, is _____ dollars.

.....
Collector of Taxes for the _____ of _____.

(Or other authorized officer, as the case may be.)

No. 6. FORM OF COLLECTOR'S WARRANT TO DISTRAIN OR COMMIT UNDER SECTION 34.

COMMONWEALTH OF MASSACHUSETTS.

To the *Sheriffs of our several Counties, or their Deputies, or to any Constable of or Deputy Collector of Taxes for the _____ of _____ in the County of _____.*

GREETING:

1913, 311. _____ a resident of _____ in the County of _____
 191 Mass. 503. was duly assessed as of the first day of April in the year nineteen hundred and _____, by the Assessors of the _____ of _____, a tax in the sum of _____ dollars; and the same now, after the expiration of fourteen days from the date of a demand made upon him by me in accordance with law for the payment of the same, remains unpaid; Therefore,

In the name of the Commonwealth of Massachusetts, you and each of you are required and directed to distrain the goods or chattels of the said person so assessed sufficient to satisfy and pay the amount due for such tax and interest, and all fees and charges of keeping and selling the same, saving and excepting

the tools or implements necessary for the trade or occupation of the said person so assessed; beasts of the plough necessary for the cultivation of his improved land; military arms, uniforms and equipment; utensils for house-keeping necessary for upholding life; and bedding and apparel necessary for the said person so assessed and his family. And the goods and chattels so distrained by you, you are required to keep at the cost and charge of the owner for four days at least and within seven days after the seizure to sell the same at public auction, for the payment of the said amount due, having first posted up a notice of the sale in some public place in the city or town where found, forty-eight hours at least before the sale: *provided, however*, that you may, if you shall see fit, once adjourn said sale for a time not exceeding three days, in which case you shall forthwith post up a notice of such adjournment and of the time and place of sale. And if said distress shall be sold for more than the said amount due, you shall return the surplus to the owner of such goods or chattels upon demand, with an account in writing of the sale and charges. And if you cannot find sufficient goods and chattels belonging to the person assessed, whercon to make distress, you shall take the body of the said person and him commit to one of the common jails in the county in which you shall arrest him, there to remain until he shall pay said tax, interest, charges, and fees, and for an arrest, one dollar and actual traveling expenses incurred in making such arrest; or until he shall be discharged therefrom by due course of law: *provided, however*, that you may at your discretion, after the service of this Warrant, allow such person to go free for a period not exceeding fourteen days after said service, at which time if said person does not pay his tax with all fees and charges due thereon including one dollar for service of this Warrant and five cents for each mile traveled by you in the performance of this collection you shall then arrest said person on this Warrant and commit him to jail as aforesaid. But if you shall commit such person for the non-payment of a poll tax only he shall not be detained in jail more than seven days.

And in case you shall commit said person so assessed to jail by virtue of this Warrant, you are required to give the keeper of the jail wherein he may be committed an attested copy of this Warrant, with a certificate thereon under your hand, setting forth that for want of goods and chattels of the said person whereof to make distress, you have taken his body and committed him to jail as aforesaid; and also setting forth the amount said person is to pay as his tax, interest, charges, fees and traveling expenses as provided by statute.

Hereof fail not, and make return of this Warrant, with your doings thereon, within sixty days from the date hereof.

Given under my hand and seal this _____ day of _____ 19 ____ .
 _____ [SEAL.]
Collector of Taxes for the _____ of _____ .

NO. 7. FORM OF CERTIFICATE TO BE ENDORSED ON COPY OF WARRANT IN CASE OF COMMITMENT.

B, _____, 19 ____ .

I hereby certify that, by virtue of the warrant, of which the within is a true copy, for want of goods and chattels whereof to make distress, I have taken the body of the within named _____ and committed him to jail, and that the amount which he is to pay as his tax, interest, charges, fees, and traveling expenses as provided by statute, is _____ dollars.

Deputy Collector of Taxes for the _____ of _____ .
 (Or other authorized officer, as the case may be.)

NO. 8. FORM OF DEMAND OF TAX ON REAL ESTATE UNDER SECTION 37.

C, _____, 19 ____ .

To _____

In compliance with the statute I hereby demand of you payment of dollars, that being the amount of tax assessed for the year 19 ____ on the estate in this [City or Town] [here give a brief statement of the estate] and owned or occu-

1913, 311.
 1915, 237, § 22.
 180 Mass. 411.

containing also a substantially accurate description, and the names of all owners of said land known to me, and the amount of the taxes so as aforesaid assessed thereon, in the _____, a newspaper published in _____, in the

County where said land lies, three weeks successively, the last publication whereof was at least one week before the time appointed for the sale, and by posting the said advertisement in _____ public and convenient places in said _____,

to wit: the _____, three weeks before the time appointed for said sale; and whereas, said taxes so as aforesaid assessed on said land were not paid, I proceeded at the time and place appointed as aforesaid for the sale, to offer for sale said land by public auction for the discharge and payment of said taxes thereon with interest, and said legal costs and charges, [if the sale is adjourned add the following:] and no person appeared and bid for an undivided part or for the whole of the land thus offered for sale an amount equal to the said taxes, interest, costs and charges, and I thereupon, at said time and place appointed for said sale, adjourned said sale until _____, the _____ day of _____, A.D. 19____, at _____ o'clock in the _____ noon, at the same place,

and then and there made public proclamation of said adjournment; [if there are several adjournments use the following:] and in like manner in all respects and for the same cause, I adjourned said sale [here state the successive dates, hours and places to which the sale was adjourned], and then and there made public proclamation of said adjournments; and at the time and place so fixed and proclaimed for making said sale on each of the several days, I proceeded to offer for sale said land by public auction for the payment of said taxes, interest, costs and charges, and no person appeared at either time so fixed by adjournment for said sale and bid a sum equal to said taxes, interest, costs and charges, until on the _____ day of _____, A.D. 19____, _____ the time and place so fixed for said sale by the last of the said adjournments [or, if there was but one adjournment, use such averments as will conform to that fact], I proceeded again to offer for sale by public auction for the payment of said taxes, interest, costs and charges, the smallest undivided part of said land sufficient for the payment of said taxes with interest and legal costs and charges; [If an offer is made for an undivided part use the following:] and _____ of _____ in the County of _____ and State of _____ offered at said auction to take one undivided

part of said land and to pay therefor the amount of said taxes with interest and the legal costs and charges, and that being the smallest undivided part of said land offered to be taken for the payment of said taxes, interest, costs and charges, one undivided _____ part of said land was struck off to said _____.

Therefore, know ye, that I, the said _____, Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the said sum of _____ dollars and _____ cents to me paid by said _____, the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto _____ the said _____ one undivided

part of the following described land, being the land taxed as aforesaid, to wit: [here describe the land.]

[If sale is made of the whole, use the following:] and no person offering at said auction to take an undivided part of said land, the whole of said land was struck off to _____ of _____ in the County of _____ and State of _____ for the sum of _____ dollars and _____ cents, being

the amount of the taxes and necessary intervening charges.

Therefore, know ye, that I, the said _____, Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the said sum of _____ dollars and _____ cents to me paid by said _____, the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto _____ the said _____ the following described land, the same being the land taxed as aforesaid, to wit: [here describe the land.]

[In each case conclude as follows:] To have and to hold the same, to the said _____, h _____ heirs and assigns, to _____ and their use and behoof forever; subject to the right of redemption by any person legally entitled to redeem the same and to all easements and restrictions lawfully existing in, upon or over said land or appurtenant thereto when so taken.

And I, the said Collector, do covenant with the said _____, h _____ heirs and assigns, that the sale aforesaid has, in all particulars, been conducted according to law.

1918, 257, § 48
1919, 5,
1920, 2.

In witness whereof, I, the said _____, Collector as aforesaid, have hereunto set my hand and seal, this _____ day of _____, in the year of our Lord one thousand nine hundred and _____.

.....[SEAL.]
Collector of Taxes for the _____ of _____.

Signed, sealed and delivered in the presence of

ss. _____ 19 _____.

Then personally appeared the above named _____, Collector of Taxes for the _____ of _____, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

.....
Justice of the Peace.

My commission expires _____, 19 _____.

NO. 11. FORM OF DEED WHEN THE CITY OR TOWN IS THE PURCHASER UNDER SECTIONS 48 AND 50.

COMMONWEALTH OF MASSACHUSETTS.

To all Persons to whom these Presents may come,

I, _____, Collector of Taxes for the [City or Town] of _____, in 1913, 311. the County of _____ and Commonwealth of Massachusetts, 1923, 377, § 8.

SEND GREETING:

Whereas, the Assessors of Taxes of _____ of _____, in the lists of assessments for taxes, which they committed to me to collect for the year one thousand nine hundred and _____, duly assessed _____ as owner or occupant of the land in said _____, which is hereinafter described, the sum of _____ dollars and _____ cents, for State, County and [City or Town] Taxes thereon; and whereas there were added to and made a part of said taxes so assessed on said land certain apportioned and unapportioned betterment assessments and certain special assessments, with interest thereon, constituting a lien on said land, in the sum of _____ dollars and _____ cents, so that the whole amount of taxes on said land committed to me, including assessments and interest, was the sum of _____ dollars and _____ cents; and whereas, on the _____ day of _____, A.D. 19 _____, I duly demanded of said [if the demand was made on a mortgagee or an attorney of a non-resident owner, here insert the fact] _____ the payment of said taxes, so as aforesaid assessed on said land, and the same were not paid; and whereas, after the expiration of fourteen days from the time of demanding payment of said taxes as aforesaid, the same still remaining unpaid, I duly advertised that the smallest undivided part of said land sufficient to satisfy said taxes with interest and all legal costs and charges, or the whole of said land if no person offers to take an undivided part thereof, would be sold by public auction for the payment of said taxes with interest, and all legal costs and charges, on the _____ day of _____, A.D. 19 _____, at _____ o'clock in the _____ noon, at the _____, in said _____, by publishing an advertisement thereof, containing also a substantially accurate description, and the names of all owners of said land, and the amount of the taxes so as aforesaid assessed thereon, in the _____, a newspaper published in _____, in the County where said land lies, three weeks successively, the last publication whereof was at least one week before the time appointed for the sale, and by posting the said advertisement in _____ public and convenient places in said _____, to wit: the _____, three weeks before the time appointed for said sale; and whereas, said taxes so as aforesaid assessed on said land were not paid, I proceeded at the time and place appointed as aforesaid for the sale, to sell said land by public auction for the discharge and payment of said taxes thereon with interest, and said legal costs and charges and no person appeared and bid for the estate thus offered for sale an amount equal to the said taxes, interest, costs and charges, and I thereupon, at said time and place appointed for sale, adjourned

said sale until the _____ day of _____, A.D. 19____, at _____ o'clock in the _____ noon at the same place, and then and there made public proclamation of said adjournment; and in like manner in all respects and for the same cause I adjourned said sale [here state the successive dates, hours and places to which the sale was adjourned], and then and there made public proclamation of said adjournments; and at the time and place so fixed and proclaimed for making said sale on each of said several days, I proceeded to offer for sale said real estate by public auction for the payment of said taxes, interest, costs and charges, and no person appeared at either time so fixed by adjournment for said sale and bid a sum equal to said taxes, interest, costs and charges, and at the time and place so fixed for said sale by the last of the said adjournments, namely, on the _____ day of _____, A.D. 19____, at _____ o'clock in the _____ noon, I made a public declaration of all the facts hereinbefore recited; and no person then appeared and bid a sum equal to said taxes, interest, costs and charges [if only one adjournment is made, change these averments to conform to the facts]; and I thereupon then and there immediately gave public notice that I should, and that I then and there did purchase on behalf of the said _____ of _____, said real estate for the sum of _____ dollars and _____ cents, being the amount of said taxes, interest, costs and charges;

Therefore know ye, that I, the said _____, Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the premises, hereby give, grant, bargain, sell and convey unto the said _____ of _____, the following described real estate, the same being the land taxed as aforesaid, to wit: [here describe the estate.]

To have and to hold the same, to the said [City or Town] of _____, and its assigns, to its and their use and behoof forever; subject to the right of redemption by any person legally entitled to redeem the same and to all easements and restrictions lawfully existing in, upon or over said land or appurtenant thereto when so taken.

And I, the said Collector, do covenant with the said _____ of _____, and its assigns, that the sale aforesaid has, in all particulars, been conducted according to law.

In witness whereof, I, the said _____, Collector as aforesaid, have hereunto set my hand and seal, this _____ day of _____, in the year of our Lord one thousand nine hundred and _____.

.....[SEAL.]
Collector of Taxes for the _____ of _____.

Signed, sealed and delivered in presence of

ss. _____ 19____.

Then personally appeared the above named _____, Collector of Taxes for the _____ of _____, and acknowledged the foregoing instrument to be his free act and deed.

Before me, _____
.....
Justice of the Peace.

My commission expires _____, 19____.

NO. 12. FORM OF DEED TO CITY OR TOWN, WHEN THE PURCHASER FAILS TO PAY, ETC., UNDER SECTIONS 49 AND 50.

COMMONWEALTH OF MASSACHUSETTS.

To all Persons to whom these Presents may come,

I, _____, Collector of Taxes for the [City or Town] of _____, 1913, 311.
in the County of _____ and Commonwealth of Massachusetts, 1918, 257, § 48.
1919, 5.
1920, 2.

SEND GREETING: 1923, 377, § 8.

Whereas, the Assessors of Taxes of said _____ of _____, in the lists of assessments for taxes, which they committed to me to collect for the

year one thousand nine hundred and _____, duly assessed _____, as owner or occupant of the land in said _____, which is hereinafter described, the sum of _____ dollars and _____ cents, for State, County and [City or Town] Taxes thereon; and whereas there were added to and made a part of said taxes so assessed on said land certain apportioned and unapportioned betterment assessments and certain special assessments, with interest thereon, constituting a lien on said land, in the sum of _____ dollars and _____ cents, so that the whole amount of taxes on said land committed to me, including assessments and interest, was the sum of _____ dollars and _____ cents; and whereas, on the _____ day of _____, A.D. 19____, I duly demanded of said [if the demand was made on a mortgagee or an attorney of a non-resident owner, here insert the fact] _____ the payment of said taxes, so as aforesaid assessed on said land, and the same were not paid; and whereas, after the expiration of fourteen days from the time of demanding payment of said taxes as aforesaid, the same still remaining unpaid, I duly advertised that the smallest undivided part of said land sufficient to satisfy said taxes with interest and all legal costs and charges, or the whole of said land if no person offers to take an undivided part thereof, would be sold by public auction for the payment of said taxes with interest, and all legal costs and charges, on the _____ day of _____, A.D. 19____, at _____ o'clock in the _____ noon, at the _____, in said _____, by publishing an advertisement thereof, containing also a substantially accurate description, and the names of all owners of said land known to me, and the amount of the taxes so as aforesaid assessed thereon, in the _____, a newspaper published in _____, in the County where said land lies, three weeks successively, the last publication whereof was one week before the time appointed for the sale, and by posting the said advertisement in public and convenient places in said _____, to wit: the _____, three weeks before the time appointed for said sale; and whereas, said taxes so as aforesaid assessed on said land were not paid, I proceeded at the time and place appointed as aforesaid for the sale, to sell said land by public auction for the discharge and payment of said taxes thereon with interest, and said legal costs and charges, and, no person offering to take an undivided part of the land for the amount of the taxes and necessary intervening charges, the whole of the said real estate was struck off to _____ of _____ in the County of _____ and State of _____ for the sum of _____ dollars and _____ cents, being the amount of the taxes and necessary intervening charges; and whereas, the said _____ failed to pay to me the sum offered by him as aforesaid, and receive his deed of the premises bid off by him, within twenty days after the said sale, and the said sale became null and void, and the said _____ of _____ thereby became the purchaser of the premises so bid off by the said _____ for the sum of _____ dollars and _____ cents, being the amount of said taxes, interest, costs and charges;

Therefore know ye, that I, the said _____, Collector of Taxes as aforesaid, by virtue of the power vested in me by law, and in consideration of the premises, hereby give, grant, bargain, sell and convey unto the said _____ of _____, the following described real estate, the same being the land taxed as aforesaid, to wit: [here describe the estate.]

To have and to hold the same, to the said _____ of _____, and its assigns, to its and their use and behoof forever; subject to the right of redemption by any person legally entitled to redeem the same, and to all easements and restrictions lawfully existing in, upon or over said land or appurtenant thereto when so taken.

And I, the said Collector, do covenant with the said _____ of _____ and its assigns, that the sale aforesaid has in all particulars been conducted according to law.

In witness whereof, I, the said _____, Collector as aforesaid, have hereunto set my hand and seal, this _____ day of _____, in the year of our Lord one thousand nine hundred and _____.

.....[SEAL.]
 Collector of Taxes for the _____ of _____.

Signed, sealed and delivered in presence of

ss.

19 .

Then personally appeared the above named _____, Collector of Taxes for the _____ of _____, and acknowledged the foregoing instrument to be his free act and deed.

Before me,

.....

Justice of the Peace.

My commission expires _____, 19 .

No. 13. FORM OF NOTICE OF INTENTION TO TAKE REAL ESTATE UNDER SECTION 53.

COLLECTOR'S NOTICE.

The owners and occupants of the following described parcels of real estate 1913, 311. situate in the _____ of _____ in the County of _____ and Commonwealth of Massachusetts, and all other persons, are hereby notified that the taxes thereon, severally assessed for the year hereinafter specified, according to the list committed to me as Collector of Taxes for the said _____ of _____, by the Assessors of Taxes of said _____, remain unpaid, and that said parcels of real estate will be taken for the said _____, 19 _____, at _____ o'clock _____ M., for the payment of said taxes, together with the interest, costs and charges thereon, unless the same shall be previously discharged. [Here state the names of the person assessed, and all owners known to the collector, a description of the parcel or parcels of lands, the year for which the taxes were assessed, and the sum assessed upon each parcel.]

.....
Collector of Taxes for the _____ of _____.

No. 14. FORM OF TAKING OF REAL ESTATE UNDER SECTION 54.

Whereas, the tax assessed by the assessors of _____ as of the first day of 1913, 311. April, in the year 19 _____, upon _____ as the owner or occupant of the real 1923, 377. § 8. estate hereinafter described, was duly committed to me as Collector of Taxes for said _____ of _____; and whereas, the said taxes, with apportioned and unapportioned betterment assessments and special assessments, with interest thereon, constituting a lien on said land, which had been added thereto, amounting to _____ dollars and _____ cents, have not been paid; and whereas, a demand for the payment of said taxes and the interest, costs and charges then due was made by me on the said _____ on the day of _____, last past, in conformity to law; and whereas, notice of my intention to take said real estate by virtue of the authority vested in me as Collector of Taxes for said _____ has been duly given, as by law required; and whereas, the said taxes, at the date of this instrument, remain unpaid; now, therefore, KNOW ALL MEN BY THESE PRESENTS, that I, _____, as Collector of Taxes as aforesaid, by virtue of the power and authority in me vested as aforesaid, have taken, and by these presents do take, for the said _____ of _____, subject to redemption according to law, and to all easements and restrictions lawfully existing in, upon or over said land or appurtenant thereto when so taken, the following described lot or parcel of land, with the buildings thereon, the same being the estate assessed as aforesaid, to wit: [here describe the estate.]

The said _____ is the only person known to me as owner of the above described estate. [If the foregoing statement is not true, state the names of all owners known to the collector.]

In witness whereof, I, the said _____, as Collector as aforesaid, hereunto set my hand and seal this _____ day of _____, in the year nineteen hundred and _____.

..... [SEAL]
Collector of Taxes for the _____ of _____.

NO. 15. FORM OF AFFIDAVIT UNDER SECTION 57 OF COLLECTOR, DEPUTY COLLECTOR OR DISINTERESTED PERSON TO BE RECORDED IN THE REGISTRY OF DEEDS THAT DEMAND HAS BEEN MADE.

1913, 311. I [A B, *Collector, Deputy Collector or a disinterested person,*] hereby certify that on the _____ day of _____, 19____, I served upon _____ [or witnessed the service upon _____ of] a demand for the payment of a tax of _____ dollars assessed upon him by the assessors of _____, in 19____, upon the estate in said _____ [here give a substantially accurate description of the estate], with a notice that if said amount and interest thereon, together with the legal costs and charges, were not paid within fourteen days from the date thereof, the said estate would be sold by public auction, pursuant to law.

.....
COMMONWEALTH OF MASSACHUSETTS.

_____, ss. _____, 19____.
Then personally appeared the said _____, and made oath that this statement by him subscribed is true.

Before me,

.....
Justice of the Peace.

My commission expires _____, 19____.

NO. 16. FORM OF AFFIDAVIT UNDER SECTION 57, AS TO DEMAND, WHEN THE DEMAND IS MADE UPON TWO OR MORE PERSONS.

1913, 311. I [A B, *Collector, Deputy Collector or a disinterested person,*] hereby certify that on or since the _____ day of _____, 19____, I served [or witnessed the service] on each of the parties hereafter mentioned, on the date and in the manner specified, as may be seen by reference to their respective names, [of] a demand like the blank hereunto attached, the blanks being first filled with the date, name, amount of the tax, and location of the real estate.

NAMES.	Amount of Tax.	Manner and Date of Service.

.....
COMMONWEALTH OF MASSACHUSETTS.

_____, ss. _____, 19____.
Then personally appeared the said _____, and made oath that the above statement by him subscribed is true.

Before me,

.....
Justice of the Peace.

My commission expires _____, 19____.

[Here annex the blank form, No. 8, referred to in the affidavit.]

NO. 17. FORM OF AFFIDAVIT UNDER SECTION 57 OF POSTING AND PUBLISHING ADVERTISEMENT OF SALE.

I, A B, of _____, in the County of _____, and _____, 1913, 311.
 Commonwealth of Massachusetts [*Collector, Deputy Collector or a disinterested person,*] hereby certify that three weeks before the time of sale I posted [or witnessed the posting] pursuant to law [of] the printed notice of the Collector of Taxes, a copy whereof is hereto annexed, in a convenient and public place in his precinct, to wit: the _____, in said [*here name the city or town*], and that said notice was advertised three weeks successively in the _____, a newspaper published in [*here name the city or town, or if there is no such newspaper, state that fact and add:* in said County], the last publication being at least one week before the advertised time of sale, in accordance with law.

A B.

COMMONWEALTH OF MASSACHUSETTS.

I, _____, ss. _____, S, _____, 19 ____.
 Then personally appeared the above named _____, and made oath that the foregoing statements by him subscribed are true.
 Before me,

.....
Justice of the Peace.

My commission expires _____, 19 ____.

[*Here annex a copy of the advertisement.*]

NO. 18. FORM OF AFFIDAVIT UNDER SECTION 57 OF DEMAND AND NOTICE TO BE ANNEXED TO THE INSTRUMENT OF TAKING.

I, C D, of _____ in the County of _____, and _____, 1913, 311, 1923, 377, § 8.
 Commonwealth of Massachusetts, on oath depose and say that on the day of _____, A.D. 19 ____, I, as Collector of Taxes for the _____ of _____, made a written demand on _____ for the amount of the tax assessed by the assessors of said _____ of _____, as of the first day of April, A.D. 19 ____, upon the said _____, with apportioned and unapportioned betterment assessments and special assessments, with interest thereon, constituting a lien thereon, which had been added thereto, and with the interest, costs and charges, then due, on certain real estate situated in said _____ of _____, by [*here state manner in which the demand was made*], of which the following is a true copy:

“C, _____, 19 ____.

To _____, I hereby demand of you the payment of _____ dollars and _____ cents, that being the amount of tax assessed for the year 19 ____ by the assessors of _____, on the real estate [*here describe the estate*] owned by you. You are hereby notified that if said amount, together with the interest, costs and charges thereon, is not paid within fourteen days from this date, the said real estate will be taken for said taxes for the said [*city or town*] of _____ Tax, \$ _____; interest, costs and charges, \$ _____.

C D,
Collector of Taxes for the _____ of _____.”

[*If notice is published and posted, add:*] And I, the said C D, do further depose and say that I posted and published notices, of which the following is a copy [*here annex a copy of the notice*], as follows: A copy thereof was posted on [*here state where posted*], and I also published a copy of said notice in the _____, a newspaper published in said _____ [*if there be no such paper published in said town, state the fact and add, “in _____ in said county”*], three

No. 20. FORM OF CERTIFICATE UNDER SECTION 63.

Whereas, I, _____, Collector of Taxes for the _____ of _____, 1913, 311,
 _____, County of _____ and Commonwealth of Massachusetts, for 1918, 257, § 53.
 the year 19____, did sell and convey certain real estate to _____ by deed 1919, 5.
 dated _____, 19____, and recorded in the _____ Registry of Deeds, 1920, 2.
 in Book _____ Page _____, for the non-payment of a tax as-
 sessed thereon to _____ in the year 19____, which real estate is described
 as follows, viz.: [*here describe the real estate.*]

And Whereas _____ of _____ in the County of _____
 and State of _____ was assessed _____, 19____,
 as owner or occupant of said property, and he alleges that he is a person having
 an interest in the property and as such desires to redeem the same from the sale
 in pursuance of Section 62 of Chapter 60 of the General Laws;

And Whereas the said _____ has this day paid to me the following
 sums to redeem said property from said sale, to wit:

Amount for which it was sold,	\$
Interest at 8% from date of sale,	
Examination of title,	
Deed of release, }	
Recording, }	
Additional sum as per statute,	1 00
	<u> </u>
	\$

Therefore, I, the said Collector of Taxes, for the said _____ of _____
 hereby certify that I have received from the said _____ the said sum of _____
 dollars and _____ cents, (\$ _____) for the purpose
 aforesaid.

Dated this _____ day of _____, A.D. 19____.

.....
 Collector of Taxes for the _____ of _____.

No. 21. FORM OF RECEIPT BY COLLECTOR TO A MORTGAGEE, UNDER SECTION 58.

I, _____, S, _____, 19____.
 _____, Collector of Taxes for the _____ of _____, 1913, 311,
 hereby certify that the Assessors of Taxes of said _____ of _____, in 1918, 257, § 54.
 the list of assessments for taxes, which they committed to me to collect for the _____, in
 year one thousand nine hundred and _____, duly assessed 1919, 5.
 the sum of _____ dollars and _____ cents, as owner or occu- 1920, 2.
 pant of the real estate situated and described as follows, viz.: [*here describe the
 real estate.*]

And I further certify that the said _____
 neglected to pay such tax within the year for which it was assessed, and that
 _____ who claims to be the holder of a mortgage upon said real
 estate, has paid to me the sum of _____ dollars and _____ cents,
 being the amount of said tax, with all interest, costs and charges, the receipt of
 which I hereby acknowledge.

.....
 Collector of Taxes for the _____ of _____.

ss. _____, 19____.

Then personally appeared the above named _____ and made oath
 that the foregoing statement by him subscribed is true.
 Before me,

.....

Justice of the Peace.

My commission expires _____, 19____.

NO. 22. FORMS OF NOTICES WHEN TAX TITLE IS DEEMED INVALID, UNDER
SECTIONS 82 AND 84.

[FROM THE ASSESSORS TO THE COLLECTOR.]

OFFICE OF THE BOARD OF ASSESSORS, 19 .

To the Collector of Taxes for the of .

1913, 311. Sir: You are hereby notified that the tax assessed as of the first day of April, 19 , in the name of upon an estate estimated to contain [here insert area] land, situated [here insert the name of street or other description] was invalid by reason of error in assessment; and that any deed given by you in consequence of a sale for the non-payment of such tax conveyed no valid title to the purchaser.

Board of Assessors of the of , by
.....
One of said Assessors.

NO. 23.

[FROM THE COLLECTOR TO THE HOLDER OF THE TITLE.]

B, 19 .

To.....

1913, 311. You are hereby notified that I have reason to believe that the title conveyed to by , Collector, and recorded with Deeds, Volume Page , of an estate described as follows [here describe estate],

in the name of , is invalid by reason of an error in the assessment for the year 19 , [or in the proceedings for the sale.] [Here give a brief statement of the defect]

: and I do hereby notify and require you, within thirty days from the time when this notice shall be served upon you, to surrender and discharge the deed so given, and to receive from the of the sum due therefor, with interest as provided by law, or to file with the Collector a written statement that you refuse to make such surrender and discharge.

.....
Collector of Taxes for the of .

CHAPTER 60A.

EXCISE TAX ON REGISTERED MOTOR VEHICLES IN LIEU OF LOCAL TAX.

SECT.

1. Excise tax on registered motor vehicles, assessment and levy.
2. Collection of tax. Abatement.
3. Local collectors to have certain remedies.

SECT.

4. Law respecting registration of motor vehicles not affected.
5. Rules and regulations.
6. Where taxes laid and collected.

Excise tax on registered motor vehicles, assessment and levy. 1928, 379, § 1; 1930, 220, § 13; 244, § 1.

SECTION 1. Except as hereinafter provided, there shall be assessed and levied in each calendar year on each motor vehicle registered under the provisions of chapter ninety and customarily kept within the commonwealth, for the privilege of operating such motor vehicle upon the

1
2
3
4

5 highways during such year, an excise tax upon the value thereof, as here-
 6 inafter defined and determined, at the average state rate for the calendar
 7 year, as determined in the manner provided in section fifty-eight of chap-
 8 ter sixty-three. For the purpose of this tax the value of each such motor
 9 vehicle shall be deemed to be the value, as determined by the commis-
 10 sioner of corporations and taxation, hereinafter referred to as the commis-
 11 sioner, of motor vehicles of the same make, type, model, and year of
 12 manufacture, but not in excess of the following percentages of the list
 13 price established by the manufacturer for the year of manufacture,
 14 namely:—

In the year of manufacture	90 ⁰⁰ / ₁₀₀
In the second year	60 ⁰⁰ / ₁₀₀
In the third year	40 ⁰⁰ / ₁₀₀
In the fourth year	25 ⁰⁰ / ₁₀₀
In the fifth and succeeding years	10 ⁰⁰ / ₁₀₀

15 Nothing in this section shall be construed to prevent the local assessors
 16 from granting an abatement in any case in which the valuation aforesaid
 17 is in their opinion excessive.

18 The tax imposed by this section shall not apply to motor vehicles
 19 owned and registered by the commonwealth or any political subdivision
 20 thereof, or registered by manufacturers, dealers or repairmen under
 21 section five of said chapter ninety, or to motor vehicles owned and regis-
 22 tered by any corporation other than a domestic business, domestic
 23 manufacturing, foreign or public service corporation, or by an association,
 24 whose personal property is exempt from taxation under section five of
 25 chapter fifty-nine.

26 If a motor vehicle is registered after January thirty-first of any year
 27 the tax imposed by this section shall be that proportion of the tax for a
 28 full year which the number of months in said year following the last day
 29 of the month preceding that in which the motor vehicle is registered bears
 30 to twelve. If a registered motor vehicle is sold or its ownership trans-
 31 ferred during any calendar year, and if notice to the former owner of a
 32 tax on account thereof for that year has already been issued pursuant to
 33 section two, that proportion of the tax for a full year which the number of
 34 months in said year remaining after the last day of the month in which
 35 such sale or transfer occurred bears to twelve shall be abated. If, how-
 36 ever, the tax payer has not been notified of said tax before notice of such
 37 sale or transfer has been received by the local board of assessors, only
 38 that proportion of the tax for a full year which the number of months in
 39 said year prior to the first day of the month next following the month in
 40 which said sale or transfer occurred bears to twelve shall be assessed.
 41 The tax assessed under this section shall not be less than two dollars and
 42 no abatement under this section shall reduce the tax collected to less than
 43 two dollars.

1 SECTION 2. The local boards of assessors shall assess the tax imposed
 2 by section one, and commit the same to the collector of taxes with their
 3 warrant for the collection thereof. The tax shall be assessed to the owner
 4 of the motor vehicle registering the same, and the registrar of motor
 5 vehicles shall promptly transmit to the commissioner a notice of each
 6 registration of a motor vehicle subject to this tax, giving the name and
 7 home address of the owner, if an individual, or the name and principal
 8 place of business in this commonwealth, if a corporation, partnership or

Collection
 of tax
 Abatement.
 1928, 379, § 1
 1930, 244, § 2;
 416, § 15.

voluntary association, the municipality in which the vehicle is customarily to be kept, the name of the maker, the year of manufacture and the model and type of vehicle. The commissioner may require from the owner such further information as may be necessary for the purposes of this chapter. The commissioner shall, as soon as may be, transmit to the local boards of assessors the registrations sent to him by the registrar of motor vehicles, and, under such provisions as he deems best, make available to the local assessors information showing the values as determined under section one. The tax hereunder shall be due and payable at the expiration of thirty days from the date upon which the notice was issued by the collector pursuant to this section. The local tax collector shall seasonably notify the owner of the tax assessed and the due date, but failure to receive notice shall not affect the validity of the tax. The owner may within six months of the date of the issuing of the notice of assessment or of the date of sale or transfer, but not later than January thirty-first of the succeeding year, apply to the local assessors for abatement, and, from their decision upon such application, an appeal may be taken to the county commissioners or to the board of tax appeals, all in accordance with the provisions of section sixty-four or sixty-five of chapter fifty-nine. If an abatement is granted, any overpayment with interest thereon at the rate of six per cent per annum from the date of payment shall be refunded by the city or town treasurer from any available funds, upon certification by the tax collector and approval for payment as required by section fifty-two of chapter forty-one, without any appropriation therefor by the municipality. Owners who neglect to pay taxes assessed under this chapter shall pay interest at the rate of six per cent per annum from the time when such taxes were payable until paid, if such payment is made before the commencement of proceedings for recovery thereof, and twelve per cent if made after the commencement thereof. The notice issued pursuant to this section shall bear on its face a statement of the time within which petitions for abatement of the tax may be filed.

Local collectors to have certain remedies.

SECTION 3. In the collection of this tax, the local collectors shall have all the remedies provided by chapter sixty.

1928, 379, § 1.

Law respecting registration of motor vehicles not affected.

SECTION 4. This chapter shall not be construed to alter or amend provisions of law with respect to the registration of motor vehicles.

1928, 379, § 1.

Rules and regulations. 1928, 379, § 1.

SECTION 5. The commissioner shall from time to time make such reasonable rules and regulations as he may deem necessary for carrying out the provisions of this chapter.

Where taxes laid and collected. 1928, 379, § 1.

SECTION 6. The taxes assessed under this chapter shall be laid and collected at the home address of the owner, if an individual, or at the principal place of business in this commonwealth, if a partnership, voluntary association or corporation, as determined by the owner's registration, except that if a motor vehicle is customarily kept in some other municipality, the tax shall be laid and collected in such other municipality.

CHAPTER 61.

TAXATION OF FOREST PRODUCTS AND CLASSIFICATION AND TAXATION OF FOREST LANDS.

SECT.

- 1. Classification of forest lands.
- 2. Classified forest land. Certificate, valuation for tax purposes, etc.
- 3. Taxation.

SECT.

- 4. Forest products tax on standing timber on certain classified forest land. Withdrawal from classification.
- 5. Disputes, settlement by state forester.
- 6. Penalty.

1 SECTION 1. An owner of forest land, valued on the town tax list of the
 2 preceding year for land and growth at not more than twenty-five dollars
 3 per acre, and which does not contain more than twenty cords per acre on
 4 the average, but which is so stocked with trees as to promise a minimum
 5 prospective average yield per acre, exclusive of water, bog or ledge, of
 6 twenty thousand board feet for soft woods, or eight thousand board feet
 7 for hard woods, or for mixtures of the two, such volume between said
 8 limits determinable by the relative percentages of the two classes of
 9 growth, may apply in writing to the town assessors to have said land
 10 listed as classified forest land, and such application shall contain a
 11 description of said land sufficiently accurate for identification.

Classification
of forest land.
1922, 360, § 1.

1 SECTION 2. Within thirty days after the receipt of said application
 2 the assessors shall decide whether the property fulfills the requirements
 3 for classification, and shall notify the owner of their decision, giving
 4 their valuation of the tract as land alone, and if within ten days of noti-
 5 fication the owner accepts their decision the assessors shall give him a
 6 certificate containing the name of the owner and a description of the
 7 parcel to be classified, and stating that the land described conforms to
 8 the requirements for classification under this chapter. Upon the record-
 9 ing of this certificate by the owner in the registry of deeds for the county
 10 or district where the land lies, the parcel shall become classified forest
 11 land. Each parcel of land so classified shall thereafter be designated in
 12 the annual valuation list of the town, in the column provided for the
 13 description of each parcel of land, as classified forest land so long as the
 14 parcel remains so classified. The valuation and tax annually assessed
 15 upon land classified under this chapter shall not include the value of
 16 forest trees growing thereon. When classified forest land is sold or other-
 17 wise changes title, the obligations and benefits of this chapter shall
 18 devolve upon the new holder of the title.

Classified
forest land.
Certificate,
valuation for
tax purposes,
etc.
1922, 360, § 1.

1 SECTION 3. The standing growth on classified forest land shall not be
 2 taxed, but the owner of such land, except as hereinafter provided, shall
 3 pay a products tax of six per cent of the stumpage value upon all wood
 4 or timber cut therefrom, and one tenth of such taxes collected by the
 5 town shall be paid to the state treasurer. Trees standing on such land
 6 shall not be included in the town valuation in apportioning the state or
 7 county tax among the towns. But an owner of classified forest land
 8 may annually cut, free of tax, wood or timber from such land, not ex-
 9 ceeding twenty-five dollars in stumpage value; provided, that such
 10 wood or timber is for his own use or for that of a tenant of said land only.

Taxation.
1922, 360, § 1.

Buildings or other structures standing on classified forest land shall be 11
 taxed as real estate with the land on which they stand. Classified forest 12
 land shall be subject to special assessments and betterment assessments. 13
 The owner shall make a sworn return to the assessors before May first 14
 in each year of the amount of all wood and timber cut from such land 15
 during the year ending on the preceding April first. 16

Forest products
 tax on standing
 timber on cer-
 tain classified
 forest land
 Withdrawal
 from classifi-
 cation
 1922, 360, § 1.

SECTION 4. When in the judgment of the assessors classified forest 1
 land contains on the average per acre twenty-five thousand board feet 2
 for soft woods, or ten thousand board feet for hard woods, or for mix- 3
 tures of the two such volume between said limits determinable by the 4
 relative percentages of the two classes of growth, they shall notify the 5
 owner that two years from date of notification the forest products tax 6
 of six per cent of the value of the standing timber based on the above 7
 volumes will be levied and that the land and timber will at that time be 8
 taken from the classified list and placed in the general property tax list. 9
 Should the owner elect to reduce within two years, the volume of timber 10
 below the volume mentioned in the preceding sentence the land shall 11
 remain classified, but, if at the end of five years from time of cutting, 12
 the growing stock on the tract does not meet the requirements for classi- 13
 fication contained in section one, the tract may be taken from classifi- 14
 cation by the assessors, and any taxes due thereon collected. An owner 15
 may withdraw his land from classification at any time by the payment 16
 of the land tax, and the forest products tax of six per cent on the esti- 17
 mated value of the standing timber. Within thirty days after an owner 18
 requests to withdraw his land from classification the assessors shall 19
 determine the taxes due thereon, which shall be paid before the land is 20
 taken from the classified list. When in the judgment of the assessors 21
 classified forest land becomes more valuable for other use than the pro- 22
 duction of trees, they may, after thirty days' notice, withdraw said land 23
 from classification, and any taxes due thereon shall be paid at the time 24
 of withdrawal; provided, that the owner may appeal from such with- 25
 drawal to the commissioner, whose decision shall be final. Whenever 26
 land is withdrawn from classification, the assessors shall record in the 27
 registry of deeds for the county or district where the land lies a certifi- 28
 cate setting forth such withdrawal, and containing reference by book 29
 and page to the record of the certificate under which said land was 30
 classified. 31

Disputes,
 settlement by
 state forester
 1922, 360, § 1.

SECTION 5. In case of dispute as to the eligibility of land for classifi- 1
 cation, or as to the volume of wood or timber contained on such land or 2
 cut therefrom, either party may appeal to the state forester, who shall 3
 examine the property and hear both parties, and whose decision shall be 4
 final. 5

Penalty.
 1922, 360, § 1.

SECTION 6. Any owner of classified forest land who fails to comply 1
 with the requirements of this chapter shall, upon conviction thereof, be 2
 punished by a fine of not less than ten dollars nor more than five hun- 3
 dred dollars, and in addition to said penalty the land may be withdrawn 4
 from classification by the assessors. 5

CHAPTER 62.

TAXATION OF INCOMES.

SECT.

TAXATION OF INCOME FROM CERTAIN INTANGIBLES.

1. Taxation of income derived from certain intangibles.
2. Deduction of interest on certain debts.
3. Determination of interest deduction, filing of return, etc.
4. Interest deductions of certain associations, etc.

TAXATION OF INCOME FROM ANNUITIES, PROFESSIONS, EMPLOYMENTS, TRADE AND BUSINESS.

5. Income of certain classes to be taxed.
6. Determination of taxable income from profession, employment, etc. Deductions.
7. Methods of determining taxable income.

EXEMPTIONS.

8. Exemptions.

TAXATION OF ESTATES AND FIDUCIARIES.

9. Estates of deceased persons.
10. Income from trust estates. Deductions.
11. Income received by resident from non-resident trustee.
12. Trustee may claim exemptions for beneficiary. Procedure.
13. Provisions relative to trustees to apply to other fiduciaries. Exception.
14. Corporation acting as trustee, etc., to be subject to tax.
15. Corporate trustees to make returns and be subject to penalties.
16. Commissioner, with attorney general, may agree upon taxes of trustees, etc.

TAXATION OF PARTNERSHIPS.

17. Partnerships.
18. Exemption, etc., of partners, how deducted.
19. Resident member of foreign partnership.
20. Certain provisions to apply to partnerships.
21. Certain provisions not to apply to associations, etc., having transferable shares.

SECT.

RETURNS.

22. Persons required to make returns. Contents.
23. Executors, etc., to make returns.
24. Returns to be on oath. Place and date of filing. Period included.
25. Persons subject to taxes imposed by this chapter. Returns by certain individuals or fiduciaries.
26. Blanks to be provided, etc.
27. Seasonable notice, etc.
28. Omitted or supplementary returns.
29. Commissioner may extend time for filing return.
30. Verification of return.
31. Writ of mandamus to compel filing return.
32. Returns to be open to inspection of certain officials, etc.

INFORMATION AT THE SOURCE.

33. Employers, corporations, etc., required to file certain returns, lists and reports.
34. Certain officers to furnish names and addresses of certain public employees.

ASSESSMENT AND ADMINISTRATION.

35. Commissioner to determine incomes and assess tax, etc.
36. Assessment, how determined, when no return is filed, etc.
37. Assessment after verification of return, etc. Abatement, etc.
38. Rules and regulations.

COLLECTION.

39. Commissioner to give notice of date tax is due, etc.
40. Taxes collected to be accounted for each week.
41. Interest. Remedies of commissioner.
42. Fiduciaries to be personally liable, etc.

ABATEMENTS.

43. Abatement by commissioner.
44. Abatement forbidden and limited in certain cases.
45. Appeal from decision of commissioner to board of tax appeals. Abatement of unpaid and uncollectible taxes.

SECT.

46. Treasurer to repay amount of abatement, etc.
 47. [Repealed.]
 48. Remedies under this chapter exclusive, etc.

ADDITIONAL LOCAL TAXES.

49. [Repealed.]
 50. [Repealed.]
 51. [Repealed.]
 52. [Repealed.]
 53. [Repealed.]

SECT.

CONSTITUTIONALITY.

54. Unconstitutionality of part of chapter, effect.

PENALTIES.

55. Penalty for late return.
 56. Penalty for fraudulent return, etc.
 57. Penalty for failure to give information at the source.
 58. Penalty for disclosure of information, except, etc.
 59. Penalties to apply to fiduciaries.
 60. Certain partnerships, etc., penalties imposed, how inflicted.

TAXATION OF INCOME FROM CERTAIN INTANGIBLES.

Taxation of income derived from certain intangibles
 1916, 269, § 2.
 227 Mass. 522.
 229 Mass. 120.

SECTION 1. Income of the classes described in subsections (a), (b), (c) and (e) received by any inhabitant of the commonwealth during the preceding calendar year, shall be taxed at the rate of six per cent per annum.

230 Mass. 503, 554.
 234 Mass. 42.
 237 Mass. 493.

240 Mass. 37.
 247 Mass. 496.

256 Mass. 426.
 269 Mass. 279.

Interest from bonds, etc., except, etc.
 1918, 7, 120.
 1923, 378, § 1.
 245 Mass. 353.
 255 Mass. 546.
 268 Mass. 365.
 273 Mass. 208.
 Op. A. G. (1917) 85.

(a) Interest from bonds, notes, money at interest and all debts due the person to be taxed, except from:

First, Deposits in any savings bank chartered by the commonwealth or in the Massachusetts Hospital Life Insurance Company, or in the savings department of any trust company so chartered, and deposits in any bank situated in the state of New Hampshire, so long as the provisions of chapter one hundred and eighty-nine of the Public Acts of nineteen hundred and seventeen of that state remain in force, and deposits in any bank in any other state which exempts from taxation to its inhabitants similar deposits, and interest and dividends thereon, owned by such inhabitants in banks in this commonwealth.

Second, Bonds, notes and certificates of indebtedness of the United States and such bonds, notes and certificates of indebtedness of the commonwealth and of political subdivisions thereof as are exempted from taxation by clause twenty-fifth of section five of chapter fifty-nine.

1924, 15, § 1.
 252 Mass. 180.

Third, Loans secured exclusively by duly recorded mortgage of real estate, taxable as real estate, situated in the commonwealth, to an amount not exceeding the assessed value of the mortgaged real estate less the amount of all prior mortgages.

1918, 150.
 1923, 287, § 1.
 261 Mass. 134.

Fourth, Loans made in the course of business by persons subject to the provisions of sections seventy to eighty-five, inclusive, of chapter one hundred and forty.

Dividends on shares in corporations, etc., except, etc.
 1920, 352.
 1923, 487, § 3.
 1925, 343,
 § 7, 13.
 1926, 222
 234 Mass. 470.
 238 Mass. 596.
 244 Mass. 40.

(b) Dividends, other than stock dividends paid in new stock of the company issuing the same, on shares in all corporations and joint stock companies organized under the laws of any state or nation other than this commonwealth, except banks which are subject to taxation under section two of chapter sixty-three, and except such foreign corporations as are subject to a tax upon their franchises payable to the commonwealth under section fifty-eight of chapter sixty-three.

256 Mass. 419.
 258 Mass. 379.

262 Mass. 1.
 267 Mass. 115.

273 Mass. 187, 208.
 Op. A. G. (1920) 208.

Dividends on shares in certain partnerships, etc., except, etc.

(c) Dividends, other than stock dividends paid in new stock of the partnership, association or trust issuing the same, on shares in partner-

36 ships, associations or trusts, the beneficial interest in which is repre- 1920, 352.
 37 sented by transferable shares, except dividends on shares of the following: 238 Mass. 596.

Op. A. G. (1920) 206, 208.

38 First, Partnerships, associations or trusts, which file with the commis- 1925, 223.
 39 sioner the agreement hereinafter provided for, and the property of which 1926, 160.
 40 consists exclusively of one or more of the following specified kinds of 238 Mass. 596,
 41 property, to wit: real estate wherever situated and supplies therefor and
 42 receipts therefrom; stocks of corporations taxable under chapter sixty-
 43 three, bonds, notes, loans secured by mortgage of real estate, and certifi-
 44 cates of indebtedness, the income of which is exempt from taxation under
 45 this section; property the income of which, if any, would be taxable under
 46 this section if owned by an inhabitant of the commonwealth; shares in
 47 partnerships, associations or trusts, dividends on which are exempt from
 48 taxation under this section.

49 Second, Partnerships, associations or trusts, the beneficial interest in
 50 which is represented by transferable shares, which file such agreement
 51 and furnish satisfactory proof to the commissioner that two thirds, at
 52 least, of their taxable property is taxed within the commonwealth and
 53 that the remainder, if taxable, is taxed where situated.

54 (d) Partnerships, associations or trusts, the dividends on shares of Certain part-
 55 which are exempt from taxation under this section, shall pay to the commis- nerships, etc.,
 56 sioner annually a tax of six per cent of the income derived from their to pay annual
 57 property, so far as such income would be taxable under this section if tax on certain
 58 received by an inhabitant of the commonwealth. income.

59 (e) Dividends on shares of any partnership, association or trust, of the Certain divi-
 60 classes designated in paragraphs first and second of subsection (c), shall dems subject
 61 be subject to taxation under this section unless the trustees or managers to taxation,
 62 thereof file with the commissioner, in such form as he determines, its unless, etc.
 63 agreement to pay to the commonwealth annually the tax imposed by
 64 subsection (d) and any tax imposed by section five. In case of any breach
 65 of the terms of any such agreement, the same may be enforced by infor-
 66 mation in equity brought by the attorney general at the relation of the
 67 commissioner in the supreme judicial court for Suffolk county. This
 68 remedy shall be in addition to all other means of collection provided by
 69 this chapter, and to the penalties hereinafter imposed. Enforcement
 of terms of
 agreement.

70 (f) For the purposes of this chapter any securities of the classes desig- Certain securi-
 71 nated in this section, held in pledge, or on margin or otherwise, by an ties deemed
 72 agent or broker as security for a debt of his principal, whether standing to be property
 73 in the name of the principal or any other person, shall be deemed the of principal,
 74 property of the principal, and the income arising therefrom shall be in- etc.
 75 cluded in the total income of the principal under this section.

76 (g) No distribution of capital, whether in liquidation or otherwise, Distribution
 77 shall be taxable as income under this section; but accumulated profits of capital and
 78 shall not be regarded as capital under this provision. certain profits,
 how regarded.

234 Mass. 470.
 237 Mass. 574.

244 Mass. 40.
 262 Mass. 1.

267 Mass. 115.
 273 Mass. 187.

1 SECTION 2. From the income taxable under the preceding section, Deduction of
 2 the taxpayer may, under the conditions prescribed in this section and interest on
 3 section seven, receive a deduction on account of interest paid by him certain debts.
 4 during the year on debts of the following classes: 1916, 269, § 3.
 5 1919, 286.
 6 1921, 265.

7 (a) Debts, except those secured by mortgage or pledge of real estate
 8 or tangible personal property, owed by persons engaged in the business
 9 of buying, selling, or otherwise dealing in intangible personal property,

provided that such business, if it includes other classes of dealings, does not include buying, selling, improving or otherwise dealing in or with real estate or buying, selling, manufacturing or otherwise dealing in or with tangible personal property other than gold bullion.

(b) Debts owed by other persons, except debts secured by such mortgage or pledge and debts on account of which the taxpayer is entitled to claim a deduction under sections five and six.

Said deduction shall be allowed, in respect of interest on any debt belonging to class (b) above enumerated arising from loans or open accounts directly or indirectly secured by intangible personal property, only to an amount not exceeding eighty per cent of the income returned by the taxpayer for taxation under section one on account of intangible personal property which secured such loans or open accounts.

Persons described in paragraph (a) of this section may, if the deductions allowed by subsections (a), (b), (c), (d), (e) and (f) of section six exceed the total income taxable under subsections (b) and (c) of section five, deduct from their taxable interest and dividends, after deducting the aforesaid interest deduction, an amount of such excess which bears the same proportion to the total excess as their income taxable under section one bears to their total net income as determined under section three.

Limited deduction in certain cases.

Determination of interest deduction, filing of return, etc. 1916, 269, § 3. 1919, 286.

SECTION 3. The deduction to be allowed under the preceding section shall be determined in the following manner:

A taxpayer claiming the benefit thereof shall file with the commissioner or the income tax assessor of his district a return, in such form as the commissioner prescribes, of his entire income from all sources, together with such other information as said commissioner deems necessary for the determination of the amount of this deduction. The commissioner may, in lieu of such return, accept a sworn duplicate of the annual return of income made under the federal income tax law. He may also, in any case where he deems it necessary, require the taxpayer to file such a sworn duplicate.

From said return and information the commissioner or the income tax assessor shall determine the amount of interest paid during the year by the taxpayer on debts of class (a) or (b) enumerated in the preceding section, for which deduction is authorized by said section, which interest, for the purposes of this section, shall be called the net interest. He shall also determine the total net income of the taxpayer, exclusive of income taxable under section five, as such total net income would be if no deduction were made for interest paid during the year. The taxpayer may deduct from his income taxable under section one an amount of interest paid by him during the year which shall bear the same proportion to the net interest paid as his income taxable under section one bears to his total net income as above determined.

Certain determinations to be made from return, etc.

Interest deductions of certain associations, etc. 1916, 269, § 3. 1919, 286.

SECTION 4. A partnership, association or trust, the beneficial interest in which is represented by transferable shares, paying to the commonwealth a tax upon income subject to taxation under section one, as provided in subsection (d) thereof, may receive the deduction authorized by section two on the same terms as an individual inhabitant.

TAXATION OF INCOME FROM ANNUITIES, PROFESSIONS, EMPLOYMENTS,
TRADE AND BUSINESS.

1 SECTION 5. Income of the following classes received by any inhabit-
2 ant of the commonwealth during the preceding calendar year shall be
3 taxed as follows:

Income of
certain classes
to be taxed
1916, 200, 47

237 Mass. 169, 493.
242 Mass. 242.

256 Mass. 426.
258 Mass. 379.

263 Mass. 476.

4 (a) Income from an annuity shall be taxed at the rate of one and one
5 half per cent per annum. The income of property held in trust shall
6 not be exempted from taxation under section one nor shall payments to
7 beneficiaries be taxed under this section, because of the fact that the
8 whole or any part of the payments to the beneficiaries is in the form of
9 an annuity.

Tax on income
from annuity,
etc.
266 Mass. 517.

10 (b) The excess over two thousand dollars of the income, as defined in
11 section six, derived from professions, employments, trade or business
12 shall be taxed at the rate of one and one half per cent per annum. In
13 determining such income the rental value of living quarters furnished
14 any individual as part of his compensation shall be included. The
15 wages and salaries of employees and officers of the United States gov-
16 ernment shall not be taxed. Retirement allowances, however described,
17 from the commonwealth or any county, city, town or district thereof,
18 or from any person, if not exempt by law, and interest received in the
19 course of business by persons subject to the provisions of sections seventy
20 to eighty-five, inclusive, of chapter one hundred and forty, shall be taxed
21 under this subsection.

Tax on income
from profes-
sions, etc.
United States
employees, etc.,
exempt
1918, 150, § 1.
1920, 102.
1923, 287, § 2.
227 Mass. 63.
230 Mass. 534
246 Mass. 201
245 Mass. 353
255 Mass. 546
258 Mass. 450,
555.

22 (c) The excess of the gains over the losses received by the taxpayer
23 from purchases or sales of intangible personal property, whether or not
24 said taxpayer is engaged in the business of dealing in such property,
25 shall be taxed at the rate of three per cent per annum. When shares of
26 new stock of the company issuing the same received as a stock dividend
27 or shares of stock which were the basis of such stock dividend are sold,
28 the basis of determination of the gain or loss shall be the cost when
29 acquired by purchase or value when acquired by gift of the stock which
30 was the basis of such stock dividend, apportioned over the old and new
31 shares of such company held after the receipt of such stock dividend.
32 For the purposes of this clause, the cost of rights to subscribe to cor-
33 porate securities and similar rights issued by unincorporated associa-
34 tions shall be taken as zero, except that when acquired by actual pur-
35 chase in the open market the amount actually paid therefor shall be
36 taken as their cost. Any trustee or other fiduciary may charge any
37 taxes paid under this paragraph against principal in any accounting
38 which he makes as such trustee. If, in any exchange of shares upon the
39 reorganization of one or more corporations or of one or more partner-
40 ships, associations or trusts, the beneficial interest in which is repre-
41 sented by transferable shares, the new shares received in exchange for
42 the shares surrendered represent the same interest in the same assets,
43 no gain or loss shall be deemed to accrue from the transaction until a
44 sale or further exchange of such new shares is made.

Tax on excess
of gains, etc.,
from purchases,
etc., of intan-
gible personal
property.
Same in case
of trustee.
Exchange of
shares upon
reorganization
of corporations,
etc.
1921, 376, § 1.
1922, 449, § 1.
1928, 217, § 1.
1931, 435, § 1.
227 Mass. 522.
235 Mass. 88,
93.
243 Mass. 129.
249 Mass. 79.
251 Mass. 49.
257 Mass. 379,
388.
272 Mass. 422,
502.
273 Mass. 87.

45 (d) Income of the classes enumerated in subsections (a), (b) and (c)
46 received by any partnership, association or trust, the beneficial interests
47 in which are represented by transferable shares, shall be taxed under this
48 section, unless the dividends on the transferable shares issued by such
49 partnership, association or trust are taxable under section one.

Earnings of
certain asso-
ciations, etc.,
taxable.

Certain interest and dividends not to be taxed as business income. (c) Interest and dividends taxable under section one shall not be taxed under this section. 1916, 269, § 6 (i). 1918, 257, § 65. 255 Mass. 546. 273 Mass. 87. 51

Determination of taxable income from profession, employment, etc. Deductions. 1916, 269, § 6. 1918, 257, §§ 62-65. 1919, 5. 1920, 2. 263 Mass. 476. SECTION 6. Income taxable under subsection (b) of section five shall be the gross income from the profession, employment, trade or business, in the year for which the income is computed, not including income exempt from taxation under this chapter or taxable hereunder otherwise than under said subsection (b), but including gains from the sale of capital assets, other than intangible personal property, employed therein; less the following deductions: 1 2 3 4 5 6 7

272 Mass. 249.

Expenses. (a) Expenses paid within the year in the profession, employment, trade or business, including the cost of ordinary repairs but not including personal or family expenses; provided, that premiums paid for use and occupancy insurance, or rent insurance, shall not be deducted as part of such expenses. 8 9 10 11 12

Depreciation, etc., of property. 1922, 329, § 1. (b) A reasonable allowance for depreciation and obsolescence of property within such year, and for depletion within the year of wasting assets, except such ships and vessels as are described in section eight of chapter fifty-nine, owned by the person taxed and used in the profession, employment, trade or business; provided, that with the approval of the commissioner a taxpayer may, in lieu of the aforesaid allowance for depreciation and obsolescence, be allowed to deduct actual expenses of replacement of capital and extraordinary repairs, and with such approval may in any year defer such deductions in whole or in part to one or more subsequent years. 13 14 15 16 17 18 19 20 21 22

Certain taxes paid. 272 Mass. 249. (c) All taxes paid within the year to the United States or any other nation, or to any state, county, city, town or district, in respect of the profession, employment, trade or business, or the property held or used in connection therewith, but not including assessments for betterments. 23 24 25 26

Certain interest paid, except. (d) Interest paid within the year on indebtedness of the person taxed incurred in connection with his profession, employment, trade or business; but no interest allowed as a deduction under section two shall also be allowed under this section. 27 28 29 30

Certain losses within the year, etc. 1918, 257, § 62. 1919, 5. 1920, 2. (e) Losses from the sale within the year of capital assets other than intangible personal property, and losses of capital assets other than stock in trade sustained within the year by fire, theft or other casualty, or amounts paid within the year on account of claims in law or equity incurred in connection with the profession, employment, trade or business, when such losses or amounts paid are not compensated for by insurance or otherwise. 31 32 33 34 35 36 37

Certain worthless debts, etc. 1918, 257, § 63. 1919, 5. 1920, 2. (f) The amount of any debts receivable arising from the conduct of the profession, employment, trade or business subsequent to December thirty-first, nineteen hundred and fifteen, determined by the person taxed to be worthless and actually charged off during the year; but no debts receivable shall be so charged off and deducted, unless they have previously been included as income in a return made under this chapter or corresponding provisions of earlier laws. 38 39 40 41 42 43 44

Five per cent of certain tangible property. 1918, 257, § 64. 1919, 5. 1920, 2. 1922, 329, § 2. 272 Mass. 249. (g) An amount equal to five per cent of the assessed value, less the amount of all mortgages thereon, of the stock in trade and other tangible property, real and personal, except such ships and vessels as are described in section eight of chapter fifty-nine, owned by the person taxed and used or employed in the profession, employment, trade or business 45 46 47 48 49

50 within or without the commonwealth, on the day as of which such prop-
 51 erty is assessed in the year for which the income is computed. In case
 52 any such stock in trade or other tangible property located without the
 53 commonwealth is taxed in respect of its income, and not in respect of
 54 its capital value, by the taxing district where located in such year, the
 55 commissioner may determine its value in any other manner, and may
 56 allow a deduction of an amount equal to five per cent of the value so
 57 determined.

58 (h) The sum of five hundred dollars for a husband or wife with whom
 59 the taxpayer lives, and the sum of two hundred and fifty dollars for each
 60 child under the age of eighteen, or parent entirely dependent on the tax-
 61 payer for support. The aforesaid deduction shall not be allowed to both
 62 husband and wife, but may be allowed to either as they shall mutually
 63 agree, or shall be prorated between them in proportion to the net income
 64 of each in excess of two thousand dollars.

Deduction for
 husband, wife,
 child or depend-
 ent parent.
 1922, 489.

1 SECTION 7. Persons who customarily estimate their income and ex-
 2 penditure on a basis other than their actual cash receipts and disburse-
 3 ments may, with the approval of the commissioner, compute upon a
 4 similar basis their income taxable under this chapter. Persons who cus-
 5 tomarily estimate their income and expenditure on the basis of an estab-
 6 lished fiscal year instead of the calendar year, may, with the approval of
 7 the commissioner and subject to such rules and regulations as he may
 8 establish, return their income taxable under this chapter on the basis of
 9 such fiscal year.

Methods of
 determining
 taxable income.
 1916, 269, § 7.
 1917, 295.
 1928, 217, § 2.
 1931, 435, § 2.
 227 Mass. 522.
 242 Mass. 242.
 244 Mass. 40.
 249 Mass. 79.
 258 Mass. 379.
 272 Mass. 502.

10 In determining gains or losses realized from the sale of capital assets,
 11 the basis of determination in case of property owned on January first,
 12 nineteen hundred and sixteen, shall be the value on that date or the cost
 13 thereof, whichever is higher, and in case of property acquired by purchase
 14 thereafter, except as otherwise expressly provided, the cost thereof. If
 15 the property other than stock dividends in new stock of the company
 16 issuing the same and rights to subscribe to securities was acquired by gift,
 17 the basis of determination of the gain or loss shall be the value on the date
 18 when it was so acquired.

19 In the case of real or tangible personal property the foregoing basis shall
 20 be diminished by the amount of depreciation allowable to the taxpayer
 21 under the provisions of this chapter and corresponding provisions of
 22 earlier laws, and in the case of intangible personal property the foregoing
 23 basis shall be diminished by any amounts received in distribution of
 24 capital.

EXEMPTIONS.

1 SECTION 8. The following income shall be exempt from the taxes
 2 imposed by this chapter:

Exemptions
 230 Mass. 503.

3 (a) One thousand dollars in all of income taxable under section one and
 4 under subsection (a) of section five, received by a person whose total
 5 income from all sources does not exceed one thousand dollars during the
 6 year; but said exemption shall not be given to any married person if the
 7 combined incomes of both husband and wife from all sources exceed
 8 fifteen hundred dollars; provided, however, that no tax shall be exacted
 9 upon any income taxable under said section one and said subsection (a)
 10 which shall reduce the total income of the taxpayer, if unmarried, below
 11 one thousand dollars, or which shall reduce the combined income of
 12 husband and wife below fifteen hundred dollars.

Individuals of
 small means
 1916, 269, § 4.
 1918, 32.
 1924, 351, § 1.

Corporations. 1916, 269, § 11. 1919, 349, § 4.	(b) Income received by corporations, except as provided in section fourteen.	13 14
Forestry.	(c) Income received from land classified under chapter sixty-one.	15
	1916, 269, § 5.	
Foreign beneficiaries. 1916, 269, § 9. 1918, 207. 245 Mass. 155, 353.	(d) Such part of the income received by trustees or other fiduciaries as is payable to or accumulated for persons not inhabitants of the commonwealth.	16 17 18
Income from property specifically exempt from taxation 1916, 269, §§ 5, 11.	(e) Income of intangible personal property exempt from taxation by section five of chapter fifty-nine, except under clauses seventeenth, eighteenth, twenty-second, twenty-third, twenty-seventh, twenty-ninth and thirty-third of said section.	19 20 21 22
	1918, 257, § 69. 1919, 5; 349, § 4. 1920, 2. • 245 Mass. 353.	
Police and fire annuities. 1917, 270.	(f) Income from an annuity or pension paid by a town in this commonwealth on account of service in a police or fire department.	23 24
Certain pensions and contributions to pension funds. 1910, 539, § 3; 619, § 7.	(g) Income from an annuity, pension or endowment exempted by section thirty-seven or forty-one of chapter thirty-two, and all sums exempted by either of said sections by virtue of their being deducted from wages as contributions to an annuity, pension or endowment fund.	25 26 27 28
	1911, 532, § 7; 634, § 7. 1913, 832, § 8.	

TAXATION OF ESTATES AND FIDUCIARIES.

Estates of deceased persons. 1916, 269, § 8. 1919, 136, § 1. 1925, 242, § 1. 1931, 397, § 1. 229 Mass. 120. 249 Mass. 79. 208 Mass. 365. 273 Mass. 208.	SECTION 9. The estates of deceased persons who last dwelt in the commonwealth shall be subject to the taxes imposed by this chapter upon all income received by such persons during their lifetime, if assessed within the time limited by section thirty-seven.	1 2 3 4
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The income received by the estates of such deceased persons shall be subject to all the taxes imposed by this chapter to the extent that the persons to whom such income is payable, or for whose benefit it is accumulated are inhabitants of the commonwealth; and such income shall include as and when received by the executor or administrator all income taxable under section one of this chapter which would have been taxable to the decedent if he had survived to receive it, and the taxes upon such income as shall have become a part of the corpus of his estate under the rules of probate accounting, may be charged against principal in any accounting made by the executor or administrator. All taxes under this section shall be assessed to the executor or administrator and before the appointment of an executor or administrator said taxes may be assessed in general terms to the estate of the deceased and the executor or administrator subsequently appointed shall be liable for the taxes so assessed as though they were assessed to him. No person shall be taxed under this chapter for income received from any executor or administrator which income has itself been taxed under this section.

Income from trust estates. Deductions 1916, 269, § 9. 1918, 207; 257, § 66. 1919, 5. 1920, 2. 1931, 456, § 1. 239 Mass. 503. 245 Mass. 155, 353. 262 Mass. 1. 265 Mass. 385. 272 Mass. 422.	SECTION 10. The income received by estates held in trust by trustees or other fiduciaries under the will of a person who died an inhabitant of the commonwealth or under a trust created by a person who was either at the time of the creation of the trust or at any time during the year for which the income is computed an inhabitant of the commonwealth, any one of which trustees or other fiduciaries is an inhabitant of the commonwealth or has derived his appointment from a court of the commonwealth, shall be subject to the taxes imposed by this chapter to the extent that the persons to whom the income from the trust is pay-	1 2 3 4 5 6 7 8 9
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10 able or for whose benefit it is accumulated are inhabitants of the com-
11 monwealth. Income so received and accumulated for unborn or unascer-
12 tained persons or persons with uncertain interests shall be taxed as if
13 accumulated for the benefit of a known inhabitant of the commonwealth
14 to the following extent:

15 (1) Where all or any one of the trustees or other fiduciaries have
16 derived their appointment from a court of the commonwealth or are
17 required to account to a court of the commonwealth, the whole amount
18 of income thus accumulated shall be taxed.

19 (2) Where all of the trustees or other fiduciaries are inhabitants of
20 the commonwealth, the whole amount of income thus accumulated shall
21 be taxed.

22 (3) Where any one or more of the trustees is an inhabitant of the
23 commonwealth the proportion of the income accumulated for unborn or
24 unascertained persons or persons with uncertain interests shall be taxed
25 which is represented by the ratio of trustees who are inhabitants of the
26 commonwealth to the total number of trustees. For the purposes of
27 this section and of section nine income shall be deemed to be accumu-
28 lated for unborn or unascertained persons or persons with uncertain
29 interests when thus accumulated by estates, by trustees or other fidu-
30 ciaries, who are subject to the provisions of this section or of section
31 nine, for the benefit of any future interest other than a remainder pres-
32 ently vested in a person or persons in being not subject to be divested
33 by the happening of any contingency expressly mentioned in the instru-
34 ment creating the trust.

35 No person shall be taxed under this chapter for income received from
36 any trustee or other fiduciary which income has itself been taxed under
37 this section.

38 The trustees may deduct from the income taxable under section one
39 a proper amount for the amortization, according to any approved
40 method, of premiums paid upon bonds owned by the estate, the income
41 of which is taxable under said section one.

42 In the computation of the tax, the trustees, in addition to the deduc-
43 tion on account of interest paid, allowed under section two, shall be
44 entitled to the following deductions from income taxable under section
45 one, and under paragraphs (a) and (c) of section five, before the taxable
46 income of the beneficiaries shall finally be determined:

47 (a) Such proportion of the following items as the amounts of income
48 taxable under section one and subsections (a) and (c) of section five
49 together bear to the total income received by the trustee from all sources,
50 exclusive of income taxable under subsection (b) of section five; (1)
51 amounts paid within the year for rental of safe deposit boxes; and (2)
52 amounts paid within the year for premiums on surety bonds of the
53 trustee.

54 (b) The compensation actually paid during the year to the trustees
55 upon such income taxable under section one as is payable to or accumu-
56 lated for inhabitants of the commonwealth, or for unborn or unascer-
57 tained persons or persons with uncertain interests, to an amount not
58 exceeding six per cent of such taxable income.

1 SECTION 11. Any inhabitant of the commonwealth who receives
2 income from one or more trustees or other fiduciaries who are not subject
3 to taxation under this chapter, shall be subject to the taxes imposed by
4 this chapter upon such income according to the nature of the income

Income received by
resident from
non-resident
trustee.
1916, 269, § 9.
1918, 207.

1931, 456, § 2. received by such trustees or other fiduciaries, and shall include such 5
 256 Mass. 426. income in a return as required by section twenty-two. 6
 265 Mass. 585.

Trustee may
 claim exemp-
 tions for
 beneficiary.
 Procedure.
 1916, 269, § 9.
 1918, 207.
 265 Mass. 585.

SECTION 12. A trustee may, at the request of any beneficiary, claim 1
 the benefit of the exemption provided by subsection (a) of section eight 2
 for each person to whom the income from the trust is payable, or for 3
 whose benefit it is accumulated, and an inhabitant of this commonwealth 4
 receiving income from one or more trustees, none of whom is an inhabitant 5
 of this commonwealth or has derived his appointment from a court of 6
 this commonwealth, may also claim the benefit of such exemption; pro- 7
 vided, that the commissioner is satisfied by an affidavit from the bene- 8
 ficiary claiming exemption, or for whose benefit the same is claimed, or 9
 otherwise, that such beneficiary is not allowed in all trusts or estates 10
 under which he may be a beneficiary, and on account of all income on 11
 which he is liable to taxation under this chapter, more than the total 12
 amount of exemption to which he is entitled under said subsection (a). 13

Provisions
 relative to
 trustees to
 apply to other
 fiduciaries.
 Exception.
 1916, 269,
 §§ 8, 9.
 1918, 207.
 1919, 136, § 1.
 1920, 398.
 1931, 456, § 3.
 235 Mass. 584.
 251 Mass. 49.
 265 Mass. 585.

SECTION 13. Sections ten to twelve, inclusive, shall, so far as apt, 1
 apply to executors, administrators, guardians, conservators, trustees in 2
 bankruptcy, receivers and assignees for the benefit of creditors, to the in- 3
 come received by them and to their beneficiaries, except that clauses (a) 4
 and (b) of section ten authorizing certain deductions shall apply to trust- 5
 ees only. All such fiduciaries and their successors in office shall be per- 6
 sonally liable for all taxes due under this chapter from them or from their 7
 predecessors in office to the value of all property in their hands as such 8
 fiduciaries at the time of distribution as provided in section twenty-five. 9

Corporation
 acting as
 trustee, etc.,
 to be subject
 to tax.
 1916, 269, § 9.
 1918, 207.
 257, § 67.
 1919, 5.
 1920, 2.

SECTION 14. Corporations acting as trustee or in any other fiduciary 1
 capacity shall, with respect to the income received by them in that 2
 capacity, be subject to this chapter in the same manner and under the 3
 same conditions as individual inhabitants of the commonwealth acting 4
 in similar capacities, except that no such corporation shall be taxed on 5
 account of any property the income of which would be taxable under 6
 section one if received by an individual inhabitant, or on account of the 7
 income derived from such property, if such property is held by such 8
 corporation as mortgagee or pledgee to secure the payment of bonds, notes 9
 or other evidences of indebtedness the interest on which is taxable under 10
 section one to such individual inhabitants of the commonwealth as 11
 receive it, or the principal of which is exempt from taxation under laws 12
 other than this chapter. 13

Corporate
 trustees to
 make returns
 and be subject
 to penalties.

SECTION 15. Every corporation liable to taxation under the preced- 1
 ing section shall make the returns, and be subject to the penalties, pre- 2
 scribed by this chapter. 3

1916, 269, § 11.

1919, 349, § 4.

Commissioner,
 with attorney
 general, may
 agree upon
 taxes of
 trustees, etc.
 1916, 269, § 9.
 1918, 207.

SECTION 16. For the purpose of facilitating the settlement and dis- 1
 tribution of estates held by trustees and the other fiduciaries named in 2
 section thirteen, the commissioner, with the approval of the attorney 3
 general, may on behalf of the commonwealth agree on the amount of 4
 taxes at any time due or to become due from such estates under this 5

6 chapter, and payment in accordance with such agreement shall be full
7 satisfaction of the taxes to which the agreement relates.

TAXATION OF PARTNERSHIPS.

1 SECTION 17. Partnerships having a usual place of business in the
2 commonwealth, any member of which is an inhabitant thereof, shall be
3 subject to the taxes imposed by this chapter. If any of the members of
4 the partnership are not inhabitants of the commonwealth, only so much
5 of the income thereof as is proportionate to the aggregate interest of
6 the partners who are inhabitants of the commonwealth in the profits
7 of the partnership shall be taxed. The tax shall be assessed on such a
8 partnership by the name under which it does business, and the partners
9 shall not be taxed with respect to the income derived by them from such a
10 partnership.

Partnerships,
1916, 269, § 10,
245 Mass. 353,
268 Mass. 363.

1 SECTION 18. A partnership, in computing its taxable income, may
2 deduct at the request of any partner the whole or any part of the amount
3 of the exemptions to which such partner may be entitled under sections
4 five and eight and of the deduction for family to which he may be entitled
5 under clause (h) of section six; provided the commissioner is satisfied by
6 an affidavit from the partner for whose benefit any such exemption or
7 deduction is claimed, or otherwise, that such partner is not allowed, in all
8 partnerships in which he may be a partner and on account of all income
9 on which he is liable to taxation under this chapter, more than the total
10 amount of such exemptions and deductions to which he is entitled. Each
11 amount so deducted shall be set forth in the return of the partnership,
12 and the partner requesting the same shall be allowed no further exemption
13 or deduction on account thereof. The commissioner, in his discretion,
14 may excuse a partnership which has a place of business in the common-
15 wealth from filing a return under this chapter, if its principal place of
16 business is not within the commonwealth, and in such case may require
17 the partners who are inhabitants of the commonwealth to include in their
18 individual returns their shares of the partnership income, and may assess
19 to each partner individually a tax on his share.

Exemption,
etc., of part-
ners, how
deducted
1916, 269, § 10
1919, 349, § 3.

1 SECTION 19. An inhabitant of the commonwealth who is a member
2 of a partnership having no usual place of business in the commonwealth,
3 who receives income from such partnership derived from such a source
4 that it would be taxable if received directly by such partner, shall as to
5 such income be subject to the taxes imposed by this chapter.

Resident
member of
foreign part-
nership
1916, 269, § 10.

1 SECTION 20. The provisions of this chapter in respect to the filing
2 of returns, and the assessment, abatement and collection of taxes, and
3 to notices concerning the same, shall apply to partnerships subject to
4 taxation under this chapter.

Certain pro-
visions to
apply to
partnerships
1916, 269, § 10,
245 Mass. 353.

1 SECTION 21. Sections seventeen to twenty, inclusive, shall not apply
2 to partnerships, associations or trusts, the beneficial interest in which is
3 represented by transferable shares, and nothing in said sections shall
4 affect other provisions of this chapter so far as the same relate to such
5 partnerships, associations or trusts, the beneficial interest in which is
6 represented by transferable shares.

Certain pro-
visions not to
apply to
associations,
etc., having
transferable
shares
1916, 269, § 10
245 Mass. 353.

RETURNS.

Persons re-
quired to make
returns.
Contents.
1916, 269, § 12.
1924, 15, § 2.
236 Mass. 201.
245 Mass. 174.

SECTION 22. Every individual inhabitant of the commonwealth, including every partnership, association or trust, whose annual income from all sources exceeds two thousand dollars shall annually make a return of his entire income, except income derived (a) from real estate, (b) from dividends exempt from taxation under section one, (c) from interest upon bonds or other obligations of the United States, (d) from interest upon such bonds, notes and certificates of indebtedness of the commonwealth and political subdivisions thereof as are exempt from taxation under clause twenty-fifth of section five of chapter fifty-nine, (e) from loans secured exclusively by duly recorded mortgage of real estate, taxable as real estate, situated in the commonwealth, to an amount not exceeding the assessed value of the mortgaged real estate less the amount of all prior mortgages, and (f) from wages or salaries received from the United States. Every other individual inhabitant, including every partnership, association or trust, who receives income taxable under section one or subsection (a) or (c) of section five shall make an annual return of such taxable income.

Executors,
etc., to make
returns.
1916, 269, § 12.

SECTION 23. Every executor, administrator, trustee, guardian, conservator, trustee in bankruptcy, assignee for the benefit of creditors and receiver, other than a receiver of a domestic corporation, and every other person receiving income taxable under this chapter, shall make an annual return of his taxable income as provided in this chapter.

Returns to
be on oath.
Place and date
of filing.
Period
included.
1916, 269, § 12.
1929, 361, § 1.
245 Mass. 174.

SECTION 24. Returns under the two preceding sections shall be on oath or accompanied by a written declaration that they are made under the penalties of perjury, and shall be filed with the income tax assessor for the district where the taxpayer resides or has his principal place of business or, at the option of the taxpayer, with the commissioner, shall be made in such form as the commissioner prescribes, and shall contain such further information as he deems pertinent. Except as otherwise provided in this chapter, the return shall be made on or before March first in each year and shall relate to the income received during the year ending on December thirty-first preceding.

Persons subject
to taxes im-
posed by this
chapter. Re-
turns by cer-
tain individuals
or fiduciaries.
1916, 269, § 12.
1919, 136, § 2.
1929, 361, § 2.
245 Mass. 155.
256 Mass. 426.

SECTION 25. Every individual who while an inhabitant of the commonwealth, and every executor, administrator, trustee or other fiduciary who while such an inhabitant or while acting under an appointment derived from a court of the commonwealth, has received any income taxable under this chapter, and the estate of every deceased inhabitant of the commonwealth, shall be subject to the taxes imposed by this chapter. Every such individual or fiduciary shall file a return under section twenty-two or twenty-three if he has in the preceding year received any such income, and an executor or administrator shall file a return under said section twenty-three if his decedent received any such income not returned by the decedent as to which a tax under this chapter may still be assessed within the time limited by section thirty-seven. If a person has been appointed executor or administrator after January first in any year, the return of such income received by his decedent but not returned by him shall be due and shall be filed within ninety days after the date of such appointment. Every such individual intending to

17 remove his domicile from the commonwealth, and every such fiduciary
 18 intending to make final distribution of an estate or trust, before the end
 19 of any year shall file immediately prior to such removal or distribution a
 20 return under said section twenty-two or twenty-three of all such income
 21 received by him and by his decedent during said year and prior to such
 22 removal or distribution, and the taxes thereon shall become due and
 23 payable forthwith.

1 SECTION 26. The commissioner shall prepare blanks for the returns
 2 required by sections twenty-two and twenty-three and shall cause them
 3 to be distributed throughout the commonwealth; but no person shall be
 4 excused from making the return by failure of the commissioner to send
 5 or give one of the blanks to him.

Blanks to be provided, etc. 1916, 269, § 12.

1 SECTION 27. The commissioner shall annually give seasonable notice
 2 of the requirements of sections twenty-two to twenty-five, inclusive, by
 3 posting or in any other suitable manner, not later than January fifteenth,
 4 in every town in the commonwealth.

Seasonable notice, etc. 1916, 269, § 12.

1 SECTION 28. If the commissioner shall, from information derived
 2 from the return or otherwise, be of opinion that any person whose income
 3 is taxable under this chapter may have failed to file a return, or to include
 4 in a return filed, either intentionally or through error, all the sources of
 5 his taxable income, he may require from such person a return or a supple-
 6 mentary return on oath, in such form in each individual instance as the
 7 commissioner prescribes, of all the sources from which the taxpayer
 8 received any income, whether or not taxable under this chapter in the
 9 year for which the return was made. If from a supplementary return or
 10 otherwise the commissioner finds that any sources of taxable income have
 11 been omitted from the original return, he may require the amount of in-
 12 come from each source of taxable income so omitted to be disclosed to
 13 him on oath of the person liable for the tax, and added to the original
 14 return. Such supplementary return and the correction of the original
 15 return shall not relieve the person making the same from any of the
 16 penalties to which he may be liable under any provision of this chapter.
 17 The commissioner may proceed under any provision of sections thirty
 18 and thirty-five to thirty-seven, inclusive, whether or not he requires a
 19 return or a supplementary return under this section.

Omitted or supplementary returns 1916, 269, § 12.

Party to remain liable to penalties.

1 SECTION 29. In case of sickness, absence or other disability, the
 2 commissioner may allow further time for filing any return required by
 3 this chapter.

Commissioner may extend time for filing return.

1916, 269, § 14.

1918, 257, § 70.

1919, 5.

1920, 2.

1 SECTION 30. In order to verify any return made pursuant to this
 2 chapter the commissioner may, within two years after September first
 3 of the year in which such return was due, if he has reason to believe the
 4 return to be fraudulent or incorrect, direct by special authorization a
 5 deputy or other agent to verify the return; and for the purpose of such
 6 verification the books and papers of the person shall be open to the exam-
 7 ining officer, or shall be produced for the purpose upon a summons,
 8 which the commissioner, or the examining officer, may issue. The per-
 9 son making the return may be examined by such officer on oath.

Verification of return. 1916, 269, § 14 1919, 349, § 5.

Writ of mandamus to compel filing return. 1916, 269, § 13.

SECTION 31. If any person fails to file, on or before May first of any year, a return required by this chapter, any justice of the supreme judicial or the superior court, on petition of the commissioner or the income tax assessor for the district where such person is required to file the return, or of any ten taxable inhabitants of the commonwealth, shall issue a writ of mandamus requiring such person to file the return. The order of notice on the petition shall be returnable not later than ten days after the filing thereof. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes may be issued from the clerk's office in any county, and, except as aforesaid, shall be returnable as the court orders.

Returns to be open to inspection of certain officials, etc. 1916, 269, § 16. 1918, 257, § 71. 1919, 5, 50; 117 1920, 2.

SECTION 32. Returns shall be open to the inspection of the commissioner, and his deputies, assistants and clerks when acting under his authority, and the income tax assessors, and their deputies, assistants and clerks when acting under their authority. The books, accounts and other records in the hands of the commissioner, except returns, shall be open to the inspection of the state auditor, and his deputies, assistants and clerks when acting under his authority for the purpose of auditing the accounts of the commissioner. Said returns shall be preserved for two years, and thereafter until the commissioner orders them destroyed. The commissioner shall, on request of any inhabitant of the commonwealth, state whether or not any designated person has filed an income tax return for the current or any prior year.

INFORMATION AT THE SOURCE.

Employers, corporations, etc., required to file certain returns, lists and reports. 1916, 269, § 25. 1918, 257, § 74. 1919, 5 1920, 2 1922, 290. [Penalty, § 57.]

SECTION 33. Every employer, being an inhabitant of the commonwealth or having a place of business therein, shall file annually with the commissioner a return in such form as he shall from time to time prescribe, giving the names and addresses of all regular employees residing in the commonwealth to whom said employer has paid wages, salary or other compensation in excess of the sum of two thousand dollars during the preceding calendar year, and may give the amount paid to each. In any individual case, upon request of the commissioner, the exact wages, salary or other compensation shall be stated.

Every corporation and every partnership, association or trust the beneficial interest in which is represented by transferable shares, doing business in the commonwealth, unless the dividends paid on its shares are exempt from taxation under section one, shall annually file with the commissioner in such form as he shall from time to time prescribe, a complete list of the names and addresses of its shareholders, as of record on December thirty-first of the preceding year, or on any other date satisfactory to the commissioner, or, in its discretion, of such shareholders as are residents of the commonwealth, together with the number and class of shares held by each shareholder and the rate of dividends paid on each class of stock for such preceding year.

Every corporation, partnership, association or trust doing business in the commonwealth shall report annually to the commissioner, in such form as he shall from time to time prescribe, the names and addresses of all residents of the commonwealth to whom it has paid interest during

25 the preceding calendar year on its bonds, notes or other evidences of in-
 26 debtedness, and to whom it has paid any annuities, except, however,
 27 interest coupons payable to bearer, and income exempt from taxation
 28 under this chapter. In any individual case, any such corporation, part-
 29 nership, association or trust shall, upon request of the commissioner,
 30 state the respective amounts of interest and annuities so paid by it to
 31 any person during any calendar year.

32 The returns, lists and reports required by this section shall be made
 33 on or before March first in each year; but the commissioner may author-
 34 ize them to be made at any other date and in connection with any other
 35 reports or returns that said individuals, partnerships, associations, trusts
 36 and corporations may be required to file with him.

1 SECTION 34. The treasurer of every city, town and county, and the
 2 comptroller, shall, annually not later than April tenth, in the form pre-
 3 scribed by the commissioner, furnish to him names and addresses of all
 4 employees of said cities, towns, counties and of the commonwealth,
 5 respectively, receiving during the preceding calendar year as salary,
 6 wages, or otherwise, amounts exceeding two thousand dollars in each
 7 case, together with the amount received by each.

Certain
 officers to
 furnish names
 and addresses
 of certain pub-
 lic employees.
 1916, 269, § 26.
 1923, 362, § 55.
 1927, 28.

ASSESSMENT AND ADMINISTRATION.

1 SECTION 35. The commissioner shall determine from the returns re-
 2 quired by this chapter, or in any other manner, the income of every per-
 3 son taxable thereunder, and shall assess thereon the tax hereby provided;
 4 but he shall not determine the income of a person who has filed a return
 5 in accordance with sections twenty-two to twenty-five, inclusive, within
 6 the time prescribed by law, to be in excess of that disclosed by such return,
 7 without notifying such person and giving him an opportunity to explain
 8 the apparent incorrectness of his return.

Commissioner
 to determine
 incomes and
 assess tax, etc.
 1916, 269, § 14.

1 SECTION 36. If any person who has failed to file a return, or has filed
 2 an incorrect or insufficient return, and has been notified by the commis-
 3 sioner of his delinquency, refuses or neglects within twenty days after
 4 such notice to file a proper return, or if any person files a fraudulent re-
 5 turn, the commissioner shall determine the income of such person, taxa-
 6 ble under this chapter, according to his best information and belief, and
 7 assess the same at not more than double the amount so determined.

Assessment,
 how deter-
 mined, when no
 return is filed,
 etc.
 1916, 269, § 14.
 1918, 257, § 70.
 1919, 5.
 1920, 2.

1 SECTION 37. If the commissioner finds from the verification of a
 2 return, or otherwise, that the income of any person subject to taxation
 3 under this chapter or any portion thereof, has not been assessed, he may,
 4 at any time within two years after September first of the year in which
 5 such assessment should have been made, assess the same, with interest
 6 at six per cent from the date when such tax was due under section thirty-
 7 nine, first giving notice to the person so to be assessed of his intention, and
 8 such person shall thereupon have an opportunity within ten days after
 9 such notification to confer with the commissioner in person or by counsel
 10 or other representative as to the proposed assessment. After the expira-
 11 tion of ten days from such notification the commissioner shall assess the
 12 income of such person subject to taxation, or any portion thereof, which
 13 he believes has not theretofore been assessed, and he shall thereupon give
 14 notice under section thirty-nine to the person so assessed, and the tax,

Assessment
 after verifica-
 tion of return,
 etc. Abate-
 ment, etc.
 1916, 269, § 14.
 1920, 404.
 1922, 143.
 245 Mass. 353.

with interest as aforesaid, shall be payable fourteen days after the date of such notice. The provisions of this chapter in respect to the abatement and collection of taxes shall apply to a tax so assessed. Whenever, in the course of a verification of the returns of a taxpayer under section thirty, the commissioner finds that an overpayment of the total amount of taxes due from such taxpayer has been made on any year's return subject to verification, the amount of such overpayment shall be deducted from the amount of any additional tax and interest aforesaid found to be due on any other year's return so verified, and only the net amount thus determined to be due shall be assessed additionally.

Rules and regulations. 1916, 269, § 14.

SECTION 38. The commissioner may from time to time make such rules and regulations, not contrary to this chapter, as he deems necessary to carry out its provisions.

COLLECTION.

Commissioner to give notice of date tax is due, etc. 1916, 269, § 15. 1918, 29, § 1. 1929, 361, § 3.

SECTION 39. The commissioner, annually on or before September first, shall give written notice to every person taxable under this chapter of the amount of the tax payable by him, and of the date on which the tax is due and payable, which shall, except as otherwise provided in this chapter, be October first. The notice shall be mailed, postage prepaid, addressed to the person assessed at his place of residence or business, or at the address given in his return, or otherwise delivered at such place of residence or business or at such address. All taxes assessed hereunder may be paid at the office of the commissioner in Boston or at the office of the income tax assessor for the district where the taxpayer resides or has his principal place of business, at the option of the taxpayer, and the notice shall state the places at which the tax may be paid. Failure to receive such notice shall not affect the validity of the tax.

Taxes collected to be accounted for each week. 1916, 269, § 17.

SECTION 40. All taxes received by the income tax assessors shall be accounted for and turned over to the commissioner as often as once in each week.

Interest. Remedies of commissioner. 1916, 269, § 18. 1918, 29, § 2. 1923, 287, § 3. 1925, 186. 249 Mass. 123. 265 Mass. 531.

SECTION 41. If a tax assessed under this chapter remains unpaid after the expiration of fourteen days from the date when due, interest at the rate of six per cent per annum from the due date shall be added to and become part of the tax. The commissioner shall have for the collection of taxes assessed under this chapter all the remedies provided by chapter sixty for the collection of taxes on personal estate by collectors of taxes of towns. The officer to whom a warrant for the collection of such a tax is given shall collect said tax and interest upon the same at the rate of six per cent per annum from the time when such tax became due and may collect and receive for his fees the sum which an officer would be entitled by law to receive upon an execution for a like amount. Any action of contract brought to recover any such tax shall be brought in the name of the commonwealth.

Fiduciaries to be personally liable, etc. 1918, 257, § 72. 1919, 5. 1920, 2.

SECTION 42. If any income taxable under this chapter, received by executors, administrators, trustees, or other fiduciaries, is duly assessed to them thereunder and they neglect to pay the same, any such fiduciary shall be personally liable therefor to the commissioner in contract, and may be allowed in his account for the amount paid by him.

ABATEMENTS.

1 SECTION 43. Any person aggrieved by the assessment of a tax under
 2 this chapter may apply to the commissioner for an abatement thereof
 3 at any time within six months after the date of the notice of the assess-
 4 ment, or, if he dies during said six months his executor or administrator;
 5 may apply for such abatement within one month after his appointment;
 6 and if, after a hearing, the commissioner finds that the tax is excessive in
 7 amount or that the person assessed is not subject thereto, he shall abate
 8 it in whole or in part accordingly. If the tax has been paid, the state
 9 treasurer shall repay to the person assessed the amount of such abate-
 10 ment, with interest thereon at the rate of six per cent per annum from the
 11 time when it was paid. The commissioner shall notify the petitioner by
 12 registered letter of his decision upon the petition.

Abatement by
 commissioner
 1916, 269, § 19.
 1918, 257, § 73.
 1919, 5.
 1920, 2;
 285, § 4.
 245 Mass. 353.
 248 Mass. 545.
 249 Mass. 123.
 263 Mass. 175.
 273 Mass. 212.

1 SECTION 44. No tax assessed on any person liable to taxation under
 2 this chapter shall be abated in any event unless the person assessed shall
 3 have filed, at or before the time of bringing his petition for abatement,
 4 a return as required by sections twenty-two to twenty-five, inclusive;
 5 and if he failed without good cause to file his return within the time pre-
 6 scribed by law, or filed a fraudulent return, or, having filed an incorrect
 7 or insufficient return, has failed, after notice, to file a proper return, the
 8 commissioner shall not abate the tax below double the amount for which
 9 the person assessed was properly taxable under this chapter.

Abatement
 forbidden and
 limited in
 certain cases.
 1916, 269, § 19.
 1918, 257, § 73.
 1919, 5.
 1920, 2;
 285, § 4.
 273 Mass. 212.

1 SECTION 45. Any person aggrieved by the refusal of the commissioner
 2 to abate, in whole or in part, under section forty-three, a tax assessed
 3 under this chapter, may appeal therefrom, within thirty days after the
 4 mailing of notice of the decision of the commissioner, by filing a petition
 5 with the clerk of the board of tax appeals. If, on hearing, said board
 6 finds that the person making the appeal was entitled to an abatement
 7 under section forty-three from the tax assessed on him, it shall make
 8 such abatement as it sees fit. The decision of the board of tax appeals
 9 shall, except as otherwise provided herein, be final and conclusive, and
 10 shall be communicated in writing to the petitioner and the commissioner
 11 within five days thereafter. Any taxes assessed under this chapter or
 12 corresponding provisions of earlier laws, which are unpaid and uncol-
 13 lectible, may be abated by the board of tax appeals, on the recommenda-
 14 tion of the attorney general and the commissioner at any time after the
 15 expiration of five years from the date when the same became payable.

Appeal from
 decision of
 commissioner
 to board of
 tax appeals.
 Abatement of
 unpaid and
 uncollectible
 taxes.
 1916, 269, § 19.
 1922, 339, § 1.
 1926, 287, § 2.
 1930, 416, § 16.
 245 Mass. 353.
 248 Mass. 545.
 249 Mass. 123.
 273 Mass. 212.

1 SECTION 46. If the tax abated has been paid, the state treasurer
 2 shall repay to the petitioner the amount of the abatement and interest
 3 at the rate of six per cent per annum from the time of payment, upon
 4 presentation to him by the petitioner of the notice of the decision of the
 5 board.

Treasurer to
 repay amount
 of abatement,
 etc.
 1916, 269, § 19.
 273 Mass. 212.

1 SECTION 47. [REPEALED, 1930, 416, § 2.]

1 SECTION 48. The remedies provided by sections forty-three to forty-
 2 seven, inclusive, shall be exclusive, whether or not the tax is wholly
 3 illegal. But the word "exclusive" in this section shall not be construed
 4 to deprive any person of a right of action at law in any federal court.

Remedies
 under this
 chapter
 exclusive, etc.
 1916, 269, § 20.
 1921, 113, § 2.
 256 Mass. 142.

ADDITIONAL LOCAL TAXES.

SECTION 49.	[REPEALED, 1931, 426, § 184.]	1
SECTION 50.	[REPEALED, 1931, 426, § 184.]	1
SECTION 51.	[REPEALED, 1931, 426, § 184.]	1
SECTION 52.	[REPEALED, 1931, 426, § 184.]	1
SECTION 53.	[REPEALED, 1931, 426, § 184.]	1

CONSTITUTIONALITY.

Unconstitutionality of part of chapter, effect. 1916, 269, § 27.	SECTION 54. If any part, subdivision or section of this chapter shall be declared unconstitutional, the validity of its remaining provisions shall not be affected thereby.	1
		2
		3

PENALTIES.

Penalty for late return. 1916, 269, § 13.	SECTION 55. If any person required to file a return under this chapter fails to file the return within the time prescribed therein, the sum of five dollars for every day during which such person is in default shall be added to, and become part of the tax, as an additional tax; but the commissioner may, in his discretion, abate any such additional tax in whole or in part.	1
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Penalty for fraudulent return, etc. §§ 3, 13. 1919, 286.	SECTION 56. Whoever files a fraudulent return, and whoever, having failed to file a return or having filed an incorrect or insufficient return without reasonable excuse fails to file a return within twenty days after receiving notice from the commissioner of his delinquency, shall be punished by a fine of not less than one hundred nor more than ten thousand dollars, or by imprisonment for not more than one year, or both, and shall forfeit his right to hold public office anywhere within the commonwealth for such period, not exceeding five years, as the court determines. Any person filing a fraudulent return of interest deduction under section three, or giving fraudulent information under said section or section four to the commissioner or an income tax assessor relative to any deduction given by section two, shall be punished as provided in this section.	1
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Penalty for failure to give information at the source 1916, 269, § 25. 1918, 257, § 74 1919, 5. 1920, 2.	SECTION 57. Any individual, partnership, association, trust or corporation failing without reasonable excuse to file a return, list or report, or otherwise give information, as required by section thirty-three, shall be punished by a fine of not less than twenty-five nor more than five hundred dollars.	1
		2
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Penalty for disclosure of information, except, etc. 1916, 269, § 16 1918, 257, § 71. 1919, 5; 117. 1920, 2. 1923, 402, § 1.	SECTION 58. The disclosure by the commissioner, or by any deputy, assistant, clerk or assessor, or other employee of the commonwealth, or of any city or town therein, to any person but the taxpayer or his agent, of any information whatever contained in or set forth by any return filed under this chapter, other than the name and address of the person filing it, except in proceedings to collect the tax or for the purpose of criminal prosecution under this chapter, shall be punishable by a fine of	1
		2
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8 not more than one thousand dollars, or by imprisonment for not more
9 than six months, or both, and by disqualification from holding office for
10 such period, not exceeding three years, as the court determines.

1 SECTION 59. Section thirty-one and the penalties provided by sec- Penalties to
2 tions fifty-five and fifty-six shall apply to individuals and corporations apply to
3 acting in any fiduciary capacity. In the case of a corporation, the pen- fiduciaries.
4 alty may be imposed on the corporation, on the officers whose duty it 1916, 269,
5 was to make the return, or on both. §§ 11, 13
1919, 349, § 4

1 SECTION 60. In the case of a partnership one or more members of Certain part-
2 which are inhabitants of the commonwealth and which has a usual place nerships, etc.,
3 of business in the commonwealth, the penalties imposed by this chapter penalties un-
4 may be inflicted upon any member of the partnership who is an inhabit- imposed, how
5 ant of the commonwealth and who has any active part in the manage- inflicted
6 ment of the affairs of the partnership, and if there is no such member, 1916, 269, § 13
7 upon the persons in charge of its affairs in this commonwealth. In the
8 case of a partnership, association or trust, the beneficial interests in
9 which are represented by transferable shares, the penalties imposed by
10 this chapter for failure to file a return may be inflicted upon the trustees,
11 managers or officers whose duty it was to make the return.

CHAPTER 63.

TAXATION OF CORPORATIONS.

SECT.
TAXATION OF BANKS, TRUST COMPANIES,
ETC.

1. Definitions.
2. Annual tax. Rate, how determined. Appeals.
3. Annual returns, contents, etc.
4. Certain provisions of chapter applicable to taxes under § 2.
5. Distribution of tax. Appeals.
6. Same subject. Certification of charges and credits.
7. Taxes assessed to be in lieu of certain other taxes.
8. [Repealed.]
9. [Repealed.]
10. [Repealed.]
- 10A. [Repealed.]
- 10B. [Repealed.]

TAXATION OF SAVINGS BANKS AND SAVINGS
DEPARTMENTS OF TRUST COMPANIES.

11. Taxation of deposits in savings banks, and trust companies having savings departments.
12. Same subject.
13. Companies to make semi-annual returns. Contents. Penalty.

SECT.

14. [Repealed.]
15. Exemption of deposits from other taxes.
16. Reduction of tax for period of incapacity to do business.
17. Taxation of Massachusetts Hospital Life Insurance Company.

TAXATION OF SAVINGS BANK INSURANCE.

18. Certain insurance funds subject to same tax as savings bank deposits.

CORRECTION OF ASSESSMENT OF CERTAIN
BANK TAXES.

- 18A. Correction of assessment of certain taxes. Applications; appeals.

TAXATION OF CO-OPERATIVE BANKS.

19. Co-operative banks to have certain exemptions.

TAXATION OF INSURANCE COMPANIES.

20. Taxation of life insurance companies. Returns.

- SECT.
21. Retaliatory tax on foreign life insurance companies.
 22. Taxation of domestic fire, marine and other insurance companies.
 23. Taxation of similar foreign companies.
 24. Deductions.
 25. Returns of fire, marine and other insurance companies.
 26. Books, etc., may be examined.
 27. Penalty for failure to make return, etc., and for false statement.
 28. Assessment and notice to companies. Application for correction. Appeal.
 29. Recovery of tax, and injunction.

TAXATION OF BUSINESS CORPORATIONS.

30. Definitions.
31. Corporate excess, elements included or not deducted in determining.

Domestic Corporations.

32. Excise on domestic business corporations.
- 32A. Excise on such corporations principally dealing in real estate or tangible personal property.
33. Minimum tax of subsidiaries, etc.
34. Net income where federal return consolidated.
- 34A. [Repealed.]
35. Returns.
36. Correction of return. Additional tax.
37. Determination of net income from business in commonwealth. Allocation of certain classes of income.
38. Same subject. Allocation of remainder of net income. Deduction.
- 38A. Computation of net taxable income.
- 38B. Taxation of certain corporations dealing exclusively in securities.
- 38C. Domestic manufacturing corporations, classification and taxation. Machinery deduction from net income.

Foreign Corporations.

39. Excise on foreign corporations.
- 39A. Minimum tax on subsidiaries.
- 39B. [Repealed.]
- 39C. Excise on gross receipts of corporations principally dealing in real estate or tangible personal property.
40. Returns, etc., of foreign corporations.
41. Determination of net income from business in commonwealth. Allocation of income.
42. Same, alternative method.
- 42A. Computation of net taxable income.
- 42B. Foreign manufacturing corporations, machinery deduction from net income.

- SECT.
43. Credit for dividends paid to inhabitants.

Assessment and Collection.

44. Assessment of tax.
45. Assessment of additional tax.
46. Double assessment for refusal to file, or fraudulent return.
47. Regulations.
48. Notice of tax. Time of payment. Collection by commissioner.
49. Penalty for late return.
50. Penalty for false statement.
51. Abatements. Appeals.

Constitutionality.

52. Unconstitutionality, etc., of §§ 30-51, effect.

TAXATION OF CORPORATE FRANCHISES.

53. Annual returns to commissioner.
54. Additional information required of certain corporations, etc.
55. Valuation of corporate franchise, etc. Deductions.
56. [Repealed.]
- 56A. Value of corporate franchises of certain foreign telephone companies, alternative method of determining.
57. [Repealed.]
58. Tax to be paid on corporate franchise. Rate, how determined.
- 58A. [Repealed.]
59. Additional tax to be assessed upon corporate franchise value, etc.
60. Notice of tax, time of payment, right of correction and appeal.

EXCISE ON STREET RAILWAYS, ETC., IN COMMUTATION OF REPAIRS, SNOW REMOVAL, ETC.

61. [Repealed.]
62. [Repealed.]
63. [Repealed.]
64. [Repealed.]
65. [Repealed.]
66. [Repealed.]

EXCISE ON CORPORATIONS INTERESTED IN SHIPS AND VESSELS.

67. Excise on interest in ship, etc. Returns.

MISCELLANEOUS PROVISIONS.

68. Taxes in this chapter not exclusive.
- 68A. Remedy of certain corporations when assessors' valuation exceeds commissioner's valuation.
69. Inspection of books and examination of officers.

- SECT.
 70. Interest on unpaid taxes.
 71. Appeals. Repayment. Abatement of uncollectable assessments.
 71A. Inspection of returns restricted.

COLLECTION.

72. Collection of tax by warrant.
 73. Action at law to recover unpaid taxes.
 74. Lessee of corporate property liable for tax.
 75. Collection of unpaid taxes by information.
 76. Transfer of assets without notice to commissioner void in certain cases.

SECT.

RELIEF FROM UNLAWFUL TAXES.

77. [Repealed.]
 78. [Repealed.]

PENALTIES AND THEIR ENFORCEMENT.

79. Penalties on certain corporations, etc., for neglect to make returns, etc.
 80. Collection of penalties.

DEFINITION.

81. "Local taxation" to include excise tax on motor vehicles, etc., for purposes of certain sections.

TAXATION OF BANKS, TRUST COMPANIES, ETC.

1 SECTION 1. When used in this section, and in sections two to seven,
 2 inclusive, the following terms shall have the following meanings:
 3 "Bank", Any bank, banking association or trust company doing busi-
 4 ness within the commonwealth, whether of issue or not, existing by au-
 5 thority of the United States or of a foreign country, or of any law of the
 6 commonwealth not contained in chapters one hundred and sixty-eight
 7 to one hundred and seventy-one, inclusive, and chapters one hundred and
 8 seventy-three and one hundred and seventy-four.
 9 "Net income", The net income for the taxable year as required to be
 10 returned by the bank to the federal government under the federal revenue
 11 act applicable for the period, adding thereto any net losses, as defined in
 12 said federal revenue act, that have been deducted and all interest and
 13 dividends not so required to be returned as net income which would be
 14 taxable if received by an individual inhabitant of the commonwealth;
 15 provided that net income as defined in this section shall not include
 16 interest from bonds, notes or certificates of indebtedness of the United
 17 States or of any federal instrumentality, if such interest is by the consti-
 18 tution of the United States or by act of congress exempt from taxation
 19 under this chapter.
 20 "Taxable year", The fiscal or calendar year for which the bank was
 21 required to make its last return to the federal government due prior to
 22 April first of the year in which the tax is to be assessed or, if such return
 23 was for a fractional period, a full year, including and ending with such
 24 fractional period.

Definitions.
 1868, 349, § 1.
 1871, 390, § 1.
 1873, 315, § 1.
 P. S. 13, § 8.
 R. L. 14, § 9.
 1909, 440, § 2;
 490, III, § 11.
 1914, 198, § 2.
 1923, 487,
 § 1, 2.
 1924, 233, § 1.
 1925, 262, § 1.
 343, §§ 1, 13.
 1926, 222.
 1930, 226, § 1.
 138 Mass. 527.
 155 Mass. 313.
 175 Mass. 257.
 223 Mass. 371.
 232 Mass. 168.

1 SECTION 2. Every bank shall pay annually a tax measured by its net
 2 income, as defined in section one, at the rate assessed upon other financial
 3 corporations; provided, that such rate shall not be higher than the highest
 4 of the rates assessed under this chapter upon mercantile and business
 5 corporations doing business in the commonwealth. The commissioner
 6 shall determine the rate on or before July first of each year after giving a
 7 hearing thereon, and at or prior to such hearing he shall make available
 8 to all banks requesting the same a statement showing the aggregates of
 9 the income returnable during the preceding calendar year and taxable
 10 under this chapter and the aggregates of the taxes under this chapter of
 11 such year, with respect to the following classes of corporations: (1)
 12 domestic financial corporations, (2) foreign financial corporations, (3)
 13 domestic manufacturing corporations as defined in section thirty-eight

Annual tax.
 Rate, how
 determined.
 Appeals
 1865, 242.
 1868, 349,
 §§ 1, 4, 5.
 1871, 390,
 §§ 1, 4.
 1872, 321.
 §§ 4, 5, 13.
 1873, 315,
 § 1, 2, 4.
 1881, 395, § 2.
 P. S. 13,
 §§ 8, 9, 12, 13.
 R. L. 14,
 §§ 9, 10, 13.
 1906, 271, § 2.
 1909, 440, § 2;
 490, III,
 §§ 11, 12, 15.
 1914, 198, § 2.

1918, 184, § 7.
 1923, 378, § 2;
 487, §§ 1, 2.
 1924, 233, § 1.
 1925, 262, § 1;
 343, §§ 1, 13.
 1926, 222.
 1930, 214;
 226, § 2; 416,
 § 18.
 U. S. Rev. Sta.
 § 5219

C, (4) foreign manufacturing corporations as defined in section forty-two 14
 B, (5) domestic business corporations as defined in section thirty, (6) 15
 foreign corporations as defined in said section thirty. The commissioner 16
 shall seasonably notify the banks of his determination. Appeal by a bank 17
 from the determination of the commissioner may be taken to the board of 18
 tax appeals within ten days after the giving of such notice. 19

14 Allen, 359.	123 Mass. 375.	232 Mass. 168.
99 Mass. 141.	138 Mass. 527.	3 Wall. 573.
101 Mass. 575.	155 Mass. 313.	7 Wall. 694.
104 Mass. 586.	175 Mass. 257.	125 U. S. 60.
112 Mass. 384.	223 Mass. 371.	

Annual re-
 turns, con-
 tents, etc.
 1871, 390, § 5.
 1872, 321.
 § 1, 2, 10.
 1873, 315, § 5.
 P. S. 13, § 11
 R. L. 14, § 12.
 1909, 410, § 2;
 490, III, § 14.
 1914, 198, § 2.
 1923, 487, § 2.
 1924, 233, § 1.
 1925, 262, § 1;
 343, §§ 1, 13.
 1926, 222.
 123 Mass. 375.
 155 Mass. 313.

SECTION 3. Every bank shall within the first ten days of April make 1
 a return as of April first, sworn to by its cashier or by its treasurer, or in 2
 their absence or incapacity by any other principal officer, in such form 3
 as the commissioner prescribes, giving:— 4

(a) A copy of such parts as the commissioner may designate of the 5
 federal return or returns for the year by the income of which the tax is to 6
 be measured, provided that if any bank shall have participated in filing a 7
 consolidated return of income to the federal government, it shall file with 8
 the commissioner a statement of net income in such form as he may pre- 9
 scribe, showing its gross income and deductions in accordance with the 10
 law and regulations governing the usual federal returns of corporations 11
 not so participating; and such additional information as he may require 12
 to determine the net income as defined in section one. 13

(b) The name of each shareholder with his residence and the number 14
 of shares belonging to him at the close of the business day last preceding 15
 April first as the same then appeared on the books of said bank. 16

Whenever the time for filing the federal return has been extended, the 17
 commissioner may extend the time for filing the return required under 18
 this section. 19

Certain pro-
 visions of chap-
 ter applicable
 to taxes
 under § 2.
 1923, 487, § 2.
 1924, 233, § 1.
 1925, 262, § 1;
 343, §§ 1, 13.
 1926, 222.

SECTION 4. All provisions of this chapter relative to the assessment, 1
 collection, payment, abatement, verification and administration of taxes, 2
 including penalties, applicable to domestic business corporations, as 3
 defined in section thirty, shall, so far as pertinent, be applicable to taxes 4
 under section two; provided, that any notice required to be given to a 5
 national banking association shall be given to the cashier thereof; and 6
 provided, further, that no such provisions shall be so applied as to con- 7
 travene the federal constitution or the federal statutes relating to national 8
 banking associations. 9

Distribution of
 tax. Appeals.
 1871, 390,
 §§ 6-8.
 1873, 315,
 §§ 6-8, 10.
 P. S. 13,
 §§ 12-14.
 R. L. 14, § 13.
 1909, 490, III,
 § 15.
 1923, 487, § 2.
 1925, 343,
 §§ 1, 13.
 1926, 222.
 1927, 222, § 5.
 1930, 416, § 19.

SECTION 5. Such proportion of the tax paid by each bank under the 1
 foregoing sections, after deducting any refund and any interest or costs 2
 paid on account thereof, as corresponds to the proportion of its stock 3
 owned by persons residing in this commonwealth shall be determined 4
 by the commissioner and be distributed, credited and paid to the several 5
 towns in which from returns or other evidence it appears that such 6
 persons resided on April first preceding, according to the number of 7
 shares so held in such towns respectively, and the remainder of such 8
 tax shall be retained by the commonwealth. The commissioner shall 9
 forthwith upon such determination give written notice by mail or at their 10
 office to the assessors of each town thereby affected of the aggregate 11
 amount so charged against and credited to it; and they may within ten 12
 days after notice of such determination appeal therefrom to the board 13
 of tax appeals. 14

1 SECTION 6. At the expiration of ten days after said notice, if no
 2 appeal is taken or upon being informed of the decision of the board of
 3 tax appeals, the commissioner shall certify to the state treasurer the
 4 aggregate amount of charges against, and credits to, each town, as so
 5 determined; and the treasurer shall thereupon withhold, out of any
 6 sums payable by the commonwealth to any town against which a charge
 7 is certified, the amount of such charge, and shall allow or pay over to
 8 each town to which a credit is certified the amount of such credit.

Same subject.
 Certification
 of charges
 and credits.
 1871, 390, § 9
 1873, 315, § 9
 P. S. 13, § 15
 R. L. 14, § 14.
 1909, 490,
 § 4, 5.
 1925, 343,
 § 1, 13.
 1926, 222
 1930, 416, § 20

1 SECTION 7. Any taxes assessed upon any bank under the provisions
 2 of the foregoing sections shall be in lieu of any and all other taxes under
 3 this chapter except taxes levied under the provisions of sections eleven
 4 to seventeen, inclusive.

Taxes assessed
 to be in lieu
 of certain
 other taxes.
 1923, 487, § 2.

1925, 262, § 1; 343, §§ 1, 13.

1926, 222.

259 Mass. 14.

1 SECTION 8. [REPEALED, 1925, 343, § 1. (But see 1925, 343, § 13,
 2 as amended by 1926, 222.)]

1 SECTION 9. [REPEALED, 1925, 343, § 1. (But see 1925, 343, § 13,
 2 as amended by 1926, 222.)]

1 SECTION 10. [REPEALED, 1925, 343, § 1. (But see 1925, 343, § 13,
 2 as amended by 1926, 222.)]

1 SECTION 10A. [INSERTED, 1923, 487, § 2; REPEALED, 1925, 343, § 1.
 2 (But see 1925, 343, § 13, as amended by 1926, 222.)]

1 SECTION 10B. [INSERTED, 1923, 487, § 2; REPEALED, 1925, 343, § 1.
 2 (But see 1925, 343, § 13, as amended by 1926, 222.)]

TAXATION OF SAVINGS BANKS AND SAVINGS DEPARTMENTS OF TRUST
 COMPANIES.

1 SECTION 11. Every savings bank and every trust company having a
 2 savings department, as defined respectively in chapters one hundred
 3 and sixty-eight and one hundred and seventy-two, shall pay to the
 4 commissioner, on account of its depositors, an annual tax of one half of
 5 one per cent, which shall be levied on the amount of the deposits in a
 6 savings bank, and on the amount of the deposits in the savings depart-
 7 ment of a trust company, to be assessed and paid as follows: one fourth
 8 of one per cent shall be assessed by the commissioner upon the average
 9 amount of such deposits for the six months preceeding May first, and
 10 paid on or before May twenty-fifth; and a like percentage shall be
 11 assessed upon the average amount of such deposits for the six months
 12 preceding November first, and paid on or before November twenty-fifth.

Taxation of
 deposits in
 savings banks,
 and trust com-
 panies having
 savings depart-
 ments.
 1862, 224,
 § 4, 5.
 1863, 164,
 1865, 267,
 1868, 315,
 1879, 115,
 1881, 304,
 § 8, 9,
 303, § 1.
 P. S. 13, § 20
 1890, 160, § 4
 R. L. 14, § 10
 1906, 371, § 3.
 1907, 246.

1909, 342, § 1;
 490, III, § 21.
 1911, 337.
 1912, 189.
 1922, 520, § 2.
 1923, 378, § 3.
 5 Allen, 428.

12 Allen, 312.
 123 Mass. 493.
 126 Mass. 526.
 151 Mass. 103.
 241 Mass. 297.
 220 Mass. 409.
 231 Mass. 367.

252 Mass. 180.
 257 Mass. 43.
 259 Mass. 124.
 6 Wall. 611.
 178 V. S. 115.
 3 Op. A. G. 409.

[Abatements, § 18A.]

1 SECTION 12. So much of said deposits shall be exempt from taxation
 2 under the preceding section as is invested in any of the following:

Same subject.
 1862, 224,
 § 4, 5.
 1863, 164,
 1865, 267.

3 (a) Real estate used for banking purposes.

1868, 315.	(b) Loans secured by mortgage of real estate taxable in this common-	4
1879, 115.	wealth.	5
1881, 304, §§ 8,	(c) Real estate the title of which has been acquired by foreclosure	6
9; 305, § 1.	or purchase under clause twelfth of section fifty-four of chapter one	7
P. S. 13, § 20	hundred and sixty-eight, for five years after the title thereof is vested	8
1890, 160, § 4.	in the corporation.	9
R. L. 14, § 19	(d) Bonds or certificates of indebtedness of the United States.	10
1906, 271, § 3.	(e) Bonds or certificates of indebtedness of the commonwealth issued	11
1907, 246.	after January first, nineteen hundred and six.	12
1908, 464, § 2.	(f) Bonds, notes and certificates of indebtedness of any county, fire	13
1909, 490,	district, water district, light district, improvement district, city or town	14
III, § 21.	in the commonwealth, issued on or after May first, nineteen hundred	15
1912, 189.	and eight, stating on their face that they are exempt from taxation in	16
1917, 257.	Massachusetts.	17
149 Mass. 1	(g) Shares of stock of trust companies organized under the laws of the	18
154 Mass. 103	commonwealth.	19
211 Mass. 207.		
220 Mass. 409.		
245 Mass. 75.		
252 Mass. 180.		
257 Mass. 43.		
259 Mass. 124.		
6 Wall. 611.		

Companies to
make semi-
annual returns.
Contents.
Penalty.
1862, 224,
§§ 8, 9.
P. S. 13, § 21.
1890, 160, § 4.
R. L. 14, § 20.
1906, 271, § 4.
1909, 342, § 2;
490, III, § 22.
211 Mass. 207.
220 Mass. 409.

SECTION 13. Every savings bank and every trust company having a savings department shall semi-annually, on or before May tenth and November tenth, make a return to the commissioner, signed and sworn to by its president and treasurer, of the amount of its deposits if a savings bank, and if a trust company of the amount of deposits in its savings department, on the first day of each of said months, and of the average amount of such deposits for the six months preceding each of said last mentioned days. A corporation neglecting to make such return shall forfeit fifty dollars for each day during which such neglect continues. If it wilfully makes a false statement in such return it shall be punished by a fine of not less than five hundred nor more than five thousand dollars.

SECTION 14. [REPEALED, 1931, 426, § 6.] 1

Exemption of
deposits from
other taxes.

SECTION 15. All deposits taxed under section eleven shall be otherwise exempt from taxation in any year in which said tax is paid. 2

1862, 224, § 12 P. S. 13, § 23 1909, 342, § 4; 490, III, § 23.
1864, 208, § 15. R. L. 14, § 21. 5 Allen, 428.

Reduction of
tax for period
of incapacity to
do business.
1911, 618.

SECTION 16. Whenever a bank, as defined in section one of chapter one hundred and sixty-seven, is restrained from doing business by an injunction issued by any court, or is in the hands of the commissioner of banks under said chapter, the tax payable by the bank under section eleven, as computed on May first or November first next ensuing, after the bank is incapacitated from doing business as aforesaid, shall be reduced by the same proportion which the number of business days during the six months next preceding the said May first or November first on which the bank was thus incapacitated bears to the total number of business days in the said six months; and thereafter the bank shall be relieved from paying taxes under said section so long as it continues to be incapacitated from so doing business. 12

Taxation of
Massachusetts
Hospital Life
Insurance
Company.
1862, 224,
§§ 7, 7.4
1865, 285, § 18
1881, 304, § 8.

SECTION 17. The Massachusetts Hospital Life Insurance Company shall semi-annually, on or before May tenth and November tenth, make a return, signed and sworn to by a majority of its board of directors, of the full amount of all money and property, in detail, in its possession or charge as deposits, trust funds or for purposes of investment, and shall 5

6 pay to the commissioner upon all the same, except upon deposits invested
 7 in loans secured by mortgages of real estate taxable in this commonwealth
 8 and in bonds or certificates of indebtedness of the United States, a tax at
 9 the rate imposed upon savings banks on account of deposits. If said
 10 corporation neglects to make such return, it shall forfeit fifty dollars for
 11 each day such neglect continues; and if it wilfully makes a false state-
 12 ment in any such return, it shall be punished by a fine of not less than five
 13 hundred nor more than five thousand dollars.

P. S. 13, § 51.
 R. L. 14, § 22.
 1906, 271, § 5.
 1909, 490,
 III, § 24.
 1917, 257.
 1922, 520, § 3.
 {Abatements,
 § 18A}

TAXATION OF SAVINGS BANK INSURANCE.

1 SECTION 18. Savings and insurance banks doing business under
 2 chapter one hundred and seventy-eight shall, in respect to all funds held
 3 by the insurance department as a part of its insurance reserve or surplus,
 4 and the General Insurance Guaranty Fund created by said chapter shall
 5 in respect to all funds held by it, pay to the commissioner the same taxes,
 6 at the same rate, to the same extent, and in the same manner as taxes
 7 under section eleven are payable on deposits held by the savings depart-
 8 ment. Savings and insurance banks shall not be taxable on funds held as
 9 part of the expense guaranty fund, or of the insurance guaranty fund, nor
 10 shall such banks or the General Insurance Guaranty Fund be liable to the
 11 commonwealth for any taxes or fees provided to be assessed upon life
 12 insurance companies, or for any taxes or fees except as above provided.
 13 All insurance policies and annuity contracts issued by such banks shall
 14 otherwise be exempt from taxation.

Certain insur-
 ance funds sub-
 ject to same
 tax as savings
 bank deposits.
 1907, 504, § 24.
 1922, 520, § 4.
 4 Op. A. G. 499.
 {Abatements,
 § 18A.}

CORRECTION OF ASSESSMENT OF CERTAIN BANK TAXES.

1 SECTION 18A. A bank or company taxable under section eleven,
 2 seventeen or eighteen shall be notified by the commissioner of the tax
 3 assessed as soon as may be, and within sixty days after the date of noti-
 4 fication may apply to the commissioner for a correction of the assessment,
 5 and in default of settlement may, within thirty days of the date of the
 6 notice of the commissioner's decision, appeal therefrom to the board of
 7 tax appeals. If abatement of a tax paid is granted, the overpayment
 8 with interest thereon at the rate of six per cent per annum from the date
 9 of payment shall be refunded to the bank or company by the state treas-
 10 urer without any appropriation therefor by the general court.

Correction of
 assessment of
 certain taxes.
 Applications;
 appeals
 1927, 225, § 1.
 1930, 416, § 21.

TAXATION OF CO-OPERATIVE BANKS.

1 SECTION 19. The capital stock, corporate franchises and personal
 2 property, but not the real estate, of co-operative banks shall be exempt
 3 from taxation.

1890, 63.

R. L. 14, § 23.

1909, 490, III, § 25.

Co-operative
 banks to have
 certain
 exemptions.

TAXATION OF INSURANCE COMPANIES.

1 SECTION 20. Every life insurance company, as defined by section one
 2 hundred and eighteen of chapter one hundred and seventy-five, author-
 3 ized to transact business in the commonwealth shall annually pay an
 4 excise of one quarter of one per cent upon the net value of all policies in
 5 force on December thirty-first of the year preceding that in which the
 6 tax is payable, issued or assumed by such company on the lives of resi-
 7 dents of this commonwealth as determined by the commissioner from
 8 the return required under this section and such other evidence as he may

Taxation of
 life insurance
 companies.
 Returns.
 1880, 227,
 §§ 1, 2.
 1881, 219.
 P. S. 13,
 §§ 25, 26.
 1887, 283, § 1.
 R. L. 14, § 24.
 1903, 307.
 1909, 490,
 III, § 26.

1915, 217.
1919, 349, § 7.
133 Mass. 161.
198 Mass. 466
220 Mass. 52.
227 Mass. 63.

obtain. All contingencies of any other character insured against by such company under authority of clause sixth of section forty-seven of chapter one hundred and seventy-five or any other provision of law, contracts for which are required to be in separate and distinct policies, shall be taxable under sections twenty-two and twenty-three of this chapter. Every such company shall annually, on or before May first, make a return to the commissioner, on oath of its president or secretary and its actuary, giving in such detail as the commissioner shall require the total number of policies in force on December thirty-first preceding on the lives of residents of this commonwealth, the aggregate net value thereof and the aggregate amount insured. Whenever the commissioner deems it for the best interest of the commonwealth he may require in addition to the above information the following details relating to each policy of ordinary business in force on December thirty-first preceding on the life of a resident of Massachusetts: the number, date and class, the age of the assured, the amount insured and the net value. In respect to ordinary business the aggregate net value so reported shall be the combined aggregate of the mean reserve computed for each policy, or each group of policies requiring a separate computation to determine their net value, on the basis of valuation used or approved by the commissioner of insurance under section nine of chapter one hundred and seventy-five. In respect to industrial business the aggregate net value so reported may be estimated upon the basis of such general averages or otherwise as shall be authorized by the commissioner with the approval of the commissioner of insurance.

Retaliatory tax on foreign life insurance companies
1873, 141, § 3.
P. S. 13, § 31.
R. L. 14, § 28.
1909, 490,
111, § 30.
1919, 349, § 11.
198 Mass. 466.
208 Mass. 386.
220 Mass. 52.

SECTION 21. Every foreign life insurance company shall annually pay with respect to business taxable under the preceding section, in addition to the excise hereby imposed, a sum equal to the excess over such excise of the amount of tax which would be imposed in the same year by the laws of the state or country under which such company is organized, upon a life insurance company incorporated in this commonwealth, or upon its agents, if doing business to the same extent in such state or country.

Taxation of domestic fire, marine and other insurance companies.
1862, 224,
§§ 1, 6.
1872, 245.
1873, 141, § 1.
P. S. 13, § 29.
1884, 180, § 5.
1894, 522, § 64.
R. L. 14, § 26.
1909, 490,
111, § 28.
1918, 184, § 2.
1919, 349, § 9.
1931, 426,
§ 185.

SECTION 22. Every domestic insurance company coming within the scope of the definition of a domestic company in section one of chapter one hundred and seventy-five, except life insurance companies with respect to business taxable under section twenty, shall annually pay an excise of one per cent upon the gross premiums for all policies written or renewed, all additional premiums charged, and all assessments made by such company on policyholders during the preceding calendar year; but such premiums for policies written or renewed for insurance of property or interest in other states or countries where a tax is actually paid by such company, or its agents, shall not be so taxed.

Taxation of similar foreign companies.
1862, 224, § 2.
1872, 228.
1873, 141,
§§ 2, 4.
1878, 218, § 3.
P. S. 13,
§§ 30, 32.
1890, 197, § 1.

SECTION 23. Every foreign insurance company coming within the scope of the definition of a foreign company in section one of chapter one hundred and seventy-five, except life insurance companies with respect to business taxable under sections twenty and twenty-one, shall annually pay an excise upon the gross premiums for all policies written or renewed, all additional premiums charged, and all assessments made during the preceding calendar year for insurance of property or interests

8 in this commonwealth, or which are subjects of insurance by contracts
 9 issued through companies or agents therein, at the rate of two per cent
 10 but not less in amount than would be imposed by the laws of the state
 11 or country under which such company is organized upon a like insurance
 12 company incorporated in this commonwealth, or upon its agents, if
 13 doing business to the same extent in such state or country. In case
 14 any company discontinues business in this commonwealth and reinsures
 15 the whole or part of its risks without making payment of this excise, the
 16 company accepting such reinsurance shall pay the same, and if several
 17 companies shall make such reinsurance, the tax shall be apportioned
 18 among such companies in proportion to the original premiums on the
 19 business in this commonwealth so reinsured by each company.

R. L. 14,
 § 27, 29, 30.
 1909, 490.
 III, § 29,
 31, 32.
 1918, 184, § 3.
 1919, 349, § 10.
 1931, 426,
 § 184.
 100 Mass. 531.

1 SECTION 24. In determining the amount of the tax payable under
 2 sections twenty-one, twenty-two and twenty-three, there shall be de-
 3 ducted all premiums on policies written but not taken, or cancelled
 4 through default of payment, and all premiums returned or credited to
 5 policyholders during the year for which the tax is determined, provided
 6 that all such premiums have been included as premium receipts in a
 7 return made under the following section and a tax assessed thereon, and
 8 all premiums paid to authorized companies for reinsurance, provided that
 9 it is shown to the satisfaction of the commissioner that the tax on such
 10 premiums has been or will be paid in full by such reinsuring company.

Deductions.
 1868, 165, § 1.
 1873, 141, § 5.
 P. S. 13, § 33.
 1888, 154.
 1890, 197, § 2.
 1892, 129.
 1894, 522, § 84.
 1898, 537, § 2.
 R. L. 14, § 31.
 1909, 490.
 III, § 33.
 1916, 227.
 1917, 97.
 1918, 184, § 1.
 1919, 349, § 12.
 224 Mass. 299.

1 SECTION 25. Every insurance company liable to taxation under sec-
 2 tion twenty-one, twenty-two or twenty-three shall annually in January
 3 make a return to the commissioner in such form as he shall prescribe,
 4 on oath of its secretary or other officer having knowledge of the facts,
 5 setting forth: if a domestic company, the total amount of gross pre-
 6 miums for all policies written or renewed, of all additional premiums
 7 charged and of all assessments made, during the preceding calendar
 8 year, and the amount of each class of deductions claimed under any
 9 provision of this chapter; if a foreign company, the total amount of
 10 gross premiums for all policies written or renewed, of all additional
 11 premiums charged and of all assessments made, during the preceding
 12 calendar year for insurance of property or interests in this common-
 13 wealth, or which are subjects of insurance by contracts issued through
 14 companies or agents therein, and the amount of each class of deductions
 15 claimed under any provision of this chapter, and in addition to the above
 16 any information which the commissioner may require in assessing an
 17 excise under any provision of law.

Returns of
 fire, marine
 and other
 insurance
 companies.
 1873, 141, § 7.
 1878, 218, § 5.
 P. S. 13, § 34.
 1887, 283, § 2.
 1890, 197, § 2.
 1892, 129.
 R. L. 14, § 32.
 1906, 271, § 6.
 1909, 499.
 III, § 34.
 1917, 104, § 1.
 1918, 184, § 4.
 1919, 349, § 13.
 224 Mass. 299.

18 For cause, the commissioner may extend the time within which any
 19 such statement may be filed, but not to a date later than March first.

1 SECTION 26. The books, papers and accounts of every insurance
 2 company and of its agents shall be open at all times to inspection and
 3 examination by the commissioner and the commissioner of insurance, or
 4 their duly authorized representatives, for the purpose of verifying the
 5 accuracy of the returns made under sections twenty and twenty-five.

Books, etc.,
 may be
 examined.
 1919, 349, § 13.

1 SECTION 27. Every insurance company neglecting to make the return
 2 required by section twenty or twenty-five shall forfeit twenty-five dol-
 3 lars for every day during which such neglect continues. If any company
 4 neglects to make such return for ten days after notice thereof addressed

Penalty for
 failure to make
 return, etc.,
 and for false
 statement.
 1919, 349, § 14.

to it has been deposited in the post office, postage prepaid, it shall further 5
 forfeit five hundred dollars, and upon an information by the attorney 6
 general at the relation of the commissioner it may be restrained from 7
 the further transaction of its business in this commonwealth until it has 8
 made such return; but such penalties shall not be incurred if it is proved 9
 that the return was duly made and deposited in the post office, postage 10
 prepaid, properly directed to the commissioner, and that there was no 11
 neglect. If any return required by said section twenty or twenty-five 12
 contains a false statement which is known, or by the exercise of reason- 13
 able care might have been known, to the officers making it, to be false, 14
 such company shall be liable for the amount of tax thereby lost to the 15
 commonwealth, and each offending officer shall forfeit not less than five 16
 hundred nor more than five thousand dollars. 17

Assessment and notice to companies. Application for correction. Appeal. 1873, 141, § 8. 1878, 218, § 3. P. S. 13, § 35. 1890, 197, § 2. 1892, 129. R. L. 14, § 33. 1906, 271, § S. 1909, 490, III, § 35. 1910, 255. 1919, 349, § 15. 1922, 520, § 5. 1923, 378, § 4. 1926, 287, § 4. 1927, 225, § 2. 1930, 416, § 22.

SECTION 28. The commissioner, from such returns, and from such 1
 other evidence as he may obtain, shall assess upon all insurance com- 2
 panies subject to this chapter the taxes imposed by sections twenty to 3
 twenty-three, inclusive, and shall forthwith upon making such assess- 4
 ment give to every such company notice of the amount thereof. Such 5
 taxes shall become due and payable to the commissioner thirty days 6
 after the date of such notice but not later than July first. All such taxes 7
 shall bear interest at the rate of six per cent per annum from the date 8
 payable until July first and, whether assessed before or after July first, 9
 shall bear interest at the rate of twelve per cent per annum from July 10
 first until they are paid. Within sixty days after the date of such notice 11
 the company may apply to the commissioner for a correction of said 12
 excise, and in default of settlement may, upon application within thirty 13
 days of the date of notification of the commissioner's decision, be heard 14
 thereon by the board of tax appeals. If abatement of a tax paid is 15
 granted, the overpayment with interest thereon at the rate of six per 16
 cent per annum from the date of payment shall be refunded to the cor- 17
 poration by the state treasurer without any appropriation therefor by 18
 the general court. 19

Recovery of tax, and injunction. 1873, 141, § 10. 1878, 218, § 3. P. S. 13, § 37. 1887, 283, § 3. 1890, 197, § 2. 1892, 129. R. L. 14, § 34. 1909, 490, III, § 36. 1922, 520, § 6.

SECTION 29. Every domestic or foreign insurance company shall be 1
 liable for the full amount of all taxes assessed under this chapter upon 2
 it or its agents, which, with interest as provided in the preceding section, 3
 may be recovered in contract by the commissioner in the name of the 4
 commonwealth. It shall further be liable, upon an information, to an 5
 injunction restraining it and its agents from the further prosecution of 6
 its business until all taxes due with costs and interest are fully paid. 7

1923, 378, § 5.

TAXATION OF BUSINESS CORPORATIONS.

Definitions. 1923, 254, § 3; 438, § 5.

SECTION 30. When used in this section and sections thirty-one to 1
 fifty-two, inclusive, the following terms shall have the following meanings: 2

1924, 26, § 2.

244 Mass. 530.

252 Mass. 345.

1909, 490, III, § 39. 1919, 355, § 1. 1923, 438, § 5. 1930, 220, § 3.

1. "Domestic business corporations", every corporation organized 3
 under or subject to chapter one hundred and fifty-six, except corporations 4
 organized under the provisions of section ten of chapter one hundred and 5
 fifty-seven, and except domestic manufacturing corporations as defined 6
 in section thirty-eight C. 7

8 2. "Foreign corporations", every corporation, association or organiza-
 9 tion established, organized or chartered under laws other than those of
 10 the commonwealth, for purposes for which domestic corporations may
 11 be organized under chapter one hundred and fifty-six, which has a usual
 12 place of business in this commonwealth, or is engaged here, permanently
 13 or temporarily, in the construction, erection, alteration or repair of a
 14 building, bridge, railroad, railway or structure of any kind; provided,
 15 that said term shall not apply to such corporations, associations or organi-
 16 zations without capital stock as are subject to taxation under section
 17 eighteen of chapter one hundred and fifty-seven, or to foreign manufac-
 18 turing corporations as defined in section forty-two B.

1903, 437,
 §§ 56, 58,
 1905, 242,
 1909, 190,
 111, § 39,
 1919, 355, § 14,
 1923, 438, § 5,
 1930, 220, § 3,
 242 Mass. 47.

19 3. "Corporate excess", in the case of a domestic business corporation,
 20 except as hereinafter provided, the fair value of its capital stock on the last
 21 day of the taxable year as defined in paragraph numbered six of this sec-
 22 tion, less the value of the following on such date:

1919, 355, § 1,
 1925, 391, § 1,
 1926, 279, § 4,
 1927, 258, § 1,
 1931, 426, § 67,
 256 Mass. 419,
 261 Mass. 445.

23 (a) The works, structures, real estate, motor vehicles, machinery,
 24 poles, underground conduits, wires and pipes owned by it within the
 25 commonwealth subject to local taxation, except such part of said real
 26 estate as represents the interest of a mortgagee. The term "real estate",
 27 as used in this subdivision and in subdivision (a) of paragraph four of this
 28 section shall include the corporation's interest as lessee in such buildings
 29 on land held under a lease as by the terms of the lease are the property of
 30 and may be removed by the lessee, and such buildings, for the purposes of
 31 said subdivisions and of sections fifty-five and sixty-eight A, shall not be
 32 deemed real estate of the lessor.

33 (b) Securities, the income of which, if any, if received by a natural
 34 person resident in this commonwealth, would not be liable to taxation,
 35 except shares in national banks and voluntary associations, trusts and
 36 partnerships.

37 (c) Its real estate, machinery, merchandise and other tangible prop-
 38 erty situated in another state or country, except such part thereof as
 39 represents the interest of a mortgagee.

40 (d) If any portion of its cash and accounts and bills receivable, exclud-
 41 ing notes, is attributable to an office outside the commonwealth, the same
 42 proportion of its cash and accounts and bills receivable, excluding notes,
 43 which its real estate, machinery and merchandise situated in another
 44 state or country bear to its total real estate, machinery and merchandise,
 45 to the extent that such proportion fairly represents, in the judgment of
 46 the commissioner, the amount which is properly allocable to such other
 47 state or country.

48 If by reason of recent organization, or otherwise, the corporation is not
 49 required to make to the commissioner a return of net income for a taxable
 50 year, the value of the corporate excess shall be determined as of the first
 51 day of April when the return called for by section thirty-five is due.

52 4. "Corporate excess employed within the commonwealth" by a
 53 foreign corporation, except as hereinafter provided, such proportion of
 54 the fair value of its capital stock on the last day of the taxable year as
 55 defined in paragraph numbered six of this section, as the value of the
 56 assets, both real and personal, employed in any business within the com-
 57 monwealth on that date, bears to the value of the total assets of the cor-
 58 poration on said date, less the value of the following on such date:

1919, 355,
 § 1, 15 (1)
 1925, 391, § 1
 1926, 279, § 5,
 1927, 258, § 1,
 256 Mass. 419.

59 (a) Works, structures, real estate, motor vehicles, machinery, poles,
 60 underground conduits, wires and pipes owned by it within the common-

wealth subject to local taxation, except such part of said real estate as 61
represents the interest of a mortgagee. 62

(b) Securities held in the commonwealth, the income of which, if any, 63
if received by a natural person resident therein, would not be liable to 64
taxation, except shares in national banks, voluntary associations, trusts 65
and partnerships. In determining the proportion of assets employed 66
within the commonwealth, the commissioner may include such bank 67
deposits in other states as are employed principally in the conduct of the 68
business in the commonwealth. 69

If by reason of recent organization, or otherwise, the corporation is not 70
required to make to the commissioner a return of net income for a taxable 71
year, the value of the corporate excess employed in this commonwealth 72
shall be determined as of the first day of April when the annual return 73
called for by section forty is due. 74

1919, 355,
§§ 3, 16,
1922, 302,
1925, 265, § 1;
343, §§ 1A, 13,
1926, 222
1930, 250, § 3.
252 Mass. 193.
264 Mass. 396.
269 U. S. 620.

5. "Net income", except as otherwise provided in sections thirty-four 75
and thirty-nine, the net income for the taxable year as required to be 76
returned by the corporation to the federal government under the federal 77
revenue act applicable for the period, adding thereto any net losses, as 78
defined in said federal revenue act, that have been deducted and all 79
interest and dividends not so required to be returned as net income which 80
would be taxable if received by an individual inhabitant of the common- 81
wealth; provided that net income as defined in this paragraph shall not 82
include interest from bonds, notes or certificates of indebtedness of the 83
United States or of any federal instrumentality, if such interest is by the 84
constitution of the United States or by act of congress exempt from taxa- 85
tion under this chapter. 86

1919, 355, § 1.
242 Mass. 37.
252 Mass. 193.

6. "Taxable year", the fiscal or calendar year for which the corpora- 87
tion was required to make its last return to the federal government due 88
prior to April first of the year in which the tax is to be assessed, or, if 89
such return was for a fractional period, a full year, including and ending 90
with such fractional period. 91

Corporate
excess, ele-
ments included
or not deduc-
ed in deter-
mining.
1919, 355,
§§ 1, 15,
1927, 258, § 2.
244 Mass. 530.
256 Mass. 419.

SECTION 31. In determining the corporate excess of a domestic busi- 1
ness corporation, or the corporate excess employed within the common- 2
wealth by a foreign corporation, the surplus and undivided profits shall 3
be included in estimating the value of the capital stock, and there shall 4
not be deducted the value of shares in national banks and in voluntary 5
associations, trusts and partnerships, nor of other securities the income 6
of which, if owned by a natural person resident in this commonwealth, 7
would be liable to taxation, nor shall there be deducted the value of any 8
shares of stock of the corporation itself owned directly or indirectly by 9
it or for its benefit; and the commissioner, in determining for the pur- 10
poses of taxation the value of the corporate excess of, or corporate excess 11
employed within the commonwealth by, any such corporation, shall not 12
take into consideration any debts of the corporation unless he is satisfied 13
that no part of such debts was incurred for the purpose of reducing the 14
amount of taxes to be paid by it, and, in the case of a corporation which is 15
a subsidiary of another corporation or closely affiliated therewith by stock 16
ownership, that such debts represent only the fair value of the property 17
or services given therefor. 18

Domestic Corporations.

1 SECTION 32. Except as otherwise provided in sections thirty-four
 2 and thirty-eight B, every domestic business corporation shall pay annu-
 3 ally, with respect to the carrying on or doing of business by it, an excise
 4 equal to the sum of the following, provided, that every such corporation
 5 shall pay annually a total excise not less in amount than one twentieth
 6 of one per cent of the fair value of its capital stock on the day fixed for
 7 determination of the value of its corporate excess: —
 8 (1) An amount equal to five dollars per thousand upon the value of its
 9 corporate excess.
 10 (2) An amount equal to two and one half per cent of its net income
 11 determined to be taxable in accordance with the provisions of this chapter.

Excise on
 domestic
 business
 corporations.
 1919, 355, § 2.
 1920, 549, § 1.
 1923, 424, § 1.
 1926, 338, § 6.
 1927, 258, § 3.
 1929, 359, § 2.
 242 Mass. 37.
 244 Mass. 530.
 248 Mass. 137.
 261 Mass. 450.
 264 Mass. 396.
 270 Mass. 19.

1 SECTION 32A. Every domestic business corporation deriving its
 2 profits principally from the ownership, sale, rental or use of real estate or
 3 tangible personal property shall pay annually, with respect to the carry-
 4 ing on or doing of business by it, a total excise under this chapter not less
 5 in amount than one twentieth of one per cent of said corporation's gross
 6 receipts from business assignable to this commonwealth as defined in
 7 clause six of section thirty-eight.

Excise on
 such cor-
 porations prin-
 cipally dealing
 in real estate
 or tangible
 personal prop-
 erty.
 1923, 424, § 2.
 265 Mass. 210.

1 SECTION 33. If a domestic business corporation which is a subsidiary
 2 of a foreign corporation or closely affiliated therewith by stock ownership
 3 is so managed that, because of payments made to such other corporation
 4 or its officers in excess of the fair value of the property or services given
 5 therefor, its books of account will not show its true earnings, it shall pay
 6 as a minimum tax under this chapter an amount equal to one tenth of
 7 one per cent of the said corporation's gross receipts for the taxable year
 8 from business assignable to this commonwealth as defined in clause six of
 9 section thirty-eight, unless it shall file, within ten days of a notice by the
 10 commissioner of his determination to assess the corporation under this sec-
 11 tion, a statement of its net income showing to the satisfaction of the com-
 12 missioner its true earnings for the taxable year, eliminating therefrom
 13 all payments to such other corporation or its officers in excess of the fair
 14 value of the property or services given therefor.

Minimum tax
 of subsidiaries,
 etc.
 1919, 355, § 2.
 1920, 549, § 1.
 1922, 492, § 1.
 244 Mass. 530.

1 SECTION 34. If two or more domestic business corporations partici-
 2 pated in the filing of a consolidated return of income to the federal gov-
 3 ernment, the tax under paragraph (2) of section thirty-two may, at their
 4 option, be assessed upon their combined net income, which tax shall be
 5 assessed to all said corporations and collected from any one or more of
 6 them. In the case of domestic business corporations thus affiliated and
 7 not electing, under the foregoing provision, to be assessed upon their
 8 combined net income, and in the further case of one or more domestic
 9 business corporations filing with one or more foreign corporations a con-
 10 solidated return of net income to the federal government, each such
 11 domestic business corporation shall file with the commissioner, as a
 12 part of its return required by this chapter, a statement of net income in
 13 such form as he may prescribe, showing its gross income and deductions
 14 in accordance with the law and regulations governing the usual federal
 15 returns of corporations not thus affiliated, and the net income thus shown,
 16 after making deductions therefrom and additions thereto as provided in

Net income
 where federal
 return con-
 solidated.
 1919, 355, § 2.
 1920, 549, § 1.
 244 Mass. 530.

paragraph five of section thirty, shall be the "net income" under this chapter. 17
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SECTION 34A. [INSERTED, 1923, 254, § 1; REPEALED, 1924, 26, § 1.] 1

Returns.
1919, 355, § 4.
244 Mass. 530.

SECTION 35. Every domestic business corporation shall, within the first ten days of April, make a return as of April first, sworn to by its treasurer or assistant treasurer, or in their absence or incapacity by any other principal officer, in such form as the commissioner prescribes, giving (a) a copy of such parts as he may designate of the federal return or returns for the year on the income of which the tax is to be assessed, which it has made singly or with one or more other corporations, (b) such other data as he requires to determine the proportion of net income derived from business carried on within the commonwealth, (c) such information as he requires for the determination of the corporate excess. Whenever the time for filing its federal return has been extended, the commissioner may extend the time for filing such return. 1
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Correction
of return
Additional tax.
1919, 355, § 5.
1927, 148
244 Mass. 530.
268 Mass. 355.

SECTION 36. If the assessment made by the federal government is based upon a net income greater or less than the net income returned by said corporation, or if an additional assessment is at any time made on the ground that the net income was incorrectly returned in the first instance, or if, after the tax as assessed is paid to the federal government, any part of such tax is refunded, the corporation, within seventy days after the receipt of notice of said fact, shall make return on oath to the commissioner of the amount by which the net income originally returned differs from the net income on which the tax was computed by the federal government upon the latest determination by it of the proper tax, and of the facts giving rise to the difference; provided that in case the corporation appeals from a decision of the commissioner of internal revenue or from a decision of the United States board of tax appeals, the return required by this section shall be made within thirty days after notice of the final determination on such appeal. If upon such facts an additional tax is due the commonwealth, the commissioner shall assess the additional tax, and the corporation shall, within thirty days after receipt of notice from the commissioner of the amount thereof, pay such additional tax with interest at six per cent from October twentieth of the year in which the original return of the corporation was due to be filed. If upon said facts a less tax is due the commonwealth than that paid by the corporation, the state treasurer shall, upon certification of the commissioner, repay within thirty days such difference with interest at the rate of six per cent from the date of the overpayment without any further statutory appropriation therefor. The provisions of this section shall not be construed to authorize the commissioner to make any assessment, the time for making which has by law expired, except assessment, with interest as aforesaid, of such amount of additional tax as is incident to the increase in federal net income, nor to authorize refund in excess of the amount of tax paid with respect to the difference in net income determined by the federal reduction, with interest as aforesaid. 1
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Determination
of net income
from business
in common-
wealth. Al-

SECTION 37. The commissioner shall determine, in the manner provided in this and the following section, the part of the net income of a domestic business corporation derived from business carried on within 1
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3

4 the commonwealth. The following classes of income shall be allocated
5 as follows:

location of
certain classes
of income
1919, 355, § 6
1920, 415, § 2.
1925, 343,
§ 1B, 13.
1930, 222,
1931, 426,
§ 187
244 Mass. 530

6 (a) Interest and dividends included in net income as defined in sec-
7 tion thirty of this chapter shall be allocated to this commonwealth.

8 (b) Gains realized from the sale of capital assets, if such assets con-
9 sist of intangible property or if they consist of real estate or tangible per-
10 sonal property situated in the commonwealth, shall be allocated to this
11 commonwealth.

12 (c) Gains received from the sale of capital assets, if such assets con-
13 sist of real estate or tangible personal property situated outside the
14 commonwealth, shall not be allocated in any part to this commonwealth.

1 SECTION 38. Income of the classes described in the preceding section
2 having been allocated, the remainder of the net income as defined in
3 section thirty shall be allocated as follows:

Same subject.
Allocation of
remainder of
net income.
Deduction.
1919, 355, § 6.
1920, 415, § 2.
1926, 338, § 1.
244 Mass. 530.
261 Mass. 450.

4 1. If the corporation carries on no business outside the commonwealth,
5 the whole of said remainder shall be allocated to this commonwealth.

6 2. If the corporation carries on any business outside the common-
7 wealth, the said remainder shall be divided into three equal parts:

8 (a) Of one third, such portion shall be attributed to business carried
9 on within the commonwealth as shall be found by multiplying said third
10 by a fraction whose numerator is the value of the corporation's tangible
11 property situated within the commonwealth and whose denominator is
12 the value of all the corporation's tangible property wherever situated.

13 (b) Of another third, such portion shall be attributed to business
14 carried on within the commonwealth as shall be found by multiplying
15 said third by a fraction whose numerator is the expenditure of the cor-
16 poration for wages, salaries, commissions or other compensation to its
17 employees, and assignable to this commonwealth as hereinafter provided,
18 and whose denominator is the total expenditure of the corporation for
19 wages, salaries, commissions or other compensation to all its employees.

20 (c) Of the remaining third, such portion shall be attributed to busi-
21 ness carried on within the commonwealth as shall be found by multi-
22 plying said third by a fraction whose numerator is the amount of the
23 corporation's gross receipts from business assignable to this common-
24 wealth as hereinafter provided, and whose denominator is the amount
25 of the corporation's gross receipts from all its business.

26 3. In a case where only two of the foregoing three rules are applicable,
27 the said remainder of net income of the corporation shall be divided
28 into two equal parts only, each of which shall be apportioned in accord-
29 ance with one of the remaining two rules. If only one of the three rules
30 is applicable, the part of the net income received from business carried
31 on within the commonwealth shall be determined solely by that rule.

32 4. The value of the corporation's tangible property for the purposes
33 of this section shall be the average value of such property during the
34 taxable year.

35 5. The amount assignable to this commonwealth of expenditure of
36 the corporation for wages, salaries, commissions or other compensation
37 to its employees shall be such expenditure for the taxable year as repre-
38 sents the compensation of employees not chiefly situated at, connected
39 with or sent out from premises for the transaction of business owned or
40 rented by the corporation outside the commonwealth.

41 6. The amount of the corporation's gross receipts from business as-
42 signable to this commonwealth shall be the amount of its gross receipts

for the taxable year from (a) sales, except those negotiated or effected in behalf of the corporation by agents or agencies chiefly situated at, connected with or sent out from premises for the transaction of business owned or rented by the corporation outside the commonwealth and sales otherwise determined by the commissioner to be attributable to the business conducted on such premises, (b) rentals or royalties from property situated, or from the use of patents, within the commonwealth; provided, that upon application by a corporation which owns or controls substantially all the capital stock of another corporation, or by the corporation so owned or controlled, the commissioner may impose the tax provided for by this chapter upon the income of the two corporations jointly in the same manner as though they were a single corporation, or may, in such other manner as he shall determine, equitably adjust the tax of the applying corporation.

7. If a corporation maintains an office, warehouse or other place of business in a state other than this commonwealth for the purpose of reducing its tax under this chapter, the commissioner shall, in determining the amount of its gross receipts from business assignable to this commonwealth, include therein the gross receipts from sales attributed by the corporation to the business conducted at such place of business in another state.

8. In the case of consolidated returns of net income, the commissioner shall allocate such income, so far as practicable, in accordance with the above rules.

9. A rule shall not be deemed to be inapplicable merely because all the tangible property or the expenditure of a corporation for wages, salaries, commissions or other compensation, or the gross receipts of the corporation, are found to be situated, incurred, or received without the commonwealth.

10. [REPEALED, 1926, 338, § 1.]

Computation
of net taxable
income.
1926, 338, § 2.
1930, 229, § 4.

SECTION 38A. The net income of a domestic business corporation allocated to this commonwealth shall be its net income subject to tax under this chapter.

Taxation of
certain
corporations
dealing
exclusively
in securities.
1929, 359, § 1.
1931, 366, § 1.

SECTION 38B. Every domestic business corporation, which is engaged exclusively in buying, selling, dealing in, or holding, securities on its own behalf and not as a broker, shall pay annually an excise equal to the sum of the following and such a corporation shall not be subject to the excise imposed by section thirty-two:

(a) An amount equal to six per cent of such income, received by the corporation during the preceding calendar year, as would be subject to taxation under section one of chapter sixty-two, if received by a natural person resident in this commonwealth; provided, that the corporation shall receive a deduction on account of interest paid, in the same manner and to the same extent that a natural person is entitled to receive such a deduction under sections two and three of said chapter sixty-two.

(b) An amount equal to one and one half per cent of such income, received by the corporation during the preceding calendar year, as would be subject to taxation under clause (b) of section five of said chapter sixty-two, if received by a natural person resident in this commonwealth, the same to be computed in accordance with the provisions of section six of said chapter sixty-two, so far as applicable, but without

19 deducting any exemption under authority of said clause (b) and without
 20 making any deduction under clause (g) or (h) of said section six.

21 (c) An amount equal to three per cent of the excess of the gains over
 22 the losses received by the corporation during the preceding calendar
 23 year from purchases or sales of intangible personal property.

24 But in no event shall the total excise so payable by such a corporation
 25 be less in amount than one twentieth of one per cent of the fair value of
 26 its capital stock on the last day of the taxable year as defined in para-
 27 graph numbered six of section thirty.

28 Such a corporation shall annually on or before April tenth, file a return
 29 in such form as the commissioner shall prescribe giving such informa-
 30 tion as he shall require for determination of the excise under this section.
 31 The commissioner shall assess and collect said excise, and all provisions
 32 of this chapter relative to the assessment, collection, payment, abate-
 33 ment, verification and administration of the excise imposed by said
 34 section thirty-two, including penalties, shall, so far as pertinent, be
 35 applicable to the excise determined under this section.

1 SECTION 38C. Every corporation organized under or subject to
 2 chapter one hundred and fifty-six which is engaged in manufacturing
 3 shall, for the purposes of this chapter, be deemed to be a domestic manu-
 4 facturing corporation. Every domestic manufacturing corporation shall
 5 be taxed in the same manner and shall have the same duties under this
 6 chapter as a domestic business corporation, except that from the net
 7 income of a domestic manufacturing corporation, allocated to this
 8 commonwealth, there shall be deducted the same proportion thereof
 9 which the fair cash value of machinery owned by the corporation and
 10 used in manufacturing in the commonwealth bears to the value of its
 11 total assets employed in the commonwealth, and the amount remaining
 12 shall be its net income subject to tax under this chapter. All provisions
 13 of this chapter relative to the assessment, collection, payment, abate-
 14 ment, verification and administration of taxes, including penalties,
 15 applicable to domestic business corporations shall, so far as pertinent,
 16 be applicable to taxes upon domestic manufacturing corporations.

Domestic
 manufacturing
 corporations,
 classification
 and taxation.
 Machinery
 deduction
 from net in-
 come.
 1930, 220, § 5.

Foreign Corporations.

1 SECTION 39. Except as otherwise provided herein, every foreign
 2 corporation shall pay annually, with respect to the carrying on or doing
 3 of business by it within the commonwealth, an excise equal to the sum
 4 of the following, provided that every such corporation shall pay annually
 5 a total excise not less in amount than one twentieth of one per cent of
 6 such proportion of the fair value of its capital stock as the assets, both
 7 real and personal, employed in any business within the commonwealth
 8 on the day fixed for determination of the value of the corporate excess
 9 employed within the commonwealth bear to the total assets of the corpo-
 10 ration employed in business on said date:

11 (1) An amount equal to five dollars per thousand upon the value of the
 12 corporate excess employed by it within the commonwealth.

13 (2) An amount equal to two and one half per cent of its net income
 14 determined to be taxable in accordance with the provisions of this chapter.

15 If two or more foreign corporations doing business in this common-
 16 wealth participated in the filing of a consolidated return of income to the
 17 federal government, the tax under paragraph (2) above may, at their

Excise on
 foreign cor-
 porations.
 1919, 355, § 15.
 1920, 549, § 2.
 1923, 424, § 3.
 1924, 26, § 3.
 1926, 338, § 7.
 1927, 258, § 4.
 242 Mass. 47.
 244 Mass. 530.
 252 Mass. 345.
 253 Mass. 529.
 254 Mass. 609.
 256 Mass. 270.
 419.
 261 Mass. 110.
 264 Mass. 396.

option, be assessed upon their combined net income, in which case the tax shall be assessed to all said corporations and collected from any one or more of them. Foreign corporations thus affiliated and doing business in this commonwealth, which do not elect, under the foregoing provision, to be assessed upon their combined net income, and all other foreign corporations doing business in this commonwealth, which have filed with one or more corporations not subject to this section a consolidated return of net income to the federal government, shall each file with the commissioner, as a part of the return required by this chapter, a statement of net income in such form as he may prescribe, showing the gross income and deductions in accordance with the law and regulations governing the usual federal returns of corporations not thus affiliated; and the net income thus shown, after making deductions therefrom and additions thereto as provided in paragraph five of section thirty, shall be the "net income" under this chapter.

Minimum tax on subsidiaries. 1922, 492, § 2. 244 Mass. 530.

SECTION 39A. The provisions of section thirty-three imposing a minimum tax upon domestic business corporations in certain cases shall, in like cases, apply to foreign corporations with respect to the carrying on or doing of business by them in the commonwealth.

SECTION 39B. [INSERTED, 1923, 254, § 2; REPEALED, 1924, 26, § 1.]

Excise on gross receipts of corporations principally dealing in real estate or tangible personal property. 1923, 424, § 4.

SECTION 39C. Every foreign corporation deriving its profits principally from the ownership, sale, rental or use of real estate or tangible personal property shall pay annually, with respect to the carrying on or doing of business by it, a total excise under this chapter not less in amount than one twentieth of one per cent of said corporation's gross receipts from business assignable to this commonwealth as defined in clause six of section thirty-eight.

Returns, etc., of foreign corporations. 1919, 355, § 17, 18. 242 Mass. 47. 244 Mass. 530.

SECTION 40. Every foreign corporation shall make returns as provided in sections thirty-five and thirty-six; and all provisions of said sections shall apply to such corporations, except that the term "corporate excess" in said section thirty-five shall, in the case of a foreign corporation, mean the corporate excess employed by it within the commonwealth.

Determination of net income from business in commonwealth. Allocation of income. 1919, 355, § 19. 1920, 415, § 5; 519, § 3. 1925, 313, § 2, 13. 1926, 222; 338, § 3. 235 Mass. 572. 242 Mass. 47. 244 Mass. 530.

SECTION 41. The commissioner shall, except as otherwise provided in section forty-two, determine in the manner provided in this section the part of the net income of a foreign corporation derived from business carried on within the commonwealth.

The following classes of income shall be allocated as follows: —

(a) Gains realized from the sale of capital assets, if such assets consist of real estate or tangible personal property situated in the commonwealth, shall be allocated to this commonwealth.

(b) Interest received from any corporation organized under the laws of the commonwealth, or from any association, partnership or trust having transferable shares and having its principal place of business in the commonwealth, or from any inhabitant of the commonwealth, except interest received on deposits in trust companies or in national banks doing business in the commonwealth, shall be allocated to this commonwealth.

15 (c) Gains realized from the sale of capital assets other than those
16 named in paragraph (a) above shall not be allocated in any part to this
17 commonwealth.

18 (d) Interest other than that described in paragraph (b) above and
19 dividends shall not be allocated in any part to this commonwealth.

20 Income of the foregoing classes having thus been allocated, the re-
21 mainder of the net income as defined in section thirty shall be allocated
22 as follows:—

23 If a foreign corporation carries on no business outside this common-
24 wealth, the whole of said remainder shall be allocated to this common-
25 wealth.

26 If a foreign corporation carries on any business outside this common-
27 wealth, the remainder of the net income shall be allocated as provided in
28 paragraphs 2 to 9, inclusive, of section thirty-eight.

1 SECTION 42. A foreign corporation carrying on part of its business
2 outside the commonwealth may, by notification to the commissioner on
3 or before the time when its return under this chapter is due to be filed,
4 refuse to accept the allocating method set forth in the preceding section.
5 A foreign corporation, which so refuses, and every such corporation,
6 which is foreign to the United States and which is required to return to the
7 federal government only income from sources within the United States,
8 shall, on or before May tenth, file with the commissioner, under oath of
9 its treasurer, a statement in such detail as the commissioner shall require,
10 showing the amount of its annual net income derived from business
11 carried on within the commonwealth, and such further information as
12 the commissioner may require with reference thereto, and the commis-
13 sioner shall determine the amount of the net income received from busi-
14 ness carried on within the commonwealth. The amount thus deter-
15 mined, after making the deduction provided for by section forty-two
16 A, shall be the net income taxable under this chapter and the foregoing
17 determination shall be in lieu of the determination required by the pre-
18 ceding section.

Same, alterna-
tive method
1919, 355, § 20,
1926, 338, § 4,
242 Mass. 47,
244 Mass. 530.

1 SECTION 42A. The net income of a foreign corporation allocated to
2 this commonwealth shall be its net income subject to tax under this
3 chapter.

Computation
of net tax-
able income.

1926, 338, § 5.

1930, 220, § 6.

1 SECTION 42B. Every corporation, association or organization estab-
2 lished, organized or chartered under laws other than those of the com-
3 monwealth, which has a usual place of business in the commonwealth
4 and is engaged in manufacturing therein, shall, for the purposes of this
5 chapter, be deemed a foreign manufacturing corporation. Every for-
6 eign manufacturing corporation shall be taxed in the same manner and
7 shall have the same duties under this chapter as other foreign corpora-
8 tions, except that from the net income of a foreign manufacturing corpo-
9 ration, allocated to this commonwealth, there shall be deducted the
10 same proportion thereof which the fair cash value of machinery owned
11 by the corporation and used in manufacturing in the commonwealth
12 bears to the value of its total assets employed in the commonwealth,
13 and the amount remaining shall be its net income subject to tax under
14 this chapter. All provisions of this chapter relative to the assessment,
15 collection, payment, abatement, verification and administration of taxes,

Foreign man-
ufacturing
corporations,
machinery
deduction
from net
income
1930, 220, § 7.

including penalties, applicable to other foreign corporations shall, so far as pertinent, be applicable to taxes upon foreign manufacturing corporations.

Credit for dividends paid to inhabitants. 1919, 355, § 21. 242 Mass. 47. 244 Mass. 530.

SECTION 43. After determining the amount of tax due from any foreign corporation under paragraph (2) of section thirty-nine, the commissioner shall then credit the corporation with a sum equal to five per cent of the dividends paid by it, during the previous calendar year, to inhabitants of this commonwealth, and the amount then remaining due shall be the amount of tax to be levied upon the corporation under said paragraph; provided, that if more than one half of the capital stock of any such corporation is owned by another foreign corporation not subject to taxation under sections thirty to fifty-one, inclusive, but has stockholders who are inhabitants of this commonwealth and are subject to taxation upon their income under section one of chapter sixty-two, such corporation, upon filing with the commissioner such information as he shall deem necessary for the purpose, shall be credited with a sum equal to five per cent of such a proportion of its total dividends as will prevent double taxation of the income of the corporation and of the dividends of such other foreign corporation actually taxed to inhabitants of this commonwealth.

Assessment and Collection.

Assessment of tax. 1919, 355, §§ 7, 22. 256 Mass. 410.

SECTION 44. The commissioner shall determine, from the returns required by this chapter and from any other available information, the net income derived from business carried on within the commonwealth and the corporate excess of every domestic business corporation, and the net income derived from business carried on within the commonwealth of, and the corporate excess employed within the commonwealth by, every foreign corporation, and shall assess thereon the tax provided for in this chapter. Except as otherwise provided in this chapter, the part of said tax which is based upon the value of the corporate excess, or corporate excess employed within the commonwealth, shall be assessed and collected in the same manner and with the same powers as provided in this chapter for the taxation of corporate franchises, and shall be subject to the other administrative provisions thereof. He shall not determine the income of any such corporation, which has filed a return within the time prescribed by law, to be in excess of the income shown by such return, without notifying the corporation and giving it an opportunity to explain the apparent incorrectness of the return. For the purpose of verifying any such return, the commissioner may, within two years after September first of the year in which such return was due, examine personally or by deputy or agent the books and papers of the corporation, which shall be open to such officer for verification.

Assessment of additional tax. 1919, 355, §§ 7, 22. 1922, 520, § 7. 1951, 426, § 68.

SECTION 45. If the commissioner discovers from the verification of a return, or otherwise, that the full amount of any tax due under sections thirty to fifty-one, inclusive, has not been assessed, he may, at any time within two years after September first of the year in which such assessment should have been made, assess the same, first giving notice to the corporation to be assessed of his intention; and a representative of the corporation shall thereupon have an opportunity, within ten days after such notification, to confer with the commissioner as to the proposed

9 assessment. After the expiration of ten days from the notification the
 10 commissioner shall assess the amount of the tax remaining due to the
 11 commonwealth, and shall give notice to the corporation so assessed.
 12 Any tax so assessed shall be payable to the commissioner fourteen days
 13 after the date of the notice.

1 SECTION 46. If no return, or an incorrect or insufficient return, has
 2 been filed, and the corporation so in default refuses or neglects after
 3 notice to file a proper return, or if a fraudulent return has been filed, the
 4 commissioner shall determine the income of the corporation according
 5 to his best information and belief, and shall assess the same at double
 6 the amount so determined, which additional tax shall be in addition to
 7 the other penalties provided for by this chapter.

Double assess-
 ment for re-
 fusal to file, or
 fraudulent
 return.
 1919, 355,
 §§ 7, 22.

1 SECTION 47. The commissioner shall make from time to time such
 2 reasonable rules and regulations, consistent with sections thirty to fifty-
 3 one, inclusive, as he may deem necessary for carrying out their provisions.

Regulations.
 1919, 355,
 §§ 7, 22.

1 SECTION 48. Except as provided by section forty-five, the com-
 2 missioner shall annually, as soon as may be after the first Monday of
 3 August, give notice to the treasurer of each corporation of the amount
 4 of any tax levied upon it under sections thirty to fifty-one, inclusive, of
 5 the date upon which such amount is payable and of the time within
 6 which the corporation may apply for a correction of the tax; but failure
 7 to receive said notice shall not affect the validity of the tax. Such
 8 taxes shall be payable to the commissioner within thirty days after the
 9 date of said notice, but not before October twentieth. In the collection
 10 of all taxes under said sections thirty to fifty-one, inclusive, the com-
 11 missioner shall have all the remedies provided by this chapter for the
 12 collection of other taxes upon corporations.

Notice of tax.
 Time of pay-
 ment.
 Collection by
 commissioner.
 1919, 355,
 §§ 8, 11, 23, 26,
 1920, 415,
 §§ 3, 6,
 1922, 520, § 8.

1 SECTION 49. If a corporation fails to file the returns required by
 2 sections thirty-five, thirty-six and forty when they are due, there shall
 3 be added to and become a part of the tax, as an additional tax, the sum
 4 of five dollars for every day during which the corporation is in default;
 5 but the commissioner may abate any such additional tax in whole or in
 6 part.

Penalty for
 late return.
 1919, 355,
 §§ 9, 24.

1 SECTION 50. If any return required by section thirty-five, thirty-six
 2 or forty contains a false statement which is known or, by the exercise of
 3 reasonable care might have been known to the officer making it to be
 4 false, such officer and the corporation shall be liable for the amount of
 5 tax thereby lost to the commonwealth, and in addition to a penalty of
 6 not less than five hundred nor more than five thousand dollars.

Penalty for
 false statement.
 1919, 355,
 §§ 9, 24.

1 SECTION 51. Any corporation aggrieved by the assessment of a tax
 2 under sections thirty to fifty, inclusive, may apply to the commissioner
 3 for an abatement thereof at any time within sixty days after the date
 4 upon which the notice of assessment is sent; and if after a hearing or
 5 otherwise the commissioner finds that the tax is excessive in amount or
 6 that the corporation assessed is not subject thereto, he shall abate it in
 7 whole or in part accordingly. If the tax has been paid the state treasurer
 8 shall repay to the corporation assessed the amount of such abatement,

Abatements.
 Appeals.
 1919, 355,
 §§ 10, 25,
 1920, 385, § 3,
 1926, 287, § 5,
 1927, 225, § 3,
 218 Mass. 156,
 252 Mass. 345.

with interest thereon at the rate of six per cent per annum from the time when it was paid. Any corporation aggrieved by the refusal of the commissioner to abate a tax in whole or in part under this section may appeal in the manner provided by section seventy-one.

Constitutionality.

Unconstitutionality, etc., of §§ 30-51, eff. 1919, 355, § 32. 1920, 549, § 1. 1920, 219, 1930, 422. 244 Mass. 530. 253 Mass. 529. 256 Mass. 270.

SECTION 52. If the provisions of section thirty-two imposing an excise on domestic business corporations and, by reference in section thirty-eight C, on domestic manufacturing corporations as therein defined are declared unconstitutional or inoperative by a final judgment, order or decree of the supreme court of the United States or of the supreme judicial court of the commonwealth, such portion of the law relating to business corporations, and domestic manufacturing corporations as so defined, as set forth in sections thirty to fifty-one, inclusive, as relates solely to domestic business corporations, and domestic manufacturing corporations as so defined, shall be null and void, and such portion of said law as relates in part to domestic business corporations, and domestic manufacturing corporations as so defined, shall become inapplicable to such corporations. In such event, all laws applicable to domestic business corporations, including domestic manufacturing corporations as so defined, which were repealed or were made inoperative as to, or inapplicable to, such corporations by chapter three hundred and fifty-five of the General Acts of nineteen hundred and nineteen shall thereupon be revived and become operative and applicable in respect to such corporations and shall be continued in full force and effect from the first day of January antedating by three years the first day of January of the calendar year in which such final judgment, order or decree is entered, to the same extent as if said chapter three hundred and fifty-five had not been enacted. If the provisions of section thirty-nine imposing an excise on foreign corporations and, by reference in section forty-two B, on foreign manufacturing corporations as therein defined are declared unconstitutional or inoperative by any such final judgment, order or decree, such portion of the law relating to business corporations, and foreign manufacturing corporations as so defined, as set forth in sections thirty to fifty-one, inclusive, as relates solely to foreign corporations and foreign manufacturing corporations as so defined shall be null and void, and such portion of said law as relates in part to foreign corporations and foreign manufacturing corporations as so defined shall become inapplicable to such corporations. In such event, all laws applicable to foreign corporations, including foreign manufacturing corporations as so defined, which were repealed, or were made inoperative as to, or inapplicable to, such corporations or to the property thereof by said chapter three hundred and fifty-five shall thereupon be revived and become operative and applicable in respect to such corporations and the property thereof and shall be continued in full force and effect from the first day of January antedating by three years the first day of January of the calendar year in which such final judgment, order or decree is entered, to the same extent as if said chapter three hundred and fifty-five had not been enacted. The commissioner and the local assessors shall as soon as may be assess all taxes for which liability has been incurred under the laws revived, made operative or applicable or continued in force by the foregoing provisions or any of them. The time for assessing such taxes shall be extended for a period of one year from the date of entry of such final judgment, order or decree

48 and, for performing any duty subsequent to assessment, the time shall
 49 be extended for a further period after such assessment commensurate
 50 with the period which would have obtained under the laws hereby revived
 51 and again made operative, applicable and continued in force. Privileges
 52 and rights granted shall be correspondingly extended. Excises declared
 53 invalid by reason of the foregoing premises, which were assessed on or
 54 after the date when the laws repealed or made inoperative or inapplicable
 55 by said chapter three hundred and fifty-five are revived, made operative
 56 or applicable or continued in force as herein provided, shall, to the extent
 57 that such excises have been paid and are unrefunded, be credited against
 58 the taxes assessed for the same period under the laws revived and again
 59 made operative, applicable and continued in force; provided, that if such
 60 credit exceeds the taxes due, the excess shall be refunded upon warrant
 61 of the commissioner to the state treasurer. There shall be no further or
 62 other recovery of the amounts thus credited or refunded. If any part,
 63 section or subdivision of said sections thirty to fifty-one, inclusive, other
 64 than the provisions in section thirty-two, thirty-eight C, thirty-nine or
 65 forty-two B imposing an excise, shall be declared unconstitutional or
 66 inoperative, the remaining parts of said sections thirty to fifty-one,
 67 inclusive, shall not be affected thereby.

TAXATION OF CORPORATE FRANCHISES.

1 SECTION 53. Every corporation organized under general or special
 2 laws of the commonwealth for purposes of business or profit, having a
 3 capital stock divided into shares, except banks otherwise taxable under
 4 this chapter, except insurance companies with capital stock and mutual
 5 insurance companies with a guaranty capital or permanent fund whose
 6 premiums are otherwise taxable under this chapter, and except corpora-
 7 tions taxable under sections thirty to fifty-one, inclusive, in addition to
 8 all returns required by its charter, and in addition to all returns other-
 9 wise required under this chapter, shall annually, between April first
 10 and tenth, make a return to the commissioner, on oath of its treasurer,
 11 stating the name and place of business of the corporation, and setting
 12 forth as of April first of the year in which the return is made:
 13 First. The total authorized amount of its capital stock; the amount
 14 issued and outstanding and the amount then paid thereon; the classes,
 15 if any, into which it is divided; the par value and number of its shares;
 16 the market value of the shares of each class of its stock outstanding.
 17 Second. A statement in such detail as the commissioner may require
 18 of the assets, both within and without the commonwealth, belonging to
 19 the corporation, with the value thereof, and of the liabilities of the
 20 corporation.
 21 Third. A statement, in a form prescribed by the commissioner, of the
 22 profit or loss resulting from the business of the corporation for the twelve
 23 months ending with December thirty-first preceding the year in which
 24 the return is made.
 25 Fourth. A complete list of the shareholders of the corporation, their
 26 residences, by city or town and state, the amount and class of stock,
 27 if more than one, belonging to each. If stock is held as collateral secur-
 28 ity, the list shall state the name and residence of the pledgor and of the
 29 pledgee. In lieu of such list a railroad, street railway, electric railroad,
 30 gas, electric, water, telephone or telegraph corporation may file a state-
 31 ment of the number of its shares held by non-residents.

Annual returns
 to commis-
 sioner.
 1864, 208,
 §§ 2, 3.
 1865, 283, § 3.
 1880, 117, § 2.
 P. S. 13, § 38.
 1885, 238, § 1.
 1886, 270.
 1888, 413, § 24.
 1898, 417;
 578, § 2.
 R. L. 14, § 37.
 1902, 342, § 2.
 1903, 437, § 48.
 1906, 463,
 II, § 211, III,
 § 125; 516,
 § 14.
 1909, 490,
 III, § 40;
 502, § 3.
 1911, 379.
 1912, 124,
 1914, 198, § 6.
 1915, 34,
 1917, 122, § 5.
 1918, 184, § 5;
 257, § 76.
 1919, 5; 355,
 § 12.
 1920, 2
 1922, 49.
 1923, 402, § 2.
 1925, 343,
 §§ 3, 13.
 1926, 222.
 179 Mass. 15.
 222 Mass. 450.
 223 Mass. 119.
 228 Mass. 202.
 1 Op. A. G. 278.

Additional information required of certain corporations, etc.
 1864, 208, § 2, 3.
 1865, 283, § 3.
 1880, 117, § 2.
 P. S. 13, § 38.
 1885, 238, § 1.
 1886, 270.
 1888, 413, § 24.
 1898, 417, 578, § 2.
 R. L. 14, § 37.
 1902, 342, § 2.
 1903, 437, § 48.
 1906, 463, 11, § 211, 111, § 125; 516, § 14.
 1909, 267, § 1; 490, 111, § 40; 502, § 3.
 1911, 379.
 1912, 457.
 1914, 198, § 6.
 1917, 122, § 5.
 1918, 184, § 5; 257, § 76.
 1919, 5, 355, § 12.
 1920, 2.
 207 Mass. 514.
 228 Mass. 202.
 1 Op. A. G. 278.

Returns of foreign telegraph companies.
 1864, 208, § 9.
 1865, 283, § 7.
 P. S. 13, § 42.
 R. L. 14, § 48.
 1909, 490, 111, § 52.
 125 U. S. 530.
 141 U. S. 40.
 163 U. S. 1.

Valuation of corporate franchise, etc. Deductions.
 1864, 208, § 5, 6.
 1865, 283, § 4, 5.
 1880, 117, § 2.
 P. S. 13, § 39, 40.
 1885, 238, § 1.
 1886, 270.

SECTION 54. In addition to the facts required by the preceding section, the following classes of corporations shall give in their returns the following information:

Railroad, telegraph, street railway and electric railroad corporations shall state the whole length of their lines and the length of their lines without the commonwealth.

Electric railroad corporations shall also state the length of their lines constructed on private land.

Street railway and electric railroad corporations shall also state the length of track operated by them in each town on March thirty-first preceding the return, to be determined by measuring as single track the total length of all tracks operated by them, including sidings and turn-outs, and including tracks owned by them, those which they lease and those over which they have trackage rights only, and the amount of dividends paid on their capital stock during the year ending on September thirtieth preceding the return, and during each year from the organization of the company.

Telephone companies incorporated under the general or special laws of the commonwealth, and manufacturing, owning, using, selling or licensing others to use telephones or other apparatus or appliances pertaining thereto wholly or partly within the commonwealth, and all such companies organized without the commonwealth for the purpose of establishing, owning or licensing others to use such telephones, apparatus or appliances, but having in use within it any of their lines or telephones, shall state, in such form as the commissioner may require, the facts necessary to ascertain the deductions authorized by the following section. If the return of a domestic telephone company sets forth the amount and market value of any stocks in other corporations held by the company making the return upon which a tax has been assessed and actually paid either in this or in any other state for the year preceding the date of said return, the commissioner shall examine the books, accounts and papers of such other corporations so far as may be necessary for the verification of said return.

Railroad, street railway and electric railroad corporations or companies organized elsewhere than in the commonwealth, but having lines therein, shall likewise make the returns required by this section.

Every corporation or association chartered or organized without the commonwealth which owns, controls or uses a line of telegraph within the commonwealth, shall make the returns required in this and the preceding section to be made by telegraph companies within the commonwealth, except the list of shareholders, or statement in lieu thereof required by the preceding section; and all telegraph lines within the commonwealth controlled and used by such corporation or association, shall, for the purposes of this chapter, be deemed to be a part of its own lines.

SECTION 55. The commissioner shall ascertain from the returns or otherwise the true market value of the shares of each corporation required to make a return under section fifty-three or fifty-four, and shall estimate therefrom the fair cash value of all the shares constituting its capital stock on April first preceding, which, unless by the charter of a corporation a different method of ascertaining such value is provided, shall, for the purposes of this chapter, be taken as the true value of its

8 corporate franchise. From such value there shall be made the follow-
 9 ing deductions:

10 First. In case of a railroad, telegraph, street railway or electric
 11 railroad corporation or company, whether chartered or organized in
 12 this commonwealth or elsewhere, so much of the value of its capital
 13 stock as is proportional to the length of that part of its line, if any,
 14 lying without the commonwealth; and also the value of its works,
 15 structures, real estate, motor vehicles, machinery, poles, underground
 16 conduits, wires and pipes, subject to local taxation within the common-
 17 wealth.

18 Second. In case of a domestic telephone company, the amount and
 19 market value of all stock in other corporations held by it upon which a
 20 tax has been paid in this or other states for the twelve months last
 21 preceding the date of the return.

22 Third. In case of a domestic or foreign telephone company, so much
 23 of the value of its capital stock as is proportional to the number of tele-
 24 phones used or controlled by it, or under any letters patent owned or
 25 controlled by it, without the commonwealth.

26 Fourth. In case of a domestic or foreign telephone company, the
 27 value of its works, structures, real estate, motor vehicles, machinery,
 28 poles, underground conduits, wires and pipes, subject to local taxation
 29 within the commonwealth.

30 Fifth. In case of corporations subject to section fifty-three or fifty-
 31 four, other than railroad, telegraph, telephone, street railway and electric
 32 railroad corporations or companies, the value as found by the commis-
 33 sioner of their works, structures, real estate, motor vehicles, machinery,
 34 poles, underground conduits, wires and pipes, subject to local taxation
 35 wherever situated.

36 Sixth. In case of corporations owning stock of an electric company
 37 under section nine A of chapter one hundred and sixty-four as thereto
 38 authorized by the department of public utilities, the deduction mentioned
 39 in paragraph Fifth above and the fair cash value, as found by the com-
 40 missioner, of the stock of such electric companies so owned.

41 For the purposes of this section the commissioner may take the value
 42 at which any works, structures, real estate, motor vehicles, machinery,
 43 poles, underground conduits, wires and pipes are assessed at the place
 44 where they are located as the true value, but such local assessment shall
 45 not be conclusive of the true value thereof.

46 The term "real estate", as used in this section and in section sixty-
 47 eight A, shall include the corporation's interest as lessee in such build-
 48 ings on land held under a lease as by the terms of the lease are the
 49 property of and may be removed by the lessee, and such buildings, for
 50 the purposes of said sections and of subdivision (a) of paragraph three
 51 of section thirty and subdivision (a) of paragraph four of said section
 52 thirty, shall not be deemed real estate of the lessor.

1898, 417.
 R. L. 14, § 38.
 1902, 312, § 3.
 1903, 437, § 72.
 1906, 463,
 11, § 212.
 111, § 126; 516,
 § 15.
 1907, 395.
 1909, 267, § 2;
 439, § 2; 490,
 111, § 41.
 1910, 270, 650.
 1912, 491.
 1914, 198, § 6.
 1915, 34.
 1918, 184, § 6.
 1919, 332, 355,
 § 12.
 1923, 290, § 3.
 1923, 301, § 2.
 1926, 279, § 6.
 1931, 426, § 69.
 13 Allen, 391.
 98 Mass. 19,
 57.
 99 Mass. 146.
 100 Mass. 389.
 137 Mass. 80.
 144 Mass. 598.
 146 Mass. 403.
 157 Mass. 68.
 178 Mass. 469.
 195 Mass. 528.
 212 Mass. 156.
 213 Mass. 54.
 214 Mass. 79.
 215 Mass. 326,
 453.
 222 Mass. 51.
 227 Mass. 225,
 547.
 245 Mass. 75.
 251 Mass. 329.
 257 Mass. 43.
 125 U. S. 539.
 141 U. S. 40.
 163 U. S. 1.
 2 Op. A. G.
 556, 558.
 Op. A. G.
 (1920) 146, 298.

1 SECTION 56. [REPEALED, 1925, 343, § 4. (But see 1925, 343, § 13,
 2 as amended by 1926, 222.)]

1 SECTION 56A. A foreign telephone company carrying on part of its
 2 business outside of the commonwealth may, within the time when its
 3 franchise tax return under this chapter is due to be filed, request de-
 4 termination of the value of its corporate franchise subject to taxation

Value of
 corporate
 franchises
 of certain
 foreign
 telephone
 companies.

alternative method of determining. 1923, 310.

in the commonwealth by a method other than that hereinbefore provided and hereinafter referred to as "the statutory method". Such a foreign telephone company shall within thirty days thereafter file with the commissioner, under oath of its treasurer, a statement showing in detail the value of its corporate franchise as aforesaid, and such other information as the commissioner shall require for assessment of the tax. The commissioner shall in such case ascertain the value of such franchise as aforesaid and to that end may determine such value by a method other than "the statutory method" but nothing herein contained shall be construed to prevent the application of "the statutory method" in case the commissioner shall deem such method equitable.

SECTION 57. [REPEALED, 1928, 13, § 2.]

Tax to be paid on corporate franchise. Rate, how determined. 1864, 208, § 5. 1865, 283, § 5. 1880, 117, § 2. P. S. 13, § 40. 1885, 238, § 1. 1886, 270. 1888, 413, § 24. 1898, 417. R. L. 14, § 40. 1903, 437, § 74. 1904, 261. 1906, 271. §§ 9, 12; 463, 11, § 214. III, § 128; 516, § 17.

SECTION 58. Every corporation subject to section fifty-three or fifty-four shall annually pay a tax upon its corporate franchise, after making the deductions provided for in section fifty-five, at a rate equal to the average of the annual rates for three years preceeding that in which such assessment is laid, said annual rates to be determined by an apportionment of the whole amount of money to be raised by taxation upon property in the commonwealth during each of the said three years, as returned by the assessors of the several towns under section forty-seven of chapter fifty-nine, upon the aggregate valuation of all towns for each of the said three years, as returned under said section forty-seven.

1909, 490, III, § 43;	12 Allen, 75, 298.	222 Mass. 51.
513, §§ 1-3.	13 Allen, 391.	223 Mass. 371.
1913, 453, § 2.	98 Mass. 19, 25.	224 Mass. 181.
1914, 198, § 6.	99 Mass. 146.	246 Mass. 242.
1918, 222; 264, § 1.	137 Mass. 80.	6 Wall. 632.
1919, 355, § 12.	179 Mass. 15.	178 U. S. 15.
1921, 394.	192 Mass. 129.	2 Op. A. G. 558.
1924, 247, § 1.	195 Mass. 385, 528.	3 Op. A. G. 335.
1925, 343, §§ 5, 13.	208 Mass. 616.	4 Op. A. G. 591.
1926, 222.	212 Mass. 156.	Op. A. G. (1920) 298.

SECTION 58A. [INSERTED, 1924, 247, § 1; REPEALED, 1925, 343, § 6. (But see 1925, 343, § 13, as amended by 1926, 222.)]

Additional tax to be assessed upon corporate franchise value, etc. 1904, 412, § 2. 1909, 490, III, § 46.

SECTION 59. When the commissioner has received notice of an abatement of the taxes of any corporation under section seventy-four of chapter fifty-nine, he shall assess upon such corporation an additional tax upon its corporate franchise value, in such amount as shall make the total franchise tax equal that which would have been assessed had the valuation as established by said abatement been adopted by the commissioner when making his original assessment upon the corporate franchise value of such corporation, which additional tax shall be paid and collected as an addition to the franchise tax next to be assessed upon said corporation after such abatement; but such additional tax, when collected, shall be distributed as if it were part of the original tax.

Notice of tax, time of payment, right of correction and appeal. 1865, 283, § 11. 1880, 227, § 2. P. S. 13, §§ 26, 53. 1887, 283, § 1. 1888, 413, § 23. 1898, 417. R. L. 14, § 54.

SECTION 60. The commissioner shall annually, as soon as may be after the first Monday of August, give notice to the treasurer of every corporation, company or association liable to any tax under section fifty-eight, of the amount thereof, the time when due, the right to apply for correction, and the right of appeal, all as herein provided. Said tax shall be due and payable to the commissioner within thirty days after the date of such notice, but not before October twentieth. The taxpayer

8 may apply to the commissioner, within sixty days after the date of the
 9 notice, for the correction of the tax, and in default of settlement may,
 10 within thirty days of the date of notification of the commissioner's de-
 11 cision, appeal therefrom to the board of tax appeals. If abatement of a
 12 tax paid is granted the overpayment with interest thereon at the rate of
 13 six per cent per annum from the date of payment shall be refunded to the
 14 taxpayer by the state treasurer without any appropriation therefor by
 15 the general court even though such sum is not deductible from a tax or
 16 taxes to be distributed to the several towns.

1903, 437, § 77.
 1906, 271,
 § 10, 13.
 1899, 490,
 111, § 57.
 1919, 349,
 § 18, 20.
 1920, 385, § 1.
 1922, 520, § 9
 1927, 225, § 1
 1930, 416, § 23.
 222 Mass. 450.
 2 Op. A. G. 628.

EXCISE ON STREET RAILWAYS, ETC., IN COMMUTATION OF REPAIRS, SNOW
 REMOVAL, ETC.

1 SECTION 61. [REPEALED, 1928, 13S.]

1 SECTION 62. [REPEALED, 1928, 13S.]

1 SECTION 63. [REPEALED, 1928, 13S.]

1 SECTION 64. [REPEALED, 1928, 13S.]

1 SECTION 65. [REPEALED, 1928, 13S.]

1 SECTION 66. [REPEALED, 1928, 13S.]

EXCISE ON CORPORATIONS INTERESTED IN SHIPS AND VESSELS.

1 SECTION 67. The commissioner shall annually assess as of the last
 2 day of the taxable year, as defined in paragraph numbered six of section
 3 thirty, an excise tax upon the interest of every corporation organized
 4 under the laws of this commonwealth and having a place of business
 5 therein, in any ship or vessel which has, during the period of its business
 6 in the year preceding such day, been engaged in interstate or foreign
 7 carrying trade or engaged exclusively in fishing and documented and
 8 carrying "papers" under the laws of the United States, which tax shall
 9 be one third of one per cent upon the value of such interest as determined
 10 by him. Such tax shall become due and shall be collected at the same
 11 time and in the same manner as other taxes assessed to such corporations.
 12 The president and treasurer of every such corporation owning an interest
 13 in any such ship or vessel shall annually, within the first ten days of April,
 14 make a return to the commissioner, on oath, setting forth in detail the
 15 name of the ship or vessel, the interest of the corporation therein, and the
 16 value of such interest. If the commissioner is satisfied of the truth of
 17 the return he shall deduct said value from the value of its corporate excess
 18 as determined by him, if it is taxable under sections thirty to thirty-
 19 eight C, inclusive, or from the value of its corporate franchise, if it is
 20 taxable under section fifty-eight.

Excise on
 interest in
 ship, etc.
 Returns.
 1881, 284.
 P. S. 11,
 § 8-10.
 1887, 373.
 1889, 286.
 1891, 116.
 1893, 149.
 1898, 353.
 R. L. 12,
 § 7-9.
 1902, 374,
 § 11, 2, 375.
 1909, 490,
 111, § 10.
 1913, 473, § 1.
 1928, 143, § 3.
 1931, 426, § 188.
 1935 Mass. 607.
 270 Mass. 19

MISCELLANEOUS PROVISIONS.

1 SECTION 68. The taxes imposed by this chapter upon any corpora-
 2 tion shall not affect or prevent the imposition and collection of any other
 3 tax now authorized, or that may hereafter be authorized, upon any
 4 especial privilege, franchise or business enjoyed or exercised by such
 5 corporation.

Taxes in this
 chapter not
 exclusive.
 1865, 283, § 18
 P. S. 13, § 60.
 1898, 417.
 R. L. 14, § 64.

Remedy of certain corporations when assessors' valuation exceeds commissioner's valuation 1928, 15, § 1.

SECTION 68A. If the value of the works, structures, real estate, motor vehicles, machinery, poles, underground conduits, wires and pipes owned by a corporation taxable under any provision of this chapter and which are subject to local taxation within the commonwealth, as determined by the commissioner, is less than the value thereof as determined by the assessors of the town where it is situated, he shall give notice of his determination to such corporation; and, unless within one month after the date of such notice it applies to said assessors for an abatement, and, upon their refusal to grant an abatement, prosecutes an appeal under section sixty-four of chapter fifty-nine, giving notice thereof to the commissioner, the valuation of the commissioner shall be conclusive upon said corporation.

Inspection of books and examination of officers: 1864, 208, § 16. 1865, 283, § 17. 1880, 227, § 2. P. S. 13, §§ 23, 39. 1886, 270. 1887, 283, § 1. 1888, 413, § 23. 1898, 417.

SECTION 69. Every corporation taxable under this chapter, except a foreign corporation taxable under section twenty-one, twenty-three or fifty-eight, shall, when required for the purposes of any tax except that imposed on its income by section thirty-two or thirty-nine, submit its books to the inspection of the commissioner, and its treasurer and directors to examination on oath relative to all matters affecting the determinations to be made by said commissioner.

R. L. 14, § 63. 1903, 437, § 51. 1909, 490, III, § 66. 1919, 349, § 22.

Interest on unpaid taxes: 1900, 398. 1901, 222. R. L. 14, § 56. 1903, 437, § 79. 1909, 490, III, § 69. 1919, 355, § 9, 24. 1922, 520, § 10.

SECTION 70. Corporations which neglect to pay taxes assessed by the commissioner under this chapter shall pay interest at the rate of six per cent per annum from the time when such taxes were payable until paid, if such payment is made before the commencement of proceedings for the recovery thereof, and twelve per cent if made after the commencement thereof.

Appeals. Payment. Abatement of uncollectable assessments: 1865, 283, § 13. 1877, 164. 1880, 227, § 2. P. S. 13, §§ 61, 62. 1898, 417. R. L. 14, § 65. 1903, 437, § 82. 1908, 239. 1909, 490, III, § 68. 1919, 349, § 23, 350, § 117. 1920, 385, § 2. 1924, 123. 1925, 339, § 2. 1926, 287, § 6.

SECTION 71. Except as otherwise provided, any party aggrieved by any decision of the commissioner upon any matter arising under this chapter from which an appeal is given, may appeal to the board of tax appeals within thirty days after notice of his decision. Any overpayment of tax determined by decision of said board of tax appeals shall be reimbursed by the commonwealth with interest at the rate of six per cent per annum from the time of payment. Taxes, excises, costs or expenses of any kind assessed upon any corporation, company or association, except a municipal corporation, under the provisions of this chapter or corresponding provisions of earlier laws, which are unpaid and are uncollectable, may be abated by the board of tax appeals on the recommendation of the attorney general and commissioner at any time after the expiration of five years from the date when the same became payable.

1930, 416, § 24. 222 Mass. 450. 252 Mass. 345. 212 Mass. 134. 248 Mass. 156. 256 Mass. 419.

Inspection of returns restricted: 1923, 402, § 3.

SECTION 71A. Returns required by this chapter shall, except in proceedings to collect the taxes or enforce the penalties provided herein, be open only to the inspection of the commissioner, his deputies, clerks and assistants, and such other officers of the commonwealth as may have occasion to inspect them for the purpose of assessing or collecting taxes.

Transfer of assets without notice to commissioner void in certain cases. 1910, 187. 1919, 349, § 19. 355, §§ 11, 26. 1923, 140. 242 Mass. 37. Op. A. G. (1920) 290.

SECTION 76. The sale or transfer, otherwise than in the ordinary course of trade and in the regular and usual prosecution of the corporation's business, of any part or the whole of the assets of a domestic business corporation, or of any part or the whole of the assets situated in the commonwealth of a foreign business corporation, shall be fraudulent and void as against the commonwealth, unless such corporation shall, at least five days before the sale or transfer, notify the commissioner of the proposed sale or transfer and of the price, terms and conditions thereof, and of the character and location of said assets. Whenever such a corporation shall make such a sale or transfer, the tax imposed by this chapter shall become due and payable at the time when the commissioner is so notified, or, if he is not so notified, at the time when he should have been notified.

This section shall not apply to sales by receivers, assignees under a voluntary assignment for the benefit of creditors, trustees in bankruptcy, or public officers acting under judicial process.

RELIEF FROM UNLAWFUL TAXES.

SECTION 77. [REPEALED, 1930, 416, § 2.] 1

SECTION 78. [REPEALED, 1930, 416, § 2.] 1

PENALTIES AND THEIR ENFORCEMENT.

Penalties on certain corporations, etc., for neglect to make returns, etc. 1862, 224, § 9. 1864, 208, § 14. 1865, 283, § 14. 1873, 141, § 9. 1878, 218, § 9.

SECTION 79. Any corporation, company or association, liable to taxation under section fifty-eight, neglecting to make the returns required by this chapter, or refusing or neglecting, when required, to submit to the examinations provided for therein, shall forfeit such sum not greater than two per cent upon the par value of its capital stock as the court may deem just and equitable.

1878, 218, § 3.	1892, 129	1909, 490, III.
1880, 227, § 4.	1898, 417.	§ 59, 528.
P. S. 13, §§ 7, 28, 36, 54.	R. L. 14, §§ 55, 59.	1914, 198, § 6.
1890, 197, § 2.	1908, 318.	249 Mass. 290.

Collection of penalties. 1862, 224, § 9. 11. 1864, 208, § 14. 1865, 283, § 14. 1873, 141, § 9. 10. 1878, 218, § 3.

SECTION 80. Penalties and forfeitures imposed by this chapter may be collected by an action of contract under section seventy-three or by an information under section seventy-five. An injunction issued upon such an information may contain a provision continuing it in force until the returns required by this chapter have been filed.

1880, 227, § 4	1903, 437, §§ 50, 78.	1914, 198, § 6.
P. S. 13, §§ 22, 28, 36, 54.	1906, 346, §§ 1, 2.	1919, 349, § 14.
1898, 417.	1908, 318.	1931, 426, § 191.
1900, 398.	1909, 490, III, §§ 58,	196 Mass. 458.
R. L. 14, §§ 55, 58	59, 62; 528.	125 U. S. 530.

DEFINITION.

"Local taxation" to include excise tax on motor vehicles, etc., for purposes of certain sections.

SECTION 81. For the purposes of sections thirty, fifty-five and sixty-eight A, the words "local taxation", or their equivalent, as used in said sections with respect to motor vehicles shall include the excise tax on motor vehicles assessed and levied under chapter sixty A.

1928, 379, § 8.

CHAPTER 64.

TAXATION OF STOCK TRANSFERS.

SECT.

1. Excise on transfers, etc., of shares of stock.
2. Excise to apply to sales, etc., of shares in voluntary associations.
3. Commissioner to prepare and sell stamps.
4. Commissioner to make contracts for plates, printing, etc., and keep plates, etc.
5. Person affixing stamp to cancel it.
6. Refunding of loss by stamps erroneously affixed.
7. Commissioner may make rules and regulations.
8. Transfer not enforceable, etc., unless tax paid.

SECT.

9. Recovery of excise by suit.
10. Persons making sales, etc., to keep records in books.
11. Corporations and associations to keep records of transfers, etc.
12. Commissioner to enforce tax by examination of books, etc.
13. Penalty for refusal to permit examination, failure to keep books or to preserve books or papers, or false entry.
14. Unauthorized sale, etc., of stamps prohibited. Penalty.
15. Evasion of tax. Penalty.
16. Counterfeiting, restoring, etc. Penalty.
17. Fraudulent failure to cancel stamp. Penalty.

1 SECTION 1. An excise shall immediately accrue and be collected on
 2 all sales or agreements to sell or memoranda of sales or deliveries or trans-
 3 fers of shares or certificates of stock in any domestic or foreign corpora-
 4 tion, whether made upon or shown by the books of the corporation, or
 5 by any assignment in blank, or by any delivery, or by any paper or agree-
 6 ment or memorandum or other evidence of transfer or sale, whether or
 7 not entitling the holder in any manner to the benefit of such stock or to
 8 secure the future payment of money or the future transfer of any stock,
 9 of two cents on each one hundred dollars of face value or fraction thereof,
 10 except in cases where the shares or certificates of stock are issued without
 11 face value, in which case the excise shall be at the rate of two cents for
 12 each and every share of stock. The person making or effectuating the
 13 sale or transfer shall procure, affix and cancel the stamps and pay the
 14 excise imposed by this section. Said excise shall not apply to the original
 15 issue of shares of stock; nor to an agreement evidencing the deposit of
 16 stock certificates as collateral security for money loaned thereon, which
 17 certificates are not actually sold, nor to such certificates so deposited;
 18 nor to the transfer of stock certificates of a deceased person to his executor
 19 or administrator; nor to the transfer of stock certificates by a trustee to
 20 his successor or co-trustee under the same trust. The payment of said
 21 excise shall be denoted by adhesive stamps affixed as follows: in case
 22 of sale where the evidence of transfer is shown only by the books of the
 23 company, the stamp shall be placed on said books; and where the change
 24 of ownership is by transfer of a certificate the stamp shall be placed on
 25 the certificate; and in cases of an agreement to sell, or where the transfer
 26 is by delivery of the certificate assigned in blank, there shall be made
 27 and delivered by the seller to the buyer a bill or memorandum of sale,
 28 to which the stamp shall be affixed; and every such bill or memorandum
 29 of sale or agreement to sell shall show the date thereof, the name of the
 30 seller, the number of shares and the face value, if any, and the matter or
 31 thing to which it refers, and no further excise is hereby imposed upon
 32 the delivery of the certificate of stock, or upon the actual issue of a

Excise on transfers, etc., of shares of stock.
 1914, 770, § 1.
 1915, 238, § 1.
 1918, 257, § 78.
 1919, 5; 349, § 24
 1920, 2.

new certificate when the original certificate of stock is accompanied by the duly stamped memorandum of sale or agreement to sell as herein provided.

Excise to apply to sales, etc., of shares in voluntary associations. 1914, 770, § 10. 1915, 238, § 5.

SECTION 2. Said excise shall accrue and be collected on all sales or agreements to sell or memoranda of sales or deliveries or transfers of the certificates of participation or shares of all voluntary associations existing under an instrument or declaration of trust the beneficial interest under which is divided into transferable certificates of participation or shares, except such issues, agreements and transfers as are excepted by the preceding section; and all provisions made in this chapter for the regulation and collection of the excise, and all the penalties and forfeitures in connection therewith, shall apply to the excise to be collected under this section.

Commissioner to prepare and sell stamps. 1914, 770, § 3. 1919, 350, § 53.

SECTION 3. Adhesive stamps for the purpose of paying the excise under this chapter shall be prepared by the commissioner in such form, of such denominations and in such quantities as he may prescribe. He shall make provision for the sale of such stamps in such places and at such times as he deems necessary.

Commissioner to make contracts for plates, printing, etc., and keep plates, etc. 1914, 770, § 5.

SECTION 4. The commissioner shall make and execute in behalf of the commonwealth contracts for dies, plates and printing necessary for the manufacture of the stamps required by this chapter. He shall be the custodian of the stamps, dies, plates and other materials and things used in the manufacture of said stamps.

Person affixing stamp to cancel it. 1914, 770, § 4.

SECTION 5. Whenever an adhesive stamp is used under this chapter, the person using or affixing it shall write or stamp thereon the initials of his name and the date when the same is affixed or used, and shall cut or perforate the stamp in a substantial manner, so that it cannot be used again.

Refunding of loss by stamps erroneously affixed. 1914, 770, § 11. 1919, 350, § 16. 1930, 416, § 25.

SECTION 6. If any stamps have been erroneously affixed, the commissioner, upon presentation of a claim for the amount of such stamps, and upon the production of evidence satisfactory to him that such stamps were affixed erroneously so as to cause loss to the persons making the claim by said amount, or such part thereof as he may allow, shall certify to the comptroller the amount so erroneously paid, and the state treasurer shall pay said amount without any appropriation therefor by the general court. Such claims shall be presented to the commissioner in writing duly verified, shall state the full name and address of the claimant, the date of the erroneous affixing, and the face value of the stamps, shall describe the document to which the stamps were affixed, and shall contain such evidence as may be available upon which the demand for repayment is based. Such claims shall be presented within ninety days after the alleged erroneous affixing. If the commissioner rejects a claim or any part thereof, the claimant may, within thirty days after the date of the rejection, apply to the board of tax appeals, which shall thereupon review the facts in the case, and shall forthwith give a written decision to the claimant and to the commissioner; and if the board grants any repayment to the claimant, the amount of the repayment shall be certified and paid as herein provided.

Appeal to board of tax appeals.

1 SECTION 7. The commissioner may make such rules and regulations
 2 consistent with this chapter as he deems necessary, and may prescribe
 3 such further forms, books, records and papers as he deems essential for
 4 carrying out its provisions.

Commissioner
 may make
 rules and
 regulations.
 1915, 238, § 6.

1 SECTION 8. No transfer of stock made after December first, nine-
 2 teen hundred and fourteen, on which an excise is imposed by this chap-
 3 ter or corresponding provisions of earlier laws, which excise is not paid
 4 at the time of such transfer, shall be made the basis of any action or legal
 5 proceeding, nor shall proof thereof be offered or received in evidence in
 6 any court in this commonwealth; provided, that nothing contained in
 7 this paragraph shall apply to proceedings authorized by this chapter.
 8 Where, through accident, mistake or inadvertence, and without any
 9 intent to evade this chapter, the said excise is not paid at the time of the
 10 transfer, the commissioner may allow the excise to be paid at a later
 11 time, under such rules and regulations as he may from time to time
 12 establish, and if so paid the penalty provided by section fifteen for fail-
 13 ure to pay the excise shall not be enforced, and any transfer on which
 14 the excise shall have so been paid shall have the same legal effect as if
 15 the excise had actually been paid at the time of the transfer, and shall
 16 not be subject to the provisions of the first paragraph of this section.

Transfer not
 enforceable,
 etc., unless
 tax paid
 1915, 770, § 9.
 1920, 464.

1 SECTION 9. The excise imposed by this chapter may be recovered
 2 in an action brought in Suffolk county in the name of the common-
 3 wealth, or by an information in equity in the name of the attorney
 4 general brought in the supreme judicial court for said county.

Recovery of
 excise by suit.
 1914, 770, § 8.

1 SECTION 10. Every person, firm, association or corporation making
 2 a sale, agreement to sell, delivery or transfer of shares or certificates of
 3 stock, or conducting or transacting a brokerage business, shall keep
 4 or cause to be kept at some accessible place within the commonwealth
 5 a true book of accounts wherein shall be recorded, plainly and legibly,
 6 the date of making every sale, agreement to sell, delivery or transfer
 7 of shares or certificates of stock, and every transaction in relation to
 8 any stock; and also the number of shares, the face value of the stock,
 9 the name of the stock, the name of the seller, the name of the purchaser,
 10 and the face value of the stamps affixed to the certificate or bill or memo-
 11 randum as provided in section one. Such book shall be preserved for two
 12 years after the date of the last entry therein.

Persons making
 sales, etc., to
 keep records
 in books.
 1914, 770, § 7.
 1915, 238, § 4.

1 SECTION 11. Every corporation or association shall keep or cause
 2 to be kept at some accessible place within the commonwealth a stock
 3 certificate book or transfer ledger or register, wherein shall plainly and
 4 legibly be recorded, in separate columns, the date of making every trans-
 5 fer of stock, the name of the stock and the number of shares thereof, the
 6 name of the party surrendering the certificates, the name of the party to
 7 whom certificates are issued in exchange therefor, and evidence of the
 8 payment of the tax imposed by sections one and two, which evidence,
 9 however, shall be furnished in one of the following manners, to wit:
 10 (a) By attaching to the stock certificate surrendered for transfer the
 11 stamps required for such transfer, or
 12 (b) If the stamps are not attached to the certificate, but are attached
 13 to the bill or memorandum of sale effecting or evidencing the transfer

Corporations
 and associa-
 tions to keep
 records of
 transfers, etc.
 1914, 770, § 7.
 1915, 238, § 4.

of such certificate, by attaching to the certificate said bill or memorandum of sale with stamps attached. 14

The corporation or association shall retain and keep all surrendered or cancelled shares or certificates of stock and all bills or memoranda relating to the sale or transfer of stock for at least two years after the date of the delivery thereof, and it shall also keep, for at least two years after the date of the last entry thereon, the stock certificate book or transfer ledger provided for by this section. 15
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Commissioner to enforce tax by examination of books, etc. 1914, 770, § 7. 1915, 238, § 4.

SECTION 12. The commissioner, at any time after the making of a sale, agreement, memorandum, delivery or transfer, subject to the excise imposed by this chapter, may investigate and ascertain whether said excise was paid. For this purpose the commissioner shall examine the books and papers of any person, firm, association or corporation; and such books and papers, including all those mentioned in the two preceding sections, shall at all times be subject to his inspection or that of any of his representatives between the hours of ten o'clock in the forenoon and three o'clock in the afternoon on any business day except Saturday. The commissioner may enforce by mandamus his right to examine the books and papers of any person, firm, association or corporation. 1
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Penalty for refusal to permit examination, failure to keep books or to preserve books or papers, or false entry. 1914, 770, § 7. 1915, 238, § 4.

SECTION 13. Whoever refuses to permit the commissioner, or any of his representatives, to inspect such books or papers or any memoranda or record relating to any such sale, agreement to sell, delivery or transfer, or transaction, as provided in the three preceding sections, or fails to keep said book of account, or stock certificate book or transfer ledger, or to preserve such book for two years after the date of the last entry therein, or fails to preserve for two years after the date thereof all bills and memoranda of sale, or fails to preserve for two years after the delivery thereof all surrendered or cancelled shares or certificates of stock as required, and whoever alters, cancels or obliterates any part of said records, or makes any false entry therein, shall be punished by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not less than three months nor more than two years, or both. 1
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Unauthorized sale, etc., of stamps prohibited. Penalty. 1914, 770, § 2. 1915, 349, § 25.

SECTION 14. No person, firm, association or corporation, except a corporation organized under the banking laws of this commonwealth or under the national bank act of the United States, or a duly authorized agent of the commissioner, shall sell or offer or expose for sale any stamp issued pursuant to this chapter without first obtaining from the commissioner his written consent, except that in connection with a sale or agreement to sell stock a broker or agent of the principal making such sale or agreement to sell may supply and affix the stamps required by this chapter. No person shall sell any such stamp for a sum less than the face value thereof without the written consent of the commissioner. Any person violating any provision of this section shall be punished by a fine of not less than two hundred nor more than one thousand dollars. 1
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Evasion of tax. Penalty. 1914, 770, § 6. 1915, 238, § 3.

SECTION 15. Any person liable to pay the excise imposed by this chapter, and anyone who acts in the matter as agent or broker for such person, who makes any sale, transfer or delivery of shares or certificates of stock without paying said excise, and whoever, in pursuance 1
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5 of any sale, transfer or agreement, delivers any stock or evidence of
6 sale or transfer of or agreement to sell any stock or bill or memoran-
7 dum thereof, or transfers or causes the same to be transferred upon
8 the books or records of the association or corporation, without having
9 the stamps required by this chapter affixed thereto, and any associa-
10 tion or corporation whose stock is so sold or transferred which shall
11 transfer or cause the same to be transferred upon its books without
12 having such stamps so affixed, shall be punished by a fine of not less
13 than five hundred nor more than one thousand dollars.

1 SECTION 16. Whoever wilfully removes or alters or knowingly
2 permits to be removed or altered the cancelling or defacing marks of
3 any stamp provided for by this chapter with intent to use such stamp,
4 or knowingly or wilfully buys, prepares for use, uses, has in possession,
5 or suffers to be used, any washed, restored or counterfeit stamps, and
6 whoever intentionally removes or causes to be removed, or knowingly
7 permits to be removed, any stamp affixed pursuant to this chapter,
8 shall be punished by a fine of not less than five hundred nor more than
9 one thousand dollars or by imprisonment for not more than one year, or
10 both.

Counter-
feiting, re-
storing, etc.
Penalty
1914, 770, § 6.
1915, 238, § 3.

1 SECTION 17. Whoever fraudulently makes use of an adhesive stamp
2 to denote the payment of the excise imposed by this chapter, without
3 effectually cancelling it in accordance with section five, shall be punished
4 by a fine of not less than two hundred nor more than five hundred
5 dollars.

Fraudulent
failure to
cancel stamp.
Penalty
1915, 238, § 2.

CHAPTER 64A.

TAXATION OF SALES OF GASOLINE AND CERTAIN OTHER MOTOR VEHICLE FUEL.

SECT.

1. Definitions.
2. Licenses.
3. Records of sales, etc.
4. Monthly returns and payment of excise.
5. Same subject. Determination of excise upon failure to file, etc.
6. Same subject. Penalty.
7. Excise, reimbursement; sale free from, regulated.

SECT.

8. Foreign and interstate commerce, application of chapter to.
9. Purchaser to bear tax. Sales separate from tax forbidden. Penalty.
10. Recovery of excise, penalties, etc. Distributors' licenses, suspension of.
11. General penalty.
12. Federal law, sales exempted by, restraining collection of excise on.
13. Highway Fund, all receipts credited to.

1 SECTION 1. The following words and phrases, as used in this chapter,
2 shall have the following meanings unless the context otherwise requires:—
3 (a) "Commissioner", the commissioner of corporations and taxation.
4 (b) "Motor vehicle" shall include any vehicle propelled by any
5 power other than muscular, except boats, tractors used exclusively for
6 agricultural purposes and such vehicles as run only on rails or tracks.
7 (c) "Distributor" shall include any person who imports or causes to
8 be imported fuel, as herein defined, for use, distribution or sale in the
9 commonwealth; and also any person who produces, refines, manufac-
10 tures or compounds fuel, as herein defined, within the commonwealth.

Definitions
1928, 316, § 1
1930, 416, § 26.
1931, 122, § 4.

(d) "Fuel" shall include gasoline, benzol, or other products used in propelling motor vehicles using combustion type engines upon or over the highways of the commonwealth.

(e) "Purchaser" shall include, in addition to its usual meaning, the distributor in the case of a transfer of fuel by a distributor into a motor vehicle, or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

(f) "Sale" shall include, in addition to its usual meaning, the transfer of fuel by a distributor into a motor vehicle or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

(g) "Board of tax appeals", the board established by section one of chapter fifty-eight A.

(h) The verb "to sell" in all of its moods and tenses shall refer to a sale as herein defined.

Licenses,
1928, 316, § 1.
1931, 122, § 4;
426, § 55.

SECTION 2. The commissioner, upon application of any person, may grant to him a license as distributor permitting him to continue or engage in business as a distributor in the commonwealth. No distributor shall make any sale of fuel in the commonwealth, except a sale which is exempt under the constitution and laws of the United States, without such a license.

Records of
sales, etc.
1928, 316, § 1.
1931, 122, § 4.

SECTION 3. Every distributor shall keep a complete and accurate record of all sales of fuel, including the name and address of the purchaser, the place and date of delivery, and the number of gallons, and a complete and accurate record of the number of gallons imported, produced, refined, manufactured or compounded, and the date of importation, production, refining, manufacturing or compounding. Every distributor shall also deliver with every consignment of fuel to a purchaser within the commonwealth a written statement containing the date of purchase, the names of the purchaser and seller, the number of gallons delivered, and shall retain a duplicate of each such statement. Said records and said written statements shall be in such form as the commissioner shall prescribe, and shall be preserved by said distributors and said purchasers, respectively, for a period of one year and shall be offered for inspection at any time upon oral or written demand by the commissioner or his duly authorized agents.

Monthly re-
turns and
payment of
excise.
1928, 316, § 1.
1931, 122, § 4.

SECTION 4. Every distributor shall, on or before the fifteenth day of each month, file with the commissioner a return under oath, on forms to be furnished by the commissioner, stating the number of gallons of fuel sold by him in the commonwealth during the preceding calendar month, and said returns shall contain or be accompanied by such further information as the commissioner shall require. On or before the fifteenth day of each month next succeeding the filing with the commissioner of said return, each distributor shall pay to the commissioner for the account of the purchaser an excise of two cents on each gallon of fuel sold by him in the commonwealth during the calendar month covered by the return.

Same subject.
Determination
of excise
upon failure
to file, etc.
1928, 316, § 1.
1930, 416, § 27.
1931, 122, § 4.

SECTION 5. If a distributor, having failed to file a return, or, having filed an incorrect or insufficient return without reasonable excuse, fails to file an original or corrected return, as the case may require, within twenty days after the giving of notice to him by the commissioner of his delinquency, the commissioner shall determine the amount due, at any

6 time within one year after the making of the earliest sale included in
7 such determination. The distributor may appeal from his decision
8 within ten days thereafter to the board of tax appeals, whose decision
9 shall be final. The commissioner, or, in the case of appeal, the board of
10 tax appeals, having made such determination, shall give notice to the
11 delinquent distributor of the amount determined to be due, and the dis-
12 tributor shall within thirty days after the giving of such notice pay to
13 the commissioner the amount so determined.

1 SECTION 6. A distributor who fails to file a return to the commis- Same subject.
2 sioner as required by section four, or a corrected return as required by Penalty.
3 section five, shall forfeit to the commonwealth, and shall pay to the 1928, 316, § 1.
4 commissioner on demand the sum of five dollars for each day of delay 1931, 122, § 4.
5 after written notice by the commissioner of such failure. The commis-
6 sioner may remit a part of said penalty.

1 SECTION 7. Unless otherwise provided by the rules or regulations of Excise, re-
2 the commissioner made under authority of this section, any person who imbursement;
3 shall buy any fuel, on which an excise has been paid or is chargeable sale free from,
4 under this chapter, and shall consume the same in any manner except in regulated.
5 the operation of motor vehicles upon or over the highways of the com- 1928, 316, § 1.
6 monwealth, shall be reimbursed the amount of said excise in the manner 1931, 122, § 4.
7 and subject to the conditions herein provided. All claims for reimburse-
8 ment shall be made by affidavit in such form and containing such in-
9 formation as the commissioner shall prescribe, and shall be accompanied
10 by original invoices or sales receipts, and shall be filed with the com-
11 missioner within ninety days from the date of purchase or invoice.
12 The commissioner may require such further information as he shall
13 deem necessary for the determination of such claims, and shall within
14 thirty days after receipt transmit all claims approved by him to the
15 comptroller for certification; and the amount approved by the commis-
16 sioner and certified as aforesaid shall be paid forthwith from the proceeds
17 of the excise tax levied under this chapter, without specific appropri-
18 ation. The commissioner shall provide by reasonable rules or regulations
19 for the sale of fuel, free of the excise imposed by this chapter, by any
20 person, to the ultimate purchaser upon the receipt of a written state-
21 ment, signed by such ultimate purchaser, that such fuel is intended to
22 be consumed in some manner other than in the operation of motor vehicles
23 upon or over the highways of the commonwealth, and if such excise has
24 already been paid or is chargeable, for the reimbursement, out of the
25 proceeds of the excise levied under this chapter, of the person so selling
26 such fuel, to the amount of such excise.

1 SECTION 8. No provision of this chapter shall apply or be construed Foreign and
2 to apply to foreign or interstate commerce, except in so far as the same interstate
3 may be permitted under the provisions of the constitution and laws of commerce,
4 the United States. application of
chapter to.

1928, 316, § 1.

1931, 122, § 4.

1 SECTION 9. Except as otherwise provided in section seven, the tax Purchaser to
2 in every instance shall be borne by the purchaser, and no person offering bear tax.
3 fuel for sale shall sell, advertise or offer for sale said fuel separately from Sales separate
4 the tax imposed by this chapter. For any violation of this section, the from tax
5 license to keep and sell crude petroleum or any of its products, issued forbidden.
Penalty.
1928, 316, § 1.
1931, 122, § 4;
126, § 192.

by the licensing authority under chapter one hundred and forty-eight, shall be suspended by the said authority on request of the commissioner for such time as said commissioner deems proper.

Recovery of excise, penalties, etc.
Distributors' licenses, suspension of.
1928, 316, § 1
1930, 416, § 28.
1931, 122, § 4.

SECTION 10. Sums due to the commonwealth under this chapter as excise or as penalties or forfeitures may be recovered by the attorney general in an action brought in the name of the commissioner. The commissioner may suspend the license of a distributor for violation of any provision of this chapter, but the distributor may appeal from his decision within ten days thereafter to the board of tax appeals, whose decision shall be final.

General penalty.
1928, 316, § 1.
1931, 122, § 4.

SECTION 11. Any distributor or purchaser of fuel who violates any provision of this chapter, or who files any false return, affidavit or statement, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

Federal law, sales exempted by, restraining collection of excise on.
1928, 316, § 1
1930, 416, § 29.
1931, 122, § 4.

SECTION 12. The supreme judicial court shall have jurisdiction in equity to restrain the collection, upon any sale exempted by the constitution and laws of the United States, of the excise imposed by this chapter. Said bill shall be brought against the commissioner, whether the question of the collection of the excise is in the hands of the attorney general or pending before the board of tax appeals or is still in the hands of the commissioner.

Highway Fund, all receipts credited to.
1928, 316, § 1.

SECTION 13. All sums received under this chapter as excise, penalties or forfeitures, interest, costs of suit and fines shall be paid into the treasury of the commonwealth, and shall be credited to the Highway Fund.

1931, 122, § 4.

CHAPTER 65.

TAXATION OF LEGACIES AND SUCCESSIONS.

SECT.	SUBJECTS AND RATES OF TAXATION.	SECT.	VALUE FOR TAXATION.
1.	Taxation of legacies and successions. Rates of tax. Exemptions.	13.	Tax to be assessed upon value, etc.
2.	Property passing under power of appointment, etc.	SPECIAL PROVISIONS FOR PAYMENT OF TAXES ON FUTURE INTERESTS.	
3.	Gifts, etc., in contemplation of death.	14.	Persons entitled to future interests may pay tax in advance, etc.
4.	[Repealed.]	15.	Deposit, etc., in lieu of tax.
5.	[Repealed.]	PROVISIONS AFFECTING ADMINISTRATION OF ESTATES.	
PAYMENT OF TAX.		16.	Property bequeathed to executor, etc., in lieu of compensation.
6.	Persons liable for taxes.	17.	Executor, etc., holding property subject to tax to deduct tax or collect it from legatee, etc.
7.	Time and manner of payment.	18.	If legacy payable out of real estate, devisee to pay tax to executor, etc.
8.	[Repealed.]		
9.	Lien for tax. Property exempt. Discharge.		
10.	[Repealed.]		
11.	Interest.		
12.	Tax chargeable to capital, not income.		

- SECT.
19. No tax chargeable upon money applied in payment of succession tax in certain cases.
 20. Tax may be refunded in certain cases, etc.
 21. Probate court may authorize sale of real estate in certain cases.
 22. Inventory, etc., to be filed within three months after appointment of executor, etc.
 23. No final account of executor, etc., allowed unless taxes paid, etc.
 24. Allowance of final account when future taxes not paid.
- VALUATION AND APPRAISAL.
25. Determination of value of property by commissioner. Appraisal and appeal.
 26. Alteration of valuations.
- ASSESSMENT OF TAX.
27. Commissioner to certify amount of tax, etc. Abatement by probate court.

- SECT.
28. Commissioner may examine witnesses, etc.
 29. Commissioner, upon refusal of information, to assess at highest rate.
- PROCEEDINGS TO DETERMINE AND COLLECT TAXES.
30. Jurisdiction and procedure of probate court in legacy and succession tax cases.
 31. Enforcement in probate court of lien on real estate for legacy and succession taxes.
 32. Commissioner to proceed for recovery of unpaid taxes, etc. Abatement of uncollectible taxes.
 33. Additional remedies.
 34. Recovery of penalties and forfeitures.
- GENERAL PROVISIONS.
35. Papers not to be open to public inspection, etc.
 36. Application of chapter and earlier acts.

SUBJECTS AND RATES OF TAXATION.

1 SECTION 1. All property within the jurisdiction of the commonwealth,
 2 corporeal or incorporeal, and any interest therein, belonging to inhabit-
 3 ants of the commonwealth, and all real estate or any interest therein and
 4 all tangible personal property within the commonwealth belonging to
 5 persons who are not inhabitants of the commonwealth except such an
 6 interest in such real estate as is represented by a mortgage or by a trans-
 7 ferable certificate of participation or share of an association, partnership
 8 or trust, which shall pass by will, or by laws regulating intestate succe-
 9 sion, or by deed, grant or gift, except in cases of a bona fide purchase for
 10 full consideration in money or money's worth, made in contemplation
 11 of the death of the grantor or donor or made or intended to take effect
 12 in possession or enjoyment after his death, and any beneficial interest
 13 therein which shall arise or accrue by survivorship in any form of joint
 14 ownership in which the decedent joint owner contributed during his life
 15 any part of the property held in such joint ownership or of the purchase
 16 price thereof, to any person, absolutely or in trust, except to or for the
 17 use of charitable, educational or religious societies or institutions, the
 18 property of which is by the laws of the commonwealth exempt from taxa-
 19 tion, or for or upon trust for any charitable purposes to be carried out
 20 within the commonwealth, or to or for the use of the commonwealth or
 21 any town therein for public purposes, shall be subject to a tax at the
 22 percentage rates fixed by the following table:

Taxation of legacies and successions. Rates of tax. Exemptions. 1891, 425, § 1. 1895, 397. 1896, 108. 1901, 297. R. L. 15, § 1. 1905, 470, § 1. 1906, 436, § 1. 1907, 563, § 1, 3. 1909, 268, § 1; 490, 1V, §§ 1, 3; 527, § 1. 1911, 592. 1912, 678, § 1, 2. 1916, 268, § 1, 3. 1920, 396, § 1; 548, § 1. 1922, 347; 403, § 1. 1924, 128. 1925, 338, § 1. 1926, 148, § 1, 2. 1927, 156, § 1. 1929, 292, § 1. 162 Mass. 113. 164 Mass. 79. 171 Mass. 410, 595. 173 Mass. 205, 375. 174 Mass. 144, 266.

175 Mass. 59.
 176 Mass. 190.
 178 Mass. 95.
 179 Mass. 546.
 180 Mass. 515.
 185 Mass. 310.
 196 Mass. 332.
 197 Mass. 248.
 283.
 198 Mass. 413.
 205 Mass. 219.
 279.
 207 Mass. 368.
 208 Mass. 343.
 209 Mass. 186.
 319, 373, 459.
 211 Mass. 134.
 212 Mass. 165.
 215 Mass. 129.
 217 Mass. 348.
 504.
 218 Mass. 292.
 221 Mass. 146.
 291, 212, 371.
 600.
 222 Mass. 263.
 291.
 223 Mass. 134.
 306.
 224 Mass. 332.
 225 Mass. 355.
 226 Mass. 297.
 301, 306.
 227 Mass. 331.
 562.
 228 Mass. 196.
 229 Mass. 140.
 474.
 230 Mass. 452.
 233 Mass. 471.
 234 Mass. 188.
 237 Mass. 234.
 238 Mass. 544.
 242 Mass. 163.
 243 Mass. 523.
 245 Mass. 504.
 246 Mass. 500.
 253 Mass. 130.
 256 Mass. 519.
 260 Mass. 129.
 266 Mass. 583.
 267 Mass. 240.
 358.
 268 Mass. 443.
 269 Mass. 352.
 178 U. S. 41.
 250 U. S. 220.
 1 Op. A. G. 75,
 76, 288.

RELATIONSHIP OF BENEFICIARY TO DECEASED.	RATE PER CENTUM OF TAX ON VALUE OF PROPERTY OR INTEREST.							
	On Value not over \$10,000.	On Excess above \$10,000, not over \$25,000.	On Excess above \$25,000, not over \$50,000.	On Excess above \$50,000, not over \$250,000.	On Excess above \$250,000, not over \$500,000.	On Excess above \$500,000, not over \$750,000.	On Excess above \$750,000, not over \$1,000,000.	On Excess above \$1,000,000.
CLASS A. Husband, wife, father, mother; child, adopted child, adoptive parent, grandchild, . . .	1%	1%	2%	4%	5%	5½%	6%	7%
CLASS B. Lineal ancestor, except father or mother; lineal descendant, except child or grandchild; lineal descendant of adopted child; lineal ancestor of adoptive parent; wife or widow of a son; husband of a daughter, . . .	1%	2%	4%	5%	6%	7%	8%	9%
CLASS C. Brother, sister, half brother, half sister, nephew, niece, step-child or step-parent, . . .	3%	5%	7%	8%	9%	10%	11%	12%
CLASS D. All others, . . .	5%	6%	7%	8%	9%	10%	11%	12%

Provided, however, that no property or interest therein, which shall pass or accrue to or for the use of a person in Class A, except a grandchild of the deceased, unless its value exceeds ten thousand dollars, and no other property or interest therein, unless its value exceeds one thousand dollars, shall be subject to the tax imposed by this chapter, and no tax shall be exacted upon any property or interest so passing or accruing which shall reduce the value of such property or interest below said amounts.

All property and interests therein which shall pass from a decedent to the same beneficiary by any one or more of the methods hereinbefore specified and all beneficial interests which shall accrue in the manner hereinbefore provided to such beneficiary on account of the death of such decedent shall be united and treated as a single interest for the purpose of determining the tax hereunder.

Property passing under power of appointment, etc.
 1909, 527, § 8.
 207 Mass. 588.
 212 Mass. 165.
 218 Mass. 292.
 221 Mass. 571.
 600.
 225 Mass. 355.
 229 Mass. 174.
 230 Mass. 25.
 250 Mass. 519.

SECTION 2. Whenever any person shall exercise a power of appointment, derived from any disposition of property made prior to September first, nineteen hundred and seven, such appointment when made shall be deemed a disposition of property by the person exercising such power, taxable under section one, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by the donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a disposition of property taxable under section one shall be deemed to take place to the extent of such omission or failure in the same manner as though the persons thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power

15 failing to exercise such power, taking effect at the time of such omission
16 or failure.

1 SECTION 3. Any deed, grant or gift completed inter vivos, except in
2 cases of bona fide purchase for full consideration in money or money's
3 worth, made not more than six months prior to the death of the grantor
4 or donor, shall, prima facie, be deemed to have been made in contempla-
5 tion of the death of the grantor or donor. Notwithstanding any provi-
6 sion of section one, no tax shall be payable thereunder on account of
7 any deed, grant or gift in contemplation of death made more than two
8 years prior to the death of the grantor or donor, unless made or intended
9 to take effect in possession or enjoyment after such death.

Gifts, etc., in
contemplation
of death.
1929, 548, § 2.

1 SECTION 4. [REPEALED, 1927, 156, § 2.]

1 SECTION 5. [REPEALED, 1925, 338, § 2.]

PAYMENT OF TAX.

1 SECTION 6. Administrators, executors and trustees, grantees or
2 donees under conveyances or gifts made during the life of the grantor or
3 donor, persons to whom beneficial interests shall accrue by survivorship
4 and beneficiaries receiving additional property as provided in section
5 twenty-seven, shall be liable for the taxes imposed by this chapter, with
6 interest, until the same have been paid.

Persons liable
for taxes.
1891, 425, § 1.
1901, 297.
R L 15, § 1.
1905, 470, § 1.
1906, 436, § 1.
1907, 563, § 1.

1909, 268, § 1; 490,
IV, § 1; 527, § 1.

1912, 678, § 1.
1916, 268, § 1.

1931, 405, § 1.
267 Mass. 338.

1 SECTION 7. Taxes imposed by this chapter upon property or interests
2 therein, passing by will or by laws regulating intestate succession, shall
3 be payable to the commissioner by the executors, administrators or
4 trustees at the expiration of one year from the date of the giving of
5 bond by the executors, administrators or trustees first appointed; except
6 that in all cases where there shall be a devise, descent or bequest to take
7 effect in possession or come into actual enjoyment after the expiration
8 of one or more life estates or of a term of years, the taxes thereon shall
9 be payable by the executors, administrators or trustees in office when
10 such right of possession accrues, or, if there is no such executor, admin-
11 istrator or trustee, by the persons so entitled thereto, at the expiration
12 of one year from the date when the right of possession accrues to the
13 persons so entitled.

Time and
manner of
payment.
1891, 425,
§§ 2, 4, 7.
1895, 430, § 1.
R L 15.
§§ 2, 4, 7.
1902, 473.
1903, 276.
1907, 563, § 4.
1909, 490, IV,
§ 4; 527, § 2.
1915, 152.
1916, 268, § 2.
1920, 548, § 2.
1922, 520, § 15.
162 Mass. 113.
185 Mass. 439.
189 Mass. 104.
107 Mass. 283.
209 Mass. 186.
221 Mass. 146.
223 Mass. 32.
229 Mass. 140.
234 Mass. 188.
267 Mass. 240,
338.
269 Mass. 352.
1 Op. A. G. 76,
268.
2 Op. A. G. 373

14 If the probate court, acting under section thirteen of chapter one
15 hundred and ninety-seven, has ordered the executor or administrator
16 to retain funds to satisfy a claim of a creditor, the payment of the tax
17 may be suspended by the court to await the disposition of such claim.

18 Taxes imposed by this chapter upon property or interests therein,
19 passing by deed, grant or gift to take effect in possession or enjoyment
20 after the death of the grantor or donor, or upon beneficial interests
21 arising or accruing by survivorship in any form of joint ownership, shall
22 be payable by the grantee, donee or survivor at the expiration of one
23 year from the date when his right of possession or enjoyment accrues.
24 Taxes imposed by this chapter upon property or interests therein passing
25 by deed, grant or gift made in contemplation of death shall be payable
26 by the grantee or donee at the expiration of one year after the death of
27 the grantor or donor.

In case of any deed, grant or gift of a life interest or term of years, the donee for life or years shall pay a tax only on the value of his interest, and the donee of the future interest shall pay his tax when his right of possession or enjoyment accrues.

SECTION 8. [REPEALED, 1927, 156, § 2.]

Lien for tax. Property exempt. Discharge. 1891, 425, § 4. 1895, 430, § 1. R. L. 15, § 4. 1902, 473, § 1. 1903, 248; 276, § 1. 1907, 563, § 4. 1909, 490, IV, § 4; 527, § 2. 1915, 152. 1916, 268, § 2. 1920, 548, § 2. 267 Mass. 338.

SECTION 9. Property of which a decedent dies seized or possessed, subject to taxes as aforesaid, in whatever form of investment it may happen to be, and all property acquired in substitution therefor, shall be charged with a lien for all taxes and interest thereon which are or may become due on such property; but said lien shall not attach to any personal property after the same has been sold or disposed of for value by the executors, administrators or trustees, or to real estate after it has been conveyed by the executors, administrators or trustees under license or decree of the probate court, or to real estate which, during the life of the grantor, is conveyed by recorded or registered deed and transferred in possession and enjoyment by him to the grantee, in contemplation of death. The lien charged by this chapter upon any real estate or separate parcel thereof may be discharged by the payment of all taxes due and to become due upon said real estate or separate parcel, or by an order or decree of the probate court discharging said lien and securing the payment to the commonwealth of the tax due or to become due by bond or deposit as hereinafter provided, or by transferring such lien to other real estate owned by the owner or owners of said real estate or separate parcel thereof.

SECTION 10. [REPEALED, 1922, 403, § 4.]

Interest. 1891, 425, § 4. 1895, 430, § 1. R. L. 15, § 4. 1902, 473, § 1. 1903, 276, § 1.

SECTION 11. If taxes imposed by this chapter are not paid when due, interest at the rate of six per cent per annum shall be charged and collected thereon from the time the same became payable.

1907, 563, § 4.	1916, 268, § 2.	189 Mass. 104.
1909, 490, IV, § 4;	1918, 14.	269 Mass. 186.
527, § 2.	1923, 176.	269 Mass. 352.
1915, 152.		

Tax chargeable to capital, not income. 1912, 678, § 1. 1913, 498, § 1. 1916, 268, § 1. 228 Mass. 159.

SECTION 12. All taxes under this chapter shall be paid out of and chargeable to capital and not income, unless otherwise provided in a will or codicil, or deed or other instrument creating the grant or gift; but this provision shall not affect any right of the commonwealth to collect such tax, or any lien therefor.

VALUE FOR TAXATION.

Tax to be assessed upon value, etc. 1891, 425, § 13. R. L. 15, §§ 7, 16. 1905, 367. 1907, 563, § 6. 1909, 490, IV, § 6; 527, § 3. 1913, 689. 1921, 309, § 1. 178 Mass. 95. 179 Mass. 546. 197 Mass. 283. 223 Mass. 32. 229 Mass. 140.

SECTION 13. Except as otherwise provided in this and the following section, the tax imposed by this chapter shall be assessed upon the value of the property at the time of the death of the decedent. In case of a devise, descent, bequest or grant to take effect in possession or enjoyment after the expiration of one or more life estates or of a term of years, the tax shall be assessed on the value of the property or interest therein coming to the beneficiary at the time when he becomes entitled to the same in possession or enjoyment. The value of an annuity or a life interest in any such property, or any interest therein less than an absolute interest, shall be determined by the "American Experience Tables" at 10

11 four per cent compound interest; but when an annuity or a life interest
 12 is terminated by the death of the annuitant or life tenant, and the tax
 13 upon such interest is not due and has not been paid in advance, the value
 14 of said interest for the purposes of taxation under this chapter shall be
 15 the amount of the annuity or income actually paid or payable to the
 16 annuitant or life tenant during the period for which he was entitled to
 17 the annuity or was in possession of the life estate.

237 Mass. 254.
 238 Mass. 544.
 238 Mass. 253.
 267 Mass. 338.

SPECIAL PROVISIONS FOR PAYMENT OF TAXES ON FUTURE INTERESTS.

1 SECTION 14. Any person entitled to a future interest in any property
 2 may pay the tax on account of the same at any time before such tax would
 3 be due under this chapter, and in such cases the tax shall be assessed upon
 4 the value of the interest at the time of payment, and such value shall be
 5 determined by the commissioner as provided in this chapter. Whenever
 6 it is impossible to compute the present value of any interest, the commis-
 7 sioner may, with the approval of the attorney general, effect such settle-
 8 ment of the tax as he shall deem to be for the best interests of the common-
 9 wealth, and payment of the sum so agreed upon shall be a full satisfaction
 10 of such tax.

Persons
 entitled to
 future interests
 may pay tax
 in advance,
 etc.
 1902, 473.
 1903, 251; 276.
 1904, 421.
 1907, 563, § 7.
 1909, 490,
 IV, § 7.
 527, § 4.
 1919, 350, § 53.
 1924, 300, § 2.
 197 Mass. 283.

229 Mass. 140.

1 SECTION 15. In case of a devise, bequest or grant of real or personal
 2 property made or intended to take effect in possession or enjoyment after
 3 the death of the grantor, to take effect in possession or come into actual
 4 enjoyment after the expiration of one or more life estates or a term of
 5 years, whether conditioned upon the happening of a contingency, depend-
 6 ent upon the exercise of a discretion, subject to a power of appointment,
 7 or otherwise, the taxes upon which have not yet become due, the execu-
 8 tor, administrator, trustee or grantee may (a) deposit with the state
 9 treasurer bonds or other negotiable obligations of the commonwealth or
 10 of the United States of America of such aggregate face amount as the
 11 commissioner may from time to time deem necessary to adequately
 12 secure payment of such taxes, or (b) deposit with the state treasurer a
 13 sum of money sufficient in the opinion of the commissioner to pay all
 14 taxes which may become due upon such devise, bequest or grant, or (c)
 15 any executor, administrator, trustee or grantee, or any person interested
 16 in such devise, bequest or grant may give bond to a judge of the probate
 17 court having jurisdiction of the estate of the decedent, in such amount and
 18 with such sureties as said court may approve, conditioned that the obligor
 19 shall notify the commissioner when said taxes become due and shall
 20 then pay the same to the commonwealth. In case of a deposit of money
 21 hereunder, the state treasurer shall pay to such executor, administrator,
 22 trustee or grantee having the right to the use or income of such real or
 23 personal property, interest at the rate of two and one half per cent per
 24 annum upon such deposit and, when said taxes shall become due, shall
 25 repay to the persons entitled thereto the difference between such part of
 26 the tax certified as remains unpaid and the amount deposited. In case of
 27 a deposit of bonds or other negotiable obligations with the state treasurer
 28 hereunder, he shall pay to such executor, administrator, trustee or grantee
 29 as aforesaid or persons entitled thereto the interest accruing thereon and,
 30 if such taxes shall be paid in full when due, shall return such bonds or
 31 obligations to the persons entitled thereto; but if such taxes shall not be
 32 paid when due, the state treasurer may sell all or any part of such bonds or

Deposit, etc.,
 in lieu of tax.
 1903, 276.
 1907, 563, § 5.
 1909, 490,
 IV, § 5.
 1922, 300.
 269 Mass. 352.

obligations to satisfy such taxes and shall return to the persons entitled thereto all the proceeds of such sale, and all such bonds or obligations, remaining in his hands after satisfying such taxes.

PROVISIONS AFFECTING ADMINISTRATION OF ESTATES.

Property bequeathed to executor, etc., in lieu of compensation, 1891, 425, § 3. R. L. 15, § 3. 1907, 563, § 8. 1909, 490, IV, § 8.

SECTION 16. If a testator gives, bequeaths or devises to his executors or trustees any property otherwise liable to the tax imposed by this chapter in lieu of their compensation, the value thereof in excess of reasonable compensation, as determined by the probate court upon the application of any interested party or of the commissioner, shall be subject to this chapter.

Executor, etc., holding property subject to tax to deduct tax or collect it from legatee, etc. 1891, 425, § 5. 1901, 277. R. L. 15, § 5. 1907, 563, § 9. 1909, 490, IV, § 9. 197 Mass. 283. 224 Mass. 571. 1 Op. A. G. 30.

SECTION 17. An executor, administrator or trustee holding property subject to the tax imposed by this chapter shall deduct the tax therefrom or collect it from the legatee or person entitled to said property; and he shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. An executor or administrator shall collect taxes due upon land passing by inheritance or will which is subject to said tax from the heirs or devisees entitled thereto, and he may be authorized to sell said land, in the manner prescribed by section twenty-one, if they refuse or neglect to pay said tax.

If legacy payable out of real estate, devisee to pay tax to executor, etc. 1891, 425, § 6. R. L. 15, § 6. 1907, 563, § 10. 1909, 490, IV, § 10.

SECTION 18. If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying said legacy, shall deduct said tax therefrom and pay it to the executor, administrator or trustee, and the tax shall remain a lien upon said real estate until it is paid. Payment thereof may be enforced by the executor, administrator or trustee in the same manner as the payment of the legacy itself could be enforced.

No tax chargeable upon money applied in payment of succession tax in certain cases. 1907, 452; 563, § 11.

SECTION 19. When provision is made by any will or other instrument for payment of the legacy or succession tax upon any gift thereby made out of any property other than that so given, no tax shall be chargeable upon the sum to be applied in payment of such tax.

1909, 490, IV, § 11.

Tax may be refunded in certain cases, etc. 1891, 425, § 12. 1892, 379. R. L. 15, § 15. 1907, 563, § 18. 1909, 490, IV, § 18.

SECTION 20. If a person who has paid to the estate of a deceased person, or to the commonwealth, any tax or part of a tax imposed on such estate by this chapter, afterward refunds to the estate any of the property upon which such tax was paid, or, in the case of a tax or part of a tax paid to the estate of the deceased, or paid to the commonwealth on account of such estate, if it is judicially determined that the whole or any part of such tax ought not to have been paid, such tax, or the due proportion thereof, shall be repaid to him by the executor, administrator or trustee.

Probate court may authorize sale of real estate in certain cases. 1891, 425, § 8. R. L. 15, § 8.

SECTION 21. The probate court may authorize executors, administrators and trustees to sell the real estate of a decedent for the payment of said tax in the same manner as it may authorize them to sell real estate for the payment of debts.

1907, 563, § 12.

1909, 490, IV, § 12.

234 Mass. 403.

1 SECTION 22. A full and complete inventory and appraisal on oath
 2 of every estate shall be filed in the probate court or with the commis-
 3 sioner by the executor, administrator or trustee within three months
 4 after his appointment, and such inventory shall contain a complete list
 5 of all assets within the knowledge of said executor, administrator or
 6 trustee. If he neglects or refuses to file such an inventory and appraisal
 7 he shall be liable to a penalty of not more than one thousand dollars.

Inventory,
 etc., to be filed
 within three
 months after
 appointment
 of executor, etc.
 1891, 425, § 9.
 1905, 430, § 2.
 R. L. 15, § 9.
 1907, 563, § 13.
 1909, 490,
 IV, § 13;
 527, § 5.

1 Op. A. G. 30, 40, 52, 85.

1 SECTION 23. Except as provided in the following section, no final
 2 account of an executor, administrator or trustee shall be allowed by the
 3 probate court unless such account shows, and the judge of said court
 4 finds, that all taxes imposed by this chapter upon any property or inter-
 5 est therein belonging to the estate to be settled by said account and
 6 already payable have been paid, and that all taxes which may become
 7 due on said estate have been paid or settled as hereinbefore provided,
 8 or that the payment thereof to the commonwealth is secured by bond
 9 or deposit or by lien on real estate. The certificate of the commissioner
 10 and his receipt for the amount of the tax therein certified shall be con-
 11 clusive as to the payment of the tax, to the extent of said certification.

No final ac-
 count of
 executor, etc.,
 allowed unless
 taxes paid, etc.
 1891, 425, § 16.
 R. L. 15, § 19.
 1907, 563, § 23.
 1909, 490,
 IV, § 23.
 1910, 481,
 1922, 520, § 17.
 209 Mass. 186,
 321
 207 Mass. 338.

1 SECTION 24. The fact that an estate may later become subject to a
 2 tax imposed by this chapter, or that a tax hereby imposed is due and the
 3 amount thereof cannot be ascertained, shall not prevent the allowance
 4 of the final account of the executor, administrator or trustee thereof, if
 5 it appears that all taxes imposed by this chapter for which such estate
 6 is liable, which are already payable and the amount of which can be
 7 ascertained, have been paid, and that such property or interest therein
 8 has been transferred to a trustee appointed by a probate court of the
 9 commonwealth who has given bond, with sufficient sureties, in such a
 10 sum as to insure the payment of all taxes which are or may become due
 11 on said estate, unless such trustee is exempted from giving sureties by
 12 the probate court appointing him; and such trustee shall be liable for
 13 such taxes and the interest thereon in the same manner and to the same
 14 amount as if he had been the executor, administrator or trustee orig-
 15 inally liable therefor, and the property received by him shall be subject
 16 to a lien for said taxes and interest until the same are paid.

Allowance of
 final account
 when future
 taxes not paid.
 1910, 481,
 1911, 191.

VALUATION AND APPRAISAL.

1 SECTION 25. The value of the property upon which the tax is com-
 2 puted shall be determined by the commissioner and notified by him to
 3 the persons by whom the tax is payable, and such determination shall be
 4 final unless the value so determined shall be reduced by proceedings as
 5 herein provided. At any time within three months after such deter-
 6 mination, any party interested in the succession, or the executor, admin-
 7 istrator or trustee, may appeal from the decision to the board of tax
 8 appeals. Said board shall appraise such property at its value as of the
 9 date of the death of the decedent, shall give notice of its decision to the
 10 commissioner and to the appellant, and shall make return thereof to the
 11 probate court. Such return, when accepted by said court, shall be final
 12 except that any party aggrieved by such appraisal shall have an appeal
 13 on matters of law.

Determination
 of value of
 property by
 commissioner
 Appraisal and
 appeal
 1891, 425, § 13.
 R. L. 15, § 10.
 1905, 307.
 1907, 563, § 19.
 1909, 490,
 IV, § 19.
 1924, 300, § 3.
 1930, 416, § 30.
 217 Mass. 364.
 219 Mass. 601.
 221 Mass. 146.
 234 Mass. 188.
 267 Mass. 338.
 269 Mass. 352.

Alteration of
valuators.
1912, 254
1930, 416, § 31
269 Mass. 352.

SECTION 26. At any time within three months after the date of the determination of value of any estate made by the commissioner under the preceding section, the commissioner may, at the request or with the consent of the persons by whom the tax is payable, alter such determination of value. If any such alteration is made, the commissioner shall notify the persons by whom the tax is payable of the alteration, and the period within which an appeal to the board of tax appeals may be taken as provided by said section shall be three months from the date of said alteration of value by the commissioner. In all proceedings before the board of tax appeals or in the probate court under this or the preceding section the commissioner shall receive notice thereof and may be heard.

ASSESSMENT OF TAX.

Commissioner
to certify
amount of tax,
etc. Abate-
ment by
probate court.
1907, 563, § 20.
1909, 490,
IV, § 20.
1922, 520, § 18.
1931, 405, § 2.
217 Mass. 364.
219 Mass. 601.
221 Mass. 146.
245 Mass. 504.
253 Mass. 130.
267 Mass. 338.
269 Mass. 352.

SECTION 27. The commissioner shall determine the amount of tax due and payable upon any estate or part thereof and shall certify the amount so due and payable to the persons by whom the tax is payable. Such determination and certification may be made upon account of the tax payable upon the estate generally or upon account or in full for any part thereof or any interest therein. Payment of the amount so certified upon account shall be a discharge of the tax pro tanto and upon subsequent determination and certification of the full amount of the tax payable upon the estate generally or upon any interest therein or part thereof, payment of the full amount of said tax shall, except as hereinafter provided, be a discharge of the tax, and if upon such final certification it shall appear that any payments made on account are in excess of the tax in full as so determined, the commissioner shall, upon application duly made within six months from the date when the final certificate shall have been issued, issue a certificate that the applicant is entitled to have such excess refunded and the state treasurer shall without any appropriation therefor by the general court pay the amount so certified. In determining the amount of any tax under this chapter, the commissioner shall not be required to consider any payments on account of debts or expenses of administration which have not been allowed by the probate court having jurisdiction of said estate. If after determination and certification of the full amount of the tax upon an estate or any interest therein or part thereof the estate shall receive or become entitled to property in addition to that shown in the inventory or disclosed to the commissioner at or before the time of the certification of the tax in full, the executor, administrator, trustee or other fiduciary shall forthwith notify the commissioner who shall upon being thus or otherwise informed determine the amount of additional tax, if any, due and payable thereon and shall certify the said amount to the person by whom such tax is payable, which amount shall be due and payable thirty days from the date of the certification; provided, that a fiduciary shall be personally liable to pay only so much of said additional tax as is computed on the additional property actually received by him and that a beneficiary receiving any part of such additional property shall be liable to pay so much of the tax thereon as is not chargeable as aforesaid to a fiduciary.

An executor, administrator, trustee, grantee, donee, survivor or beneficiary aggrieved by any determination of the commissioner may, within one year after the payment of any such tax, apply by a petition in equity to the probate court having jurisdiction of the estate of the

41 decedent for the abatement of the tax or any part thereof, and if the
 42 court adjudges that the tax or any part thereof was wrongly exacted
 43 it shall order an abatement of such part thereof as was assessed with-
 44 out authority of law. Upon a final decision ordering an abatement of
 45 any part of such a tax, the treasurer shall pay the amount adjudged to
 46 have been illegally exacted, with interest, without any further appropria-
 47 tion therefor by the general court.

1 SECTION 28. For the purpose of assessing taxes imposed by this
 2 chapter, the commissioner may summon and examine on oath any person
 3 supposed to know or have means of knowing any material fact touching
 4 the subject of such assessment. The said examination may be reduced
 5 to writing, and false swearing therein shall be deemed perjury and be
 6 punishable as such. A justice of the superior court, upon application
 7 of the commissioner, may compel the attendance of such witnesses and
 8 the giving of such testimony before the commissioner in the same manner
 9 and to the same extent as before said court.

Commissioner
 may examine
 witnesses, etc.
 1914, 462.

1 SECTION 29. Whenever an executor, administrator, trustee, or any
 2 person liable to taxation under this chapter, refuses or neglects to furnish
 3 to the commissioner any information which in the opinion of the com-
 4 missioner is necessary to the proper computation of taxes payable by
 5 such executor, administrator, trustee or person, after having been re-
 6 quested so to do, the commissioner shall certify such taxes at the highest
 7 rate at which they could in any event be computed.

Commissioner,
 upon refusal of
 information, to
 assess at
 highest rate
 1909, 527, § 9.

PROCEEDINGS TO DETERMINE AND COLLECT TAXES.

1 SECTION 30. The probate court having jurisdiction of the settlement
 2 of the estate of the decedent shall, subject to appeal as in other cases,
 3 hear and determine all questions relative to the tax imposed by this
 4 chapter, or by the corresponding provisions of earlier laws, and the
 5 commissioner shall represent the commonwealth in any such proceedings.
 6 If the court finds that any tax remains due, it shall order the executor,
 7 administrator or trustee to pay the same, with interest and costs, and
 8 execution shall be awarded against the goods and estate of the deceased
 9 in the hands of the executor, administrator or trustee, or, if it appears
 10 that there are no such goods or estate in his hands, against the goods and
 11 estate of the executor, administrator or trustee, as if for his own debt;
 12 but the administrators, executors, trustees and grantees mentioned in
 13 this chapter shall be personally liable only for such taxes as shall be
 14 payable while they continue in the said offices or have title as such
 15 grantees respectively.

Jurisdiction
 and procedure
 of probate
 court in legacy
 and succession
 tax cases.
 1891, 425, § 14.
 R. L. 15, § 17.
 1903, 248.
 1907, 563, § 21.
 1909, 490,
 IV, § 21.
 1922, 520, § 19.
 164 Mass. 79.
 171 Mass. 595.
 189 Mass. 104.
 246 Mass. 300.
 253 Mass. 130.
 267 Mass. 240.
 268 Mass. 443.
 1 Op. A. G. 85.

1 SECTION 31. Upon petition of the commissioner the probate court
 2 shall, after such notice to the owners of any real estate or separate parcel
 3 thereof as said court shall order, determine the amount of taxes imposed
 4 by this chapter and by corresponding provisions of earlier laws which
 5 have become payable, and of interest on said taxes, for which such real
 6 estate or separate parcel thereof is charged with a lien. After such
 7 determination said commissioner may collect said taxes and interest by
 8 sale in the manner provided by chapter sixty for the collection of taxes
 9 by sale by a collector of taxes, so far as applicable.

Enforcement
 in probate
 court of lien on
 real estate for
 legacy and
 succession
 taxes.
 1910, 440
 1922, 520, § 20.
 267 Mass. 338.

Commissioner to proceed for recovery of unpaid taxes, etc. Abatement of uncollectible taxes.
1801, 425, § 18
R. L. 17, § 20
1907, 503, § 24.
1909, 490,
IV, § 24
1918, 257, § 75.
1919, 5.
1920, 2.
1922, 339, § 3;
520, § 21
1931, 426, § 193
179 Mass. 546.
189 Mass. 104
1 Op. A. G. 208.

SECTION 32. The commissioner shall commence proceedings for the recovery of any of the taxes imposed by this chapter or by corresponding provisions of earlier laws within six months after the same become payable; and also whenever the judge of a probate court certifies to him that the final account of an executor, administrator or trustee has been filed in such court, and that the settlement of the estate is delayed because of the non-payment of said tax. The probate court shall so certify upon the application of any heir, legatee or other person interested therein. Whenever the circumstances of a case require, the probate court may extend the time for payment of said tax, with or without interest. Any taxes assessed under this chapter or corresponding provisions of earlier laws, which are unpaid and uncollectible, may be abated by the board of tax appeals on the recommendation of the attorney general and the commissioner at any time after the expiration of five years from the date when the same became payable.

Additional remedies
1909, 266, § 1.
1922, 520, § 22.
217 Mass. 364.
221 Mass. 146.

SECTION 33. Taxes imposed by this chapter and by corresponding provisions of earlier laws may be recovered by the commissioner in an action of contract brought in the name of the commonwealth, or by an information in equity brought in the supreme judicial court by the attorney general at the relation of the commissioner. In a proceeding under this section for the collection of taxes imposed by this chapter, the determination by the commissioner under section twenty-seven of the amount of the tax shall be final as to such amount; but an executor, administrator, trustee, grantee, donee or survivor may show, in any proceeding brought against him under this section, any facts which would entitle him to an abatement under section twenty-seven, and a judgment or decree shall be entered for the amount of the tax so determined less the amount proved to have been assessed without authority of law, together with interest and costs. If upon an information brought hereunder the court shall find that any tax remains due, it shall order the executor, administrator, trustee, grantee, donee or survivor to pay the same, with interest and costs, and may award execution therefor in the manner and form provided in section thirty.

Recovery of penalties and forfeitures.
1909, 266, § 2.
1922, 520, § 23.

SECTION 34. Penalties and forfeitures incurred under this chapter may be recovered by the commissioner in an action of contract brought in the name of the commonwealth, or by an information in equity brought in the supreme judicial court by the attorney general at the relation of the commissioner.

GENERAL PROVISIONS.

Papers not to be open to public inspection, etc.
1911, 359,
§§ 1, 2.
1919, 350,
§§ 53-55.

SECTION 35. Papers, copies of papers, affidavits, statements, letters and other information and evidence filed with the commissioner in connection with the assessment of taxes upon legacies and successions, except inventories filed with him under section twenty-two, shall be open only to the inspection of persons charged or likely to become charged with the payment of taxes in the case in which such paper, copy, affidavit, statement, letter or other information or evidence is filed, or their representatives, and to the commissioner, his deputies, assistants and clerks and such other officers of the commonwealth and other persons as may, in the performance of their duties, have occasion to inspect the same for the purpose of assessing or collecting taxes. Nothing in this section shall be construed as limiting the duties imposed upon the commissioner

13 by section three of chapter fifty-eight or as prohibiting the use of such
 14 papers, copies, affidavits, statements, letters and other information and
 15 evidence in legal proceedings involving the assessment, collection or
 16 abatement of taxes.

1 SECTION 36. This chapter shall apply only to property or interests
 2 therein passing or accruing upon the death of persons dying on or after
 3 May fourth, nineteen hundred and twenty, and as to all property and
 4 interests therein passing or accruing upon the death of persons who
 5 have died prior to said date the laws theretofore applicable shall remain
 6 in force; but so much of this chapter as relates to property or interests
 7 therein passing by deed, grant or gift completed inter vivos in contem-
 8 plation of death shall apply only to such deeds, grants or gifts made
 9 on or after May twenty-seventh, nineteen hundred and twenty.

Applications of
 chapter and
 earlier acts.
 1907, 563,
 §§ 25, 26
 1909, 496, IV,
 §§ 25-27;
 1927, §§ 10, 11,
 1911, 502, § 2.
 1912, 678,
 §§ 2, 3.
 1913, 689, § 2.
 1914, 503
 1915, 132, § 2.
 1916, 268, § 4.

1920, 396, § 4;	217 Mass. 348.	256 Mass. 519.
548, § 3.	224 Mass. 332.	267 Mass. 240.
208 Mass. 343.	227 Mass. 331.	268 Mass. 443.

CHAPTER 65A.

TAXATION OF TRANSFERS OF CERTAIN ESTATES.

SECT.

1. Transfers of certain estates, taxation of.
2. Tax, when payable. Extensions.
3. Tax, when credited against tax upon certain future interests.
4. Repayment, collection, etc., certain laws applicable to.

SECT.

5. Reimbursement, etc., to certain persons paying tax.
6. Federal revenue act, change in, effect.
7. Same subject. Repeal, etc., effect.

1 SECTION 1. A tax is hereby imposed upon the transfer of the estate of
 2 every person dying after February twenty-sixth, nineteen hundred and
 3 twenty-six, who at the time of death was a resident of this common-
 4 wealth, the amount of which shall be the amount by which eighty per
 5 cent of the estate tax payable to the United States under the provisions
 6 of the federal revenue act of nineteen hundred and twenty-six shall
 7 exceed the aggregate amount of all estate, inheritance, legacy and succes-
 8 sion taxes actually paid to the several states of the United States in respect
 9 to any property owned by such decedent or subject to such taxes as a
 10 part of or in connection with his estate.

Transfers
 of certain
 estates.
 taxation of.
 1927, 178, § 1.

1 SECTION 2. The tax imposed by this chapter shall become due and
 2 payable at the expiration of eighteen months from the date of death,
 3 and executors, administrators, trustees, grantees, donees, beneficiaries
 4 and surviving joint owners shall be and remain liable for the tax until it
 5 is paid. If the tax is not paid when due, interest at the rate of six per cent
 6 per annum shall be charged and collected from the time the same became
 7 payable. The commissioner of corporations and taxation, hereinafter
 8 called the commissioner, may, however, for cause shown extend the time
 9 for payment with or without interest for such period as the circumstances
 10 require.

Tax, when
 payable.
 Extensions.
 1927, 178, § 1.

Tax, when credited against tax upon certain future interests
1927, 178, § 1.

SECTION 3. If after the payment of the tax under this chapter there shall become payable a tax under chapter sixty-five upon any future interest in any property owned by such decedent or subject to such tax as a part of or in connection with his estate the tax paid under this chapter shall be credited against such tax under said chapter sixty-five, but the amount so credited shall not in any event exceed the amount of the tax on such future interest.

Repayment, collection, etc., certain laws applicable to.
1927, 178, § 1.

SECTION 4. The provisions of section twenty-seven of chapter fifty-eight relative to the repayment of illegal taxes and all provisions of said chapter sixty-five relative to the determination, certification and collection of the tax imposed by said chapter, relative to the refund or recovery of taxes assessed and collected without authority of law and relative to the determination of questions concerning the tax and all necessary administrative provisions of said chapter sixty-five shall also be effective in reference to all corresponding matters arising in connection with the tax hereunder, except that no lien shall attach to any property of any estate on account of the tax imposed hereunder. The commissioner shall have authority to require all persons or corporations liable for the payment of taxes hereunder to file returns in such form as he may prescribe.

Reimbursement, etc., to certain persons paying tax
1927, 178, § 1.

SECTION 5. If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor or administrator in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or to a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts or other charges against the estate.

Federal revenue act, change in, effect.
1927, 178, § 1.

SECTION 6. If the amount of tax imposed by Title III of said revenue act shall be increased or decreased as affecting an estate taxable hereunder subsequent to the payment of the tax on account of such estate imposed by section one of this chapter the tax imposed upon such estate hereunder shall be changed accordingly. Any additional tax shall be assessed by the commissioner and paid within thirty days after the date of the notice from the commissioner of the amount thereof. Any excess tax received by the commonwealth shall be refunded within thirty days after the amount shall have been certified by the commissioner with interest at six per cent from the date of payment, without appropriation.

Same subject. Repeal, etc., effect.
1927, 178, § 1
1930, 301, § 1

SECTION 7. This chapter shall become void and of no effect in respect to the estates of persons who shall die subsequent to the repeal of Title III of said federal revenue act or of the provision thereof providing for a credit of the taxes paid to the several states of the United States not exceeding eighty per cent of the tax imposed by said Title III or who shall die subsequent to a final judgment, order or decree declaring such provision to be invalid. If said provision for such a credit shall be declared invalid as aforesaid and if, in consequence thereof, the proper officials of the federal government shall assess an additional estate tax upon the estate of any person who shall have died after February twenty-

11 sixth, nineteen hundred and twenty-six, an amount equal to such addi-
12 tional estate tax, with interest thereon, shall be refunded by the state
13 treasurer without an appropriation therefor, provided, that the amount
14 so refunded shall not exceed the tax paid on account of such estate
15 under this chapter and corresponding provisions of earlier laws, with
16 interest at the rate of six per cent per annum from the date of its pay-
17 ment; and the time for bringing any petition in accordance with the
18 provisions of said chapter sixty-five shall be extended for one year from
19 the date when such additional estate tax shall have been paid to the
20 United States.

TITLE X.

PUBLIC RECORDS.

CHAPTER 66. Public Records.

CHAPTER 66.

PUBLIC RECORDS.

SECT.

1. Duties of supervisor of public records. Keeping and preservation.
2. Standard record ink.
3. "Record" defined. Quality of paper required. Record made by photographic process, when authorized.
4. Certain appliances forbidden. Penalty.
5. Copies of records of counties, cities and towns.
6. Custody of departmental, etc., records.
7. Custody of ancient and certain other public records.
8. Preservation of certain books, papers and records.

SECT.

9. Preservation and copying of worn, etc., records.
10. Records open for public inspection.
11. Fireproof vaults.
12. Arrangement of records for reference.
13. Custodian to demand records.
14. Surrender of records by retiring officer.
15. Penalties.
16. Church records. Jurisdiction of superior court.
17. Records to be placed in city or town where they originally belonged, etc. Penalty.
18. Application of chapter limited.

Duties of supervisor of public records. Keeping and preservation
 1892, 333, § 3.
 1898, 67.
 R. L. 53, § 3.
 1913, 483, § 2.
 1915, 45, § 1.
 1918, 257, § 165.
 1919, 3; 350, § 24.
 1920, 2.
 1923, 362, § 57.
 1 Op. A. G. 207.

SECTION 1. The supervisor of public records, in this chapter called the supervisor of records, shall take necessary measures to put the records of the commonwealth, counties, cities or towns in the custody and condition required by law and to secure their preservation. He shall see that the records of churches, parishes or religious societies are kept in the custody and condition contemplated by the various laws relating to churches, parishes or religious societies, and for these purposes he may expend from the amount appropriated for expenses such amount as he considers necessary; provided, that no measures shall be taken relative to the records of the commonwealth unless the same are approved by the division of personnel and standardization.

Standard record ink.
 1894, 378.
 1898, 510.
 1899, 354, §§ 2, 3.
 R. L. 35, § 7.
 1918, 257, § 166.
 1919, 5.
 1920, 2.
 2 Op. A. G. 89.

SECTION 2. The supervisor of records shall advertise for proposals to furnish the several departments and offices of the commonwealth, and of the counties, cities or towns in which public records are kept, with ink of a standard, and upon conditions, established by him, at such periods and in such quantities as may be required, and he may make contracts therefor. Ink so furnished, before being accepted by him, shall be examined by a chemist designated by him and, if at any time any of said ink shall be found inferior to the established standard, the supervisor of records may cancel the contract for furnishing such ink. Ink furnished to counties, cities and towns shall be paid for by them at cost.

1 SECTION 3. The word "record" in this chapter shall mean any writ-
 2 ten or printed book, paper, photograph, map or plan. All public records
 3 other than maps and plans shall be entered or recorded on paper made
 4 of linen rags and new cotton clippings, well sized with animal sizing and
 5 well finished, and preference shall be given to paper of American manu-
 6 facture marked in water line with the name of the manufacturer. Public
 7 records may be made by photographic process when the instrument to
 8 be recorded is required by law to remain in the custody of the recording
 9 officer.

"Record"
 defined.
 Quality of
 paper required
 Record made
 by photo-
 graphic process,
 when au-
 thorized.
 1815, 73.
 R. S. 14, § 116.
 G. S. 29, § 1.
 P. S. 37, § 1.
 1891, 281.

1897, 439, § 1. 197 Mass. 218, 256. 218 Mass. 501 3 Op. A. G. 122,
 R. L. 35, §§ 5, 6. 214 Mass. 254 2 Op. A. G. 381. 136, 351.
 1928, 192, § 1.

1 SECTION 4. No ink shall be used upon any public record except ink
 2 furnished by the supervisor of records, and no ribbon, pad or other
 3 device used for printing by typewriting machines, or stamping pad, or
 4 any ink contained in such ribbon, pad, device or stamping pad, shall be
 5 used upon any public record, nor shall any photographic machine or
 6 device or chemical used in connection therewith be used in making any
 7 public record, except such as has been approved by the supervisor of
 8 records, who may cancel his approval if he finds that any article so
 9 approved is inferior to the standard established by him. Whoever
 10 violates this section shall be punished by a fine of not more than fifty
 11 dollars.

Certain appli-
 cations for-
 bidden.
 Penalty.
 1894, 378.
 1898, 510
 1899, 354, §§ 1,
 4, 5.
 R. L. 35,
 §§ 8-10.
 1908, 57.
 1928, 192, § 2.

1 SECTION 5. County commissioners, city councils and selectmen may
 2 cause copies of records of counties, cities or towns, of town proprietaries,
 3 of proprietors of plantations, townships or common lands, relative to
 4 land situated in their county, city or town or of easements relating
 5 thereto, to be made for their county, city or town, whether such records
 6 are within or without the commonwealth, and such records within the
 7 commonwealth may be delivered by their custodians to any county,
 8 city or town for such copying. City councils and selectmen may also
 9 cause copies to be made of the records of births, baptisms, marriages
 10 and deaths kept by a church or parish in their city or town.

Copies of
 records of
 counties, cities
 and towns.
 1857, 84.
 §§ 1, 2.
 G. S. 29,
 §§ 5, 6.
 1865, 265.
 1874, 162.
 P. S. 37, §§ 5,
 6, 9.
 1887, 202, § 1.
 1897, 439, § 5.
 R. L. 35, § 15.
 1913, 355.

1 SECTION 6. Every department, board, commission or office of the
 2 commonwealth or of a county, city or town, for which no clerk is oth-
 3 erwise provided by law, shall designate some person as clerk, who shall
 4 enter all its votes, orders and proceedings in books and shall have the
 5 custody of such books, and the department, board, commission or office
 6 shall designate an employee or employees to have the custody of its other
 7 public records. Every sole officer in charge of a department or office of
 8 the commonwealth or of a county, city or town having public records in
 9 such department or office shall have the custody thereof.

Custody of
 departmental,
 etc., records.
 1897, 439,
 §§ 2, 3.
 R. L. 35, § 11.
 212 Mass. 92.
 221 Mass. 150.

1 SECTION 7. Every town clerk shall have the custody of all records
 2 of proprietors of towns, townships, plantations or common lands, if the
 3 towns, townships, plantations or common lands to which such records
 4 relate, or the larger part thereof, are within his town and the proprietors
 5 have ceased to be a body politic. The state secretary, clerks of the county
 6 commissioners and city or town clerks shall respectively have the custody
 7 of all other public records of the commonwealth or of their respective
 8 counties, cities or towns, if no other disposition of such records is made
 9 by law or ordinance, and shall certify copies thereof.

Custody of
 ancient and
 certain other
 public records.
 1783, 39, § 9.
 R. S. 43, § 17.
 1851, 161.
 §§ 5, 8.
 G. S. 29, §§ 11,
 12.
 P. S. 37,
 §§ 14, 15.
 1860, 227.
 1892, 314, § 3.
 1897, 439, § 3.

Preservation of certain books, papers and records.
1894, 356, §§ 1, 2.
1897, 439, § 4.
R. L. 35, § 14.
1918, 257, § 167.
1919, 5.
1920, 2.
1 Op. A. G. 325.

SECTION 8. Every original paper belonging to the files of the commonwealth, or of any county, city or town, bearing date earlier than the year eighteen hundred, every book of registry or record, every town warrant, every deed to the commonwealth or to any county, city or town, every report of an agent, officer or committee relative to bridges, public ways, sewers or other state, county or municipal interests or matters not required to be recorded in a book, and not so recorded, shall be preserved and safely kept, and every other paper belonging to such files shall be kept for seven years after the latest original entry therein or thereon, unless otherwise provided by law; and no such paper shall be destroyed without the written approval of the supervisor of records.

Preservation and copying of records.
1851, 161, §§ 2, 6.
1857, 84, §§ 1, 2.
G. S. 29, §§ 2, 7, 8.
P. S. 37, §§ 2, 7, 8.
1897, 439, §§ 6, 8.
R. L. 35, § 16.
1913, 485, § 3.
1 Op. A. G. 484.

SECTION 9. Every person having custody of any public record books of the commonwealth, or of a county, city or town shall, at its expense, cause them to be properly and substantially bound. He shall have any such books, which may have been left incomplete, made up and completed from the files and usual memoranda, so far as practicable. He shall cause fair and legible copies to be seasonably made of any books which are worn, mutilated or are becoming illegible, and cause them to be repaired, rebound or renovated. He may cause any such books to be placed in the custody of the supervisor of records, who may have them repaired, renovated or rebound at the expense of the commonwealth, county, city or town to which they belong. Whoever causes such books to be so completed or copied shall attest them, and shall certify, on oath, that they have been made from such files and memoranda or are copies of the original books. Such books shall then have the force of the original records.

Records open for public inspection.
1851, 161, § 4.
1857, 84, § 3.
G. S. 29, § 10.
P. S. 37, § 13.
1897, 439, § 7.
R. L. 35, § 17.

SECTION 10. Every person having custody of any public records shall, at reasonable times, permit them to be inspected and examined by any person, under his supervision, and shall furnish copies thereof on payment of a reasonable fee. In towns such inspection and furnishing of copies may be regulated by ordinance or by-law.

197 Mass. 218.
248 Mass. 559.

2 Op. A. G. 381.
3 Op. A. G. 136.

Fireproof vaults.
R. S. 14, § 104.
1851, 161, §§ 1, 2.
1857, 97, § 1.
G. S. 29, §§ 3, 4.
P. S. 37, §§ 3, 4.
1897, 439, § 10.
R. L. 35, § 18.
2 Op. A. G. 48.

SECTION 11. Officers in charge of a state department, county commissioners, city councils and selectmen shall, at the expense of the commonwealth, county, city or town, respectively, provide and maintain fireproof rooms, safes or vaults for the safe keeping of the public records of their department, county, city or town, other than the records in the custody of teachers of the public schools, and shall furnish such rooms with fittings of non-combustible materials only.

Arrangement of records for reference.
1897, 439, § 9.
R. L. 35, § 19.

SECTION 12. All such records shall be kept in the rooms where they are ordinarily used, and so arranged that they may be conveniently examined and referred to. When not in use, they shall be kept in the fireproof rooms, vaults or safes provided for them.

Custodian to demand records.
1897, 439, § 9.
R. L. 35, § 20.

SECTION 13. Whoever is entitled to the custody of public records shall demand the same from any person having possession of them, who shall forthwith deliver the same to him.

1 SECTION 14. Whoever has custody of any public records shall, upon
 2 the expiration of his term of office, employment or authority, deliver
 3 over to his successor all such records which he is not authorized by law to
 4 retain, and shall make oath that he has so delivered them, according as
 5 they are the records of the commonwealth or of a county, city or town,
 6 before the state secretary, the clerk of the county commissioners or the
 7 city or town clerk, who shall, respectively, make a record of such oath.

Surrender of records by retiring officer.
 1891, 340.
 1897, 439, § 11.
 R. L. 35, § 21.

1 SECTION 15. Whoever unlawfully keeps in his possession any public
 2 record or removes it from the room where it is usually kept, or alters,
 3 defaces, mutilates or destroys any public record or violates any provision
 4 of this chapter shall be punished by a fine of not less than ten nor more
 5 than five hundred dollars. Any public officer who refuses or neglects
 6 to perform any duty required of him by this chapter shall for each
 7 month of such neglect or refusal be punished by a fine of not more
 8 than twenty dollars.

Penalties.
 1851, 161, §§ 4, 5, 7, 8.
 1857, 97, § 2.
 G. S. 29, § 13.
 P. S. 37, § 16.
 1890, 292.
 1897, 439, § 12.
 R. L. 35, § 22.
 1 Op. A. G. 484.

1 SECTION 16. If a church, parish, religious society, monthly meeting
 2 of the people called Friends or Quakers, or any similar body of persons
 3 who have associated themselves together for holding religious meetings,
 4 shall cease for the term of two years to hold such meetings, the persons
 5 having the care of any records or registries of such body, or of any officers
 6 thereof, shall deliver all such records, except records essential to the
 7 control of any property or trust funds belonging to such body, to the
 8 clerk of the town where such body is situated and such clerk may certify
 9 copies thereof. If any such body, the records or registries of which, or of
 10 any officers of which, have been so delivered, shall resume meetings
 11 under its former name or shall be legally incorporated, either alone or
 12 with a similar body, the clerk of such town shall, upon written demand
 13 by a person duly authorized, deliver such records or registries to him if
 14 he shall in writing certify that to the best of his knowledge and belief
 15 said meetings are to be continued or such incorporation has been legally
 16 completed. The superior court shall have jurisdiction in equity to en-
 17 force this section.

Church records. Jurisdiction of superior court.
 1897, 439, § 3.
 1898, 453.
 R. L. 35, § 13.

1 SECTION 17. Except as otherwise provided by law, all public records
 2 shall be kept in the custody of the person having the custody of similar
 3 records in the county, city or town to which they originally belonged,
 4 and if not in his custody shall be demanded by him of the person having
 5 possession thereof, and shall forthwith be delivered by such person to
 6 him. Whoever refuses or neglects to perform any duty required of
 7 him by this section shall be punished by a fine of not more than twenty
 8 dollars.

Records to be placed in city or town where they originally belonged, etc.
 Penalty.
 1902, 311, §§ 2-4.

1 SECTION 18. This chapter shall not apply to the records of the
 2 general court, nor shall declarations, affidavits and other papers filed
 3 by claimants in the office of the commissioner of state aid and pensions,
 4 or records kept by him for reference by the officials of his office, be public
 5 records.

Application of chapter limited.
 1897, 439, § 13.
 R. L. 35, § 23.
 1903, 177, § 1.

TITLE XI.

CERTAIN RELIGIOUS AND CHARITABLE MATTERS.

CHAPTER 67. Parishes and Religious Societies.

CHAPTER 68. Donations and Conveyances for Pious and Charitable Uses.

CHAPTER 67.

PARISHES AND RELIGIOUS SOCIETIES.

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2. Same subject.
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4. By-laws.
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21. Incorporation of religious societies.
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32. Affidavit of posting of notice of sale, effect.
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37. Purchase of pews by religious corporation.
38. Pews as personal estate.

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39. Protestant Episcopal societies.

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40. Methodist Episcopal churches. Organization.
41. Powers of trustees.
42. First meeting of trustees, etc.
43. Filing record of organization.

ROMAN CATHOLIC CHURCHES.

44. Roman Catholic churches. Incorporation.
45. Successor of archbishop, etc., to be trustee.
46. Powers of trustees.

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INCORPORATION OF CHURCHES.

- 47. Incorporation of churches.
- 48. Notice of meeting for incorporation.
- 49. Election of officers.
- 50. By-laws.
- 51. Filing record of organization. Certificate of organization.

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- 52. Church members only to be members of corporation. Exceptions.
- 53. Officers may convey property to the church.
- 54. Religious societies may convey property to the church.

GENERAL PROVISIONS.

1 SECTION 1. Every religious society heretofore established or organized under any statute shall continue a body corporate with the powers given to such corporations by law, and with the powers, privileges, liabilities and duties set forth in this chapter; but this chapter shall not impair the existing rights of property of any territorial parish.

G. S. 30, § 1. P. S. 38, § 1. R. L. 36, § 1. 13 Allen, 90, 497.

Powers and liabilities of religious societies. 1786, 140 1834, 183, § 1. R. S. 20, §§ 1, 19, 21.

1 SECTION 2. Religious societies, incorporated or unincorporated, shall continue to have and enjoy their existing rights, privileges and immunities, except as limited or modified by this chapter.

1834, 183, § 1. G. S. 30, § 2. R. L. 36, § 2. 222 Mass. 464. R. S. 20, § 2. P. S. 38, § 2. 1 Cush. 145. 243 Mass. 331.

Same subject. Const. amend. 11. (Const. Rev. art. 3, § 1)

1 SECTION 3. Churches connected and associated in public worship with such religious societies shall continue to have, exercise and enjoy all their accustomed privileges and liberties respecting divine worship, church order and discipline, and shall be encouraged in the peaceable and regular enjoyment and practice thereof.

P. S. 38, § 3. 16 Mass. 488. 5 Cush. 336, 412. 222 Mass. 464. R. L. 36, § 3. 10 Pick. 172, 333. 148 Mass. 409. 243 Mass. 331.

Privileges of churches connected therewith. 1799, 87, § 1. 1834, 183, § 1. R. S. 20, § 3. G. S. 30, § 3.

1 SECTION 4. A religious society may make by-laws consistent with law, prescribing the manner in which persons may become members and the mode of calling and warning its meetings, and regulating the management of its affairs.

1887, 404, § 4. R. L. 36, § 5. 243 Mass. 331. 1888, 326. 201 Mass. 534.

By-laws. 1834, 183, § 3. R. S. 20, § 5. G. S. 30, § 7. P. S. 38, § 5.

1 SECTION 5. A person belonging to such society shall continue a member thereof until he files with the clerk a written declaration of the dissolution of his membership; but after filing such notice he shall not be liable for any grant or contract thereafter made or entered into by such society. No person shall be made a member of a religious society without his written consent.

R. L. 36, § 4. 5 Pick. 498. 21 Pick. 148. 8 Cush. 267. 17 Mass. 347. 13 Pick. 111. 5 Met. 73. 106 Mass. 479, 480.

Membership. Const. amend. 11. (Const. Rev. art. 3, § 1) 1834, 183, § 2. R. S. 20, § 4. G. S. 30, § 6. P. S. 38, § 4.

1 SECTION 6. A religious society may admit women to membership with full rights and privileges, and a territorial parish may admit to membership persons who are not residents of its territory.

1869, 346, §§ 1, 2. P. S. 38, § 6. R. L. 36, § 6.

Women and non-residents may be members.

1 SECTION 7. Every incorporated religious society shall hold an annual meeting in March or April, or at such other time as it may prescribe by its by-laws, and, if the by-laws do not otherwise provide, at a time and place appointed by its assessors or standing committee; and at such meeting it shall choose a moderator, clerk, a standing committee or two or more assessors, a treasurer, a collector, and such other officers as it

Annual meetings and officers. 1785, 50, § 15; 70, § 16. 1786, 10, §§ 1, 2. R. S. 20, §§ 7, 15. 1852, 175, § 1. G. S. 30, §§ 9, 18.

P. S. 38, § 8. 1786, 10, § 1. R. L. 36, § 7. 1 Cush. 148. 97 Mass. 349. 232 Mass. 331.

may think necessary, all of whom, except the moderator, shall, except 7
as otherwise provided in this chapter, hold office until the next annual 8
meeting and until their successors are qualified. Vacancies in said 9
offices may be filled at any legal meeting. 10

Election of officers. 1786, 10, § 1. R. L. 36, § 7. 1838, 46. G. S. 30, § 10. P. S. 38, § 9.

SECTION 8. Moderators for meetings held for the choice of officers 1
shall be elected by ballot. Clerks, assessors, treasurers and collectors 2
shall be elected by ballot, and shall be sworn. Other officers may be 3
elected in such manner as the society determines. 4

R. L. 36, § 9.

Moderator's powers. 1786, 10, § 2. R. S. 20, § 11. G. S. 30, § 16. P. S. 38, § 15. R. L. 36, § 15.

SECTION 9. The moderator shall have like powers with the mod- 1
erator of a town meeting; and whoever is guilty of disorderly behavior 2
at a meeting of a religious society shall be subject to the penalties pro- 3
vided for like offences in town meetings. 4

Tenure of office of assessors or standing committee. 1894, 126. R. L. 36, § 8.

SECTION 10. The assessors or standing committee may be elected 1
for such term, not exceeding three years, as the parish or religious 2
society may by vote or by-law prescribe, and the vote or by-law may 3
provide that the term of office of the assessors or members of the stand- 4
ing committee may expire in different years. 5

Prudential affairs, management of. 1786, 10, § 2. R. S. 20, § 14. G. S. 30, § 11. P. S. 38, § 10.

SECTION 11. The prudential affairs of such societies shall be man- 1
aged by their assessors or by a standing committee, who, unless the 2
by-laws otherwise provide, shall have like authority for calling meetings 3
as selectmen have for calling town meetings. 4

R. L. 36, § 10.

97 Mass. 349.

Meeting called by justice of the peace, when. 1751-2, 10. 1786, 10, § 2. R. S. 20, § 17.

SECTION 12. If there are no assessors or committee, or if such officers 1
unreasonably refuse to call a meeting, a justice of the peace may, upon 2
the application of five or more members, call a meeting in the manner 3
provided in section twenty-two. 4

G. S. 30, § 12.

3 Pick. 232.

97 Mass. 349.

P. S. 38, § 11.

6 Met. 418.

232 Mass. 331.

R. L. 36, § 11.

4 Cush. 476.

Meetings, how warned. 1807, 63. R. S. 20, § 8. G. S. 30, § 14. P. S. 38, § 13. 1887, 404, § 4.

SECTION 13. Meetings shall be warned in the manner provided by 1
any by-law or vote of the society, or, if no such provision has been made, 2
in such manner as the assessors or standing committee in their warrant 3
may direct. 4

R. L. 36, § 13.

232 Mass. 331.

Warrant for meeting; contents. 1733-4, 4, § 1. 1786, 10, § 2. R. S. 20, § 16. G. S. 30, § 13.

SECTION 14. The assessors or committee shall insert in the warrant 1
for a meeting any matter the insertion of which five or more members 2
of the society may in writing request. Nothing shall be acted upon at 3
a meeting unless the subject matter thereof was inserted in the warrant. 4

P. S. 38, § 12.

R. L. 36, § 12.

9 Pick. 97.

149 Mass. 135.

Presiding officer. Oaths of officers. 1751-2, 10, § 2. 1733-4, 4, § 2. 1786, 10, § 1, 2. 1817, 184, § 2. 1831, 50.

SECTION 15. The clerk or, if there is no clerk or if he is absent, one 1
of the assessors or of the standing committee shall preside in the choice 2
of a moderator, after which a clerk may be chosen, either pro tempore 3
or to fill the vacancy. The moderator may administer the oath of office 4
to the clerk, and the clerk to the assessors, treasurer and collector, or 5
said oaths may be administered by a justice of the peace. 6

R. S. 20, § 9, 10.

1865, 100.

R. L. 36, § 14.

G. S. 30, § 15.

P. S. 38, § 14.

5 Mass. 427.

1 SECTION 16. If the person who is chosen collector is present and
 2 accepts the office, he shall forthwith be sworn. If not present, he shall
 3 be summoned to take the oath by a constable or by any person whom
 4 the clerk or assessors appoint for the purpose. Upon the refusal or
 5 neglect of a person present to accept such office at the time, or upon the
 6 neglect of a person so summoned, for the space of seven days, to appear
 7 and take the oath, the society shall proceed to a new choice; and so from
 8 time to time until some person accepts and is sworn.

Collector.
 1786, 10, § 1.
 R. S. 20,
 §§ 12, 13
 G. S. 30, § 17.
 P. S. 38, § 16.
 R. L. 36, § 16.

1 SECTION 17. A religious society may, at its annual meeting or at
 2 any other meeting regularly notified seven days at least before the hold-
 3 ing thereof, grant and vote money necessary for the settlement and
 4 support of ministers or public teachers of religion, for the building or
 5 repairing of houses of public worship, for sacred music, for the purchase
 6 and preservation of burial grounds, and for other necessary parish
 7 charges.

Appropriations.
 1786, 10, § 3
 1799, 27, § 4
 1821, 67
 1825, 107.
 1831, 183, § 4.
 R. S. 20, § 18
 G. S. 30, § 20
 P. S. 38, § 18.
 R. L. 36, § 17.

1 Mass. 181.
 5 Mass. 547.

10 Pick. 500.
 5 Met. 73.

8 Cush. 267
 149 Mass. 135.

1 SECTION 18. No parish or religious society shall assess taxes on the
 2 polls or estates of its members; but pews may be assessed as heretofore.
 3 No member of any territorial or other parish shall, as such, be personally
 4 liable for any debt or obligation of the parish incurred after April sixth,
 5 eighteen hundred and ninety-seven.

Assessments
 on pews
 Non-liability
 of members
 for certain
 parish debts.
 1887, 419

1897, 241.

R. L. 36, § 18.

1 SECTION 19. A religious society may, under sections thirty-three and
 2 thirty-four, for the purpose of altering, enlarging, removing or rebuilding
 3 its house or building a new house, take down any pews therein or sell
 4 the house.

Pews may be
 taken down or
 meeting
 house sold.
 1835, 121.

R. S. 20, § 37.
 1853, 256.

G. S. 30, § 36.
 P. S. 38, § 22.

R. L. 36, § 19.
 109 Mass. 1.

1 SECTION 20. The terms "religious society" and "society" in the
 2 preceding sections shall include parishes.

Preceding
 sections to
 apply to
 parishes.

G. S. 30, § 26.

P. S. 38, § 23.

R. L. 36, § 20.

ORGANIZATION OF RELIGIOUS SOCIETIES.

1 SECTION 21. An unincorporated religious society, if it contains ten or
 2 more members, male or female, may become a corporation, and may hold
 3 so much real and personal estate as may be necessary for the objects of
 4 such organization, and no more.

Incorporation
 of religious
 societies
 1834, 183,
 §§ 6, 7.

R. S. 20, §§ 26, 29.
 G. S. 30, § 4.

P. S. 38, § 24.
 R. L. 36, § 21.

243 Mass. 331.

1 SECTION 22. A justice of the peace, upon written application by
 2 five or more of the members of such society, may issue his warrant di-
 3 rected to one of the applicants, stating the objects of the proposed meet-
 4 ing, and requiring him to warn the members of the society to meet at a
 5 time and place appointed in the warrant; and such warrant may be
 6 served by posting an attested copy thereof on the principal outer door
 7 or some other conspicuous part of the meeting house of such society or
 8 by leaving such copy with, or at the last and usual places of abode of,
 9 the members of the society seven days at least before such meeting; and,
 10 upon return thereof, the same or any other justice of the peace may
 11 preside at the meeting during the choice and qualification of a clerk and

First meeting.
 Certificate of
 incorporation,
 filing, etc.
 1833, 53, § 2.
 1834, 183, § 6.
 R. S. 20,
 § 27, 28, 44,
 § 3.
 G. S. 30, § 5;
 68, § 3
 P. S. 38, § 25;
 105, § 4
 1897, 496, § 1.
 R. L. 36, § 22;
 109, § 13
 1931, 394, § 159.
 149 Mass. 135.

until a moderator is chosen; and the society may thereupon choose a moderator and do such other things as parishes may do at their annual meetings, if the subject matter thereof is inserted in the warrant. The clerk shall enter at large upon the records of the society the proceedings in the organization thereof.

The moderator and clerk shall forthwith make, sign, swear to and file in the office of the state secretary a certificate stating the name of the corporation, its purpose, the town and county where located, the date of the meeting for organization and any adjournments thereof and the names of the officers elected; otherwise the organization shall be void.

Formation and incorporation of religious society.
1880, 21.
P. S. 38, § 26.
R. L. 36, § 23.

SECTION 23. Ten or more persons, male or female, who desire to form a religious society, may make written application therefor to a justice of the peace, who may thereupon issue his warrant, directed to one of the applicants, stating the objects of the proposed society, and requiring him to warn said persons to meet at a time and place appointed in the warrant. The warrant shall be issued, served and executed, and the meeting held in the manner and for the purposes set forth in the preceding section; and such persons, upon complying with said section, shall become a corporation under a name to be assumed at such meeting, with all the powers, rights and privileges, and subject to all the duties, limitations and restrictions, relating to religious societies.

PROPRIETORS OF MEETING HOUSES.

Incorporation of owners of meeting houses.
1840, 62,
§§ 1, 2.
G. S. 30, § 27.
P. S. 38, § 27.
R. L. 36, § 24.
149 Mass. 135.

SECTION 24. Persons owning or proposing to build a house of public worship may organize in the manner provided by the preceding section, and shall thereupon become a corporation with the powers and subject to the duties set forth in chapter one hundred and fifty-five and in the following sections.

Amount of property which may be held.
Disposition of income.
1840, 62, § 3.
G. S. 30, § 28.

SECTION 25. Such corporation may hold so much real and personal estate, in addition to its meeting house, as may be necessary for its objects, and no more; and the annual income thereof shall be applied to parochial purposes.

1870, 67.
P. S. 38, § 28.

R. L. 36, § 25.
148 Mass. 400.

149 Mass. 135.

Filing record of organization.
1840, 62, § 4.
G. S. 30, § 29.
P. S. 38, § 29.
1897, 496, § 2.
R. L. 36, § 26.

SECTION 26. The clerk of such corporation, within ten days after the meeting at which it was organized, shall file with the state secretary a true copy of the record of the proceedings of its organization; otherwise the organization shall be void.

1918, 291, § 15.

1931, 426, § 194.

Alterations, repairs, etc.
1817, 189, § 1.
R. S. 20, § 31.
G. S. 30, § 30.
P. S. 38, § 30.
R. L. 36, § 27.
1905, 167.

SECTION 27. Such corporation, at a legal meeting called for the purpose, may vote to alter, enlarge, repair, rebuild or remove its house, or to build a new one, and may vote the money necessary for such purpose and for the purchase of the land necessary therefor; and such corporation at its annual meeting or at any other meeting regularly called seven days at least before the holding thereof, may grant and vote money necessary for the settlement and support of ministers or public teachers of religion, for sacred music, for the purchase and preservation of burial grounds, and for other necessary charges.

1 SECTION 28. A religious society incorporated under a special act shall
 2 have the powers set forth in the preceding section, anything contained in
 3 any special act of incorporation or amendment thereof, or in section one,
 4 to the contrary notwithstanding.

P. S. 38, § 31.

R. L. 36, § 28.

Powers of religious society incorporated under special act, 1876, 84.

1 SECTION 29. A meeting for any purpose mentioned in section twenty-
 2 seven may be called in the manner prescribed in the by-laws or votes of
 3 the corporation, or, upon written application by any five of its members,
 4 by a warrant issued by a justice of the peace, directed to one of the appli-
 5 cants; or such meeting may be called by a notice by the clerk, who shall
 6 warn a meeting on a like application to him; and in either case the meet-
 7 ing may be warned by notice served as provided in section twenty-two.

Calling meeting, 1817, 189, § 4. R. S. 20, § 37. G. S. 30, § 31. P. S. 38, § 32. R. L. 36, § 29. 8 Met. 301. 9 Cush. 208. 13 Allen, 90. 149 Mass. 135.

1 SECTION 30. Money voted by such corporation may be assessed on
 2 the pews in its meeting house, and the assessment may be committed to
 3 its treasurer, who shall forthwith give notice by posting an advertise-
 4 ment on the principal outer door of the meeting house, stating the making
 5 of such assessment and the date of its delivery to him; and if any part of
 6 the taxes so assessed remains unpaid for three months thereafter, the
 7 treasurer shall forthwith collect the same by sales by public auction of
 8 the pews upon which such taxes remain unpaid.

Assessment and collection of money voted, 1817, 189, § 1. R. S. 20, § 32. G. S. 30, § 32. P. S. 38, § 33. R. L. 36, § 30.

1 SECTION 31. The treasurer, at least three weeks before the time of
 2 the sale of a pew for taxes, shall post a notice of the intended sale on
 3 the principal outer door of the meeting house, stating the number of
 4 the pew, if any; the name of the owner or occupant, if known; and the
 5 amount of the tax due thereon; and if any part of said tax remains un-
 6 paid at the time of sale, he shall sell the pew by public auction to the
 7 highest bidder and shall execute and deliver to the purchaser a bill of
 8 sale thereof. The money arising from the sale, in excess of the taxes and
 9 reasonable incidental charges, shall be paid by the treasurer to the former
 10 owner of the pew.

Sale of pews for taxes, 1817, 189, § 2. R. S. 20, § 33. G. S. 30, § 33. P. S. 38, § 34. R. L. 36, § 31. 3 Allen, 369.

1 SECTION 32. An affidavit, annexed to an original notice or to a copy
 2 thereof and recorded on the records of the corporation within six months
 3 after the sale, shall be proof of the posting of such notice.

R. S. 20, § 34.

G. S. 30, § 34.

P. S. 38, § 35.

R. L. 36, § 32.

Affidavit of posting of notice of sale, effect, 1817, 189, § 3.

1 SECTION 33. Such corporation, for the purpose of building a new
 2 house, or of altering, enlarging, repairing, rebuilding or removing a house
 3 already built, may sell the same or take down any pews therein, the
 4 pews taken being first appraised by three or more disinterested persons
 5 chosen for that purpose. The pews newly erected shall be sold by the
 6 treasurer by public auction to the highest bidder, and bills of sale thereof
 7 shall be given. The money arising from such sale shall be applied, so
 8 far as necessary, to paying the appraised value of the pews taken down;
 9 and the deficiency, if any, shall be paid by the corporation within thirty
 10 days after the sale.

Rebuilding or altering meeting house, 1817, 189, § 5. R. S. 20, § 36. G. S. 30, § 35. P. S. 38, § 36. R. L. 36, § 33. 13 Allen, 497. 109 Mass. 1. 212 Mass. 198.

1 SECTION 34. The preceding section shall not entitle a person to
 2 compensation for a pew taken down in a meeting house which is unfit
 3 for the purposes of public worship.

1835, 121. R. S. 20, § 38. G. S. 30, § 37. P. S. 38, § 37.

R. L. 36, § 34. 17 Mass. 435. 1 Pick. 102.

3 Pick. 344. 7 Pick. 138. 19 Pick. 361.

9 Cush. 508. 160 Mass. 118. 212 Mass. 198.

No compensation for pews when meeting house unfit for worship.

Assessments
on pews.
1845, 213.
G. S. 30, § 39.
P. S. 38, § 38.
R. L. 36, § 35.

SECTION 35. A corporation for religious purposes may assess upon the pews in a church or meeting house which it has erected or procured for public worship since March twenty-fifth, eighteen hundred and forty-five, according to a valuation of said pews previously agreed upon, and recorded by the clerk, sums of money for the support of public worship and other parochial charges, and for the repairs of the house. Such assessments may be collected in the manner provided in sections thirty and thirty-one.

Same subject.
1852, 319, § 1.
1854, 258, § 1.
G. S. 30, § 40.
P. S. 38, § 39.
R. L. 36, § 36.
3 Allen, 369.

SECTION 36. Such corporation which had erected or procured such house prior to said date may avail itself of the provisions of the preceding section, if the consent of all the pew owners is obtained, or if two thirds of its members present and voting at a meeting called for that purpose so determine.

Purchase of
pews by
religious
corporation.
1854, 258, § 2.
G. S. 30, § 41.
P. S. 38, § 40.
R. L. 36, § 37.
108 Mass. 147.

SECTION 37. A corporation which votes to avail itself of the provisions of section thirty-five shall, upon the application of a person owning a pew in its house, within one year after said vote, purchase such pew at the value determined by three disinterested persons, one of whom shall be chosen by the pew owner, one by the corporation, and the third by the two appraisers.

Pews as per-
sonal estate.

SECTION 38. Pews shall be personal estate.

1795, 53, § 1.
1798, 42.
R. S. 60, § 31.

1855, 122, §§ 1, 2.
G. S. 30, § 38.
P. S. 38, § 42.

R. L. 36, § 38.
183 Mass. 212.
212 Mass. 198.

PROTESTANT EPISCOPAL SOCIETIES.

Protestant
Episcopal
societies.
1858, 116.
G. S. 30, § 19.
P. S. 38, § 43.
1886, 239.
1887, 419.
1897, 241.
R. L. 36, § 39.

SECTION 39. In religious societies belonging to the Protestant Episcopal Church or the Reformed Episcopal Church, the rector or one of the wardens may, unless otherwise provided in some by-law, preside at their meetings with all the powers of a moderator; and the wardens, or wardens and vestry, may exercise all the powers of a standing committee in accordance with the usages and discipline of said churches. Unless they assess or collect a tax on the pews, such societies need not choose a collector or assessors; and they may in their by-laws provide that the duties of assessors shall be performed by the wardens. The officers upon whom the duties of standing committee or assessors may devolve shall be elected by ballot.

METHODIST EPISCOPAL CHURCHES.

Methodist
Episcopal
churches
Organization.
1847, 280, § 1.
1857, 48, § 1.
G. S. 30, § 43.
P. S. 38, § 44.
R. L. 36, § 40.
109 Mass. 165.
212 Mass. 555.

SECTION 40. The trustees of any society of the Methodist Episcopal Church, or of the African Methodist Episcopal Church, appointed according to the discipline or usages thereof, respectively, or as such society chooses, may organize and become a corporation with the powers and duties prescribed by chapter one hundred and fifty-five, subject, however, to account to the quarterly conference of such society according to the aforesaid discipline and usages.

Powers of
trustees.
1847, 280, § 2.
1857, 48, § 2.
G. S. 30, § 44.

SECTION 41. Such trustees may receive, hold and manage all the real and personal property belonging to such society, may sell and convey the same, and may hold in trust gifts, grants, bequests or devises

4 to such society for the support of public worship and for other religious
5 purposes; but the annual income of such trust property, exclusive of
6 the meeting house, shall not exceed four thousand dollars.

P. S. 38, § 45.
R. L. 36, § 41.
212 Mass. 555.

1 SECTION 42. The first meeting of such trustees may, upon the appli-
2 cation of three or more of them, be called by a justice of the peace, and
3 at such meeting the trustees may choose a secretary and other officers.
4 The provisions of this chapter relative to the warning and organization
5 of meetings of religious societies shall, so far as appropriate, apply to
6 meetings for the organization of the trustees. The secretary, before
7 entering upon the duties of his office, shall be sworn to the faithful per-
8 formance thereof, and a record of such oath shall be made in the records
9 of the trustees.

First meeting
of trustees, &c.
1847, 280, § 3.
G. S. 30, § 45.
P. S. 38, § 46.
R. L. 36, § 42

1 SECTION 43. An attested copy of the record of the proceedings at
2 such organization shall be filed with the state secretary, within the time
3 prescribed in section twenty-six; otherwise the organization shall be void.

Filed record of
organization
1847, 280, § 4.
G. S. 30, § 46.
P. S. 38, § 47.

1897, 496, § 3.
R. L. 36, § 43.

1918, 291, § 16.
1931, 394, § 160.

ROMAN CATHOLIC CHURCHES.

1 SECTION 44. The Roman Catholic archbishop or bishop of the diocese
2 in which a Roman Catholic church is erected or intended to be erected,
3 the vicar-general of such diocese and the pastor of such church, for the
4 time being, or a majority of them, may associate with themselves two
5 laymen, communicants of said church, and may, with such laymen, sign
6 a certificate in duplicate, showing the name or title by which they and
7 their successors shall be known as a body corporate, which certificate
8 shall be acknowledged in the same manner as conveyances of land. One
9 copy of such certificate shall be filed in the office of the state secretary,
10 and the other recorded in the registry of deeds in the county where
11 such church is erected or intended to be erected; and thereupon such
12 church shall be a body corporate by the name expressed in such certi-
13 cate, and the persons so signing the same shall be the trustees thereof.

Roman
Catholic
churches.
Incorporation.
1879, 108, § 1.
P. S. 38, § 48.
R. L. 36, § 34.
187 Mass. 40.
203 Mass. 493.
212 Mass. 555.

1 SECTION 45. The successor of any archbishop, bishop, vicar-general
2 or pastor shall, by virtue of his office, be for the time being a member of
3 such corporation in place of his predecessor; and such laymen shall hold
4 office respectively for one year; and when the office of any such layman
5 becomes vacant, his successor shall be appointed in the manner provided
6 for the original selection.

Successor of
archbishop,
etc., to be
trustee.
1879, 108, § 1.
P. S. 38, § 49.
R. L. 36, § 45.
187 Mass. 40.
203 Mass. 493.

1 SECTION 46. Such corporation may receive, hold and manage all real
2 and personal property belonging to such church; may sell and convey
3 the same; and may hold in trust gifts, grants, bequests or devises to
4 such church for the support of public worship and for other religious
5 purposes; but all the property belonging to any one church or parish
6 and held by such corporation shall never exceed one hundred thousand
7 dollars exclusive of the church buildings.

Powers of
trustees
1879, 108, § 2.
P. S. 38, § 50.
R. L. 36, § 46.
187 Mass. 40.
203 Mass. 493.

INCORPORATION OF CHURCHES.

1 SECTION 47. Any church may be incorporated under the following
2 sections.

Incorporation
of churches.

1887, 404, § 1.

R. L. 36, § 47.

212 Mass. 198.

Notice of meeting for incorporation, 1887, 404, § 2. R. L. 36, § 48.

SECTION 48. A notice, signed by one or more of the members of such church, stating the object, time and place of the meeting for its incorporation, and the first election of officers, shall, at least fifteen days before such meeting, be posted in a conspicuous place near one of the principal entrances of the usual place of meeting of said church.

Election of officers, 1887, 404, § 3. 1891, 265. 1895, 105. R. L. 36, § 49.

SECTION 49. At the time and place stated in said notice, the resident members of such church who are twenty-one years of age or over may assemble at their place of worship and by ballot elect a moderator, a clerk, who shall be sworn, a treasurer, a standing committee of not less than three nor more than twenty-four members or a board of trustees, managers, directors, executive committee, prudential committee, wardens and vestry or other officers with the powers of a standing committee, and such other officers as they may deem necessary.

By-laws, 1887, 404, § 4. R. L. 36, § 50.

SECTION 50. The church may make by-laws and may prescribe therein the manner in which and the officers and agents by whom the purposes of its incorporation may be effected. If no provision is made by a vote or by-law of the church for calling meetings, they shall be called in such manner as the standing committee may direct.

Filing record of organization. Certificate of organization, 1887, 404, § 5. R. L. 36, § 51.

SECTION 51. The standing committee or other officers shall certify the organization of such church to the commissioner of corporations and taxation, in such form as he shall prescribe; and he, with the state secretary, upon payment of a fee of five dollars to the secretary, shall perform the same duties and with the same legal effect as in the case of corporations organized under chapter one hundred and eighty.

Church members only to be members of corporation. Exceptions, 1887, 404, § 6. R. L. 36, § 52. 1911, 261.

SECTION 52. None but members of such church shall be members of such corporation, and only resident members of full age shall vote; but any such corporation may, upon such conditions as it may prescribe, admit any regular financial supporters of the church to associate membership, with a vote upon financial questions only: provided, that no action of a meeting in which associate members have taken part, looking to the reduction of a minister's salary or the alienation of church property, shall be valid until the same has been ratified by a meeting of church members only, or until sixty days have elapsed without a written request of ten church members for such a meeting.

Officers may convey property to the church, 1887, 404, § 7. R. L. 36, § 53.

SECTION 53. The deacons, wardens, trustees or similar officers of a church so incorporated which holds real or personal property under chapter sixty-eight may, subject to the same uses and trusts as when held by them, convey it to said church.

Religious societies may convey property to the church, 1887, 404, § 8. R. L. 36, § 54. 212 Mass. 198.

SECTION 54. Any religious society connected with a church so incorporated may, at any meeting called for the purpose, by a three fourths vote, authorize one or more persons in its name and behalf to convey any real or personal property belonging to it to such church, and such property shall thereafter be held by the church subject to the same uses and trusts as when held by said religious society.

CHAPTER 68.

DONATIONS AND CONVEYANCES FOR PIOUS AND CHARITABLE USES.

SECT.

1. Officers of churches made bodies corporate.
2. Ministers, etc., when joined in gifts to church shall be joined in the corporation.
3. Trustees of religious societies and churches.
4. Trustees may be a corporation under § 1.
5. Ministers may take in succession parsonage land.
6. Conveyance of church land regulated.
7. Conveyance of church land by minister.
8. Committees to settle accounts of officers.
9. Income of gifts to churches limited.

SECT.

10. Overseers of monthly meeting of Quakers to be a corporation. Powers and duties.
11. Trustees appointed by monthly meeting. Powers and duties.
12. Powers of unincorporated religious societies.
13. Trustees to make annual reports.
14. Probate courts may remove trustees.
15. Annual reports, certain trustees to file. Proceedings upon failure to file.
16. Collection of funds for charitable purposes on ways, etc., and their disbursement, regulated. Equitable jurisdiction of courts.

1 SECTION 1. The deacons, wardens or similar officers of churches or
 2 religious societies, and the trustees of the Methodist Episcopal churches,
 3 appointed according to the discipline and usages thereof, shall, if citi-
 4 zens of the commonwealth, be deemed bodies corporate for the purpose
 5 of taking and holding in succession all gifts, grants, bequests and devises
 6 of real or personal property, made either to them and their successors,
 7 or to their respective churches, if unincorporated, or to the poor of their
 8 churches.

5 Cush. 336.
9 Cush. 181.

194 Mass. 280.
212 Mass. 555.

224 Mass. 474.
249 Mass. 95.

Officers of churches made bodies corporate. 1754-5, 12, § 1. 1785, 51, § 1. R. S. 20, § 39. G. S. 31, § 1. 1874, 177. P. S. 39, § 1. 1884, 78. R. L. 37, § 1. 12 Met. 250.

1 SECTION 2. When the ministers, elders or vestry of a church are
 2 joined in the gifts, grants, bequests or devises mentioned in the pre-
 3 ceeding section, as donees or grantees with the deacons, wardens or
 4 trustees, such officers and their successors, with the deacons, wardens
 5 or trustees, shall be deemed the corporation for the purposes mentioned
 6 in said section.

G. S. 31, § 2.
P. S. 39, § 2.

R. L. 37, § 2.
12 Met. 250.

4 Cush. 281.

Ministers, etc., when joined in gifts to church shall be joined in the corporation. 1754-5, 12, § 1. 1785, 51, § 1. R. S. 20, § 40.

1 SECTION 3. Incorporated and unincorporated religious societies and
 2 churches may appoint trustees, not exceeding five, to hold and manage
 3 trust funds for their benefit, who shall hold their offices for three years
 4 and until others are appointed in their stead. At or before the time of
 5 the first appointment of such trustees, the society may establish regula-
 6 tions for their government, which shall not be subject to alteration or
 7 amendment except by consent of all the trustees then in office and by a
 8 two thirds vote of the church or society interested therein. Any funds
 9 held by the bodies corporate mentioned in the two preceding sections
 10 may be transferred to said trustees to be held in trust in like manner by
 11 them.

Trustees of religious societies and churches. 1853, 389, § 1. G. S. 30, § 25. 1869, 248. P. S. 39, § 10. 1884, 78. R. L. 37, § 3.

Trustees may
be a corpora-
tion under § 1.
1884, 78.
R. L. 37, § 4.

SECTION 4. Churches or religious societies may appoint trustees, not exceeding five, who shall with their successors be a body corporate, for the purposes mentioned in section one, and shall be subject to the provisions of this chapter applicable thereto.

Ministers may
take an success-
sion parsonage
land.
1754-5, 12, § 2.
1785, 51, § 1.
R. S. 20, § 41.
G. S. 31, § 3.
P. S. 39, § 3.

SECTION 5. The minister of a church or religious society, if a citizen of the commonwealth, shall be capable of taking in succession any parsonage land granted to the minister and his successors, or to the use of the ministers, or granted by words of like import, and may prosecute or defend any action relative to such land.

R. L. 37, § 5. 7 Mass. 445. 14 Mass. 333.
2 Mass. 500. 10 Mass. 93. 15 Mass. 464.

Conveyance of
church land
regulated.
1754-5, 12, § 2.
1785, 51, § 1.
R. S. 20, § 42.
G. S. 31, § 4.
1874, 177.
P. S. 39, § 4.
R. L. 37, § 6.
2 Mass. 500.

SECTION 6. No conveyance of the land of a church shall be effectual to pass the same, if made by the deacons without the consent of the church or of a committee of the church appointed for that purpose, or if made by the wardens without the consent of the vestry, or if made by the trustees of the Methodist Episcopal Church without the consent of the quarterly conference.

14 Mass. 333. 224 Mass. 474.

Conveyance of
church land by
minister.
1785, 51, § 1.
R. S. 20, § 43.
G. S. 31, § 5.
P. S. 39, § 5.
R. L. 37, § 7.

SECTION 7. No conveyance by a minister of land held by him in succession shall be valid longer than he continues to be such minister, unless made with the consent of the religious society of which he is minister, or unless he is the minister of an Episcopal church and makes the conveyance with the consent of the vestry.

Committee to
settle accounts
of officers.
1754-5, 12, § 2.
1785, 51, § 1.
R. S. 20, § 44.
G. S. 31, § 6.

SECTION 8. The several churches, other than those of the Episcopal denomination, may choose committees to settle the accounts of the deacons and other church officers, and, if necessary, to prosecute suits in the name of the church against them relative to the same.

P. S. 39, § 6. R. L. 37, § 8.

Income of gifts
to churches
limited.
1754-5, 12, § 3.
1785, 51, § 2.
R. S. 20, § 45.
G. S. 31, § 7.

SECTION 9. The income of the gifts, grants, bequests and devises made to or for the use of any one church shall not exceed ten thousand dollars a year, exclusive of the income of any parsonage land granted to or for the use of the ministry.

P. S. 39, § 7. 1923, 94.
R. L. 37, § 9. 212 Mass. 555.

Overseers of
monthly meet-
ing of Quakers
to be a corpora-
tion. Powers
and duties.
1811, 6, § 3.
1822, 92.
R. S. 20, § 46.
G. S. 31, § 8.
P. S. 39, § 8.
R. L. 37, § 10.
8 Cush. 430.
7 Allen, 243.

SECTION 10. The overseers of each monthly meeting of the people called Friends, or Quakers, shall be a body corporate for the purpose of taking and holding in succession gifts and grants of real or personal property made to the use of such meeting or to the use of any preparative meeting belonging thereto; and they may manage or convey such property according to the terms and conditions of such gifts and grants, and may prosecute or defend any action relative to the same; but the income thereof to any one of such meetings for the uses aforesaid shall not exceed five thousand dollars a year.

Trustees ap-
pointed by
monthly
meeting.
Powers and
duties.
1900, 127.
R. L. 37, § 11.

SECTION 11. Such monthly meeting may appoint, in such manner and for such time as it may determine, three members of any preparative meeting which belongs to it or forms a part thereof to act as a board of trustees. Such trustees and their successors shall be a body corporate for the purpose of taking, holding, managing or conveying any real estate

6 which may be owned or acquired by such preparative meeting or granted
 7 to the use of said meeting, and, upon their appointment, the power of
 8 the overseers of such monthly meeting to receive, hold or manage any real
 9 estate for the use of such preparative meeting shall cease, and they shall
 10 convey to said trustees any real estate the legal title to which is vested
 11 in them as the body corporate in trust for such preparative meeting to
 12 be held by said trustees upon the same trusts. The trustees may manage
 13 and convey any real estate held by them upon the same terms and con-
 14 ditions upon which it was granted and may prosecute or defend any
 15 action relative thereto, but they shall not convey it without the written
 16 consent of the preparative meeting, granted as the decision of said meet-
 17 ing. The income of real estate so held by them in trust and the income
 18 of any gifts of personal estate which may be held by overseers for the
 19 same preparative meeting under the preceding section shall not, in all,
 20 exceed five thousand dollars a year.

1 SECTION 12. Unincorporated religious societies shall have like power
 2 as incorporated societies to manage, use and employ, according to its
 3 terms and conditions, any gift or grant made to them; they may elect
 4 trustees, agents or other officers therefor, and may sue for any right
 5 which may vest in them in consequence of such gift or grant; for which
 6 purposes they shall be corporations.

Powers of
 unincorporated
 religious soci-
 eties
 1811, 6, § 3.
 1834, 183, § 5.
 R. S. 20, § 25.
 G. S. 30, § 24.
 P. S. 39, § 9.

R. L. 37, § 12.
 5 Met. 155.

8 Met. 153.
 16 Gray, 329.

6 Allen, 140.
 109 Mass. 163.

167 Mass. 201.
 191 Mass. 196.

1 SECTION 13. All trustees, whether incorporated or not, who hold
 2 funds given or bequeathed to a town for a charitable, religious or educa-
 3 tional purpose shall make an annual exhibit of the condition thereof to
 4 the aldermen of the city, or to the selectmen of the town to which such
 5 funds have been given or bequeathed; and the records of all transactions
 6 by the trustees relative to such funds shall be open to inspection by the
 7 board to which such exhibit is to be made.

Trustees to
 make annual
 reports.
 1855, 302, § 1.
 G. S. 31, § 9.
 P. S. 39, § 11.
 R. L. 37, § 13.

1 SECTION 14. The probate court for the county where a town is
 2 situated, to which funds have been so given or bequeathed, may, upon
 3 the petition of five persons, cite all parties interested to appear before
 4 it to answer all complaints which may then and there be made; and if
 5 a trustee neglects or refuses to render such annual exhibit, or is incapable
 6 of discharging the trust reposed in him, or unsuitable to manage the
 7 affairs of the same, the court may remove him and fill the vacancy.

Probate courts
 may remove
 trustees.
 1855, 302, § 2.
 G. S. 31, § 10.
 P. S. 39, § 12.
 R. L. 37, § 14.

1 SECTION 15. Every trustee, incorporated or unincorporated, except
 2 a charitable corporation subject to section twelve or twelve A of chapter
 3 one hundred and eighty or expressly exempted in said section twelve A
 4 from the provisions thereof, who holds in trust within the commonwealth
 5 property given, devised or bequeathed for benevolent, charitable, hu-
 6 mane or philanthropic purposes and administers, or is under a duty to
 7 administer, the same in whole or in part for said purposes within the
 8 commonwealth shall annually, on or before November first, make to
 9 the department of public welfare a written report for the last preceding
 10 financial year of such trust, showing the property so held and adminis-
 11 tered, the receipts and expenditures in connection therewith, the whole
 12 number and the average number of beneficiaries thereof, and such other
 13 information as the department requires; provided, that if any such

Annual reports,
 certain trustees
 to file. Pro-
 ceedings upon
 failure to file.
 1930, 209.
 1931, 42.

trustee is required by law to file an account with the probate court, said department shall accept a copy thereof in lieu of the report hereinbefore required. Failure for two successive years to file such a report shall constitute a breach of trust within the meaning of section eight of chapter twelve and shall be reported by said department to the attorney general, who shall take such action as may be appropriate to compel compliance with this section.

Collection of funds for charitable purposes on ways, etc., and their disbursement, regulated. Equitable jurisdiction of courts 1931, 260.

SECTION 16. Every person, association or corporation, domestic or foreign, soliciting or collecting by agents or solicitors, upon ways or in any other public places within the commonwealth to which the public have a right of access, contributions of money for charitable purposes or represented to be for such purposes, or receiving any money so collected, shall keep a full and true record of the names and addresses of all such solicitors and collectors and of the amounts so collected by each, and also such a record of all expenditures and disbursements of said money, and the names and addresses of all persons to whom expended or disbursed. Said records shall include money received from any other source and expended for the purposes of such solicitation or collection. All records required hereunder shall be open to inspection at all times by the attorney general, and upon demand shall be presented to him for inspection. Upon an information in equity brought by the attorney general the supreme judicial or superior court may enforce the provisions of this section and may restrain the soliciting of contributions by or on behalf of a person, association or corporation violating its provisions.

TITLE XII.

EDUCATION.

- CHAPTER 69. Powers and Duties of the Department of Education.
- CHAPTER 70. School Funds and Other State Aid for Public Schools.
- CHAPTER 71. Public Schools.
- CHAPTER 72. School Registers and Returns.
- CHAPTER 73. State Normal Schools.
- CHAPTER 74. Vocational Education.
- CHAPTER 75. Massachusetts State College.
- CHAPTER 76. School Attendance.
- CHAPTER 77. School Offenders and County Training Schools.
- CHAPTER 78. Libraries.

CHAPTER 69.

POWERS AND DUTIES OF THE DEPARTMENT OF EDUCATION.

SECT.

GENERAL PROVISIONS.

1. Commissioner of education, duties.
2. Statement of amounts spent for vocational schools. Annual report.
3. Educational trusts.
4. Statistics as to certain institutions.
5. Certification of high school teachers.
6. Applications for teachers' positions. Assistance to applicants.
7. University extension and correspondence courses.
8. Use of school buildings, etc., therefor.
9. Education in use of English, etc.
10. Partial reimbursement by commonwealth of towns providing such instruction.

DIVISION OF IMMIGRATION AND AMERICANIZATION.

11. Education and protection of aliens.

DIVISION OF THE BLIND.

12. Duties of advisory board.
13. Bureau of information and industrial aid.

SECT.

14. Schools and workshops.
15. Support of workmen, etc., at workshops, etc.
16. Sight-saving classes for children.
17. Director's duties.
18. Same subject. Rules, etc.
19. Register of the blind. Reports to department of public welfare, etc.
20. Duties as to persons with defective eyesight. Preventive measures.
21. Tools and instruction for the blind, etc.
22. Pupils from other states.
23. Helping blind by lending books, etc.
24. Advances to director.
25. Articles produced by the blind to be used in public institutions.

INSTRUCTION IN SCHOOLS FOR THE DEAF AND BLIND.

26. Certain deaf and blind persons, education and maintenance at certain schools regulated.
27. Supervision by department.
28. Special day classes for deaf pupils in public schools of certain towns.

GENERAL PROVISIONS.

- 1 SECTION 1. The commissioner of education shall have supervision
- 2 of all educational work supported in whole or in part by the common-
- 3 wealth. He shall collect and distribute information as to the condition
- 4 and efficiency of the public schools and other means of popular education

Commissioner of education, duties.
 1837, 241, § 2.
 1838, 159, § 1.
 1842, 42.
 1847, 183, § 1.

1840, 215, § 1. and the best methods of instruction; shall suggest improvements in the 5
 1858, 61. present system of public schools to the general court; shall visit as often 6
 G. S. 34, as practicable different parts of the commonwealth for the purpose of 7
 §§ 4-6. arousing and guiding public sentiment in relation to the practical inter- 8
 P. S. 41, ests of education; shall collect in his office such school books, apparatus, 9
 §§ 5, 6. maps and charts as may be desirable; shall receive and arrange in his 10
 R. L. 39, office the reports and returns of the school committees; and shall receive, 11
 §§ 2, 7, 8. preserve or distribute the state documents relative to the public school 12
 1904, 234, § 1. system. He shall give sufficient notice of and attend such meetings, 13
 1909, 457, § 3. conferences and conventions of teachers of public schools as may be 14
 1910, 282. held under his direction, and meetings of members of school committees 15
 1911, 466. and of friends of education generally, and shall collect information rela- 16
 1912, 801. tive to the condition of the public schools, the performance of their duties 17
 1913, 421. by school committees, and the condition of the towns in regard to teachers, 18
 1918, 257, pupils, books, apparatus and methods of education. 19
 § 168.
 1919, 5; 350,
 §§ 56-58.
 1920, 2.
 1 Op. A. G.
 228, 233.

Statement of amounts spent for vocational schools.

Annual report. SECTION 2. On or before the first Wednesday of January of each 1
 1837, 241, § 3. year the commissioner shall present to the general court a statement of 2
 G. S. 34, § 3. amounts expended previous to September first preceding by counties, 3
 P. S. 41, § 2. cities and towns for maintenance of approved county, local or district 4
 1808, 436, § 13. independent vocational schools, or in payment of claims for tuition 5
 R. L. 39, § 6. therein, for which such counties, cities and towns should be reimbursed 6
 1904, 234, § 1. under chapter seventy-four. He shall make an annual report contain- 7
 1906, 385, § 7; 505, § 5. ing a printed abstract of the returns of school committees under chapter 8
 1909, 457, § 4. seventy-two and of the schools in charge of the department, and a de- 9
 1911, 474. tailed report of the doings of the department, together with a detailed 10
 §§ 2, 10, 11. report of all receipts and expenditures, with observations upon the con- 11
 1915, 294, § 5. dition and efficiency of the system of public education and suggestions 12
 1918, 266, § 4. in regard to the most practicable means of improving and extending it. 13
 1919, 292, § 17; The records of the doings of the department shall be open to public 14
 350, § 56. inspection. 15

Educational trusts. 1550, 88.
 G. S. 34, § 2.
 P. S. 41, § 2.
 R. L. 39, § 5.
 1919, 350,
 §§ 56-58.
 1923, 301, § 3.

SECTION 3. The department of education, in this chapter called the 1
 department, may receive, in trust for the commonwealth, any grant or 2
 devise of land or any gift or bequest of personal property for educational 3
 purposes, and shall forthwith transfer any money or securities so re- 4
 ceived to the state treasurer, who shall administer the same as provided 5
 in section sixteen of chapter ten. 6

Statistics as to certain institutions. 1867, 123,
 §§ 1, 2.
 P. S. 41,
 §§ 13, 14.
 R. L. 39,
 §§ 17, 18.
 1919, 350,
 §§ 56-58.
 1931, 426,
 § 195.
 U. S. Rev. Sts.
 § 516.

SECTION 4. It shall prepare, with due reference to the requirements 1
 of the federal bureau of education, and annually, on or before May tenth, 2
 send to every literary, scientific or professional institution of learning in 3
 the commonwealth, and every training school or infirmary, blank forms 4
 of inquiry for such statistics as it may prescribe, relative to the number 5
 of pupils and instructors, courses of study, cost of tuition and the general 6
 condition of the institution or school. The trustees, officers or persons in 7
 charge thereof shall annually, on or before June first, return the same 8
 with the information required. 9

Certification of high school teachers. 1911, 375,
 § 1, 2.
 1919, 350,
 §§ 56-58.

SECTION 5. Subject to such conditions as it may prescribe, the de- 1
 partment shall grant certificates to candidates found qualified by exam- 2
 ination or otherwise to teach in high schools aided by the commonwealth, 3
 as provided in sections five and fifteen of chapter seventy-one. 4

1 SECTION 6. The department shall receive applications for the posi-
 2 tion of teacher from graduates of good moral character of any high or
 3 normal school in this commonwealth, or of any other school deemed by
 4 the department to be of equal grade, or of any reputable college. Such an
 5 application shall contain the applicant's name and address, and, briefly,
 6 his experience and qualifications. The department, without charge,
 7 shall communicate with the various school committees and with the ap-
 8 plicants themselves with a view to securing such positions.

Applications
 for teachers'
 positions.
 Assistance to
 applicants.
 1906, 399.
 1907, 213.
 1911, 731, § 1.
 1913, 205; 308.
 1919, 292, § 6;
 350, §§ 56-58.
 1920, 18.

1 SECTION 7. The department may co-operate with existing institu-
 2 tions of learning in the establishment and conduct of university exten-
 3 sion and correspondence courses; may supervise the administration of
 4 all such courses supported in whole or in part by the commonwealth;
 5 and also, where deemed advisable, may establish and conduct such
 6 courses for the benefit of residents of the commonwealth and, provided
 7 that the fees charged exceed the cost of service, may enroll in correspond-
 8 ence courses such non-residents as are approved by the department.
 9 The department may offer correspondence courses, free of charge, to
 10 inmates of county and state hospitals and sanatoria, state correctional
 11 institutions, the state infirmary, and federal hospitals situated within the
 12 commonwealth. It may, in accordance with rules and regulations es-
 13 tablished by it, grant to students satisfactorily completing such courses
 14 suitable certificates.

University
 extension and
 correspondence
 courses
 1915, 294,
 §§ 2, 6.
 1919, 350.
 1925, 266.
 1931, 308.

1 SECTION 8. For the purposes of such courses, the department may,
 2 with the consent of the school committee or other proper officials and
 3 subject to rules and regulations by them prescribed, use the school or
 4 other public buildings and grounds of a town, but without interference
 5 or inconsistency with their customary uses; also the normal school
 6 buildings and grounds, and, with the consent of the officers in charge,
 7 other school buildings owned or controlled by the commonwealth. It
 8 may also arrange for the use of such other buildings, grounds and facilities,
 9 paying such rent therefor, as the conduct of such courses may require.

Use of school
 buildings, etc.,
 therefor.
 1915, 294, § 3.
 1919, 350.
 §§ 56-58.

1 SECTION 9. The department, with the co-operation of any town ap-
 2 plying therefor, may provide for such instruction in the use of English for
 3 adults unable to speak, read or write the same, and in the fundamental
 4 principles of government and other subjects adapted to fit for American
 5 citizenship, as shall jointly be approved by the local school committee
 6 and the department. Schools and classes established therefor may be
 7 held in public school buildings, in industrial establishments or in such
 8 other places as may be approved in like manner. Teachers and super-
 9 visors employed therein by a town shall be chosen and their compensation
 10 fixed by the school committee, subject to the approval of the department.

Education in
 use of English,
 etc.
 1919, 295,
 §§ 1-3; 350,
 §§ 56-58.
 Op. A. G.
 (1919) 102.

1 SECTION 10. At the expiration of each school year, and on approval
 2 by the department, the commonwealth shall pay to every town provid-
 3 ing such instruction in conjunction with the department, one half the
 4 amount expended for supervision and instruction by such town for said
 5 year.

Partial reim-
 bursement by
 commonwealth
 of towns pro-
 viding such
 instruction.
 1919, 295, § 2;
 350, §§ 56-58.

DIVISION OF IMMIGRATION AND AMERICANIZATION.

Education and protection of aliens.	SECTION 11. The director of the division of immigration and Americanization with the approval of the advisory board thereof shall employ such methods, consistent with law, as in its judgment, will tend to bring into sympathetic and mutually helpful relations the commonwealth and its residents of foreign origin, protect immigrants from exploitation and abuse, stimulate their acquisition and mastery of English, develop their understanding of American government, institutions and ideals, and generally promote their assimilation and naturalization. For the above purposes, the division may co-operate with other officers and departments of the commonwealth and with all public agencies, federal, state or municipal. It may investigate the exploitation or abuse of immigrants and in making any investigation may require the attendance and testimony of witnesses and the production of books and documents relating to the matter under investigation.	1 2 3 4 5 6 7 8 9 10 11 12 13 14
1917, 321, § 2		
1919, 350, § 59.		
1920, 72.		

DIVISION OF THE BLIND.

Duties of advisory board	SECTION 12. The advisory board of the division of the blind shall act in an advisory capacity with respect to the administration and execution by the director of the laws relating to the blind.	1 2 3
1906, 385, § 7.		
1918, 266, § 4.		
	1919, 350, § 59.	1925, 286, § 3.

Bureau of information and industrial aid	SECTION 13. The director shall establish a bureau of information and industrial aid, the object of which shall be to aid the blind in finding employment and to develop home industries for them.	1 2 3
1906, 385, § 3.		
	1919, 350, § 59.	1925, 286, § 4.

Schools and workshops.	SECTION 14. The director shall, with the approval of the governor and council, establish, equip and maintain schools for the industrial training of blind persons, and workshops for their training and employment.	1 2 3 4
1906, 385, § 4.		
1918, 266, § 4.		
1919, 350, § 59.		
1924, 499, § 1.		
1925, 286, § 5.		

Support of workmen, etc., at workshops, etc.	SECTION 15. The director may provide or pay for temporary lodgings and temporary support for workmen or pupils received at any industrial school or workshop and may contribute to the support of pupils from the commonwealth receiving instruction in institutions outside thereof. The director, with the advice of the advisory board, may subsidize the earnings of blind employees in any such school or workshop.	1 2 3 4 5 6
1906, 385, §§ 5, 6		
1919, 350, § 59.		
1920, 301.		
1925, 286, § 6.		

Sight-saving classes for children	SECTION 16. Under the direction of the director, there may be expended annually such sums as the general court may appropriate to provide sight-saving classes for children certified by any reputable oculist as fit subjects for instruction therein. With the approval of the director, local school committees may organize and conduct such classes.	1 2 3 4 5
1919, 229;		
350, § 59.		
1925, 286, § 7.		

Director's duties	SECTION 17. The director shall be the executive head of the division, and all bills by it contracted shall be subject to his approval. He may act as the representative of the blind in all proceedings before any department, board or commission of the commonwealth or of any county, city or town therein.	1 2 3 4 5
1918, 266, § 3.		
1919, 350, § 59.		

1 SECTION 18. The director shall administer the laws relative to the
 2 blind and shall prepare rules and regulations for consideration and adop-
 3 tion by the division.

1919, 350, § 59.

Same subject.
 Rules, etc.
 1918, 266, § 3.

1 SECTION 19. He shall maintain a register of the blind in the common-
 2 wealth, which shall describe their condition, cause of blindness and
 3 capacity for education and industrial training. The mayor of each city
 4 and the selectmen of each town shall aid him by furnishing, upon his
 5 request, the names and addresses of all known blind persons residing
 6 within their respective cities and towns. The department of public
 7 welfare and boards of public welfare shall aid the director by reporting
 8 whenever outdoor or indoor aid is granted to families in which there is a
 9 blind member, and the director shall report in turn to the said depart-
 10 ment and the said board any activity on his part in relation to blind
 11 persons who or whose families are known to be receiving or to have
 12 received public outdoor or indoor aid.

Register of
 the blind
 Reports to
 department of
 public welfare,
 etc.
 1906, 385, § 2.
 1916, 160, § 1.
 1918, 266, § 3.
 1919, 350,
 § 25, 26, 87.
 1924, 453, § 2.
 1931, 394,
 § 114.

1 SECTION 20. He may also register cases of persons whose eyesight is
 2 seriously defective or who are likely to become visually handicapped or
 3 blind, and take such measures, in co-operation with other authorities,
 4 as he may deem advisable for the prevention of blindness or conserva-
 5 tion of eyesight, and, in appropriate cases, for the education of children
 6 and for the vocational guidance of adults having seriously defective
 7 sight.

Duties as to
 persons with
 defective
 eyesight.
 Preventive
 measures.
 1916, 160, § 2.
 1918, 266, § 3.
 1931, 426,
 § 196.

1 SECTION 21. The director may provide for the instruction of the
 2 adult blind at their homes and may furnish materials and tools to any
 3 blind person, and may assist such blind persons as are engaged in home
 4 industries in marketing their products. He may pay suitable wages to
 5 the employees of schools and workshops established under section four-
 6 teen and may devise means for the sale and distribution of the products
 7 of such schools and workshops.

1919, 15.

Tools and in-
 struction for
 the blind,
 etc.
 1902, 297.
 1906, 385,
 § 3, 4.
 1916, 201,
 § 1, 2.
 1918, 55;
 266, § 3.

1 SECTION 22. He may receive in schools established by the divi-
 2 sion pupils from other states upon the payment of such fees as it may
 3 determine.

Pupils from
 other states.
 1906, 385, § 5.
 1918, 266, § 3.

1 SECTION 23. The director may ameliorate the condition of the blind
 2 by devising means to facilitate the circulation of books, by promoting
 3 visits among the aged or helpless blind in their homes, by aiding indi-
 4 vidual blind persons with money or other assistance, or by any other
 5 method he may deem expedient; provided, that he shall not undertake
 6 the permanent support or maintenance of any blind person.

Helping blind
 by lending
 books, etc.
 1906, 385,
 § 6.
 1918, 266, § 3.
 1920, 201.

1 SECTION 24. There may be advanced annually to the director from
 2 the state treasury, from the amount appropriated for the maintenance
 3 of the industries established by the director, such sum approved by the
 4 governor and council as may be necessary to be used as a working capital
 5 for said industries. Said sum when drawn from the treasury shall be
 6 deposited in a national bank or trust company to the credit of the director,
 7 who shall give a bond in such sum and with such sureties as the governor
 8 and council may approve.

Advances to
 director.
 1907, 173.
 1918, 266, § 3.
 1919, 350, § 59.
 1925, 286, § 8.

Articles produced by the blind to be used in public institutions.
1918, 141.
1919, 350.
§§ 19, 56, 59.
1921, 486, § 17.
1923, 362, § 58.

SECTION 25. The state purchasing agent, such officers in charge of state institutions as may be authorized by him to make purchases and officers in charge of other public institutions shall purchase articles or supplies, other than products of prison labor, from the division of the blind; provided, that the division has the same for sale and that they were produced by persons under the supervision of the division or in industrial schools or workshops under its supervision.

INSTRUCTION IN SCHOOLS FOR THE DEAF AND BLIND.

Certain deaf and blind persons, education and maintenance at certain schools regulated.
1867, 311, § 4.
1868, 200.
1869, 333.
1871, 390.
P. S. 41, § 16.
1885, 118.
1886, 241.
1887, 179.
1888, 239.
1889, 226.
R. L. 39,
§§ 19, 21.
1918, 257,
§ 171.
1919, 5; 350,
§§ 56-58.
1920, 2.
1929, 268.
2 Op. A. G.
100.

SECTION 26. The department may, upon the request of the parents or guardians and with the approval of the governor, send such deaf and such blind persons as it considers proper subjects for education, for a term not exceeding ten years, to the American School, at Hartford, for the Deaf, in the state of Connecticut, to the Clarke School for the Deaf at Northampton, to the Horace Mann School at Boston, to any other school for the deaf in the commonwealth, as the parents or guardians may prefer, or to the Perkins Institution and Massachusetts School for the Blind, as the case may be, and, upon like request and with like approval, it may continue for a longer term the instruction of meritorious pupils recommended by the principal or other chief officer of the school which they attend. With the approval of the governor the department may, at the expense of the commonwealth, make such provision for the care and education of children who are both deaf and blind as it may deem expedient. No such pupil shall be withdrawn from such institutions or schools except with the consent of the authorities thereof or of the department; and the expenses of the instruction and support of such pupils therein, actually rendered or furnished, including their necessary traveling expenses, whether daily or otherwise, but not exceeding ordinary and reasonable compensation therefor, shall be paid by the commonwealth; but the parents or guardians of such children, who are able wholly or in part to provide for their support and care, to the extent of their ability may be required by the department to reimburse the commonwealth therefor.

Supervision by department
1867, 311, § 3.
P. S. 41, § 17.
1885, 118.
R. L. 39,
§§ 20, 21.

SECTION 27. The department shall direct and supervise the education of all such pupils, and the commissioner shall state in his annual report their number, the cost of their instruction and support, the manner in which the money appropriated by the commonwealth therefor has been expended, to what extent reimbursed, and such other information as he deems important.

Special day classes for deaf pupils in public schools of certain towns.
1923, 361.

SECTION 28. The department may, in co-operation with the school committee, establish in not more than six towns, each having ten or more deaf pupils resident therein or in towns accessible thereto, special day classes for such deaf pupils. Such classes, when established, shall be conducted by the school committee, subject to the approval of the department. In connection with said classes, there shall be provided instruction in lip-reading. The town shall be reimbursed by the commonwealth for the reasonable cost of maintenance of such classes, including the necessary traveling expenses of the pupils.

CHAPTER 70.

SCHOOL FUNDS AND OTHER STATE AID FOR PUBLIC SCHOOLS.

<p>SECT.</p> <p style="text-align: center;">PART I.</p> <p style="text-align: center;">STATE AID FROM INCOME TAX.</p> <ol style="list-style-type: none"> 1. Reimbursement from income tax to towns for certain school salaries. 2. Reimbursement based on full time service of teachers, etc. 3. Reimbursement based on less than full time service. 4. Supplementary reimbursement. 5. Net average membership defined. 6. No reimbursement on account of salaries of teachers in state aided vocational schools, etc. 7. Returns by superintendents. 	<p>SECT.</p> <p style="text-align: center;">PART II.</p> <p style="text-align: center;">SCHOOL FUNDS.</p> <ol style="list-style-type: none"> 8. Massachusetts School Fund. 9. Commissioners of fund. 10. Time of payment of income. 11. Definitions. 12. Distribution of portion of fund to certain towns regulated. 13. Same subject. 14. Same subject. 14A. Same subject. 15. Distribution of balance of fund. 16. Returns by superintendents. 17. Payment conditioned on compliance with school laws. 18. Todd Fund.
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PART I.

STATE AID FROM INCOME TAX.

1 SECTION 1. The state treasurer shall annually, on or before Novem- Reimbursement
 2 ber twentieth, pay to the several towns from the proceeds of the tax on from income
 3 incomes, which shall be available therefor without appropriation, the tax to towns
 4 sums required for the purposes of Part I of this chapter, as part reim- for certain
 5 bursement for salaries paid to teachers, supervisors, principals, assist- school salaries.
 6 ant superintendents and superintendents for services in the public day 1919, 363,
 7 schools rendered during the year ending the preceding June thirtieth. § 1, 2.
 1923, 145, § 1.
 237 Mass. 493.
 Op. A. G.
 (1920) 168.

1 SECTION 2. For each such person employed for full time service for Reimbursement
 2 the entire school year, such reimbursement shall be as follows: based on full
 3 time service of
 4 teachers, etc.

3 (1) Two hundred dollars for every person so employed who received 1919, 363, § 3.
 4 as salary not less than nine hundred and fifty dollars and who is a gradu- 1921, 420, § 1.
 5 ate of an approved normal school or college and had taught on full time
 6 at least two years previous to said year or whose preparation and teach-
 7 ing experience are accepted as equivalent.

8 (2) One hundred and fifty dollars for every person so employed not
 9 included in paragraph (1) who received as salary not less than eight
 10 hundred and fifty dollars and (a) has satisfactorily completed one year
 11 of professional training in an approved normal school or teachers' train-
 12 ing school, and had taught on full time at least three years previous to
 13 said year; or (b) is a graduate of an approved normal school or college,
 14 and had taught on full time for at least one year previous to said year;
 15 or (c) whose preparation and teaching experience are accepted as equiva-
 16 lent.

17 (3) One hundred dollars for every person so employed and not in-
 18 cluded in paragraphs (1) or (2) who received as salary not less than seven
 19 hundred and fifty dollars.

Reimbursement based on less than full time service
1919, 363, § 4.

SECTION 3. For every such person employed for less than full time service for the school year, but otherwise described in the preceding section and receiving a proportionate salary, said reimbursement shall in each case be in such proportion to the reimbursement provided for in said section as his service bears to full time service. No town in a superintendency union shall receive under this chapter reimbursement for the part time employment of a superintendent if entitled to reimbursement therefor under section sixty-five of chapter seventy-one.

Supplementary reimbursement.
1919, 363, § 5.
1921, 420, § 2.
1926, 333, § 1.
1931, 426, § 56.

SECTION 4. Every town in which the proportionate amount paid by such town of every million dollars of state tax as established by the last preceding valuation made for the purpose of apportioning such tax, when divided by the net average membership of its public day schools as defined in section five for the year ending on the next preceding June thirtieth, yields a quotient less than ninety-five cents shall, for each person for whom it received reimbursement under section two, receive supplementary reimbursement as follows:

- (1) Two hundred and fifty dollars if said quotient is less than sixty cents.
- (2) Two hundred dollars if said quotient is less than sixty-five cents but not less than sixty cents.
- (3) One hundred and fifty dollars if said quotient is less than seventy cents but not less than sixty-five cents.
- (4) One hundred and twenty-five dollars if said quotient is less than eighty cents but not less than seventy cents.
- (5) One hundred dollars if said quotient is less than eighty-five cents but not less than eighty cents.
- (6) Fifty dollars if said quotient is less than ninety-five cents but not less than eighty-five cents.

For each person for whom any such town received proportionate reimbursement under section three it shall in each case receive as supplementary reimbursement the same proportion of the sums named herein for full time service. No town shall receive under this section in any one year more than fifteen thousand dollars.

Net average membership defined.
1919, 363, § 6.

SECTION 5. For the purposes of section four the net average membership of the public day schools of a town for any school year shall be the average membership for such year as shown by the school registers, increased by the number of pupils resident therein whose tuition in the public schools of another town, for not less than half such year, the town has paid, decreased by the number of non-resident pupils attending its schools for not less than half such year.

No reimbursement on account of salaries of teachers in state aided vocational schools, etc.
1919, 363, § 7.
1922, 190.

SECTION 6. No town shall be entitled to reimbursement under Part I of this chapter on account of salaries paid to teachers whose employment in state aided vocational schools or departments, continuation schools or Americanization classes entitle the town to state reimbursement. For every teacher in a practice school connected with a state normal school, a part of whose salary is paid or reimbursed by the commonwealth, the town's reimbursement under this chapter shall be based on that part of the salary paid by the town, but shall otherwise be in accordance with this chapter.

1 SECTION 7. Every superintendent of schools shall file with the com-
 2 missioner of education, not later than July twenty-fifth in each year, a
 3 sworn statement, upon blanks prepared by the said commissioner, con-
 4 taining the data necessary to determine the amounts payable under
 5 Part I of this chapter. The said commissioner shall, not later than July
 6 twenty-seventh, prepare and transmit to the commissioner of corpora-
 7 tions and taxation a list containing an estimate based on the information
 8 then in his possession of the amount payable under said Part I to each
 9 town for the current year. The commissioner of education shall cause
 10 such statements to be examined, and shall certify to the commissioner
 11 of corporations and taxation and to the comptroller the amount due
 12 each town.

Returns by
 superin-
 tendents
 1919, 363, § 8.
 1922, 333, § 2.
 1923, 145, § 2.
 1924, 222, § 2.

PART II.

SCHOOL FUNDS.

1 SECTION 8. The present school fund of the commonwealth, with
 2 future additions, and all funds received by the commonwealth from the
 3 federal government, the disposition of which is not otherwise provided
 4 for, shall constitute a permanent fund, to be called the "Massachusetts
 5 School Fund". The principal thereof shall not be diminished, and the
 6 income shall be disbursed as hereinafter provided.

Massachusetts
 School Fund
 1834, 169, § 1.
 R. S. 11, § 13.
 1854, 333
 G. S. 36, § 1.
 P. S. 43, § 1.
 1800, 335, § 1.
 R. L. 41, § 1.

1 SECTION 9. The commissioner of education and the state treasurer
 2 shall be commissioners to invest and manage the fund, and shall make
 3 an annual report of the condition and income thereof. All invest-
 4 ments shall be made with the approval of the governor and council.

Commissioners
 of fund
 1834, 169, § 2.
 R. S. 11, § 14.
 G. S. 36, § 1.
 1866, 53.

P. S. 43, § 2. 1890, 335, § 2. R. L. 41, § 3. 1919, 350, §§ 56-58.

1 SECTION 10. The accrued income of said fund on December thirty-
 2 first annually shall be apportioned by the commissioners thereof, as
 3 provided in Part II of this chapter and paid to the towns entitled on
 4 the following March tenth.

Time of
 payment of
 income
 R. S. 23,
 §§ 66, 67.

1846, 223, § 5. 1867, 98. R. L. 41, § 5. 1918, 186, § 2.
 1849, 117, §§ 2, 3. P. S. 43, § 4. 1903, 456, § 2. 1919, 363, §§ 9, 16.

G. S. 36, § 3.

1 SECTION 11. For the purposes of Part II of this chapter, the follow-
 2 ing word and phrase shall be defined as follows:—

Definitions.
 1919, 363, § 10.
 1921, 420, § 3.
 1923, 472, § 1.
 1926, 333, § 2

3 "Valuation" shall mean the town's valuation, as determined by the
 4 last preceding valuation made for the purpose of apportioning the state
 5 tax.

6 "Assured minimum" shall mean the amount by which the sum of the
 7 following items for the last preceding town fiscal year exceeded the
 8 amount received by the town during said year under Part I and for the
 9 tuition of non-resident pupils, including state wards:

10 (1) Salaries paid to full time principals and teachers, not including
 11 any amounts by which any such salary was at a rate in excess of eleven
 12 hundred dollars.

13 (2) Two hundred and fifty dollars for each teaching position held by
 14 a full time principal or teacher.

15 (3) Expenditures for transportation of pupils to the local schools.

16 (4) Expenditures for the tuition in, and transportation to, public
 17 elementary schools in adjoining towns.

18 (5) In the case of towns having over five hundred families and ex-
 19 empted from the requirement of maintaining a four year high school,

the actual expenditures made during that year for tuition in high schools 20
in other towns. 21

In computing the "assured minimum", expenditures for state-aided 22
vocational or continuation schools or Americanization classes shall not 23
be included. 24

Distribution
of portion of
fund to cer-
tain towns
regulated.
1926, 333, § 2.

SECTION 12. A town in which the proportionate amount paid by such 1
town of every thousand dollars of state tax as established by the last 2
preceding valuation made for the purpose of apportioning such tax is 3
eight cents or less shall receive one half of its assured minimum if said 4
minimum exceeds the sum that would have accrued therein from a tax 5
of ten dollars per thousand dollars valuation. If said minimum is less 6
than the proceeds of such a tax, but more than would have been the 7
proceeds of a tax of five dollars per thousand, the town shall receive the 8
amount by which said minimum exceeds the proceeds of such a five 9
dollar tax. 10

Same subject.
1926, 333, § 2.

SECTION 13. A town in which the proportionate amount paid by such 1
town of every thousand dollars of state tax as established by the last 2
preceding valuation made for the purpose of apportioning such tax is 3
more than eight cents but not more than sixteen cents shall be allotted 4
one third of its assured minimum if said minimum exceeds the sum 5
that would have accrued therein from a tax of seven and one half dollars 6
per thousand dollars valuation. If said minimum is less than the pro- 7
ceeds of such a tax, but more than would have been the proceeds of a 8
tax of five dollars per thousand, the town shall be allotted the amount 9
by which said minimum exceeds the proceeds of such a five dollar tax. 10
Said allotments shall be paid in full if their sum does not exceed the 11
amount available after making the payments provided for by the pre- 12
ceding section, otherwise they shall be proportionally reduced and paid. 13

Same subject.
1924, 455, § 1.
1926, 333, § 2.

SECTION 14. A town in which the proportionate amount paid by such 1
town of every thousand dollars of state tax as established by the last 2
preceding valuation made for the purpose of apportioning such tax is 3
more than sixteen cents but not more than forty cents shall be allotted 4
one half the amount by which its assured minimum exceeds the amount 5
that would have accrued therein from a tax of five dollars per thousand 6
dollars valuation. If the total allotments under this and the following 7
section exceed the amount available after the distribution provided for 8
by the two preceding sections, the state treasurer shall add to said 9
amount, from the proceeds of the income tax, without appropriation, 10
the amount required, but not exceeding two hundred and fifty thousand 11
dollars in any one year. If said addition does not permit the payment in 12
full of all allotments under this section, they shall be proportionally 13
reduced and paid. 14

Same subject.
1926, 333, § 3.

SECTION 14A. Every town in which the proportionate amount paid 1
by such town of every thousand dollars of state tax as established by the 2
last preceding valuation made for the purpose of apportioning such tax 3
is more than forty cents but not more than fifty cents shall be allotted 4
one half the amount by which its assured minimum exceeds the amount 5
that would have accrued therein from a tax of five dollars per thousand 6
dollars valuation, provided its valuation as established for the purpose 7

8 of apportioning the state tax, when divided by the net average member-
 9 ship of its public day schools, as defined in section five, for the year
 10 ending on the next preceding June thirtieth, yields a quotient which
 11 does not exceed seventy-five per cent of the quotient so obtained for the
 12 commonwealth as a whole, and provided its expenditures per one thou-
 13 sand dollars of valuation for support of public day schools from funds
 14 raised by local taxation for its last preceding fiscal year exceeds by at
 15 least twenty-five per cent the average of such expenditures for the com-
 16 monwealth as a whole for the same year.

17 Allotments under this section shall be paid out of the total amount
 18 available for such purposes under the second sentence of section fourteen
 19 after payment in full of all allotments due and payable under section
 20 fourteen. If the balance of such total amount remaining after such
 21 payment of allotments under section fourteen does not permit the pay-
 22 ment in full of allotments under this section, they shall be proportion-
 23 ately reduced and paid.

1 SECTION 15. If in any year there is a balance from the income of said
 2 fund after the distribution provided for by the four preceding sections,
 3 the same shall be divided among all towns receiving payments there-
 4 under in proportion to said payments.

Distribution
 of balance
 of fund
 1858, 96, § 2.
 G. S. 36, § 2.
 1866, 208, § 1.

1869, 168.	P. S. 43, § 3.	1893, 272.	1918, 186, § 1.
1870, 45.	1884, 22.	R. L. 41, § 4.	1919, 363, §§ 14, 16.
1874, 348, § 2.	1891, 177.	1903, 456, § 1.	1931, 426, § 70.

1 SECTION 16. Every superintendent of schools shall annually, not
 2 later than February first, file with the commissioner of education, upon
 3 blanks prepared by the commissioner, a sworn statement, containing
 4 data necessary to determine the amounts payable under Part II of this
 5 chapter. Failure to file the same by February fifteenth shall cause the
 6 town to forfeit its share of the income accrued during the preceding year.
 7 Before filing such statement, the superintendent shall submit it to the
 8 chairman of the school committee, who shall countersign it on oath, if,
 9 after examination, he finds it correct. The commissioner shall cause
 10 such statements to be examined, and shall certify to the comptroller
 11 the amount due each town.

Returns by
 superintend-
 ents.
 1903, 456, § 3.
 1919, 363,
 §§ 15, 16.
 1922, 333, § 3.
 1923, 362, § 59.

1 SECTION 17. No town shall receive any payment under Part II of
 2 this chapter, unless it has complied, to the satisfaction of the department
 3 of education, with all laws relating to the public schools.

Payment con-
 ditioned on
 compliance
 with school
 laws.

1834, 169, § 3.	1865, 142, § 1.	R. L. 41, § 6.	1919, 5; 350, § 56;
1835, 138, § 1.	1866, 208, § 2.	1904, 107, § 1.	363, § 16.
R. S. 23, § 46.	1878, 234, § 1.	1913, 340.	1920, 2.
G. S. 36, § 3.	P. S. 43, § 5.	1918, 257, § 173.	1 Op. A. G. 517.

1 SECTION 18. The income of the Todd Fund shall be paid to the
 2 department of education, and applied by it to specific objects, in con-
 3 nection with the normal schools, not provided for by appropriation.

Todd Fund.
 1850, 63.
 G. S. 36, § 7.
 1862, 83, § 1.
 P. S. 43, § 9.

R. L. 41, § 8.	1919, 350, § 56.
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CHAPTER 71.

PUBLIC SCHOOLS.

- | SECT. | SECT. |
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| 1. Maintenance of public schools. Subjects of instruction. | 29. Female assistants in certain schools. |
| 2. Teaching of American history and civics. | 30. Duty of instructors in colleges, etc. |
| 3. Military drill, gymnastics, etc. | 31. Bible to be read in public schools. |
| 4. Maintenance of high schools by certain municipalities. | 32. Observance of Memorial Day. |
| 5. State reimbursement of small towns maintaining high schools. | 33. Vivisection and dissection regulated. Penalty. |
| 6. Payment for tuition elsewhere, and transportation, of high school pupils of small towns not maintaining high schools. | 34. Forfeiture for neglect to raise money for schools, choose school committee, etc. |
| 7. State reimbursement to small towns for such transportation. | |
| 8. State reimbursement to small towns for such tuition. | SCHOOL COMMITTEES. |
| 9. Certain towns to receive no state reimbursement under §§ 5 and 8. | 35. Commencement of term in certain cities. |
| 10. State reimbursement to small towns for tuition of physically disabled pupils. | 36. Secretary. Records. |
| 11. High school defined for purposes of state reimbursement. | 37. Duties of school committee. |
| 12. Teachers in certain high schools to hold certificates. | 38. Same subject. Election, etc., of teachers. |
| 13. Commercial Spanish to be taught in certain high schools. | 39. Inquiry as to religion or politics of candidates for teachers forbidden. Penalty. |
| 14. Union high school districts. | 40. Minimum salary for teachers. |
| 15. State reimbursement of towns in such districts. | 41. Tenure of certain teachers and superintendents. |
| 16. Union schools. | 42. Suspension and discharge of teachers and superintendents. |
| 17. Teaching of manual training and household arts regulated. | 43. Reduction of salary of teachers and superintendents. |
| 18. Evening schools. | 44. Teachers not to be restricted in the exercise of certain rights. |
| 19. Evening high schools. | 45. Fees for procuring teachers' positions regulated. Penalty. |
| 20. Notices as to evening schools. Fee for instruction. | 46. Instruction and placing out of certain mentally retarded children. |
| | 46A. Instruction of certain crippled children. |
| CONTINUATION SCHOOLS, ETC. | 47. Supervision and control of athletic and other school organizations. |
| 21. Continuation schools or courses of instruction. | 48. Textbooks and other supplies to be provided. |
| 22. Compulsory attendance at continuation schools or courses. | 48A. Traffic belts for pupils directing traffic. |
| 23. Utilization of existing educational facilities. | 49. Purchase of textbooks by pupils. |
| 24. State reimbursement for continuation schools or courses. | 50. Change of school books. |
| 25. Attendance by minors working elsewhere than in town of residence temporarily unemployed. | 51. Exhibition of school work at expositions. |
| 26. Penalty on town neglecting to raise funds for continuation schools. | 52. Committee to serve without compensation. Exceptions. Members ineligible to serve as teacher, superintendent, etc. |
| | 53. School physicians and nurses. |
| MISCELLANEOUS PROVISIONS. | 53A. Same subject. Employment, etc., by district or union. |
| 27. Free lectures, etc. | 53B. Same subject. Exemption from provisions of § 53. |
| 28. Vacation schools. | 54. Physical examination of pupils, teachers, janitors, etc. |
| | 55. Examination of certain pupils. |

<p>SECT.</p> <p>56. Parent or guardian to be notified of disease, etc. Procedure in case of dangerous, etc., diseases.</p> <p>57. Testing as to defective sight, etc.</p> <p>58. Department to furnish test cards, blanks, etc., and to furnish certain instruction to normal school pupils.</p> <p>59. Superintendent of schools. Election and duties.</p> <p>60. Superintendency district. District superintendent.</p> <p>61. Union of towns for employment of superintendent.</p> <p>62. Formation or readjustment of such unions by department.</p> <p>63. School committees as joint committee for union. Organization and duties.</p> <p>64. Salary of union superintendent. Reimbursement for certain expenses.</p> <p>65. State aid to unions.</p>	<p>Sect.</p> <p>66. Qualifications of superintendents in state aided unions.</p> <p>67. Receipt of commission, etc., by superintendent for obtaining position for teacher penalized.</p> <p style="text-align: center;">SCHOOLHOUSES.</p> <p>68. Towns to maintain schoolhouses. Duties of committee. Authority of department to require certain towns to furnish transportation, etc., regulated.</p> <p>69. United States flags to be furnished and displayed. Penalties.</p> <p>70. Situation of schoolhouses.</p> <p>71. Public use of school property, except in Boston.</p> <p>72. Lunches for pupils and teachers.</p> <p>73. Closing of school for teachers' meetings.</p> <p>74. Management of school funds by certain corporations not affected.</p>
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1 SECTION 1. Every town shall maintain, for at least one hundred and
 2 sixty days in each school year unless specifically exempted as to any one
 3 year by the department of education, in this chapter called the depart-
 4 ment, a sufficient number of schools for the instruction of all children
 5 who may legally attend a public school therein. Such schools shall be
 6 taught by teachers of competent ability and good morals, and shall give
 7 instruction and training in orthography, reading, writing, the English
 8 language and grammar, geography, arithmetic, drawing, the history and
 9 constitution of the United States, the duties of citizenship, physiology
 10 and hygiene, good behavior, indoor and outdoor games and athletic
 11 exercise. In connection with physiology and hygiene, instruction as to
 12 the effects of alcoholic drinks and of stimulants and narcotics on the
 13 human system, and as to tuberculosis and its prevention, shall be given
 14 to all pupils in all schools under public control, except schools maintained
 15 solely for instruction in particular branches. Such other subjects as the
 16 school committee considers expedient may be taught in the public schools.

1910, 524.
 1911, 247.
 1917, 169.
 1918, 257, § 174.
 1919, 5; 350, § 56.

1920, 2.
 1921, 360.
 1923, 222, § 1.
 10 Met. 508.

196 Mass. 309.
 265 Mass. 452.
 1 Op. A. G. 576, 577.
 Op. A. G. (1920) 40.

Maintenance of public schools.
 Subjects of instruction.
 C. L. 136, 305.
 1692-3, 26, § 5.
 1789, 19, § 1.
 1823, 111.
 1826, 143, § 1.
 R. S. 23, § 1.
 1839, 56, § 1.
 1850, 229.
 1857, 206, § 1.
 1858, 5.
 1859, 253.
 G. S. 38, § 1.
 1862, 7.
 1870, 248, § 1.
 1876, 3, § 1.
 P. S. 44, § 1.
 1884, 69.
 1885, 352.
 1894, 231;
 320, § 1.
 1898, 496, § 1.
 1900, 218.
 R. L. 42, § 1.
 1908, 181.

1 SECTION 2. In all public elementary and high schools American his-
 2 tory and civics, including the constitution of the United States, shall be
 3 taught as required subjects for the purpose of promoting civic service
 4 and a greater knowledge thereof, and of fitting the pupils, morally and
 5 intellectually, for the duties of citizenship.

Teaching of American history and civics.
 1920, 411.
 1923, 222, § 2.
 Op. A. G. (1920) 196.

1 SECTION 3. The exercises in the public schools may include calis-
 2 thenics, gymnastics and military drill; but no pupil shall be required to
 3 take part in any military exercise if his parent or guardian is of any
 4 religious denomination conscientiously opposed to bearing arms, or is
 5 himself so opposed, and the school committee is so notified in writing;
 6 or if a physician of good standing certifies in writing that in his opinion
 7 such exercises would be injurious to the pupil.

Military drill, gymnastics, etc.
 1826, 143, § 7.
 R. S. 23, § 17.
 G. S. 38, § 28.
 1876, 47, § 1.
 1881, 193, § 1.
 P. S. 44, § 33.
 R. L. 42, § 34.

Maintenance of high schools by certain municipalities. 1789, 19, § 1. 1823, 111. 1826, 143, § 1. R. S. 23, § 5. 1850, 274. 1852, 123. 1857, 206, § 2. G. S. 38, § 2. 1868, 226. P. S. 44, § 2. 1898, 496, § 2. R. L. 42, § 2. 1914, 556. 1918, 257, § 175. 1919, 5. 1920, 2. 1928, 31. 16 Mass. 441. 196 Mass. 311. 1 Op. A. G. 319. Op. A. G. (1918) 39.

State reimbursement of small towns maintaining high schools. 1902, 433. 1906, 200, § 1, 2. 1908, 427. 1911, 537. 1918, 198, § 2, 8.

Payment for tuition elsewhere, and transportation, of high school pupils of small towns not maintaining high schools. 1891, 263. 1894, 436, § 1. 1898, 496, § 3. R. L. 42, § 3. 1902, 433. 1911, 537. 1913, 396. 1918, 198, § 3, 8. 1921, 296, § 1. 1930, 48. 164 Mass. 430. 171 Mass. 501. 179 Mass. 571.

SECTION 4. Every town containing, according to the latest census, state or national, five hundred families or householders, shall, unless specifically exempted by the department and under conditions defined by it, maintain a high school, adequately equipped, which shall be kept by a principal and such assistants as may be needed, of competent ability and good morals, who shall give instruction in such subjects as the school committee considers expedient. One or more courses of study, at least four years in length, shall be maintained in such high school and it shall be kept open for the benefit of all the inhabitants of the town for at least one hundred and eighty days, exclusive of vacations, in each school year, unless specifically exempted as to any one school year by the department because of epidemic or other emergency. Each high school maintained by a town required to belong to a superintendency union shall be conducted in accordance with standards of organization, equipment and instruction approved from time to time by the department.

SECTION 5. If a town of less than five hundred families or householders, according to such census, maintains a public high school, it shall, subject to section nine, be reimbursed annually by the commonwealth, a sum, not exceeding twelve hundred and fifty dollars, determined as follows: for a principal and for each teacher devoting full time to said school, two hundred and fifty dollars; for a principal and for each teacher devoting part time thereto a part of two hundred and fifty dollars proportional to the amount of time so devoted. But no town shall receive any such reimbursement unless its high school is approved by the department.

SECTION 6. If a town of less than five hundred families or householders, according to such census, does not maintain a public high school offering four years of instruction, it shall pay the tuition of any pupil who resides therein and obtains from its school committee a certificate to attend a high school of another town included in the list of high schools approved for this purpose by the department. Such a town shall also, through its school committee, provide, when necessary, for the transportation of such a pupil at cost up to forty cents for each day of actual attendance, and it may expend more than said amount. If, however, the distance between a pupil's residence and the school he is entitled to attend under this section exceeds three miles, the town may, when necessary, be required by the department to expend for transportation for such pupil a sum up to eighty cents in all for each day of attendance. The department shall approve the high schools which may be attended by such pupils, and it may, for this purpose, approve a public high school in an adjoining state. Whenever, in the judgment of the department, it is expedient that such a pupil should board in the town of attendance the town of residence may, through its school committee, pay toward such board, in lieu of transportation, such sum as the said committee may fix. If the school committee refuses to issue a certificate as aforesaid, application may be made to the department, which, if it finds that the educational needs of the pupil in question are not reasonably provided for, may issue a certificate having the same force and effect as if issued by the said committee. The application shall be filed with the superintendent of schools of the town of residence, and by him transmitted forthwith to the department with a report of the facts relative thereto.

1 SECTION 7. If the expenditure per thousand dollars valuation from
 2 the proceeds of local taxation for the support of public schools, made
 3 by any town of less than five hundred families or householders for the
 4 three town fiscal years preceding any school year, averaged more than
 5 four and not more than five dollars, the commonwealth shall reimburse
 6 the town for one half the amount paid by it during said school year for
 7 transportation or board in accordance with the preceding section. If
 8 said average was more than five and not more than six dollars, the reim-
 9 bursement shall be for three fourths of said amount, or if said average
 10 was more than six dollars, the reimbursement shall be for the entire sum.
 11 Such reimbursement shall not be based on the excess of any amount above
 12 forty cents for each day of actual attendance of any pupil. If, how-
 13 ever, in order to reach the high school, a pupil must travel three or
 14 more miles in some manner other than by steam or electric railroad, or
 15 other public conveyance, then the town shall be reimbursed three
 16 fourths of the excess, if any, that it expends for such pupil's transpor-
 17 tation or board, or both, above forty cents, but not above eighty cents,
 18 for each day of actual attendance. Said excess reimbursement shall be
 19 paid only to towns in which said average expenditure per thousand dollars
 20 valuation was more than five dollars. All expenditures for which reim-
 21 bursement is claimed shall be subject to approval by the department.

State reim-
 bursement to
 small towns
 for such
 transportation.
 1913, 396,
 1918, 198,
 § 3, 4, 8,
 1921, 296, § 2,
 1923, 363.

1 SECTION 8. If the valuation of a town of less than five hundred fam-
 2 ilies or householders for its fiscal year preceding any school year does not
 3 exceed five hundred thousand dollars, the commonwealth shall reimburse
 4 it, subject to the following section, for the whole amount paid by it for
 5 such school year for tuition under section six; if said valuation exceeds
 6 five hundred thousand dollars but not one million dollars, the reim-
 7 bursement shall be for three fourths of said amount; and if said valua-
 8 tion exceeds one million dollars, the reimbursement shall be one half
 9 of said amount.

State reim-
 bursement to
 small towns
 for such
 tuition.
 1895, 212,
 1898, 496, § 3,
 R. L. 42, § 3,
 1902, 433,
 1911, 537,
 1918, 198,
 § 5, 8,
 1 Op. A. G. 427,
 2 Op. A. G.
 75, 98.

1 SECTION 9. No town shall receive any reimbursement for a school
 2 year under sections five and eight if its valuation for its fiscal year pre-
 3 ceding said school year, divided by the net average membership of its
 4 public schools as defined by section five of chapter seventy for the school
 5 year preceding the year for which reimbursement is claimed, exceeds the
 6 corresponding quotient for the commonwealth.

Certain towns
 to receive no
 state reimburse-
 ment under
 §§ 5 and 8.
 1902, 433,
 1908, 427, § 1,
 1911, 537,
 1918, 198,
 § 6, 8.

1 SECTION 10. If the school committee of a town of less than five hun-
 2 dred families or householders not maintaining a public high school offer-
 3 ing four years of instruction, pays, with the approval of the department,
 4 for the instruction of a pupil who by reason of physical disability is
 5 unable to attend a high school in another town, the commonwealth
 6 shall reimburse the town therefor under the same conditions and to the
 7 same amount as for tuition in such a high school, and for transportation
 8 thereto, but not exceeding one hundred dollars a year in lieu of tuition
 9 plus one dollar and fifty cents per week of actual instruction in lieu of
 10 transportation.

State reim-
 bursement to
 small towns
 for tuition of
 physically dis-
 abled pupils
 1918, 198, § 7.

1 SECTION 11. For the purposes of the six preceding sections, a "high
 2 school" is defined as that part of the school system which furnishes in-
 3 struction in addition to that offered in the first eight grades and other
 4 than vocational instruction directly aided by the commonwealth.

High school
 defined for
 purposes of
 state reim-
 bursement.
 1918, 198, § 1.

Teachers in certain high schools to hold certificates. 1911, 375, § 1.

Commercial Spanish to be taught in certain high schools. 1918, 200.

Union high school districts. 1848, 279, §§ 1-4; G. S. 38, §§ 3-6; P. S. 44, §§ 3-6; R. L. 42, §§ 4-7; 1918, 257, §§ 176, 177; 1919, 5, 202, § 1; 1920, 2.

State reimbursement of towns in such districts. 1918, 257, § 178; 1919, 5, 202, § 1; 1920, 2.

Union schools. 1868, 278; P. S. 44, §§ 10, 11; R. L. 42, § 8; 1919, 292, § 2; 193 Mass. 99.

Teaching of manual training and household arts regulated.

Evening schools. 1870, 248, § 2; P. S. 44, § 7; 1883, 174, § 1; 1898, 496, § 5; R. L. 42, § 11; 1914, 591; 1918, 257, § 179; 1919, 5, 202, 2.

SECTION 12. No person shall be eligible to teach in a high school on account of which reimbursement is made by the commonwealth under section five who does not hold a high school teacher's certificate issued by the department as provided in section five of chapter sixty-nine. 1 2 3 4

SECTION 13. In every public high school having not less than one hundred and fifty pupils and offering a commercial course of study, commercial Spanish shall be taught upon the written request of the parents or guardians of not less than twenty pupils and the enrolment of not less than twenty properly qualified pupils, provided said request is made, and said enrolment is completed, before the preceding August first. 1 2 3 4 5 6

SECTION 14. Two or more towns may vote to form a union high school district, subject to the approval of the department, for the purpose of establishing and maintaining a union high school. The management and control of such school shall be vested in a committee, with all the powers of school committees, composed of one member elected by and from the school committee of each constituent town. The committee shall, with the approval of the department, determine the situation of the schoolhouse. The proportion payable by each town for the erection and maintenance of a permanent schoolhouse and for the support of the school, including the transportation of pupils to such school when necessary, unless otherwise agreed, shall be according to its proportion of the county tax. 1 2 3 4 5 6 7 8 9 10 11 12

SECTION 15. Every town where a union high school is situated shall be reimbursed by the commonwealth for the sums contributed to the support of such school to the same amount and under the same conditions as if said sums had been expended to maintain a local high school. Each other participating town shall so be reimbursed to the same amount and under the same conditions as if its contribution had been expended for the tuition of its pupils in another town. 1 2 3 4 5 6 7

SECTION 16. Two or more towns may severally vote to establish union schools for the accommodation of such contiguous portions of each as may be agreed upon. The management and control of such schools, the situation of the schoolhouses therefor, and the apportionment of the expenses of erecting such schoolhouses and of the support and maintenance of said schools, and of all expenditures incident to the same, shall be determined by the school committees of the participating towns. 1 2 3 4 5 6 7

SECTION 17. Every town of twenty thousand inhabitants shall maintain the teaching of manual training and household arts as part of both its elementary and its high school program of studies. 1 2 3

1894, 471.

1898, 496, § 4.

R. L. 42, § 9.

1919, 292, § 3.

SECTION 18. Any town may, and every town in which there are issued during any year certificates authorizing the employment of twenty or more persons who do not possess the educational qualifications enumerated in section one of chapter seventy-six, shall maintain for not less than forty evenings during the following school year an evening school or schools for the instruction of persons over fourteen years of age in orthography, reading, writing, the English language and grammar, 1 2 3 4 5 6 7

8 geography, arithmetic, industrial drawing, both free hand and mechanical,
9 the history of the United States, physiology and hygiene and good be-
10 havior. Such other subjects may be taught as the school committee
11 considers expedient.

1 SECTION 19. Every city of fifty thousand inhabitants shall maintain
2 annually an evening high school, in which shall be taught such subjects
3 as the school committee considers expedient, if fifty or more residents,
4 fourteen years or over, competent in the opinion of the committee to
5 pursue high school studies, shall petition in writing for an evening high
6 school and certify that they desire to attend.

Evening high
schools.
1886, 236, § 1.
1898, 496, § 4.
R. L. 42, § 12.

1 SECTION 20. The school committee shall, two weeks next before the
2 opening of each term of the evening schools, post in three or more public
3 places in the town notice of the situation of said schools, the date of the
4 beginning of the term, the evenings of the week on which they will be
5 in session, such regulations as to attendance as it deems proper, and the
6 provisions of section ninety-five of chapter one hundred and forty-nine.
7 It may require from each student, not bound by law to attend, an
8 advance payment not exceeding one dollar, which may, at its discretion,
9 be paid into the town treasury to be credited to the school appropriation,
10 or be returned wholly or in part at such time and under such conditions
11 as the committee determines.

Notices as to
evening schools.
Fee for
instruction.
1887, 433, § 4.
R. L. 42, § 13.
1911, 309.

CONTINUATION SCHOOLS, ETC.

1 SECTION 21. Every town which has accepted chapter three hundred
2 and eleven of the General Acts of nineteen hundred and nineteen, and
3 in which, in any year, two hundred or more minors under sixteen are
4 employed not less than six hours per day by authority of employment
5 certificates or home permits described in section one of chapter seventy-
6 six, exclusive of minors employed only during vacations, shall, except as
7 otherwise provided in this section, and any other town which has ac-
8 cepted said chapter, may, through its school committee, local board of
9 trustees for vocational education, or both, establish at the beginning of
10 the next school year and maintain continuation schools or courses of
11 instruction for the education of such minors, and for such others as may
12 be required to attend under section twenty-five. The said schools or
13 courses shall be in session the same number of weeks in each year as the
14 local high schools, and the sessions shall be between the hours of eight
15 in the morning and five in the afternoon of any working days except
16 Saturday. If in a town required to establish continuation schools or
17 courses under this section, after examination of the records required to
18 be kept under sections eighty-six and eighty-nine of chapter one hundred
19 and forty-nine, it appears that in each of two consecutive years the num-
20 ber of employed minors described above falls below two hundred, the
21 school committee of said town may apply to the department for exemp-
22 tion from the provisions of this section, and, if specifically exempted by
23 the department under conditions defined by it, said town shall be deemed
24 to have come under the permissive provisions of this section and shall
25 so remain until two hundred or more such minors in any year are em-
26 ployed therein.

Continuation
schools or
courses of
instruction.
1913, 805, § 1.
1919, 311, § 1.
ch. 1, 3, § 7.
1922, 301.
Op. A. G.
(1920) 168.

Compulsory attendance at continuation schools or courses.
1913, 805, § 1.
1919, 311, § 1, cl. 2, 3.
Op. A. G. (1920) 168.

SECTION 22. Every minor described in the preceding section shall, subject to the laws relating to the public schools, attend said schools or courses in the town of his employment for not less than four hours per week; but the attendance of minors who have been required to attend continuation schools, and are temporarily out of employment or business, shall be for not less than twenty hours per week, if said schools or courses are so long in session. Instruction in the regular schools may and upon application of the parent or guardian shall be accepted as equivalent to that required by this section and section twenty-five.

Utilization of existing educational facilities.
1919, 311, § 1, cl. 4.

SECTION 23. In the establishment and conduct of said schools or courses, a town may take advantage of established educational agencies, and may utilize any suitable quarters approved by the department; but, when established, the said schools or courses shall be a part of the public school system of the town.

State reimbursement for continuation schools or courses.
1913, 805, § 2, 3.
1919, 311, § 2.
1922, 413.

SECTION 24. Towns maintaining such schools or courses as are approved by the department as to organization, control, situation, equipment, courses of study, qualifications of teachers, methods of instruction, conditions of admission, employment of pupils and expenditures of money, shall be reimbursed by the commonwealth for one half the sum raised by local taxation and expended for their maintenance. The town of residence of a person who is required by section twenty-two to attend a continuation school of another town shall pay to such other town a tuition fee to be fixed by the commissioner of education, and not to exceed the average annual maintenance cost per pupil of continuation schools throughout the commonwealth, as last ascertained. In default of payment, such fee may be recovered in an action of contract. The commonwealth shall pay to towns paying claims for tuition under this section one half the sums so expended.

Attendance by minors working elsewhere than in town of residence temporarily unemployed.
1913, 805, § 4.
1919, 311, § 3, cl. 1.

SECTION 25. Any minor under sixteen who has been regularly employed in a town other than that of his residence, and who is temporarily unemployed, may be required, under conditions approved by the department, to attend a continuation school or course in the town of his residence.

Penalty on town neglecting to raise funds for continuation schools.
1919, 311, § 6.

SECTION 26. A town required by section twenty-one to establish and to maintain continuation schools or courses which refuses or neglects to appropriate money necessary therefor, shall forfeit from funds due it from the commonwealth a sum equal to twice that estimated by the department as necessary properly to provide for the same. A sum equal to three fifths of such forfeiture shall be paid by the state treasurer to the school committee of the delinquent town, and the committee shall expend the same for such establishment and maintenance to the same extent as if it had been regularly appropriated by the town therefor.

MISCELLANEOUS PROVISIONS.

Free lectures, etc.
1893, 208.
1900, 166.
R. L. 42, § 14.

SECTION 27. The school committee may employ competent persons to deliver lectures on the natural sciences, history, and kindred subjects, and may provide cards or pamphlets giving the titles and authors of books of reference on the subject matter of said lectures contained in the local public libraries.

1 SECTION 28. The school committee may establish and maintain
2 schools to be kept open for the whole or any part of the summer vaca-
3 tion; but attendance thereon shall not be compulsory or be considered
4 as a part of the school attendance required by law.

Vacation
schools.
1899, 246
R. L. 42, § 15.

1 SECTION 29. In every public school having a membership of fifty
2 pupils or more, one or more female assistants shall be employed unless
3 the town votes otherwise.

Female
assistants in
certain schools.

1839, 56, § 1.
G. S. 38, § 9.

P. S. 41, § 14.
R. L. 42, § 17.

1 SECTION 30. The president, professors and tutors of the university
2 at Cambridge and of the several colleges, all preceptors and teachers of
3 academies and all other instructors of youth shall exert their best en-
4 deavors to impress on the minds of children and youth committed to
5 their care and instruction the principles of piety and justice and a sacred
6 regard for truth, love of their country, humanity and universal benevo-
7 lence, sobriety, industry and frugality, chastity, moderation and tem-
8 perance, and those other virtues which are the ornament of human so-
9 ciety and the basis upon which a republican constitution is founded; and
10 they shall endeavor to lead their pupils, as their ages and capacities will
11 admit, into a clear understanding of the tendency of the above mentioned
12 virtues to preserve and perfect a republican constitution and secure the
13 blessings of liberty as well as to promote their future happiness, and
14 also to point out to them the evil tendency of the opposite vices.

Duty of in-
structors in
colleges, etc.
C. L. 136, § 3.
1789, 19, § 4.
1826, 143, § 3.
R. S. 23, § 7.
G. S. 38, § 10.
P. S. 41, § 15.
R. L. 42, § 18.
12 Allen, 127.

1 SECTION 31. A portion of the Bible shall be read daily in the public
2 schools, without written note or oral comment; but a pupil whose parent
3 or guardian informs the teacher in writing that he has conscientious
4 scruples against it, shall not be required to read from any particular
5 version, or to take any personal part in the reading. The school com-
6 mittee shall not purchase or use in the public schools school books favor-
7 ing the tenets of any particular religious sect.

Bible to be
read in public
schools.
1826, 143, § 7
R. S. 23, § 23.
1855, 410.
G. S. 38, § 27.
1862, 57.
1880, 176.
P. S. 44, § 32.

R. L. 42, § 19.

12 Allen, 127.

1 SECTION 32. In all the public schools the last regular session, or a
2 portion thereof, prior to May thirtieth, known as Memorial Day, shall
3 be devoted to patriotic exercises.

Observance of
Memorial Day.
1890, 111.

R. L. 42, § 20.

1 SECTION 33. No person shall, in the presence of a pupil in any public
2 school, practice vivisection, or exhibit a vivisectioned animal. Dissection
3 of dead animals or any portions thereof in such schools shall be confined
4 to the class room and to the presence of pupils engaged in the study to
5 be promoted thereby, and shall in no case be for the purpose of exhibi-
6 tion. Violation of this section shall be punished by a fine of not less
7 than ten nor more than fifty dollars.

Vivisection
and dissection
regulated.
Femity.
1804, 151.
R. L. 42, § 21.

1 SECTION 34. Towns shall raise by taxation money necessary for the
2 support of public schools as required by this chapter. For refusal or
3 neglect so to do a town shall forfeit to the county an amount equal to
4 twice the highest sum ever before voted for the support of the schools
5 in the town, or for refusal or neglect to choose a school committee or to
6 comply for one year with section sixty-eight, it shall forfeit not less than
7 five hundred nor more than one thousand dollars. Three fourths of any
8 forfeiture so recovered shall be paid by the county treasurer to the school

Forfeiture for
neglect to
raise money
for schools,
choose school
committee, etc.
C. L. 137, 305
1692-3, 26, § 5.
1701-2, 10, § 1.
1718-19, 2,
1789, 19,
§§ 6, 7.
1826, 143,
§§ 4, 10, 19.

1829, 116.	committee, if any, otherwise to the selectmen of the delinquent town, 9		
R. S. 25,	who shall expend it for the support of the schools thereof as if regularly 10		
§§ 9, 32, 60, 61.	appropriated by the town therefor. 11		
1859, 238;		G. S. 38, §§ 12, 14, 15, 36.	R. L. 42, §§ 22-24, 49.
252, §§ 4, 5.		1871, 145.	1919, 292, § 9.
		P. S. 44, §§ 17, 19, 20, 46.	1920, 78.
			10 Met. 508.
			251 Mass. 82
			265 Mass. 353.

SCHOOL COMMITTEES.

Commencement of term in certain cities.	SECTION 35. In cities where no other provision is made in the charter thereof, the term of office of members of the school committee shall begin at the same time with that of the members of the city council.	1	2	3
		G. S. 38, § 20.	1865, 134.	P. S. 44, § 25.

Secretary-Records.	SECTION 36. The school committee shall appoint a secretary who shall keep a permanent record book, in which all its votes, orders and proceedings shall be recorded.	1	2	3
		R. L. 42, § 26.	116 Mass. 365.	180 Mass. 20.

Duties of school committee.	SECTION 37. It shall have general charge of all the public schools, including the evening schools and evening high schools, and of vocational schools and departments when not otherwise provided for. It may determine, subject to this chapter, the number of weeks and the hours during which such schools shall be in session, and may make regulations as to attendance therein.	1	2	3	4	5	6
		1919, 5.	105 Mass. 475.	221 Mass. 427.			
		1920, 2.	116 Mass. 365.	229 Mass. 304.			
		23 1/2 c. 224.	157 Mass. 561.	238 Mass. 528.			
		5 Cush. 198.	181 Mass. 127.	241 Mass. 325, 333.			
		12 Gray, 61.	193 Mass. 294.	251 Mass. 82.			
		10 Allen, 149.	195 Mass. 29.	3 Op. A. G. 37.			
		12 Allen, 127.	216 Mass. 19.				

Same subject. Election, etc., of teachers for bodies.	SECTION 38. It shall elect and contract with the teachers of the public schools, shall require full and satisfactory evidence of their moral character, and shall ascertain their qualifications for teaching and their capacity for the government of schools.	1	2	3	4
		P. S. 44, § 28.	R. L. 42, § 28.	98 Mass. 587.	
		1891, 159.	4 Cush. 399.	241 Mass. 325, 333.	
		1894, 329, § 4.	9 Allen, 94.	251 Mass. 82.	

Inquiry as to religion or politics of candidates for teachers for bodies. Penalty.	SECTION 39. No public school committee or official shall inquire concerning, or require or solicit from an applicant for a position in the public schools any information as to, his religious belief, creed or practice, or his political opinions or affiliations; and no appointment to such a position shall be in any manner affected thereby. Violation of this section shall be punished by a fine of not more than fifty dollars.	1	2	3	4	5	6

Minimum salary for teachers.	SECTION 40. The compensation of every teacher employed in any public day school in the commonwealth, except persons in training and those employed as temporary substitutes, shall be at a rate of not less than seven hundred and fifty dollars for the school year in that school.	1	2	3	4

Tenure of certain teachers and superintendents.	SECTION 41. Every school committee, except in Boston, in electing a teacher or superintendent, who has served in its public schools for the three previous consecutive school years, other than a union or district superintendent, shall employ him to serve at its discretion; but any school committee may elect a teacher who has served in its schools for not less than one school year to serve at such discretion.	1	2	3	4	5	6

1 SECTION 42. The school committee may dismiss any teacher, but
 2 in every town except Boston no teacher or superintendent, other than a
 3 union or district superintendent, shall be dismissed unless by a two thirds
 4 vote of the whole committee. In every such town a teacher or superin-
 5 tendent employed at discretion under the preceding section shall not be
 6 dismissed unless at least thirty days prior to the meeting, exclusive of
 7 customary vacation periods, at which the vote is to be taken, he shall
 8 have been notified of such intended vote, nor unless, if he so requests,
 9 he shall have been given a statement by the committee of the reasons for
 10 which his dismissal is proposed; nor unless, if he so requests, he has been
 11 given a hearing before the school committee, at which he may be accom-
 12 panied by a witness; nor unless, in the case of a teacher, the superintend-
 13 ent shall have given the committee his recommendations thereon.
 14 Neither this nor the preceding section shall affect the right of a committee
 15 to suspend a teacher or superintendent for unbecoming conduct, or to
 16 dismiss a teacher whenever an actual decrease in the number of pupils in
 17 the schools of the town renders such action advisable. No teacher or
 18 superintendent who has been lawfully dismissed shall receive compensa-
 19 tion for services rendered thereafter, or for any period of lawful suspension
 20 followed by dismissal.

Suspension and
 discharge of
 teachers and
 superintend-
 ents.
 1844, 32.
 G. S. 38, § 25.
 P. S. 44, § 30.
 R. L. 42, § 31.
 1911, 714,
 §§ 2, 4, 5, 7, 8.
 1921, 293.
 12 City, 339.
 9 Allen, 94.
 123 Mass. 345.
 236 Mass. 5.
 249 Mass. 525.
 250 Mass. 334.
 256 Mass. 584.

1 SECTION 43. The salary of no teacher employed in any town except
 2 Boston to serve at discretion shall be reduced without his consent except
 3 by a general salary revision affecting equally all teachers of the same
 4 salary grade in the town. The salary of no superintendent so employed
 5 shall be reduced without his consent until at least one year after the
 6 committee has so voted.

Reduction
 of salary of
 teachers and
 superintend-
 ents
 1914, 714,
 §§ 3, 8
 249 Mass. 525

1 SECTION 44. No committee shall by rule, regulation, or otherwise,
 2 restrict any teacher in, or dismiss him for, exercising his right of suffrage,
 3 signing nomination papers, petitioning the general court or appearing
 4 before its committees, to the extent that such rights, except voting, are
 5 not exercised on the school premises during school hours, or when their
 6 exercise would actually interfere with the performance of school duties.

Teachers not
 to be restricted
 in the exercise
 of certain
 rights.
 1913, 628.

1 SECTION 45. No person shall demand or accept from any applicant
 2 for the position of teacher in the public schools a fee or other compensa-
 3 tion exceeding two dollars, and no additional sum shall be charged to
 4 cover expenses or for any other reason, except that further compensation,
 5 not exceeding five per cent of the teacher's salary for the first year, pro-
 6 vided the position is open to the teacher for said period, may be charged
 7 for procuring such position. Violation of this section shall be punished
 8 by a fine of not less than fifty nor more than five hundred dollars.

Fees for pro-
 curing teachers'
 positions
 regulated.
 Penalty.
 1911, 731,
 §§ 2, 4
 Op. A. G.
 (1920) 74.

1 SECTION 46. The school committee of every town shall annually
 2 ascertain, under regulations prescribed by the department and the
 3 department of mental diseases, the number of children three years or
 4 more retarded in mental development in attendance upon its public
 5 schools, or of school age and resident therein. At the beginning of each
 6 school year, the committee of every town where there are ten or more
 7 such children shall establish special classes for their instruction accord-
 8 ing to their mental attainments, under regulations prescribed by the
 9 department. A child appearing to be mentally retarded in any less

Instruction and
 placing out
 of certain
 mentally re-
 tarder children
 1919, 277, 359,
 §§ 56, 79, 80,
 1922, 231
 1931, 358.

degree may, upon request of the superintendent of schools of the town where he attends school, be examined under such regulations as may be prescribed by the department and the department of mental diseases. No child under the control of the department of public welfare or of the child welfare division of the institutions department of the city of Boston, who is three years or more retarded in mental development within the meaning of this section, shall, after complaint made by the school committee to the department of public welfare or said division, be placed in a town which is not required to maintain a special class as provided for in this section.

Instruction of certain crippled children
1930, 368.

SECTION 46A. The school committee of every town shall annually ascertain, under regulations prescribed by the department and the commissioner of public welfare, the number of children of school age and resident therein who are crippled. In any town where, at the beginning of any school year, there are five or more children so crippled as to make attendance at a public school not feasible, and who are not otherwise provided for, the school committee shall, and in any town where there are less than five such children may, employ a teacher or teachers, on full or part time, who shall, with the approval in each case of the department and the said commissioner, offer instruction to said children in their homes or at such places and under such conditions as the committee may arrange.

Supervision and control of athletic and other school organizations.
1906, 251.
1911, 314.
1919, 292, § 4.
265 Mass. 452.

SECTION 47. The committee may supervise and control all athletic and other organizations composed of public school pupils and bearing the school name or organized in connection therewith. It may directly or through an authorized representative determine under what conditions the same may compete with similar organizations in other schools. Expenditures by the committee for the supervision of play and games on land under the committee's control, or for the equipment thereof, shall be deemed to be for a school purpose.

Textbooks and other supplies to be provided.
1826, 143, § 7.
1855, 436.
1873, 106.
1878, 23.
P. S. 44, § 40.
1884, 103.
1885, 101, § 2.
1894, 320, § 2.
R. L. 42,
§§ 35, 37

SECTION 48. The committee shall, at the expense of the town, purchase textbooks and other school supplies, and, under such regulations as to their care and custody as it may prescribe, shall loan them to the pupils free of charge. If instruction is given in the manual and domestic arts, it may so purchase and loan the necessary tools, implements and materials. It shall also, at like expense, procure such apparatus, reference books and other means of illustration, as may be needed.

13 Pick. 229.
187 Mass. 436.

263 Mass. 364.
265 Mass. 452.

270 Mass. 338.

Traffic belts for pupils directing traffic.
1930, 314.

SECTION 48A. School committees may make expenditures, from funds appropriated for school purposes, for the purchase of traffic belts, so-called, to be used by pupils aiding in the directing of traffic as a means of providing additional safeguards for pupils in crossing public ways.

Purchase of textbooks by pupils
1901, 472.
R. L. 42, § 36.
1919, 292, § 8.

SECTION 49. Pupils in the public schools may, if the committee so votes, purchase from the town, under such regulations as the committee may prescribe, any textbooks which are to be, or have been, used by them in such schools.

1 SECTION 50. A change may be made in the school books used in the
2 public schools by a vote of two thirds of the whole school committee at
3 a meeting thereof, notice of such intended change having been given at a
4 previous meeting.

Change of
school books.
1859, 93, § 2.
G. S. 38, § 28.
1863, 126.

1867, 155.
1876, 47, § 2.

P. S. 44, § 34.
R. L. 42, § 38.

1 SECTION 51. The school committee may, at any national, state, or
2 foreign exposition, make an exhibition showing the character, standing,
3 or work of its public schools.

Exhibition of
school work at
expositions.

1904, 172.

1 SECTION 52. The school committee shall serve without compensa-
2 tion, except that in a town required to belong to a superintendency union
3 which votes to compensate the committee, its members shall each be
4 paid two dollars and fifty cents a day for the time actually devoted to
5 their official duties, and such additional compensation as the town may
6 allow. No member of a school committee in any town shall be eligible
7 to the position of teacher, or superintendent of public schools therein,
8 or in any union school or superintendency union or district in which
9 his town participates.

Committee to
serve without
compensation.
Exceptions.
Members
ineligible to
serve as
teacher, super-
intendent, etc.
1838, 105, § 4.
1854, 314.
1856, 232.
G. S. 38,
§§ 34, 35.

1873, 157.
P. S. 44, §§ 42, 43.

1888, 431, § 5.
1898, 466, § 5.

R. L. 42, § 39.
1904, 173.

1 SECTION 53. The school committee shall appoint one or more school
2 physicians and nurses, shall assign them to the public schools within its
3 jurisdiction, shall provide them with all proper facilities for the perform-
4 ance of their duties and shall assign one or more physicians to the exami-
5 nation of children who apply for health certificates required by section
6 eighty-seven of chapter one hundred and forty-nine, but in cities where
7 the medical inspection hereinafter prescribed is substantially provided
8 by the board of health, said board shall appoint and assign the school
9 physicians and nurses. The department may exempt towns having a
10 valuation of less than one million dollars from so much of this section as
11 relates to school nurses.

School
physicians
and nurses.
1906, 502, § 1.
1910, 257, § 1.
1921, 357, § 1.
254 Mass. 384.

1 SECTION 53A. A superintendency district formed and conducted
2 under the provisions of section sixty, or a superintendency union formed
3 and conducted under the provisions of sections sixty-one to sixty-four,
4 inclusive, may employ one or more school physicians and may employ
5 one or more school nurses; determine the relative amount of service to
6 be rendered by each in each town; fix the compensation of each person
7 so employed; apportion the payment thereof among the several towns;
8 and certify the respective shares to the several town treasurers. A school
9 physician or nurse so employed may be removed by a two thirds vote of
10 the full membership of the joint committee.

Same subject.
Employment,
etc., by dis-
trict or union.
1921, 357, § 2.
254 Mass. 384.

1 SECTION 53B. The towns comprised in a superintendency district
2 or union employing, to the satisfaction of the department, one or more
3 school physicians and nurses in accordance with the provisions of section
4 fifty-three A shall be exempt from the provisions of section fifty-three
5 requiring the appointment of such persons.

Same subject.
Exemption
from provi-
sions of § 53.
1921, 357, § 2.
254 Mass. 384.

1 SECTION 54. Every school physician shall make a prompt examination
2 and diagnosis of all children referred to him as hereinafter provided,
3 and such further examination of teachers, janitors and school buildings

Physical
examination
of pupils,
teachers,
janitors, etc.

1906, 502, § 2.
1919, 257, § 2.
254 Mass. 384.

as in his opinion the protection of the health of the pupils may require. 4
Every such physician who is assigned to perform the duty of examining 5
children who apply for health certificates shall make a prompt examina- 6
tion of every child who wishes to obtain an employment certificate, as 7
provided in section eighty-seven of chapter one hundred and forty-nine, 8
and who presents to said physician the pledge or promise of the employer, 9
as provided in said section; and the physician shall certify in writing 10
whether or not in his opinion such child is in sufficiently sound health and 11
physically able to perform the work described in said pledge or promise. 12

Examination
of certain
pupils.
1906, 502, § 3.
1922, 120.
254 Mass. 384.

SECTION 55. The school committee shall cause to be referred to a 1
school physician for examination and diagnosis every child returning to 2
school without a certificate from the board of health after absence on 3
account of illness from infectious or contagious disease. Every child 4
attending school who shows signs of ill health or of suffering from infec- 5
tious or contagious disease shall be referred to a school physician, unless 6
at once excluded from the school by the teacher. But in the case of 7
schools remotely situated, the committee may make such other arrange- 8
ments as may best accomplish the purposes of this section. 9

Parent or
guardian to be
notified of
disease, etc.
Procedure
in case of
dangerous, etc.,
diseases.
1906, 502,
§§ 4, 5.

SECTION 56. The committee shall cause the parent or guardian to be 1
notified of any disease or defect from which any child is found to be suffer- 2
ing, or of any defect or disability requiring treatment, ascertained 3
under the following section. A child showing symptoms of smallpox, 4
scarlet fever, measles, chicken-pox, tuberculosis, diphtheria or influenza, 5
tonsillitis, whooping cough, mumps, scabies or trachoma, shall be sent 6
home immediately, or as soon as safe and proper conveyance can be 7
found; and the board of health shall at once be notified. 8

Testing as to
defective sight,
etc.
1906, 502,
§§ 5, 6.
1919, 350, § 96.

SECTION 57. The committee shall cause every child in the public 1
schools to be separately and carefully tested and examined at least once 2
in every school year to ascertain defects in sight or hearing, and other 3
physical defects tending to prevent his receiving the full benefit of his 4
school work, or requiring a modification of the same in order to prevent 5
injury to the child or to secure the best educational results, and shall 6
require a physical record of each child to be kept in such form as the 7
department may prescribe. The tests of sight and hearing shall be made 8
by the teachers, directions for which shall be prescribed by the depart- 9
ment of public health. 10

Department to
furnish test
cards, blanks,
etc., and to
furnish certain
instruction
to normal
school pupils.
1906, 502, § 6.
1908, 189.
1919, 350, § 96.
1931, 426, § 71.

SECTION 58. The department, after consultation with the depart- 1
ment of public health, shall prescribe and furnish to school committees 2
suitable rules of instruction, test cards, blanks, record books and other 3
useful appliances for accomplishing the purposes of sections fifty-three 4
to fifty-seven, inclusive, and may annually expend therefor a sum not 5
exceeding eight hundred dollars, and shall provide for pupils in the normal 6
schools instruction and practice in the best methods of testing the sight 7
and hearing of children. 8

Superintendent
of schools.
Election and
duties.
1854, 314.
1856, 232.
G. S. 38, § 35.
1860, 101.
1870, 117.

SECTION 59. The school committee of a town not in a superintend- 1
ency union or district shall employ a superintendent of schools and fix 2
his compensation. A superintendent employed under this section or 3
section sixty or sixty-three shall be the executive officer of the commit- 4
tee, and under its general direction, shall have the care and supervision 5

6 of the public schools, shall assist it in keeping its records and accounts
7 and in making such reports as are required by law, and shall recom-
8 mend to the committee teachers, textbooks, and courses of study.

1900, 248, § 1.
R. L. 42, § 40.
1911, 444

111 Mass. 87.
138 Mass. 149

251 Mass. 82
2 Op. A. G. 68

1873, 108.
1874, 272.
P. S. 44, § 43.
1888, 431, § 5.
1898, 466, § 5.

1 SECTION 60. Two or more towns may, by vote of each, form a dis-
2 trict for the purpose of employing a superintendent of public schools
3 therein, who shall annually be appointed by a joint committee composed
4 of the chairman and secretary of the school committee of each of the said
5 towns. The committee shall determine the relative amount of service
6 to be performed by him in each town, fix his salary, apportion the amount
7 thereof to be paid by each town and certify the same to each town
8 treasurer.

Superintend-
ency district
District super-
intendent:
1870, 183,
§§ 1, 2.
P. S. 44,
§§ 44, 45.
R. L. 42,
§§ 41, 42.
Op. A. G.
(1919) 59.

1 SECTION 61. The school committees of two or more towns, each
2 having a valuation less than two million five hundred thousand dollars,
3 and having an aggregate maximum of seventy-five, and an aggregate
4 minimum of twenty-five, schools, and the committees of four or more
5 such towns, having said maximum but irrespective of said minimum,
6 shall form a union for employing a superintendent of schools. A town
7 whose valuation exceeds said amount, may participate in such a union
8 but otherwise subject to this section. Such a union shall not be dis-
9 solved except by vote of the school committees representing a majority
10 of the participating towns with the consent of the department, nor by
11 reason of any change in valuation or the number of schools.

Union of
towns for em-
ployment of
superintendent.
1888, 431.
§§ 1, 2.
1893, 200.
§§ 1, 2.
1898, 466,
§§ 1, 2, 6.
1900, 248, § 2.
R. L. 42,
§§ 43, 47.
1911, 399.
1912, 114.
1926, 313, § 1.
1 Op. A. G. 147.
2 Op. A. G. 78,
468.

1 SECTION 62. The department may form or readjust such unions
2 whenever it becomes necessary to include one or more towns otherwise
3 unable to comply with the preceding section, and in so doing may dis-
4 regard the minimum number of schools prescribed therein, but no such
5 readjustment shall deprive a town of its right to aid under section
6 sixty-five.

Formation or
readjustment
of such unions
by department.
1903, 299.

1 SECTION 63. The school committees of such towns shall, for the pur-
2 poses of the union, be a joint committee and shall be the agent of each
3 participating town, provided that any school committee of more than
4 three members shall be represented therein by its chairman and two of
5 its members chosen by it. The joint committee shall annually, in April,
6 meet at a day and place agreed upon by the chairmen of the constituent
7 committees, and shall organize by choosing a chairman and a secretary.
8 It shall employ for a three year term, a superintendent of schools, de-
9 termine the relative amount of service to be rendered by him in each
10 town, fix his salary, which shall not be reduced during his term, apportion
11 the payment thereof in accordance with section sixty-five among the
12 several towns and certify the respective shares to the several town treas-
13 urers. He may be removed, with the consent of the department, by a
14 two thirds vote of the full membership of the joint committee.

School com-
mittees as joint
committee
for union.
Organization
and duties.
1888, 431, § 2.
1893, 200, § 2.
1898, 466, § 2.
R. L. 42, § 44
1911, 384; 399.
1912, 114.
170 Mass. 289.
176 Mass. 473
2 Op. A. G. 468
Op. A. G.
(1919) 59, 116.

1 SECTION 64. The salary of the superintendent in such a union shall be
2 not less than the amounts provided in the following schedule: twenty-
3 two hundred dollars for the first year of service, twenty-three hundred
4 dollars for the second year, twenty-four hundred dollars for the third
5 year, twenty-five hundred dollars for the fourth year. If his salary is

Salary of union
superintendent.
Reimbursement
for certain
expenses.
1888, 431, § 3.
1893, 200, § 3.
1898, 466, § 3.

R. L. 42, § 45.
1918, 109, § 1.
1920, 371.

not in excess of twenty-nine hundred dollars, the union shall, and otherwise may, reimburse him for his actual traveling expenses incurred in the discharge of his duties, but such reimbursement may be limited by the committee to four hundred dollars a year.

State aid
to unions.
1888, 431, § 3.
1893, 200, § 3.
1893, 466,
§§ 3, 6, 8.
R. L. 42,
§§ 45, 47, 48.
1918, 109
1920, 371.
1926, 313, § 2.

SECTION 65. When the chairman and secretary of the joint committee certify to the comptroller, on oath, that the towns unitedly have employed a superintendent of schools for the year ending on June thirtieth, and have complied with section sixty-three, a warrant shall, upon the approval of the department, be drawn upon the state treasurer for the payment of two thirds of the sum of the following amounts: (1) the amount paid to the superintendent as salary not including any such amount in excess of twenty-five hundred dollars, and (2) the amount reimbursed to the superintendent for traveling expenses not including any such amount in excess of four hundred dollars. The amount stated in the warrant shall be apportioned and distributed among the towns forming the union in proportion to the amounts expended by them for the salary and traveling expenses of the superintendent; provided, that the amount apportioned to any town whose valuation then exceeds four million five hundred thousand or to any town whose valuation exceeded two million five hundred thousand at the time of its entry into a union, shall be retained by the commonwealth.

Qualifications
of superin-
tendents in
state aided
unions.
1904, 215.
1911, 384.

SECTION 66. The department shall not approve the claim to reimbursement under the preceding section unless the superintendent, for the entire period of whose service such reimbursement is claimed, held a certificate of the department certifying to his qualifications as determined by examination or otherwise.

Receipt of
commission,
etc., by super-
intendent for
obtaining
position for
teacher
penalized.

SECTION 67. A superintendent of schools who accepts any commission, fee, compensation, or reward of any kind for obtaining for any person a position as teacher in the public schools shall be punished by a fine of not less than fifty nor more than five hundred dollars.

1911, 731, §§ 3, 4.

SCHOOLHOUSES.

Towns to
maintain
schoolhouses.
Duties of
committee.
Authority of
department to
require certain
towns to
furnish trans-
portation, etc.,
regulated.
1826, 143, § 10.
1829, 116.
R. S. 23, § 32.
1859, 252,
§§ 4, 5.
C. S. 38,
§§ 36, 40.
1871, 145.
P. S. 44,
§§ 46, 50.
R. L. 42, § 49.
1919, 292, § 9.
1920, 78.
145 Mass. 555.
234 Mass. 31.
236 Mass. 210.
(Op. A. G.
(1920) 27.
[Penalty, § 34.]

SECTION 68. Every town shall provide and maintain a sufficient number of schoolhouses, properly furnished and conveniently situated for the accommodation of all children therein entitled to attend the public schools. If the distance between a child's residence and the school he is entitled to attend exceeds two miles, and the school committee declines to furnish transportation, the department, upon appeal of the parent or guardian of the child, may require the town to furnish the same for a part or for all of the distance. If said distance exceeds three miles, and the distance between the child's residence and a school in an adjoining town giving substantially equivalent instruction is less than three miles, and the school committee declines to pay for tuition in such nearer school, and for transportation in case the distance thereto exceeds two miles, the department, upon like appeal, may require the town of residence to pay for tuition in, and if necessary provide for transportation for a part or for the whole of said distance to, such nearer school. The school committee, unless the town otherwise directs, shall have general charge and superintendence of the schoolhouses, shall keep

18 them in good order, and shall, at the expense of the town, procure a suitable place for the schools, if there is no schoolhouse, and provide fuel and all other things necessary for the comfort of the pupils.

1 SECTION 69. The school committee shall provide for each schoolhouse under its control, which is not otherwise supplied, a United States flag of silk or bunting not less than four feet long, and suitable apparatus for its display. The flag shall be displayed, weather permitting, on the school building or grounds on every school day and on every legal holiday or day proclaimed by the governor or the president of the United States for especial observance. On stormy school days, the flag shall be displayed inside the building. Failure to comply with this section for a period of five consecutive days by the principal or teacher in charge of a school equipped as aforesaid shall be punished for every such period by a fine of not more than five dollars. Failure of the committee to equip a school as herein provided shall subject the members thereof to a like penalty.

United States flags to be furnished and displayed.
Penalties.
R. L. 42, § 50.
1909, 229.
1911, 232.
1919, 84.

1 SECTION 70. A town may, at a town meeting, determine the situation of its schoolhouses.

Situation of schoolhouses.

1826, 143, § 10.	G. S. 38, § 37.	10 Gray, 40.
1829, 116.	P. S. 44, § 47.	109 Mass. 206.
R. S. 23, §§ 28, 32.	R. L. 42, § 51.	117 Mass. 384, 393.
1848, 237.	1921, 486, § 18.	137 Mass. 235.
1859, 252, § 4.		

1 SECTION 71. For the purpose of promoting the usefulness of public school property the school committee of any town may conduct such educational and recreational activities in or upon school property under its control, and, subject to such regulations as it may establish, and, consistently and without interference with the use of the premises for school purposes, shall allow the use thereof by individuals and associations for such educational, recreational, social, civic, philanthropic and like purposes as it deems for the interest of the community. The use of such property as a place of assemblage for citizens to hear candidates for public office shall be considered a civic purpose within the meaning of this section. This section shall not apply to Boston.

Public use of school property, except in Boston.
1911, 367, § 1.
1912, 157; 320, §§ 1, 2.
1913, 391.
1914, 538.
1925, 50.
234 Mass. 31.

1 SECTION 72. The school committee may prepare and sell lunches at one or more school buildings for the pupils and teachers of the public schools at such prices as it deems reasonable.

Lunches for pupils and teachers.

1913, 575, § 1.	1919, 292, §§ 10, 21.
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1 SECTION 73. The superintendent of schools may, unless the committee votes otherwise, direct the closing of schools under his supervision in order that teachers may attend a meeting of a county association of teachers or an institute, conference, or convention held under the direction of the department.

Closing of school for teachers' meetings.
1919, 292, § 11

1 SECTION 74. This chapter shall not affect the right of any corporation established in a town to manage any estate or funds given or obtained for the purpose of supporting schools therein, or in any wise affect such estate or funds.

Management of school funds by certain corporations not affected.

1826, 143, § 18.	G. S. 38, § 13.	R. L. 42, § 52.
R. S. 23, § 59.	P. S. 44, § 18.	

CHAPTER 72.

SCHOOL REGISTERS AND RETURNS.

SECT.	SECT.
1. Commissioner of education to furnish forms, etc.	5. Procedure upon failure to file report and returns, or irregular returns.
2. Registration of certain minors. Private schools to report certain enrolments, etc.	6. Forfeitures by towns for failure seasonably to file report and returns.
3. Annual transmission of school returns, etc.	7. Penalty on committee for such failure, etc.
4. Annual report of school committee.	8. School registers.

Commissioner of education to furnish forms, etc.

1837, 241, § 2.
1838, 105,
§§ 7-7.
1845, 100.
1846, 223, § 3.
1849, 65,
§§ 1, 2; 209.
1850, 41.
G. 8, 34,
§§ 3, 7; 40,
§§ 1, 2.
P. S. 41, §§ 3, 7;
46, §§ 1, 2.
1898, 496,
§§ 13-15.
R. L. 39, § 6;
43, §§ 1, 2.

SECTION 1. The commissioner of education shall prepare and send forms for the registration of minors required by section two, the school registers, blank forms for school returns required by section three, and the annual report of the department of education, as soon as ready for distribution, to the superintendent of schools of each town, who shall, on receipt thereof, deliver them to the several persons charged with duties in connection therewith, and send to the commissioner a list of the private schools in such town and the names of their principals. If said superintendent does not receive said forms on or before July fifth, he shall forthwith notify the commissioner who shall thereupon transmit them to him. The commissioner shall also send the report of the department to the chairman of each school committee.

1909, 457, §§ 2-4, 6. 1912, 368, §§ 1, 2. 1913, 356. 1919, 350, § 57.

Registration of certain minors. Private schools to report certain enrolments, etc.

1846, 223, § 2.
1849, 117, § 1.
1855, 15.
G. 8, 40, § 3.
1874, 303, § 1.
1879, 21.
P. S. 46,
§§ 3, 4.
1898, 496, § 16.
1901, 289.
R. L. 43, § 3.
1914, 443, § 1.
1916, 102, § 1.
1919, 350, § 56.
1926, 188, § 1.
1931, 394,
§ 138.

SECTION 2. The school committee of each town shall ascertain and record the names, ages and such other information as may be required by the department of education, of all minors residing therein between five and sixteen, and of all minors over sixteen who do not meet the requirements for the completion of the sixth grade of the public schools of the town where he resides. Whoever, in control of any such minor, withholds information sought by a school committee or its agents under this section or makes a false statement relative thereto, shall be punished by a fine of not more than fifty dollars. Supervisors of attendance, under the direction of the committee and superintendent of schools, shall have charge of the records required by this section, shall be responsible for their completeness and accuracy, and shall receive the co-operation of principals, teachers and supervisory officers in the discharge of their duties hereunder. A card, as prescribed by the department, shall be kept for every child whose name is recorded hereunder. Supervisors of attendance shall compare the names of children enrolled in the public and private schools with the names of those recorded as required herein, and examine carefully into all cases where children of school age are not enrolled in, and attending school, as required by section one of chapter seventy-six.

The annual school committee report shall set forth the number of children recorded as herein required, classified by ages, together with the number attending public or private schools, and the number not attending school, in any given year.

The supervisory officers of all private schools shall, within thirty days after the enrolment or registration of any child of compulsory school

27 age, report his name, age and residence to the superintendent of schools
 28 of the town where the child resides; and whenever a child withdraws
 29 from a private school, such officers shall, within ten days, notify said
 30 superintendent.

1 SECTION 3. The superintendent of schools shall annually on or be-
 2 fore July thirty-first transmit the school returns to the commissioner,
 3 signed and sworn to by him, containing the following information,
 4 together with any other information required by the commissioner in
 5 accordance with section one of chapter sixty-nine:

6 First. The number of persons between the ages of five and seven,
 7 the number between seven and fourteen, and the number between four-
 8 teen and sixteen, residing in the town October first last preceding the
 9 date of the certificate. Such information shall be collected during the
 10 first two weeks of said October.

11 Second. The net average membership of the public schools of the
 12 town for the school year last preceding the date of said certificate as
 13 determined under section eight of this chapter and section five of chapter
 14 seventy.

15 Third. The amount of money raised by taxation by the town, and
 16 expended during the fiscal year last preceding said date for the support
 17 of public schools, including the wages of teachers, and transportation of
 18 children, or board in place thereof, fuel, the care of fires, schoolrooms
 19 and school premises, repairs, supervision, textbooks and supplies, and
 20 school sundries or incidentals, but excluding alterations of school build-
 21 ings, other than repairs, and construction of schoolhouses and contribu-
 22 tions for, and reimbursements on account of, the support of public schools
 23 from the commonwealth or from other sources than local taxation; and
 24 the total expenditures, classified, for the public schools during the school
 25 year last preceding said date.

26 Fourth. That the town has maintained during the school year last
 27 preceding the said date each of its schools, as required by section one of
 28 chapter seventy-one, for a period of not less than one hundred and sixty
 29 days, or for what shorter period one or more schools have been main-
 30 tained, if specifically exempted by the department.

31 Fifth. That the town has, during said school year, complied with said
 32 chapter seventy-one in the matter of high school instruction, and the
 33 number of days such schools were in session.

34 Before filing said school returns, the superintendent shall submit
 35 them to the chairman of the school committee, who shall countersign
 36 them on oath, if, after examination, he finds them correct.

1 SECTION 4. The committee shall annually make a detailed report of
 2 the condition of the public schools, containing such statements or sug-
 3 gestions relative thereto as it considers necessary or proper. It shall
 4 cause said report to be printed, for the use of the inhabitants, in octavo,
 5 pamphlet form, of the size of the annual reports of the department. The
 6 superintendent of schools shall transmit two copies thereof to the com-
 7 missioner on or before April thirtieth, and shall deposit one copy in the
 8 office of the town clerk.

1 SECTION 5. If a superintendent of schools fails, within the prescribed
 2 time, to make both the returns and the report required by law, the com-
 3 missioner shall forthwith notify the chairman of the school committee

Annual transmission of school returns, etc.
 1826, 143, § 8.
 R. S. 23,
 §§ 63, 64.
 1837, 227
 1838, 105, § 6.
 1846, 223,
 § 2, 3.
 1849, 117, § 1.
 1855, 23.
 G. S. 40,
 §§ 4, 5.
 1865, 142, § 2.
 1874, 303, § 2.
 P. S. 46,
 §§ 5, 6.
 1896, 179,
 1898, 496,
 §§ 17, 18.
 1900, 175,
 R. L. 43,
 §§ 4, 5.
 1912, 368,
 §§ 3, 4.
 1913, 356,
 1914, 443, § 2.
 1915, 90
 1916, 102, § 2.
 1919, 292, § 5;
 363, § 6.
 1923, 78, § 1.

Annual report of school committee
 1838, 105, § 1.
 1846, 223, § 4.
 1859, 57.
 G. S. 40, § 6.
 P. S. 46, § 8.
 R. L. 43, § 6.
 1912, 368, § 5.
 11 Gray, 340.
 101 Mass. 142.

Procedure upon failure to file report and returns, or irregular returns.

1853, 93,
 §§ 1, 2
 G. S. 40,
 §§ 7, 8,
 P. S. 46,
 §§ 9, 10.

thereof, and he shall immediately transmit the same to him. If a return 4
 is found to be irregular or incorrect, the commissioner shall forthwith 5
 return it for correction, with a statement of all deficiencies therein, to 6
 the committee or its agent, who shall promptly correct and return it. 7

1898, 496, § 20.

R. L. 43, §§ 7, 8.

1912, 368, §§ 6, 7.

Forfeitures by
 towns for
 failure season-
 ably to file
 report and
 returns.
 1859, 238
 G. S. 40, § 9,
 P. S. 46, § 11,
 1898, 496, § 21.
 R. L. 43, § 9
 1912, 368, § 8.

SECTION 6. A town whose report and returns do not reach the office 1
 of the commissioner on or before August fifteenth shall forfeit ten per 2
 cent of the sum to which it would otherwise be entitled under Part II 3
 of chapter seventy; if they do not reach said office before September 4
 first, the entire sum shall be retained by the state treasurer and added 5
 to the principal of the school fund, or if the town is not entitled to any 6
 payment under said chapter, it shall forfeit to said fund two hundred 7
 dollars. For cause, the commissioner may grant an extension of time to 8
 any town. 9

Penalty on
 committee
 for such
 failure, etc.

SECTION 7. A town suffering such a forfeiture through the default 1
 of its school committee may withhold the compensation of the committee. 2

1847, 183, § 2.
 1848, 173.

G. S. 40, § 12.
 P. S. 46, § 14.

R. L. 43, § 10.

School
 registers
 1838, 105, § 6.
 1849, 209
 G. S. 40,
 §§ 5, 13,
 P. S. 46,
 §§ 6, 15,
 1891, 99,
 1898, 496,
 §§ 18, 19,
 R. L. 43,
 §§ 5, 11,
 1912, 368,
 §§ 4, 9,
 2 Allen, 592.

SECTION 8. The school committee shall cause school teachers to 1
 faithfully keep the registers of attendance daily, and make due return 2
 thereof to the school committee or to such person as it may designate. 3
 No teacher shall receive payment for the two weeks preceding the close 4
 of any term until the register, properly filled up and completed, is so 5
 returned. All registers shall be kept at the schools, and at all times 6
 during school hours shall be open to the inspection of the committee, the 7
 superintendent, the attendance officers, and the commissioner and agents 8
 of the department. In computing the average membership a pupil's 9
 name shall be omitted when and only when it is known that he has with- 10
 drawn from the school without intention of returning, or has been absent 11
 ten consecutive school days; but the foregoing method of computation 12
 shall not affect proceedings against habitual truants, absentees or school 13
 offenders, or other persons, under section one of chapter seventy-six or 14
 under sections three, four and five of chapter seventy-seven. A pupil 15
 who is not present during at least half of a session shall be marked and 16
 counted as absent for that session. 17

CHAPTER 73.

STATE NORMAL SCHOOLS.

SECT.

1. Management of state normal schools.
2. Agricultural education at North Adams normal school.
3. Agreements as to certain practice and model schools.
4. Bonds of principals of normal schools.

SECT.

- 4A. Leave of absence to certain teachers.
5. State aid to students at normal schools.
6. Non-resident students may be received in normal schools.
7. Degrees.

Management
 of state normal
 schools.

SECTION 1. The department of education, in this chapter called the 1
 department, shall have general management of the state normal schools 2

3 at Barnstable, Bridgewater, Fitchburg, Framingham, Lowell, North
 4 Adams, Salem, Westfield and Worcester, and the Massachusetts school of
 5 art at Boston, wherever said schools may be hereafter located, and of any
 6 other state normal schools hereafter established, and of boarding houses
 7 connected therewith, and may direct the expenditure of money appro-
 8 priated for their maintenance.

1839, 72, § 1.
 1853, Res. 49.
 1870, 106, § 1.
 1871, Res. 79.
 1880, 223.
 P. S. 41, § 12.
 1885, 330.
 1889, Res. 93.
 1891, 384, § 1.

1893, Res. 91.
 1894, 457.
 1895, 345.
 R. L. 39, § 10.
 1912, 79.
 1914, 781.
 1919, 350, §§ 56-58.
 1926, 6.

1 SECTION 2. The department may provide for agricultural education
 2 in the state normal school at North Adams.

Agricultural
 education at
 North Adams
 normal school.

1908, 257, § 1.

1 SECTION 3. North Adams, Fitchburg, Lowell and the town of Barn-
 2 stable shall each make written agreements with the department to pro-
 3 vide suitable and sufficient school buildings and model and practice
 4 schools in connection with the training departments of state normal
 5 schools therein. The department may, if requested by towns near state
 6 normal schools, make written agreements with such towns for the main-
 7 tenance of practice schools therein in connection with such state normal
 8 schools, and may provide for the payment of part of the compensation
 9 of supervising teachers employed in such practice schools. This section
 10 shall not prevent the establishment and maintenance of model, practice,
 11 or training schools in connection with state normal schools, with or
 12 without the co-operation of local school authorities. All money
 13 payable by towns under such agreements shall be paid to the common-
 14 wealth.

Agreements as
 to certain
 practice and
 model schools.
 1894, 457,
 §§ 6, 7.
 1896, 133.
 R. L. 39, § 11.
 1918, 257,
 § 170.
 1919, 5.
 1920, 2.

1 SECTION 4. Principals of state normal schools shall give bonds in
 2 such penal sums as the comptroller may prescribe, conditioned on the
 3 faithful performance of their duties.

Bonds of
 principals of
 normal schools.

1912, 79.
 1917, 18.
 1921, 486, § 19.
 1923, 362, § 60.
 259 Mass. 310.

1 SECTION 4A. A teacher in a state normal school who has served as
 2 such in the state normal schools for at least seven years after entering
 3 such service or, if a leave of absence has previously been granted to
 4 him hereunder, after the termination of the last such leave may, upon
 5 written recommendation of the principal of the school wherein he is
 6 employed, be granted by the commissioner of education a leave of ab-
 7 sence, for study and research, for a period of one year at half pay or for
 8 a period of a half year at full pay for such period; provided, that prior
 9 to the granting of such leave said teacher shall enter into a written
 10 agreement with the department that upon the termination of such leave
 11 he will return to the state normal school service and serve as a teacher
 12 in the same or another state normal school for a period equal to twice
 13 the length of such leave and that, in default of completing such service,
 14 he will refund to the commonwealth, unless excused therefrom by the
 15 department for reasons satisfactory to it, an amount equal to such pro-
 16 portion of the salary received by him while on leave as the amount of
 17 service not actually rendered as agreed bears to the whole amount of
 18 service agreed to be rendered.

Leave of
 absence to
 certain
 teachers.
 1930, 158.

State aid to students at normal schools. 1853, Res. 62. 1876, Res. 47.

SECTION 5. The department may annually expend, in semi-annual payments, not more than four thousand dollars in aiding students in state normal schools. 1 2 3

1918, 257, § 169.

1919, 5.

1920, 2.

Non-resident students may be received in normal schools.

SECTION 6. Upon payment of tuition fees the department may receive students not residents of the commonwealth in state normal schools. 1 2

1902, Res. 65.

Degrees. 1921, 92. 1922, 274.

SECTION 7. The department may grant the degree of Bachelor of Education or of Bachelor of Science in Education to any person completing a four-year course in a Massachusetts state normal school. 1 2 3

CHAPTER 74.

VOCATIONAL EDUCATION.

SECT.	VOCATIONAL SCHOOLS.	SECT.	
1.	Definitions.	20.	State treasurer to be custodian of certain funds. Expenditure of federal funds for vocational rehabilitation.
2.	Powers of commissioner.	21.	Expenditure of federal funds for vocational education.
3.	Establishment by towns. Trustees for vocational education.	22.	Powers of commissioner in disposal of federal funds for vocational education.
4.	District vocational schools. District trustees.	22A.	State board for vocational education, duties relative to vocational rehabilitation.
5.	Organization, administration and support of district vocational schools.	22B.	Same subject. Aid during rehabilitation. Investigation of applicants.
6.	Advisory committees.	23.	Independent industrial shoemaking school of the city of Lynn. Trustees. Maintenance.
7.	Admission of non-resident pupils.	24.	Smith's agricultural school. Superintendents.
7A.	Tuition of state and city wards, how paid.		COUNTY AGRICULTURAL SCHOOLS.
8.	Liability for tuition of non-resident pupil.	25.	Certain county agricultural schools to be approved vocational schools.
8A.	Transportation of pupils attending outside schools. Payment, reimbursement.	26.	Appointment of trustees. Tenure.
9.	State reimbursement for maintenance of certain schools.	27.	Trustees to serve without compensation. Expenses to be paid.
10.	State reimbursement for certain tuition fees.	28.	Annual estimates of expense of maintenance.
11.	State reimbursement of certain counties and cities.	29.	Amounts to be raised by taxation.
12.	State reimbursement for maintenance of agricultural departments in high schools.	30.	Disposition of income from tuition, etc.
13.	Day, part time and evening classes.	31.	Certain schools may receive and use gifts.
14.	Practical art classes.	32.	Non-residents to be admitted.
15.	Schools for gardening, poultry raising, etc.	33.	Free tuition to residents of certain counties.
16.	Advertisement of purpose of school.	34.	Special provisions as to Bristol county agricultural school.
17.	Taking or leasing of land for schools. Erection of buildings, etc.		
18.	Classes for training teachers in continuation or vocational schools.		
19.	Co-operation with federal vocational educational board.		

- SECT.
 35. Character of instruction in certain schools.
 36. Short unit courses in certain schools.
 37. Special duties of teachers in certain schools.
 38. [Repealed.]

TRAINING AND INSTRUCTION OF DISABLED SOLDIERS AND SAILORS.

39. [Repealed.]
 40. [Repealed.]
 41. Lease of hospitals, etc., to United States for certain purposes.

TEXTILE SCHOOLS.

42. Certain textile schools to be state institutions.
 43. Trustees may hold property in trust.
 44. Annual report.
 45. Insurance.
 46. Rate of tuition for non-resident pupils.
 46A. Tests authorized. Fees, etc.

SECT.

LOWELL TEXTILE INSTITUTE.

47. To be state institution.
 47A. Trustees may accept, etc., property.
 47B. Annual report.
 47C. Insurance.
 47D. Rates of tuition.
 47E. Degrees.
 47F. Lowell Evening Textile School.
 47G. Tests authorized. Fees, etc.
 48. Lowell may provide scholarships.

NAUTICAL SCHOOL.

49. Commissioners to provide and maintain a nautical school.
 50. Commissioners may receive vessels from the United States.
 51. Advance to nautical school for cruises.
 52. Nautical schools.
 53. Annual report.

VOCATIONAL SCHOOLS.

1 SECTION 1. The following words, as used in this chapter, shall have
 2 the following meanings unless the context otherwise requires:

3 "Agricultural education", vocational education fitting pupils for oc-
 4 cupations connected with agriculture, the care of domestic animals,
 5 forestry and other wage earning or productive work on farm land.

6 "Approved", approved by the commissioner of education as to organ-
 7 ization, control, location, equipment, courses of study, qualifications of
 8 teachers, methods of instruction, conditions of admission, employment
 9 of pupils and expenditures.

10 "Commissioner", the commissioner of education.

11 "Evening class", in an industrial school, a class giving instruction for
 12 pupils employed during the working day, and which, to be called voca-
 13 tional, must deal with and relate to the day employment, subject, how-
 14 ever, to section one of chapter two hundred and six of the General Acts
 15 of nineteen hundred and eighteen.

16 "Household arts education", vocational education fitting pupils for
 17 occupations connected with the household.

18 "Independent agricultural school", either a distinctive organization
 19 of courses, pupils and teachers designed for agricultural education, or a
 20 separate agricultural department in a high school, offering as elective
 21 work education in agriculture approved as vocational.

22 "Independent household arts school", a vocational school for develop-
 23 ing capacity for cooking, housework and other domestic occupations.

24 "Independent industrial, agricultural or household arts school", an
 25 approved distinctive organization of courses, pupils and teachers for all
 26 the types of vocational education herein defined.

27 "Industrial education", vocational education fitting pupils for trades,
 28 crafts, and manufacturing pursuits, including occupations of girls and
 29 women in workshops.

30 "Net maintenance sum", the total sum raised by taxation and ex-
 31 pended for maintaining approved local or district independent industrial

Definitions.
 1911, 471,
 §§ 1, 8, 9,
 1912, 196,
 1915, 266,
 1918, Sp. 151,
 § 3,
 1919, 292,
 §§ 14, 15.

and household arts schools and independent agricultural schools, other than departments in high schools, less the amount of tuition claims, paid or not, and receipts from the labor of pupils and sale of products; provided, that in the case of Smith's agricultural school there shall be added to the sum raised by local taxation the sum annually received by the city of Northampton from the Smith charities and expended for the maintenance of the school.

"Part time class", a vocational class in an industrial, agricultural, or household arts school for pupils giving part of their working time to profitable employment, and part to the class when in session, if the instruction so received is complementary to the employment.

"Practical art class", a separate day or a separate evening class in household and other practical arts.

"Vocational education", education of which the primary purpose is to fit pupils for profitable employment.

Powers of commissioner. 1906, 505, § 2. 1911, 471, §§ 2, 11.

SECTION 2. The commissioner shall investigate and promote industrial, agricultural and household arts education, and initiate and superintend the establishment and maintenance of schools for the aforesaid forms of education. He shall supervise and approve such schools as provided in sections one to thirty-seven, inclusive.

Establishment by towns. Trustees for vocational education. 1872, 86. P. S. 44, § 8.

SECTION 3. Towns may, through school committees or boards of trustees elected for not more than five years, and known as local trustees for vocational education, establish and maintain independent industrial, agricultural and household arts schools.

R. L. 42, § 10. 1906, 505, §§ 3, 8.

1908, 572, § 3. 1911, 471, §§ 4, 11.

District vocational schools. District trustees. 1906, 505, § 4. 1911, 471, §§ 5, 11.

SECTION 4. Independent industrial, agricultural and household arts schools may be established and maintained by districts composed of two or more towns, through boards to be known as district trustees for vocational education, consisting either of the chairman and two other members of the school committees of each town, to be appointed by such committees, or of three residents of each, to be elected by the towns.

Organization, administration and support of district vocational schools. 1911, 471, § 5.

SECTION 5. District trustees under the preceding section shall adopt, for one year or more, plans of organization, administration and support of such schools, which shall be binding on the towns made parties thereto, and shall not be altered or annulled except by two thirds votes of such trustees, with the consent of the commissioner.

Advisory committees. 1911, 471, § 6.

SECTION 6. Local and district trustees for vocational education, administering approved industrial, agricultural or household arts schools, shall, under a scheme approved by the commissioner, appoint advisory committees composed of representatives of local trades, industries and occupations, which shall consult with and advise the trustees or other officials managing and supervising such schools.

Admission of non-resident pupils. 1908, 572, § 4. 1911, 471, §§ 7, 11. 1919, 291 (a). 4Op. A G 166.

SECTION 7. Residents of towns in the commonwealth not maintaining approved independent industrial, agricultural or household arts schools offering the type of education desired, or children placed in such a town by the commissioner of public welfare or by the trustees of the Massachusetts training schools, may, in the sole discretion of the com-

6 missioner, be admitted to a school in another town. In making his de-
7 cision, the commissioner shall take into consideration the opportunities
8 for free vocational training where the applicant resides, the financial
9 status of such place, the age, sex, preparation, aptitude and previous
10 record of the applicant, and other relevant circumstances.

1 SECTION 7A. For the tuition in an approved vocational school of any
2 town or county of any child over fourteen years of age placed in such
3 town or county by the department of public welfare or by the trustees
4 of the Massachusetts training schools or by the child welfare division of
5 the institutions department of the city of Boston, the commonwealth or
6 the city of Boston, as the case may be, shall pay to said school the tuition
7 fee established by the commissioner.

Tuition of
state and city
wards, how
paid.
1927, 85.

1 SECTION 8. A town where a person resides who is admitted to the
2 school of another town under section seven shall pay a tuition fee to be
3 fixed by the commissioner, and in default of payment shall be liable there-
4 for in contract to such other town.

Liability for
tuition of
non-resident
pupil.
1908, 572, § 4.

1911, 471, §§ 7, 11.

1912, 587, § 5, cl. 2.

1931, 426, § 72.

1 SECTION 8A. A town where a person resides who is admitted to a
2 school in another town under section seven, and in which a public high
3 school offering four years of instruction is not maintained, shall, through
4 its school committee, when necessary, provide for the transportation of
5 such person under the same conditions and subject to the same limita-
6 tions as to cost, and shall be entitled to the same amount of state reim-
7 bursement, as is provided in sections six and seven of chapter seventy-
8 one in the case of a person attending a public high school in a town other
9 than that of his residence; provided, that such a town where a child is
10 placed by the department of public welfare or by the trustees of the
11 Massachusetts training schools who is admitted as aforesaid to a school
12 in another town shall similarly provide for the transportation of such
13 pupil to such school under the same conditions and subject to the same
14 limitations as to cost as aforesaid and shall be entitled to state reimburse-
15 ment to the full extent of the amounts so expended.

Transportation
of pupils
attending out-
side schools.
Payment,
reimbursement.
1923, 289,
1927, 201.

1 SECTION 9. The commonwealth shall annually pay one half the net
2 maintenance sum to towns maintaining approved local or district inde-
3 pendent industrial, agricultural or household arts schools, except agri-
4 cultural departments in high schools.

State reim-
bursement for
maintenance of
certain schools.
1906, 505, § 5.

1909, 540.

1911, 471, § 9, cl. 1, § 11.

1 SECTION 10. The commonwealth shall reimburse towns paying fees
2 under section eight for tuition in agricultural departments in high
3 schools to the same extent as is provided by chapter seventy-one in the
4 case of towns paying fees for tuition in public high schools, but in no
5 event less than one half the amount so expended, and shall reimburse
6 towns so paying fees for tuition in other vocational schools one half the
7 amount so expended; provided, that in any event the commonwealth
8 shall reimburse towns paying such tuition fees for children placed therein
9 by the commissioner of public welfare or the trustees of the Massa-
10 chusetts training schools for the whole amount so expended.

State reim-
bursement
for certain
tuition fees.
1911, 471,
§ 9, cl. 3,
1912, 587,
§ 5, cl. 2
1919, 291 (g).
1923, 364.

State reimbursement of certain counties and cities and cities.
1912, 506, § 3;
387, §§ 3, 4.

SECTION 11. The counties of Bristol, Essex and Norfolk, and the cities of Lynn and Northampton shall, so long as their respective schools are approved, be reimbursed by the commonwealth as are towns under section nine.

1914, 719, § 1.
1915, 189, § 8.

1916, Sp. 174, § 5.
1917, 176, § 1.

1918, Sp. 151, § 1.

State reimbursement for maintenance of agricultural departments in high schools.

SECTION 12. The commonwealth shall pay to towns maintaining approved local or district independent agricultural schools consisting only of agricultural departments in high schools two thirds of the salary of the instructors therein.

1911, 471, § 9, et. 2.

1917, 61, § 1.

Day, part time and evening classes.
1911, 471, § 3.
1917, 215, § 5.
1918, 206, § 2.
1919, 292, § 16.
227 Mass. 44.

SECTION 13. Independent industrial, agricultural and household arts schools may offer instruction in day, part time and evening classes. Attendance upon such day or part time classes shall be restricted to those over fourteen years of age; and upon such evening classes, to those over sixteen years of age.

Practical art classes.
1912, 106.
1915, 206.
1917, 215, § 5.

SECTION 14. Towns may, through school committees or trustees for vocational education, establish and maintain household and other practical art classes. If day classes only, or evening classes only, are established, they shall be open to women over sixteen years of age; if both day and evening classes are established the day classes shall be open only to women over said age, and the evening classes shall be open only to women over sixteen years of age employed during the day. Such classes may be established and maintained as approved state aided practical art classes under sections one to twenty-two, inclusive, so far as not inconsistent therewith.

Schools for gardening, poultry raising, etc.
1916, 185, § 1.
1918, 257, § 183.
1919, 5.
1920, 2.

SECTION 15. Cities may establish and maintain schools for instructing families and individuals in day, part time or evening classes in gardening, fruit growing, floriculture, poultry raising, animal husbandry, and other branches of agriculture and horticulture. The location and organization thereof and the instruction given therein shall be subject to the approval of the commissioner.

Advertisement of purpose of school.
1916, 185, § 2.

SECTION 16. Before action taken under the preceding section, school committees shall circulate a description of the purposes and scope of the instruction to be given thereunder, and request applications for such instruction.

Taking or leasing of land for schools. Erection of buildings, etc.
1916, 185, § 3.

SECTION 17. Boards or officers having power to take land for school purposes in cities may take, by eminent domain under chapter seventy-nine, land therein not already appropriated to public use, or lease or purchase land either within or without the city limits, for the purposes of section fifteen. A school committee may erect suitable buildings on land so acquired, and provide, on terms not involving loss to the city, for the use of plots of ground and for the temporary housing of pupils complying with its regulations and not having access to other land suitable for proper instruction.

Classes for training teachers in

SECTION 18. With the approval of the commissioner, towns or districts through school committees or trustees for vocational education,

3 may establish classes for training teachers for continuation schools, or
 4 vocational schools established under sections one to twenty-two, inclu-
 5 sive, which classes shall be subject to said sections, so far as consistent
 6 herewith. The commissioner may establish and maintain classes for
 7 training such teachers.

1 SECTION 19. The commissioner shall co-operate with the federal
 2 board for vocational education in the administration of the act of con-
 3 gress, approved February twenty-third, nineteen hundred and seventeen,
 4 relating to vocational education in agriculture, trades and industries,
 5 and secure for the commonwealth the benefits thereof.

1 SECTION 20. The state treasurer shall be custodian of funds allotted to
 2 the commonwealth from appropriations made under the acts of congress
 3 mentioned in the preceding section and in section six A of chapter fifteen.
 4 The funds so allotted from appropriations under the act of congress men-
 5 tioned in said section six A shall be expended, without specific appro-
 6 priation, under the order or the approval of the commissioner and the
 7 advisory board of education, constituting the state board for vocational
 8 education.

1 SECTION 21. Subject to the following section, the funds received under
 2 said act of congress mentioned in section nineteen shall be paid out, on
 3 requisition of the commissioner, as reimbursement for expenses already
 4 incurred, to approved schools and classes entitled to receive them under
 5 said act.

1 SECTION 22. The commissioner may use the funds received under
 2 said act of congress mentioned in section nineteen as supplementary to
 3 state aid for salaries of teachers of vocational subjects in schools compl-
 4 ing therewith. He may also use such funds (1) for salaries of teachers
 5 giving types of training selected by him as especially needing stimulus;
 6 or, (2) for courses for the preparation of teachers of vocations selected
 7 by him; or, (3) to arrange with schools and colleges to give the proper
 8 types of training to teachers of vocations under his supervision; or, (4)
 9 to enable local school authorities to conduct, under his supervision,
 10 classes for the training of vocational teachers. Such payments shall be
 11 subject to conditions prescribed by him.

1 SECTION 22A. The state board for vocational education, established
 2 by section six A of chapter fifteen, is hereby directed to co-operate with
 3 the federal board for vocational education in carrying out the provisions
 4 of the act of congress mentioned in said section six A; to establish and
 5 maintain, or to assist in establishing or maintaining, such courses of
 6 vocational training as it may deem advisable and necessary for the voca-
 7 tional rehabilitation of persons disabled in industry or otherwise; to
 8 grant federal funds in its control, subject to conditions prescribed by it,
 9 as money supplementary to state aid, in the maintenance of vocational
 10 rehabilitation courses in schools or institutions supported wholly or in
 11 part by the commonwealth; to establish and maintain under its super-
 12 vision such courses as it may deem advisable for the preparation of in-
 13 structors of vocational rehabilitation courses; to appoint such agents

Continuation or vocational schools
1914, 171, § 391.

Co-operation with federal vocational educational board
1917, 215, § 2.

State treasurer to be custodian of certain funds. Expenditure of federal funds for vocational rehabilitation.
1917, 215, § 3.
1921, 462, § 3.

Expenditure of federal funds for vocational education.
1917, 215, § 4.
1921, 462, § 4.

Powers of commissioner in disposal of federal funds for vocational education.
1917, 215, § 4.
1921, 462, § 5.

State board for vocational education. Duties relative to vocational rehabilitation.
1921, 462, § 6.

and assistants as may be necessary to administer the provisions of this section and said act of congress in this commonwealth; to fix the compensation of such agents and assistants and to direct the disbursement and administer the use of all funds provided by the federal government and this commonwealth for the vocational rehabilitation of such persons, and in conjunction with the department of industrial accidents to formulate a plan of co-operation in accordance with the provisions of said act of congress, such plan to become effective when approved by the governor.

Same subject.
Aid during
rehabilitation.
Investigation
of applicants.
1923, 434.

SECTION 22B. Said state board for vocational education may expend, under rules and regulations made by it and approved by the governor and council, such sums, not exceeding ten thousand dollars, as may be annually appropriated therefor, for the purpose of furnishing aid during rehabilitation to such persons as it shall deem able to profit by training.

The department of public welfare shall, upon request of said board, make an investigation of the circumstances of persons, actually in training afforded by said board, who apply for aid during rehabilitation under the provisions of this section, and shall make a report of its findings to said board.

Independent
industrial
shoemaking
school of the
city of Lynn.
Trustees.
Maintenance.
1916, Sp. 174,
§§ 2, 3, 5.

SECTION 23. The independent industrial shoemaking school of the city of Lynn, established under chapter one hundred and seventy-four of the Special Acts of nineteen hundred and sixteen, shall be maintained by the city of Lynn as a state aided approved vocational school under and subject to sections one to twenty-two, inclusive; provided, that the trustees of said school shall consist of the mayor of Lynn, ex officio, and eight appointive members who shall be residents of Lynn and of whom two shall represent the laboring class. Two appointive members shall annually be appointed by the governor, with the advice and consent of the council, for terms of four years and until their successors are qualified. The trustees shall serve without compensation, but shall be reimbursed for their necessary expenses, to be charged and paid as maintenance.

The trustees may determine the situation of said school, subject to the approval of the commissioner, and may expend annually for rent of suitable floor space for the school a sum not exceeding six thousand dollars until such time as it is deemed expedient to purchase, construct or alter a building for the use of the school. After the said school is established and equipped the city of Lynn shall annually raise by taxation such sums as may be needed for its maintenance and operation.

Smith's agri-
cultural school.
Superinten-
dents.
1918, Sp. 151,
§§ 1, 2.
1920, 14; 611.

SECTION 24. Smith's agricultural school, established under chapter one hundred and fifty-one of the Special Acts of nineteen hundred and eighteen, shall be maintained by the city of Northampton as a state aided approved vocational school under and subject to sections one to twenty-two, inclusive; provided, that the superintendents of said school shall consist of the mayor and superintendent of schools of said city, ex officio, and three other superintendents to be elected by said city annually at its city election by ballot, as provided in the will of Oliver Smith, and that said superintendents shall have the powers of local trustees elected under section three.

COUNTY AGRICULTURAL SCHOOLS.

1 SECTION 25. The Bristol county agricultural school, the Essex
 2 county agricultural school and the Norfolk county agricultural school
 3 shall be maintained as state aided, approved, independent vocational
 4 schools under sections one to twenty-two, inclusive, subject to sections
 5 twenty-six to thirty-seven, inclusive.

Certain
 county
 agricultural
 schools to be
 approved
 vocational
 schools.

1912, 566, §§ 1, 3;
 587, §§ 1, 4.

1914, 719, § 1.
 1915, 189, §§ 2, 4.

1917, 176, § 1; 247, § 1.
 1924, 281.

1 SECTION 26. There shall be a board of trustees for each of the schools
 2 enumerated in the preceding section. The boards of trustees for the
 3 Bristol county agricultural school, the Essex county agricultural school
 4 and the Norfolk county agricultural school shall each consist of the
 5 county commissioners, ex officio, and four residents of the county, ap-
 6 pointed by the governor, with the advice and consent of the council,
 7 for four years. The term of one appointive trustee in each county shall
 8 expire each year.

Appointment
 of trustees.
 Tenure.
 1912, 566, § 1;
 587, § 1.
 1915, 189, § 2.
 1917, 176;
 247, § 1.
 1924, 281.
 Op. A. G.
 (1918) 18.

1 SECTION 27. The trustees provided for in the preceding section shall
 2 serve without compensation, but shall be reimbursed for their necessary
 3 expenses, to be charged and paid as maintenance.

Trustees to
 serve without
 compensation.
 Expenses to
 be paid.

1912, 566, § 1; 587, § 1.

1915, 189, § 2.

1924, 281.

1 SECTION 28. Annually on or before December fifteenth the trustees
 2 of the schools mentioned in section twenty-five shall, in consultation
 3 with and with the approval of the commissioner, prepare estimates of the
 4 amounts necessary to equip and maintain their respective schools for
 5 the ensuing year. The amounts of such estimates shall be included by
 6 the respective county commissioners in the estimates required by section
 7 twenty-eight of chapter thirty-five.

Annual
 estimates of
 expense of
 maintenance.
 1912, 566, § 4.
 1914, 719, § 2.
 1915, 189, § 6.
 1917, 247,
 §§ 3, 6.
 1924, 281.

1 SECTION 29. If any part of the amount estimated under the preced-
 2 ing section shall be authorized as part of the county taxes, the respective
 3 counties shall raise the said amounts by taxation.

Amounts to be
 raised by
 taxation.
 1912, 566, § 4.

1914, 544; 719, § 2.
 1915, 189, § 6.

1917, 247, §§ 3, 6.
 1924, 281.

1930, 400, § 4.
 1931, 301, § 16.

1 SECTION 30. Miscellaneous income of the Bristol county agricul-
 2 tural school, the Essex county agricultural school and the Norfolk county
 3 agricultural school, including the tuition of non-resident pupils and
 4 receipts from the sale of products and work of pupils, shall be paid to the
 5 county treasurer, to be applied to maintenance.

Disposition of
 income from
 tuition, etc.
 1912, 587, § 5,
 cl. 2.
 1914, 719, § 2.
 1915, 189, § 7.

1917, 176, § 1; 247, §§ 1, 4.
 1924, 281.

1930, 400, § 4.
 1931, 301, § 17.

1 SECTION 31. The Bristol county agricultural school and the Norfolk
 2 county agricultural school may receive and use gifts deemed by the
 3 trustees and the commissioner consistent with the purposes thereof.

Certain schools
 may receive
 and use gifts.
 1915, 189, § 6
 1917, 247,
 §§ 1, 3.

1924, 281.

1 SECTION 32. Any resident of the commonwealth over fourteen years
 2 of age who resides in any town outside of a county in which a county
 3 agricultural school is located may be admitted to such school on the
 4 conditions prescribed in sections seven, eight and ten.

Non-residents
 to be admitted.
 1912, 566, § 5;
 587, § 5.
 1915, 189, § 9.

1917, 247, § 5.

1919, 292, § 16.

1924, 281.

Free tuition to residents of certain counties. 1912, 566, § 5; 587, § 5 1915, 189, § 9. 1917, 176, § 1; 247, §§ 1, 5. 1919, 292, § 16. 1924, 281.	SECTION 33. The Bristol county agricultural school, the Essex county agricultural school and the Norfolk county agricultural school shall be free to residents of Bristol, Essex and Norfolk counties, respectively, over fourteen years of age, except that in the Bristol county agricultural school and the Norfolk county agricultural school free attendance shall be limited by the capacity of the courses provided for such schools.	1 2 3 4 5 6 7
Special provisions as to Bristol county agricultural school. 1912, 566, § 5. 1917, 247, § 1 1924, 281; 418.	SECTION 34. The trustees of the Bristol county agricultural school may, with the approval of the commissioner, permit pupils with limited educational preparation to enter for a special course in horticulture, fruit growing or dairy farming. Said trustees may from time to time provide instruction in such of the types of vocational education described in sections one to twenty-two, inclusive, as they may deem advisable and as the commissioner may approve, in addition to the instruction authorized herein and in sections thirty-five, thirty-six and thirty-seven.	1 2 3 4 5 6 7 8
Character of instruction in certain schools 1914, 719, § 1. 1915, 189, § 5. 1917, 176, § 1; 247, §§ 1, 2. 1924, 281	SECTION 35. The Bristol county agricultural school and the Norfolk county agricultural school shall provide instruction in agriculture and, at a time approved by the commissioner, in household arts or home-making. The Essex county agricultural school may establish, equip and maintain, with the approval of the commissioner, an independent household arts school.	1 2 3 4 5 6
Short unit courses in certain schools. 1915, 189, §§ 2, 5.	SECTION 36. Short unit courses may be given at the Bristol county agricultural school, the Essex county agricultural school and the Norfolk county agricultural school, and elsewhere in the respective counties. 1917, 176, §§ 1, 2; 247, §§ 1, 2. 1924, 281.	1 2 3
Special duties of teachers in certain schools 1915, 189, §§ 2, 5. 1917, 176, §§ 1, 2; 247, §§ 1, 2 1924, 281	SECTION 37. Members of the staffs of the Bristol county agricultural school, the Essex county agricultural school and the Norfolk county agricultural school shall investigate farm and market conditions for the purpose of advising individuals and organizations as to business methods among farmers, and satisfactory methods of marketing farm products, shall instruct in the formation of co-operative enterprises, and shall perform other work calculated to promote the agricultural or rural development of the respective counties. Members of such staffs shall keep in touch with, and avail themselves of, agencies in the commonwealth or elsewhere that will enable them to utilize the latest and best knowledge and practice in the furtherance of their work.	1 2 3 4 5 6 7 8 9 10 11
	SECTION 38. [REPEALED, 1931, 426, § 197.]	1
	TRAINING AND INSTRUCTION OF DISABLED SOLDIERS AND SAILORS.	
	SECTION 39. [REPEALED, 1931, 426, § 7.]	1
	SECTION 40. [REPEALED, 1931, 426, § 7.]	1
Lease of hospitals, etc., to United States for certain purposes. 1918, 230, § 5. 1931, 426, § 8.	SECTION 41. The governor, with the advice and consent of the council, may lease to, or permit to be used by, the United States or any department, bureau or agency thereof, any state hospital, school or workshop, and its premises and equipment, or any other suitable resources	1 2 3 4

5 belonging to the commonwealth, to enable the United States to re-
 6 educate and rehabilitate in industry any soldiers and sailors in the service
 7 of the United States or its allies.

TEXTILE SCHOOLS.

1 SECTION 42. The New Bedford textile school and the Bradford Dur- Certain textile
 2 fee textile school of Fall River shall be maintained by the common- schools to be
 3 wealth for the purpose of giving instruction in the theory and practical state in-
 4 art of textile and kindred branches of industry. stitutions-
1895, 475, § 1

1899, 299, § 1. 1918, 246, § 1; 1928, 135, § 4.
 R. L. 125, § 20. 248, § 1; 274, § 1.

1 SECTION 43. The board of trustees of each of said schools shall be Trustees may
 2 a corporation for the purpose of taking by gift, bequest or devise any hold property
 3 real or personal property. in trust.

1895, 475, § 1. 1902, 120. 1918, 246, § 2; 248, § 2; 274, § 2
 1899, 299, § 1. 1917, 45. 165 Mass. 419.
 R. L. 125, §§ 8, 20

1 SECTION 44. The commissioner shall make an annual report as to Annual report.
 2 each such school, containing a concise statement as to its buildings, 1904, 248, § 1.
 3 equipment, and resources, its courses and methods of instruction, the 1905, 211.
 4 number of teachers and students during the preceding school year and 1912, 445.
 5 the number of graduates. 1919, 350, § 8.

1 SECTION 45. The board of trustees of each of said schools may insure Insurance.
 2 the buildings of said schools and their contents in such amount as it 1919, 53.
 3 deems sufficient.

1 SECTION 46. The yearly tuition at any of said schools for day stu- Rate of tuition
 2 dents who are non-residents of the commonwealth shall not be less than for non-resident
 3 one hundred and fifty dollars. pupils.

1899, Res. 55. 1900, Res. 72.

1 SECTION 46A. Said schools may make, under such regulations as Tests au-
 2 their respective boards of trustees may from time to time prescribe, thorized
 3 tests, comparative or otherwise, of new and useful improvements in Fees, etc.
 4 textile machinery or of apparatus, dyes, compounds, processes, methods 1921, 385.
 5 or means, directly or indirectly relating to the manufacture of textiles
 6 or to the machinery, tools, appliances and materials used in connection
 7 therewith. The person for whom any such test is made shall pay there-
 8 for on account of the commonwealth a sum not less than the actual cost
 9 thereof, including a reasonable amount for overhead expense. No such
 10 test shall be undertaken by any such school which in the opinion of its
 11 trustees will be likely to interfere with the regular, efficient and proper
 12 exercise of school functions. In the making of such tests preference shall
 13 be given to citizens of, and to corporations organized under the laws of,
 14 the commonwealth.

LOWELL TEXTILE INSTITUTE.

1 SECTION 47. The Lowell textile institute shall be maintained by the To be state
 2 commonwealth for the purpose of giving instruction in the theory and institution.
 3 practical art of textile and kindred branches of industry. 1895, 475, § 1.

1899, 299, § 1. G. L. (ed. of 1920) 74, § 42.
 R. L. 125, § 20. 1928, 135, § 5.
 1918, 274, § 1.

Trustees may accept, etc., property. SECTION 47A. The board of trustees of said institute, in the six following sections called the board, shall be a corporation for the purpose of taking by gift, bequest or devise any real or personal property.

R. L. 125, §§ 8, 20. 1918, 274, § 2. 1928, 135, § 5.
1902, 120. G. L. (ed. of 1920) 74, § 43. 165 Mass. 419.
1917, 45.

Annual report. SECTION 47B. The board shall make an annual report to the commissioner containing a concise statement as to the buildings, equipment and resources of the institute, its courses and methods of instruction, the number of its teachers and students during the preceding school year and the number of its graduates, and the commissioner shall make an annual report embodying the statements contained in said annual report made by the board.

Insurance. SECTION 47C. The board may insure the buildings of the institute and their contents in such amount as it deems sufficient.

1928, 135, § 5.

Rates of tuition. SECTION 47D. The board may fix the rates of tuition to be charged by the institute, but the yearly tuition for day students who are non-residents of the commonwealth shall not be less than one hundred and fifty dollars.

Degrees. SECTION 47E. The board may grant the degrees of bachelor of textile engineering and bachelor of textile chemistry to students who have taken the four year day course in the departments of textile engineering and textile chemistry, respectively, and have passed the examinations required for graduation.

Lowell Evening Textile School. SECTION 47F. The board shall establish a department to be called the Lowell Evening Textile School and to be conducted under its direction in which shall be given such evening instruction in the theory and practical art of textile and kindred branches of industry as the board deems expedient.

Tests authorized. Fees, etc. SECTION 47G. Said institute may make, under such regulations as the board may from time to time prescribe, tests, comparative or otherwise, of new and useful improvements in textile machinery or of apparatus, dyes, compounds, processes, methods or means, directly or indirectly relating to the manufacture of textiles or to the machinery, tools, appliances and materials used in connection therewith. The person for whom any such test is made shall pay therefor for the account of the commonwealth a sum not less than the actual cost thereof, including a reasonable amount for overhead expense. No such test shall be undertaken by said institute which in the opinion of the board will be likely to interfere with the regular, efficient and proper exercise of the functions of said institute. In the making of such tests preference shall be given to citizens of, and to corporations organized under the laws of, the commonwealth.

Lowell may provide scholarships. SECTION 48. The city of Lowell may annually provide for not more than ten four year course day scholarships at the Lowell textile institute for residents of Lowell, the sum so required to be raised by taxation.

1912, Res. 120.
1928, 135, § 6.

NAUTICAL SCHOOL.

1 SECTION 49. The board of commissioners of the Massachusetts
 2 nautical school shall provide and maintain a nautical school for the
 3 instruction of students in the science and practice of navigation, accom-
 4 modations therefor on board a proper vessel, books, stationery, apparatus
 5 and supplies needed in the work thereof, and appoint and remove neces-
 6 sary instructors and other employees, determine their compensation, fix
 7 the terms upon which students shall be received and instructed therein
 8 and discharged therefrom, make all regulations necessary for its manage-
 9 ment and provide from time to time for cruises in or from Boston harbor.

Commissioners
to provide and
maintain a
nautical
school
1891, 402, § 3
R. L. 45, § 3.
1913, 224

1 SECTION 50. The board may receive from the federal government,
 2 and use for the accommodation of the school, vessels detailed by the
 3 secretary of the navy.

Commissioners
may receive
vessels from the
United States.

1891, 402, § 4; Res. 4.

R. L. 45, § 4.

1 SECTION 51. In addition to the advances authorized by section
 2 twenty-three of chapter twenty-nine, the state treasurer shall, upon
 3 requisition by the board to the comptroller, make an advance for said
 4 cruises of not exceeding ten thousand dollars for six months to the com-
 5 manding officer of the vessel detailed therefor, who shall give bond in the
 6 sum of ten thousand dollars, with sureties approved by the governor and
 7 council, for its proper disbursement. Said advance shall be accounted for
 8 by properly approved vouchers within thirty days after the termination
 9 of said cruises.

Advance to
nautical school
for cruises.
1891, 402, § 5.
1893, 124
R. L. 45, § 5.
1903, 171.
1923, 362, § 61.

1 SECTION 52. A town may establish and maintain, upon shore or upon
 2 vessels at the election of the school committee, one or more schools for
 3 training young men or boys in nautical duties. School committees may
 4 excuse boys attending such schools from attendance at other schools.

Nautical
schools.
1878, 159.
P. S. 44, § 9.
R. L. 42, § 16.

1 SECTION 53. The commissioner shall make an annual report relative
 2 to the Massachusetts nautical school.

Annual report.
1891, 402, § 6.

R. L. 45, § 6.

1913, 224.

1919, 350, § 8.

CHAPTER 75.

MASSACHUSETTS STATE COLLEGE.

SECT.

1. Massachusetts state college a state institution.
2. Object of institution. Curriculum.
3. Trustees. Meetings, quorum.
4. Common seal of college.
5. Expenditure of appropriations.
6. Accounting. Audits.

SPECIAL TRUSTS.

7. Management of special trusts. Investment of funds.

SECT.

REPORT.

8. Report. Printing.

REGULATION OF COLLEGE.

9. Management of college property.
10. Rules and by-laws.
- 10A. Insurance.
11. Regulation of courses of instruction.
12. Degrees.
13. Election of officers.
14. Rifle range.

<p>SECT.</p> <p style="text-align: center;">NORMAL DEPARTMENT.</p> <p>15. Normal department.</p> <p>MASSACHUSETTS AGRICULTURAL EXPERIMENT STATION.</p> <p>16. Agricultural experiment station.</p> <p>17. Nature and scope of experimental work.</p> <p>18. Officers. Appliances.</p> <p>19. Bulletins.</p> <p>20. Publications by director.</p> <p>21. Fee for testing poultry.</p> <p style="text-align: center;">EXPERIMENTAL FARM AND BRANCH STATIONS.</p> <p>22. Experimental farm. Labor of students.</p> <p>23. Experiment stations for market gardening and cranberry and tobacco growing.</p>	<p>SECT.</p> <p style="text-align: center;">EMPLOYEES.</p> <p>24. Status of employees.</p> <p style="text-align: center;">SALE OR LEASE OF LANDS.</p> <p>25. Sale of land.</p> <p>26. Lease of land.</p> <p>27. Form and operation of deeds and leases.</p> <p>28. Buildings on leased land liable to taxation.</p> <p style="text-align: center;">MOUNT TOBY STATE DEMONSTRATION FOREST.</p> <p>29. Powers and duties of trustees as to forest.</p> <p>30. Instruction in forestry.</p>
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Massachusetts state college a state institution. SECTION 1. The Massachusetts state college shall continue to be a state institution. 1
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1863, 220, § 1.	1911, 311.	1931, 144, § 2
1864, 223, § 1.	1918, 262, § 1.	3 Op A G 308, 460.

Object of institution. SECTION 2. The leading object of the college shall be to teach subjects relating to agriculture and the mechanic arts, so as to promote liberal and practical education. Its curriculum may include other scientific and classical studies and shall include military tactics. 1
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Trustees. Meetings, quorum. SECTION 3. The trustees shall determine the time and place of their meetings and the manner of giving notice thereof. Nine members shall be a quorum. 1
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3

1919, 350, § 56.

Common seal of college. SECTION 4. The college may have a common seal, which may be altered by the trustees. 1
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1919, 350, § 56.

Expenditure of appropriations. SECTION 5. Expenditures for maintenance shall be authorized by the trustees or by their duly appointed committee. The expenditure of special appropriations shall be directed by such trustees, and shall be authorized and accounted for as are appropriations for maintenance. 1
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1918, 262, § 4
1919, 350, § 56.

Accounting Audit. SECTION 6. A complete accounting of receipts and expenditures shall be made to the governor annually. Monthly statements of receipts and expenditures shall be made to the comptroller by the treasurer, who shall keep complete records and files of pay rolls and bills in his office. There shall be a complete audit of the accounts of the college, including receipts and expenditures, under the direction of the trustees, at least twice a year. 1
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7

1894, 113, § 4.
1908, 160, § 3.
1909, 436,
§§ 3, 4
1910, 627,
§§ 3, 4
1911, 592,
§§ 2, 3
1912, 705,
§§ 2, 3
1918, 262, § 4.

1923, 362, § 62.

SPECIAL TRUSTS.

1 SECTION 7. The trustees shall administer property held in accord- Management of
2 ance with special trusts, and shall also administer grants or devises of special
3 land and gifts or bequests of personal property made to the common- trusts. In-
4 wealth for the use of the college, and execute said trusts, investing the vestment of
5 proceeds thereof in notes or bonds secured by sufficient mortgages or funds.
6 other securities. 1863, 220, § 4.
1871, 311, § 1.
1918, 262, § 3.
1919, 350, § 56.

2 Op. A. G. 359.

REPORT.

1 SECTION 8. The commissioner of education shall make an annual Report.
2 report, which, with appendices, may be printed in six parts, as follows: Printing.
3 part one, the report of the trustees; part two, the report of the president 1863, 220, § 5.
4 and other officers of administration; part three, the catalogue of the 1871, 378, § 1.
5 college; part four, the report of the director of the Massachusetts agri- P. S. 4, § 9
6 cultural experiment station and other officers; part five, the detailed 1882, Res. 31;
7 reports of the experiment station; and part six, the report of the director 212, § 3.
8 of the extension service. 1883, 195.
1884, Res. 46.
1885, 369, § 1.
1888, 256, § 2.
1889, 164.
§§ 1, 2;
440, § 7.

1890, Res. 51.	1908, 459, §§ 1, 3.	1916, 233, § 1.
1894, 101; 143, § 4; 393, § 7.	1910, 429, § 1.	1919, 350, § 56.
1897, 141, § 1.	1914, 91, § 1.	3 Op. A. G. 308.
R. L. 9, § 7.		

REGULATION OF COLLEGE.

1 SECTION 9. The trustees shall, on behalf of the commonwealth, man- Management of
2 age and administer the college and all property, real and personal, be- college
3 longing to the commonwealth and occupied or used by the college, and property.
4 shall keep in repair houses, buildings and equipment so used or occupied. 1863, 220,
§§ 1, 2
1913, 745, § 1.
1918, 262,
§§ 1-3; 290.

1919, 350, § 56.

1 SECTION 10. The trustees shall make reasonable rules and by-laws Rules and
2 consistent with law, with reasonable penalties, for the government of by-laws.
3 the college and for the regulation of their own body. 1863, 220, § 2.
1919, 350, § 56.

1 SECTION 10A. The trustees may insure the memorial building and Insurance.
2 its contents in such amount as they deem sufficient. 1922, 268

1 SECTION 11. The trustees shall determine and regulate instruction in Regulation of
2 the college. courses of in-
struction.

1863, 220, §§ 2, 6.	1918, 262, § 6.	2 Op. A. G. 84.
1864, 225, § 2.	1919, 350, § 56.	

1 SECTION 12. The trustees may confer such appropriate degrees as Degrees.
2 they may determine and prescribe. 1863, 220, § 2.
1918, 262, § 3.
1919, 350, § 56.

1 SECTION 13. The trustees shall elect the president, necessary pro- Election of
2 fessors, tutors, instructors and other officers of the college and fix their officers.
3 salaries and define the duties and tenure of office. 1863, 220,
§§ 1, 2.

1918, 262, §§ 3, 6.	1919, 350, § 56.	1931, 426, § 57.
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1 SECTION 14. The trustees shall maintain the rifle range heretofore Rifle range.
2 established by law for the use of the military department of the college, 1908, Res. 59,
3 and shall use therefor the land, buildings and equipment heretofore 1919, 350, § 56.

acquired therefor. The trustees shall permit the militia of the commonwealth to use such range when such use does not interfere with use by the college.

NORMAL DEPARTMENT.

Normal department.
1906, 502, § 7.
1919, 350, § 56.

SECTION 15. The trustees may maintain a normal department of the college for the instruction in the elements of agriculture of persons desiring to teach such elements in public schools, at a cost not to exceed five thousand dollars annually, if fifteen persons present themselves for such instruction.

MASSACHUSETTS AGRICULTURAL EXPERIMENT STATION.

Agricultural experiment station.
1882, 212, § 1.
1887, 31, § 1.
1894, 143, §§ 1, 3.
1895, 57, § 1.
1907, 66, § 1.

SECTION 16. The trustees shall maintain at the college an agricultural experiment station, to be known as the Massachusetts agricultural experiment station, and shall use therefor the land, buildings and equipment heretofore acquired therefor and owned by the commonwealth. Such station shall be a part of the college.

1918, 262, § 6.

1919, 350, § 56.

Nature and scope of experimental work.
1882, 212, § 5.
1894, 143, § 3.
1919, 185, § 56.

SECTION 17. The trustees shall cause experiments and investigations to be made at said station in the following subjects:

First, The causes, prevention and remedies of diseases of domestic animals, plants and trees;

Second, The history and habits of insects destructive to vegetation, and the means of abating them;

Third, The manufacture and composition of both foreign and domestic fertilizers, their values and adaptability to different crops and soils;

Fourth, The values, under all conditions, of forage, grain and root crops, as food for farm animals, for various purposes;

Fifth, The comparative value of green and dry forage, and the cost of producing and preserving them in the best condition;

Sixth, The adulteration of any article of food intended for the use of men or animals;

[Fee, § 21.]

Seventh, Testing poultry to eliminate disease;

Eighth, Other subjects deemed advantageous to agriculture and horticulture in the commonwealth.

Officers.
Appliances.
1882, 212, § 5.
1894, 143, § 3.
1919, 350, § 56.

SECTION 18. The trustees shall appoint a director of said station, a chemist and necessary assistants, and shall provide and maintain suitable and necessary appliances for the purposes specified in the preceding section.

Bulletins.
1882, 212, § 5.
1894, 143, § 3.
1919, 350, § 56.

SECTION 19. The trustees shall publish bulletins containing the results of experiments and investigations by the station, except under the following section, and shall distribute such bulletins to residents and newspapers of the commonwealth applying therefor.

Publications by director.
1873, 312, § 3.
1874, 206, § 4.
1875, 258, § 4.
P. S. 60, § 11.
1888, 296, §§ 7, 8.
1896, 297, §§ 7, 8.
1897, 117, § 1.
R. L. 57, §§ 17, 18.

SECTION 20. The director may from time to time publish in reports, bulletins, special circulars or otherwise, the results of analyses of commercial fertilizers and feedstuffs made under sections two hundred and twenty-five to two hundred and thirty-five, two hundred and fifty to two hundred and fifty-four and two hundred and fifty-six to two hundred and sixty-one, all inclusive, of chapter ninety-four. Publications relative to fertilizers shall contain the cost of equivalent amounts of

8 nitrogen, phosphoric acid, and potash or unmixed materials when bought
 9 on the market at retail for cash. Publications relative to both fertilizers
 10 and feedstuffs shall contain such additional information as to the char-
 11 acter, composition, value and use of the fertilizers and feedstuffs analyzed
 12 as the director may see fit to include.

1903, 122, § 5.
 1907, 289,
 1911, 388,
 §§ 7, 12
 1912, 527,
 §§ 9, 15.

1 SECTION 21. A fee of not more than ten cents may be charged for
 2 each test of poultry made under section seventeen.

1919, 185. 1922, 182.

Fee for
 testing
 poultry.

EXPERIMENTAL FARM AND BRANCH STATIONS.

1 SECTION 22. The trustees shall maintain and manage an experi-
 2 mental farm, to be known as the college farm, and shall use therefor the
 3 land heretofore acquired therefor. Their rules and by-laws shall make
 4 just and reasonable provision for manual labor on said farm by students
 5 of the college.

Experimental
 farm. Labor
 of students.
 1863, 220, § 6.
 1919, 350, § 56.

1 SECTION 23. The trustees shall maintain the experiment stations
 2 heretofore authorized by law for practical demonstrations in market
 3 gardening and of experimental work in planting and growing cranber-
 4 ries and tobacco, and shall use therefor the land, buildings and equip-
 5 ment heretofore acquired therefor.

Experiment
 stations for
 market gar-
 dening and
 cranberry
 and tobacco
 growing.

1910, Res. 100. 1917, Res. 25; Res. 126. 1919, 350, § 56.
 1916, Res. 117; Res. 161. 1918, Res. 56.

EMPLOYEES.

1 SECTION 24. Employees of the college shall be exempt from civil serv-
 2 ice laws.

1918, 262, § 5.

Status of
 employees.

SALE OR LEASE OF LANDS.

1 SECTION 25. Subject to section twenty-seven the trustees may sell
 2 and convey, in the name of and for the commonwealth, to any professor,
 3 instructor, teacher or employee of said college, or to any society, as-
 4 sociation or fraternity established thereat, land owned by the common-
 5 wealth in Amherst or Hadley. Not more than one acre shall be so sold
 6 and conveyed to any one such person or organization. Such convey-
 7 ances shall contain necessary restrictions and conditions.

Sale of land.
 1912, 638
 1915, Sp. 329,
 §§ 1, 3.
 1919, 350, § 56.

1 SECTION 26. Subject to section twenty-seven the trustees may, in
 2 the name of and for the commonwealth, lease to any professor, instructor,
 3 teacher or employee of said college, or to any society, association or
 4 fraternity established thereat, land in Amherst or Hadley owned by
 5 the commonwealth, for the erection and maintenance of suitable dwell-
 6 ings thereon, at the sole expense of the lessee and for the lessee's use and
 7 occupancy. Not more than one half an acre shall be so leased to any
 8 one such person or organization. Such leases shall contain such written
 9 terms, conditions, restrictions and reservations as the parties agree upon.

Lease of
 land.
 1911, 409.
 1919, 350, § 56.

1 SECTION 27. No sale or conveyance under section twenty-five shall
 2 become operative until it is approved by the governor and council, and
 3 no lease under section twenty-six shall become operative until the form
 4 thereof is approved by the governor and council.

Form and
 operation of
 deeds and
 leases.
 1911, 409,
 1912, 638.

1915, Sp. 329, §§ 1, 3.

Buildings on leased land liable to taxation. 1911, 409.

SECTION 28. The lessee and his assignees shall be liable to taxation upon any building erected on land leased under section twenty-six to the extent of its value as determined by the assessors of the town wherein the land lies.

MOUNT TOBY STATE DEMONSTRATION FOREST.

Powers and duties of trustees as to forest. 1916, 234, §§ 1-3. 1919, 350, § 56.

SECTION 29. The trustees shall protect and maintain the land owned by the commonwealth situated on or about Mount Toby, so called, in Sunderland and Leverett, known as the Mount Toby state demonstration forest.

Instruction in forestry. 1916, 234, § 4. 1919, 350, § 56.

SECTION 30. The trustees shall use so much of such land as they shall determine for instruction in forestry and as a laboratory for research and illustration in economic questions, and for practical work in the conservation and use of forest tracts and farm woodlots.

CHAPTER 76.

SCHOOL ATTENDANCE.

SECT.

1. School attendance regulated.
2. Duties of parents, etc., as to school attendance. Penalty.
- 2A. School attendance of deaf children.
3. Certain illiterate minors to attend evening schools.
4. Penalty for inducing absence of minors, etc.
5. Where children may attend.
6. Attendance in places other than residence of parent or guardian.
7. Certain public charges. Tuition.
8. Same subject. Transportation.

SECT.

9. Same subject. High school tuition.
10. Same subject. Payment of accounts.
11. Tuition of inmates of certain institutions.
12. Attendance outside place of residence.
13. Transfer cards.
14. Transportation of children living upon islands.
15. Vaccination.
16. Exclusion from school, action for.
17. Pupil not to be excluded without hearing.

School attendance regulated. 1852, 240, §§ 1, 2, 4. G. S. 41, § 1. 1873, 279, § 1. 1874, 233, § 1. P. S. 47, § 1. 1889, 464, § 1. 1890, 384. 1891, 361. 1894, 188; 498, § 1. 1898, 496, §§ 12, 31. R. L. 44, § 1. 1905, 320. 1906, 383. 1913, 779, §§ 1, 4. 1915, 81, § 1. 1919, 281; 291. 1921, 463. 139 Mass. 374. 148 Mass. 372. 159 Mass. 372. 180 Mass. 20. 196 Mass. 309.

SECTION 1. Every child between seven and fourteen, every child under sixteen who does not meet the requirements for the completion of the sixth grade of the public schools of the town where he resides, and every child under sixteen except a child holding an employment certificate as provided in chapter one hundred and forty-nine and employed in some regular employment or business for at least six hours per day, and except a child having the written permission of the superintendent of schools of the town where he resides to engage in profitable employment at home, shall, subject to section fifteen, attend a public day school in said town or some other day school approved by the school committee, during the entire time the public schools are in session, unless the child attends school in another town, during the entire time the same is in session, under sections six to twelve, inclusive, or under chapter seventy-one; but such attendance shall not be required of a child whose physical or mental condition is such as to render attendance inexpedient or impracticable, or who is being otherwise instructed in a manner approved

17 in advance by the superintendent or the school committee. The superin-
 18 tendent, or teachers in so far as authorized by him or by the school com-
 19 mittee, may excuse cases of necessary absence for other causes not exceed-
 20 ing seven day sessions or fourteen half day sessions in any period of six
 21 months. For the purposes of this section, school committees shall approve
 22 a private school only when the instruction in all the studies required by
 23 law is in English, and when satisfied that such instruction equals in
 24 thoroughness and efficiency, and in the progress made therein, that in the
 25 public schools in the same town; but they shall not withhold such
 26 approval on account of religious teaching.

27 The school committee of each town shall provide for and enforce the
 28 school attendance of all children actually residing therein in accordance
 29 herewith.

1 SECTION 2. Every person in control of a child described in the pre-
 2 ceding section shall cause him to attend school as therein required, and,
 3 if he fails so to do for seven day sessions or fourteen half day sessions
 4 within any period of six months, he shall, on complaint by a supervisor of
 5 attendance, be punished by a fine of not more than twenty dollars. No
 6 physical or mental condition capable of correction, or rendering the child
 7 a fit subject for special instruction at public charge in institutions other
 8 than public day schools, shall avail as a defence unless it appears that the
 9 defendant has employed all reasonable measures for the correction of the
 10 condition and the suitable instruction of the child.

1931, 394, § 139.
 148 Mass. 623.

159 Mass. 374.
 268 Mass. 585.

238 Mass. 528.
 268 Mass. 585.
 4 Op. A. G. 102
 Op. A. G.
 (1919) 9
 Op. A. G.
 (1920) 112.

Duties of
 parents, etc.,
 as to school
 attendance.
 Penalty
 1873, 279, § 1.
 1878, 171, § 1.
 F. S. 47, § 2
 1889, 464, § 2.
 1894, 498, § 2.
 1898, 496, § 12.
 R. L. 44, § 1.
 1905, 320.
 1906, 383.
 1913, 779, § 2.
 1915, 81, § 2.

1 SECTION 2A. Every person in control of a deaf child between seven
 2 and eighteen shall cause such child to attend some suitable school, ap-
 3 proved by the department, where the deaf are taught speech and speech
 4 reading; provided, that this section shall not apply to such a child whose
 5 mental condition or whose physical condition in other respects than deaf-
 6 ness is such as to render such attendance inexpedient or impractical or
 7 who is being given private instruction, approved by the department,
 8 during the time the public schools are in session. Failure for one month
 9 during any school year by any person in control of such a child to cause
 10 his attendance as aforesaid shall, on complaint by a supervisor of attend-
 11 ance, be punished by a fine of not more than twenty dollars.

School at-
 tendance of
 deaf children.
 1928, 227.

Penalty.

1 SECTION 3. Every minor between sixteen and twenty-one, except a
 2 married woman, who does not meet the requirements for the completion
 3 of the sixth grade of the public schools of the town where he resides shall,
 4 except as otherwise provided herein, attend some public evening school,
 5 if any, in the town of his residence, for the whole time during which the
 6 public evening schools are in session, unless he attends a public day school,
 7 or a private school approved as provided in section one by the school
 8 committee, or unless his physical or mental condition is such as to render
 9 his attendance harmful or impractical. Any such minor may, with the
 10 consent of the school committee of the town in which he resides, attend
 11 a public evening school in the town where he is employed, upon such
 12 terms as may be agreed upon by the school committees of such towns.
 13 Willful violation of this section by such a minor shall be punished by a fine
 14 of not less than five dollars; failure for six sessions within a period of one

Certain
 illiterate
 minors to
 attend
 evening
 schools
 1913, 467.
 §§ 1-3.
 1916, 82, § 1
 1926, 188, § 2.
 1931, 394,
 § 140.

Penalties.

month by any person in control of such a minor to cause his attendance shall, on complaint by a supervisor of attendance, be punished by a fine of not more than twenty dollars.

Penalty for inducing absence of minors, etc. 1894, 498, § 22. 1898, 496, § 31. R. L. 44, § 1. 1905, 320.

SECTION 4. Whoever induces or attempts to induce a minor to absent himself unlawfully from school, or unlawfully employs him or harbors a minor who, while school is in session, is absent unlawfully therefrom, shall be punished by a fine of not more than fifty dollars.

1906, 383. 1913, 467, § 4; 779, § 2. 1915, 81, § 2.

Where children may attend. 1849, 117, § 4. 1855, 256, § 1. 1857, 132. G. S. 41, §§ 3, 9. P. S. 47, §§ 4, 10. 1894, 498, §§ 4, 11. 1898, 496, § 7.

SECTION 5. Every child shall have a right to attend the public schools of the town where he actually resides, subject to the following section, and to such reasonable regulations as to numbers and qualifications of pupils to be admitted to the respective schools and as to other school matters as the school committee shall from time to time prescribe. No child shall be excluded from a public school of any town on account of race, color or religion.

R. L. 44, § 3. 1911, 268, § 1. 1913, 779, § 3. 12 Allen, 127. 195 Mass. 29. 238 Mass. 528.

Attendance in places other than residence of parent or guardian. 1857, 132. G. S. 41, § 7. 1876, 186, § 2. P. S. 47, § 8. 1894, 498, § 8. 1896, 382. 1898, 496, § 4. R. L. 44, § 4.

SECTION 6. If a child resides temporarily in a town other than the legal residence of his parent or guardian for the special purpose of there attending school, the said town may recover tuition from the parent or guardian, unless under section twelve or chapter seventy-one, such tuition is payable by a town. Tuition payable by the parent or guardian shall, for the period of attendance, be computed at the regular rate established by the school committee for non-resident pupils, but in no case exceeding the average expense per pupil in such school for said period.

1905, 375. 1915, 78. 103 Mass. 104. 1911, 268, § 2. 1919, 291, cl. (a). 4 Op. A. G. 331, 340. 1913, 779, § 4. 1925, 94.

Certain public charges. Tuition. 1896, 382, § 1. 1898, 496, § 8. R. L. 44, § 4. 1905, 375. 1911, 268, § 2. 1913, 779, § 4. 1915, 78. 1919, 291. cl. (b); 350, § 87. 1921, 272. 1930, 290.

SECTION 7. For the tuition in the public schools of any town of any child over five years placed elsewhere than in his home town by, or there kept under the control of, the department of public welfare or the child welfare division of the institutions department of Boston, the commonwealth or Boston, from its appropriation for school purposes, shall pay to said town for each day of attendance in a public elementary school an amount charged by the school committee but not at a rate in excess of the expenditure per pupil for support, exclusive of general control and transportation within the town, of the public day elementary schools in said town for the next preceding school year based on the average membership of such schools as printed in the annual report of the department of education, and, for attendance in a public junior or senior high school, the regular rate established by the school committee for non-resident pupils, filed with and approved by the department of education.

Some subject. Transportation. 1898, 496, § 8. R. L. 44, § 4. 1905, 375. 1911, 268, § 2. 1913, 779, § 4. 1919, 291, cl. (c).

SECTION 8. For transportation to and from a public school of any child whose tuition is payable by the commonwealth or by Boston under the preceding section, the commonwealth or Boston, as the case may be, shall pay to the town furnishing the same, for each week of five days or major part thereof, a sum equal to the average amount per week for each child paid by it for like transportation over the same route.

1 SECTION 9. If a town where a child is placed or kept under section
 2 seven does not maintain a public high school offering four years of in-
 3 struction, he may, subject to section six of chapter seventy-one, attend
 4 the public high school of another town, but the commonwealth or Boston,
 5 as the case may be, shall reimburse the town where he is so placed or
 6 kept for tuition paid by it on his account, and for the entire cost of his
 7 transportation.

Same subject
 High school
 tuition
 R. L. 44, § 4
 1919, 291, cl. (d)
 1 Op. A. G.
 319
 2 Op. A. G. 98.
 Op. A. G.
 (1918) 39

Op. A. G. (1920) 295.

1 SECTION 10. Settlements of the accounts of the several towns under
 2 the three preceding sections with the commonwealth and with Boston
 3 shall be made annually on July first, and the amounts found due shall
 4 be paid within three months thereafter.

Same subject
 Payment of
 accounts
 1896, 382, § 2.
 1898, 496, § 8.

R. L. 44, § 4. 1911, 268, § 2. 1919, 291, cl. (e).
 1905, 375 1913, 779, § 4. 1921, 214.

1 SECTION 11. For tuition in the public schools in any town of less
 2 than ten thousand inhabitants of any child between the ages of five and
 3 fifteen not theretofore resident in such town, who is an inmate of an
 4 institution containing more than six inmates, the town may recover
 5 from the institution the school expense incurred by reason of the school
 6 attendance of such child, to be determined jointly by its school commit-
 7 tee and the trustees or managers of the institution, or, in case of their
 8 disagreement, by the probate court; but no demand shall be made
 9 upon said trustees or managers without a vote of the town.

Tuition of
 inmates of
 certain in-
 stitutions.
 1898, 496, § 8
 R. L. 44, § 4.
 1905, 375
 1911, 268, § 2.
 1913, 779, § 4
 1919, 291, cl. (f).

1 SECTION 12. Any child, with the consent of the school committee of
 2 the town where he resides, may attend, at the expense of said town,
 3 the public schools of another town, upon such terms as may be fixed
 4 by the two committees.

Attendance
 outside place
 of residence.
 1857, 132.
 G. S. 41, § 7.

1876, 186, § 2. 1898, 496, § 10. 1 Op. A. G. 427.
 P. S. 47, § 8. R. L. 44, § 5. 3 Op. A. G. 315.
 1894, 498, § 8. 103 Mass. 104.

1 SECTION 13. When any child described in section one leaves the
 2 school or institution where he is being educated because of change of
 3 residence to another town in the commonwealth, the superintendent of
 4 schools, in the case of a public school, or otherwise the person in charge,
 5 shall furnish such child a transfer card in a form prescribed by the de-
 6 partment of education which shall contain, in addition to any other
 7 information relative to him, his name, age, grade in school, and in every
 8 case possible, his new street and number, and shall forthwith send a
 9 duplicate thereof to the superintendent of schools of the town where the
 10 child is to reside.

Transfer cards.
 1915, 94.
 1925, 79.

1 SECTION 14. The department of education may provide transporta-
 2 tion to and from school, or board in place thereof, for such children of
 3 school age as live upon islands within the commonwealth that are with-
 4 out schools, in cases where the local authorities are not required by law
 5 to provide such transportation.

Transportation
 of children
 living upon
 islands.
 1903, 483.
 1919, 292, § 5;
 350, §§ 56-58

Op. A. G. (1920) 27.

1 SECTION 15. An unvaccinated child shall not be admitted to a public
 2 school except upon presentation of a certificate like the physician's
 3 certificate required by section one hundred and eighty-three of chapter
 4 one hundred and eleven. A child from a household where a person is
 5 ill with smallpox, diphtheria, scarlet fever, measles, or any other infectious

Vaccination.
 1855, 414, § 2.
 G. S. 41, § 8.
 P. S. 47, § 9.
 1884, 64.
 1885, 198.
 1894, 498.
 §§ 9, 10.

1898, 496, § 11
R. L. 44, § 6.
1906, 371.
1907, 215.
1918, 117.
195 Mass. 29
238 Mass. 528.
268 Mass. 585.

or contagious disease, or from a household exposed to contagion from any such disease in another household, shall not attend any public school during such illness or exposure until the teacher of the school has been furnished with a certificate from the local board of health, or from the attending physician, stating that danger of conveying such disease by such child has passed.

Exclusion
from school,
action for.
1845, 214.
1855, 256,
§§ 2-4
G. S. 41,
§§ 10-12.
P. S. 47.
§§ 11-13.
1894, 498,
§§ 12-14.

SECTION 16. The parent, guardian or custodian of a child refused admission to or excluded from the public schools shall on application be furnished by the school committee with a written statement of the reasons therefor, and thereafter, if the refusal to admit or exclusion was unlawful, such child may recover from the town in tort, and may examine any member of the committee or any other officer of the town, upon interrogatories.

1898, 496, § 9.	116 Mass. 365.	211 Mass. 66.
R. L. 44, § 7.	133 Mass. 103.	216 Mass. 19.
23 Pick. 224.	181 Mass. 127.	221 Mass. 427.
S. Cush. 160.	186 Mass. 456.	229 Mass. 304.
111 Mass. 499.		

Pupil not to
be excluded
without
hearing.
R. L. 44, § 8.

SECTION 17. A school committee shall not permanently exclude a pupil from the public schools for alleged misconduct without first giving him and his parent or guardian an opportunity to be heard.

165 Mass. 460.	211 Mass. 66.	229 Mass. 304.
186 Mass. 456.	216 Mass. 19.	

CHAPTER 77.

SCHOOL OFFENDERS AND COUNTY TRAINING SCHOOLS.

SECT.

1. Certain counties to maintain training schools. Commitments from and payments by other counties.
2. Visitation by certain state departments.
3. Habitual truants.
4. Habitual absentees.
5. Habitual school offenders.
6. Support of inmates.
7. Probation.

SECT.

8. Permits to be at liberty. Discharges.
9. Temporary release.
10. Disposition of unruly inmates.
11. Jurisdiction.
12. Supervisors of attendance.
13. Same subject. Duties.
14. Chapter not to affect certain special laws.

Certain
counties to
maintain
training
schools.
Commitments
from and
payments by
other counties.
1873, 262, § 5.
1881, 144
P. S. 48, § 14.
1884, 155.
1886, 282.
1890, 309.
1894, 498, § 16.
1895, 216
1896, 360.
1898, 496, § 22.
1901, 299.
R. L. 46, § 1.
1902, 256.
1906, 148.
1908, 103.

SECTION 1. The county commissioners of each county, except Barnstable, Berkshire, Franklin, Hampshire, Dukes, Nantucket and Suffolk, shall maintain either separately or jointly with the commissioners of other counties as hereinafter provided, in a suitable place, remote from a penal institution, a school for the instruction and training of children committed thereto as habitual truants, absentees or school offenders. The commissioners of two or more counties may, at the expense of said counties, establish and maintain a union school to be controlled by the chairmen of the commissioners of said counties. The chairmen of the commissioners of Norfolk, Bristol and Plymouth counties, having the management of the Norfolk, Bristol and Plymouth union training school, shall each be paid the sum of one hundred dollars annually by their respective counties. The commissioners of Barnstable, Berkshire,

14 Franklin, Hampshire, Dukes and Nantucket counties shall assign a
 15 training school established by law as the place for the instruction and
 16 training of children so committed within their respective counties, and
 17 shall pay for their support in said school such reasonable sum as the
 18 commissioners having control of said school may fix. Commitments
 19 from Boston, Chelsea, Revere and Winthrop shall be to the training
 20 school for Middlesex county. The town from which an habitual truant,
 21 absentee or school offender is committed to a county training school
 22 shall pay to the county maintaining it two dollars a week toward his
 23 support, and reports of the condition and progress of its pupils in said
 24 school shall be sent each month to the superintendent of schools of such
 25 town; but Boston, Chelsea, Revere and Winthrop shall pay to Middle-
 26 sex county, for the support of each child committed to the training
 27 school of said county, two dollars and fifty cents a week, and an addi-
 28 tional sum for each child sufficient to cover the actual cost of maintenance.

1913, 779, § 5
 1918, 257,
 § 184
 1919, 5,
 1920, 2, 40,
 1921, 173,
 Op. A. G.
 (1920) 242.

1 SECTION 2. County training schools shall be subject to visitation by
 2 the departments of education and of public welfare, and said depart-
 3 ments shall report thereon annually to the general court.

R. L. 46, § 2.

1919, 350, §§ 56, 87.

Visitation by
 certain state
 departments.
 1898, 496, § 23.

1 SECTION 3. A child between seven and sixteen who wilfully and
 2 habitually absents himself from school contrary to section one of chapter
 3 seventy-six, shall be deemed an habitual truant, and, unless placed on
 4 probation as provided in section seven, may, on complaint of a super-
 5 visor of attendance, be committed to a county training school.

1904, 220, § 1.

1906, 389.

1913, 779, §§ 6, 25.

1931, 394, § 141.

Habitual
 truants.
 1873, 262, § 3.
 P. S. 48, § 12
 1889, 249, § 2.
 1894, 498, § 21.
 1898, 496, § 24
 R. L. 46, § 3.
 1903, 330, § 1.

1 SECTION 4. A child between seven and sixteen found wandering
 2 about streets or public places, having no lawful occupation, habitually
 3 absent from school and growing up in idleness and ignorance, shall be
 4 deemed an habitual absentee, and, unless placed on probation as pro-
 5 vided in section seven, may, on complaint of a supervisor of attendance
 6 or any other person, be committed to a county training school.

Habitual
 absentees.
 1898, 496, § 25.
 R. L. 46, § 4.
 1903, 330, § 2.
 1904, 220, § 2.
 1913, 779, § 7.
 1931, 394,
 § 142.

1 SECTION 5. A child under sixteen persistently violating reasonable
 2 regulations of the school he attends, or otherwise persistently misbe-
 3 having therein, so as to render himself a fit subject for exclusion there-
 4 from, shall be deemed an habitual school offender, and, unless placed on
 5 probation as provided in section seven, may, on complaint of a supervisor
 6 of attendance, be committed to a county training school.

Habitual school
 offenders.
 1889, 249, § 2
 R. L. 46, § 6
 1898, 496, § 26.
 R. L. 46, § 5.
 1903, 330, § 3.
 1904, 220, § 3
 1913, 779, § 8

1931, 394, § 143.

1 SECTION 6. The court or magistrate by whom a child has been com-
 2 mitted to a county training school may make an order relative to the
 3 payment by his parents or by his guardian out of the ward's property
 4 to the county of the cost of his support while in said school, and may
 5 from time to time revise or alter such order or make a new order as the
 6 circumstances of the parents or ward may justify.

Support of
 inmates.
 1898, 496, § 27.
 R. L. 46, § 6
 1913, 779, § 9.
 1918, 257,
 § 185.
 1919, 5,
 1920, 2.

Op. A. G. (1920) 242.

1 SECTION 7. A court or magistrate by whom a child has been con-
 2 victed of an offence under this chapter may place him on probation
 3 under the oversight of a supervisor of attendance of the town where

Probation.
 1898, 496, § 28.
 R. L. 46, § 7.
 1931, 394,
 § 144.

the child resides, or of a probation officer of said court, for such period and upon such conditions as the court or magistrate may deem best; and if, within such period, the child violates the conditions of his probation, such supervisor of attendance or probation officer may, without warrant or other process, take the child before the court, who may thereupon sentence him or may make any other lawful disposition of the case.

Permits to be at liberty.
Discharges.
1896, 514
1898, 496, § 29;
580, § 1.
R. L. 46, § 8.
1904, 220, § 4.
1913, 779, § 10.
1931, 394,
§ 145.

SECTION 8. If the county commissioners deem it for the best interest of any child committed to a county training school under their control after notice and an opportunity to be heard has been given to the superintendent of schools, if any, otherwise to the school committee of the town from which such child was committed, they may permit him to be at liberty upon such conditions as they deem best; or, with the approval of the court which imposed the sentence, they may discharge him from said school. Thereupon they shall enter upon their records his name, the date of parole or discharge and the reason therefor; and a copy of such record shall be transmitted to the court by which, and to the school committee of the town from which, he was committed.

If such child, in the opinion of the commissioners, violates the conditions of his parole at any time before the expiration of the term of his commitment, the parole may be revoked. If a superintendent or a school committee furnishes evidence satisfactory to the commissioners of the child's violation of said conditions, the commissioners shall revoke such parole, and may thereupon issue an order directed to the supervisors of attendance or police officers of any town to arrest such child wherever found and return him to said school. Any such supervisor or officer shall arrest the child and return him to said school, where he shall be held, subject to this chapter, for the residue of the term of the original sentence.

The expense of such arrest and return, so far as approved by the commissioners, shall be paid by the county maintaining said school. A child who has been committed to a county training school shall be discharged from the custody and care of such school upon his becoming sixteen, whether then confined therein, or on parole.

Temporary release.
1899, 201.
R. L. 46, § 9.
1903, 308.

SECTION 9. If a near relative of a child confined on a sentence as an habitual truant, habitual absentee or habitual school offender dies or is seriously ill, any member of the trustees or county commissioners having charge of the institution may order such child released for a specified time, either in the custody of the superintendent or other officer or not, and may revoke, extend or otherwise modify such order. The expenses incurred in serving such order shall be approved and paid in the same manner as other expenses of the institution where the child is confined.

Disposition of unruly inmates.
1898, 496, § 30.
R. L. 46, § 10.
1903, 330, § 4.
1913, 779, § 11.
1918, 257,
§ 186.
1919, 5.
1920, 2.

SECTION 10. An inmate of a county training school persistently violating reasonable regulations thereof, or guilty of indecent or immoral conduct, or otherwise grossly misbehaving, so as to render himself an unfit subject for retention therein, may, on complaint of the officer in control of said school be committed, if a boy, under fifteen, to the Lyman school for boys, or, if over fifteen, to the industrial school for boys; or, if a girl, to the industrial school for girls.

1 SECTION 11. District courts, except the municipal court of Boston,
 2 trial justices and the Boston juvenile court shall have jurisdiction of
 3 offences arising under section one of chapter seventy-six and under this
 4 chapter. A summons or warrant issued by such court or justice may be
 5 served, at the discretion of the court or justice, by a supervisor of attend-
 6 ance or by any officer qualified to serve criminal process. On complaint
 7 against a child for any such offence, his parents, guardian or custodian
 8 shall be notified as required by section fifty-five of chapter one hundred
 9 and nineteen. A child against whom complaint as an habitual absentee
 10 is brought by any other person than a supervisor of attendance shall not
 11 be committed until notice and an opportunity to be heard have been
 12 given to the division of juvenile training in the department of public
 13 welfare.

Jurisdiction.
 1873, 262, § 1.
 P. S. 48, § 13.
 1890, 309.
 1894, 498, § 15.
 1898, 496, § 32.
 R. L. 46, § 11.
 1906, 489, § 4.
 1919, 350,
 § 87, 91,
 1931, 394,
 § 146.

1 SECTION 12. Every school committee shall appoint and fix the com-
 2 pensation of one or more supervisors of attendance, who may be either
 3 male or female, and shall make regulations for their government. Such
 4 supervisors shall not receive fees for their services. The committees of
 5 two or more towns may employ the same supervisors of attendance.

Supervisors of
 attendance.
 1873, 262, § 2.
 1874, 233, § 2.
 P. S. 48, § 11.
 1894, 498, § 20.
 1898, 496, § 33.
 R. L. 46, § 12.

1912, 552; 711.

1913, 779, § 13.

1928, 184, § 1.

1 SECTION 13. Supervisors of attendance shall inquire into all cases
 2 arising under sections one, two, four to eleven, inclusive, and fifteen of
 3 chapter seventy-six, sections three, four, five and eight of this chapter
 4 and sections ninety, ninety-two, ninety-three and ninety-five of chapter
 5 one hundred and forty-nine, and may make complaints and serve legal
 6 processes issued under this chapter. They shall, if the court so orders,
 7 have oversight of children placed on probation under section seven; of
 8 children suffering want to whom sections forty-nine to fifty-one, inclu-
 9 sive, of chapter one hundred and nineteen apply; of minors licensed by
 10 the school committee under section nineteen of chapter one hundred and
 11 one; and of children admitted to or attending shows or entertainments
 12 contrary to section one hundred and ninety-seven of chapter one hun-
 13 dred and forty. They may apprehend and take to school without a
 14 warrant any truant or absentee found wandering in the street or public
 15 places.

Same subject.
 Duties
 1873, 262, § 2.
 P. S. 48, § 11.
 1889, 422.
 1894, 498, § 23.
 1898, 496, § 34.
 R. L. 46, § 13.
 1913, 779, § 13.
 1931, 394,
 § 147.

1 SECTION 14. Nothing contained in this chapter shall affect chapter
 2 two hundred and two of the acts of nineteen hundred and eleven or chap-
 3 ter seven hundred and thirty-eight of the acts of nineteen hundred and
 4 fourteen relative to truants, absentees and school offenders in Boston.

Chapter not
 to affect cer-
 tain special
 laws.
 1911, 202.
 1914, 738.

CHAPTER 78.

LIBRARIES.

<p>SECT.</p> <p style="text-align: center;">GENERAL PROVISION.</p> <p>1. Existing corporations.</p> <p style="text-align: center;">LAW LIBRARIES.</p> <p>2. Organization of county law libraries.</p> <p>3. Use of libraries.</p> <p>4. Payments to county law libraries. Treasurer to give bond.</p> <p>5. County law libraries to receive legislative documents.</p> <p>6. Law libraries to receive certain documents.</p> <p style="text-align: center;">PUBLIC LIBRARIES.</p> <p>7. Cities and towns may establish public libraries.</p> <p>8. Public libraries may lend to non-residents, etc.</p> <p>9. Public libraries may return certain state publications.</p>	<p>SECT.</p> <p>10. Trustees of town libraries.</p> <p>11. Powers and duties of trustees.</p> <p>12. Trustees to make report.</p> <p>13. Law libraries not affected by three preceding sections.</p> <p style="text-align: center;">BOARD OF FREE PUBLIC LIBRARY COMMISSIONERS.</p> <p>14. Annual report.</p> <p>15. Board to advise officials of public libraries.</p> <p>16. Purchase of books for towns having no public library.</p> <p>17. Acceptance of law by towns.</p> <p>18. Limit of appropriations for libraries in towns.</p> <p>19. Board may aid public libraries.</p> <p>20. Examination and registration of librarians.</p> <p>21. Certain sections not applicable to cities.</p>
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GENERAL PROVISION.

Existing corporations. R. L. 38, § 1. SECTION 1. Library corporations and associations which have been legally established shall continue to have all the powers and privileges and be subject to all the duties and restrictions attaching thereto.

LAW LIBRARIES.

Organization of county law libraries. 1842, 94, § 1. 1856, 184. G. S. 33, § 2. P. S. 40, § 2. R. L. 38, § 2. SECTION 2. Attorneys at law who have been admitted to practice in the courts of the commonwealth and who are resident in a county for which there is no law library association may organize, under chapter one hundred and eighty, by the name of the law library association for such county, and may adopt by-laws which shall be subject to the approval of the superior court.

Use of libraries 1842, 94, § 2 SECTION 3. Inhabitants of the county shall, subject to the by-laws, have access to the library and the books therein. G. S. 33, § 5. P. S. 40, § 5. R. L. 38, § 3.

Payments to county law libraries. Treasurer to give bond 1856, 71, § 2. G. S. 33, § 7. 1881, 89. P. S. 40, § 6, 7. 1882, 246. 1897, 505. R. L. 38, § 4. 1912, 244. 1913, 181. 2 Op. A G 3. SECTION 4. County treasurers shall annually pay to the law library associations in their respective counties all sums which are paid into county treasuries during the year by the clerks of the courts to an amount not exceeding two thousand dollars in any year. They may also pay to said associations such further sums as the county commissioners consider necessary and proper. All sums so paid shall be applied to maintain and enlarge such libraries for the use of the courts and of citizens. The treasurer of every law library association, and of every bar association having in charge a law library supported in whole or part by the county, before receiving any money from the county treas-

11 urer, shall give bond, with sureties to the satisfaction of the county
 12 commissioners, conditioned for the faithful application of such money
 13 and for an annual return under oath to the county treasurer of the
 14 manner in which it has been expended, with items of all receipts and
 15 expenditures and proper vouchers therefor.

1 SECTION 5. Each law library association shall be entitled to receive
 2 from the sergeant-at-arms, immediately after their publication, one
 3 copy of the volume of the legislative documents of the senate and house,
 4 the journal of the senate and the journal of the house.

County law
 libraries to
 receive legisla-
 tive docu-
 ments.

1871, 387.

P. S. 40, § 8.

R. L. 38, § 5.

1 SECTION 6. All incorporated law libraries in the commonwealth shall
 2 be entitled to receive from the officers charged with the distribution
 3 of the same, copies of all books and documents to which the county
 4 law libraries are entitled by law, and one additional copy for each branch
 5 library maintained by them.

Law libraries
 to receive cer-
 tain docu-
 ments.
 1904, 209.

PUBLIC LIBRARIES.

1 SECTION 7. A town may establish and maintain public libraries
 2 for its inhabitants under regulations prescribed by the city council or
 3 by the town, and may receive, hold and manage any gift, bequest or
 4 devise therefor. The city council of a city or the selectmen of a town
 5 may place in such library the books, reports and laws which may be
 6 received from the commonwealth.

Cities and
 towns may
 establish public
 libraries.
 1851, 305,
 §§ 1, 3,
 G. S. 33,
 §§ 8, 9
 1866, 222.

1871, 26,
 P. S. 40, §§ 9-11.

R. L. 38, § 6.
 10 Allen, 169.

149 Mass. 154.

1 SECTION 8. Any free town public library may loan its books or other
 2 library material to any other such library or to citizens of other towns
 3 or non-residents, under such written conditions and regulations as may
 4 be made by the board of trustees or other authority having control
 5 of the library so loaning. Any town may raise money to pay the ex-
 6 penses of so borrowing books and other library material from the library
 7 of any other town.

Public libraries
 may loan to
 non-residents,
 etc.
 1911, 140
 1914, 118

1 SECTION 9. If the trustees of any town library shall vote not to
 2 keep or receive any of the books and reports which the state secretary
 3 is authorized to send thereto, the secretary, at the request of the super-
 4 visor of public records, may discontinue sending them. Any of said
 5 books and reports in the custody of any town library may be returned
 6 at its expense to the state library, or, with the sanction of the board
 7 of free public library commissioners, may otherwise be exchanged or
 8 disposed of.

Public libraries
 may return
 certain state
 publications.
 1913, 93.
 1919, 350, § 24.

1 SECTION 10. A town which raises or appropriates money for the
 2 support of a free public library, or free public library and reading room,
 3 owned by the town, shall, unless the same has been acquired entirely
 4 or in part through some gift or bequest which contains other condi-
 5 tions or provisions for the election of its trustees, or for its care and
 6 management, which have been accepted by the town, elect by ballot at
 7 a meeting a board of trustees consisting of any number of persons,
 8 male or female, divisible by three, which the town determines to elect.
 9 When such board is first chosen, one third thereof shall be elected for one

Trustees of
 town libraries.
 1888, 304,
 §§ 1, 2, 5,
 1889, 112.
 R. L. 38, § 7.
 [Not applicable
 to cities. See
 § 21.]

year, one third for two years and one third for three years, and there- 10
after one third shall be elected annually for a term of three years. The 11
board shall, from its own number, annually choose a chairman and 12
secretary and, if the town so votes, a treasurer, who shall give a bond 13
similar to that given by the town treasurer, in an amount and with 14
sureties to the satisfaction of the selectmen. Until the town otherwise 15
directs the town treasurer shall act as treasurer of the board of trustees. 16

Powers and
duties of
trustees.
1888, 304, § 4.
R. L. 38, § 8.
[Not applicable
to cities. See
§ 21.]

SECTION 11. The board shall have the custody and management of 1
the library and reading room and of all property owned by the town 2
relating thereto. All money raised or appropriated by the town for its 3
support and maintenance shall be expended by the board, and all money 4
or property which the town may receive by gift or bequest for said library 5
and reading room shall be administered by the board in accordance with 6
the provisions of such gift or bequest. 7

Trustees to
make report.
1888, 304, § 6.
R. L. 38, § 9.
[Not applicable
to cities. See
§ 21.]

SECTION 12. The board shall make an annual report to the town of 1
its receipts and expenditures and of the property in its custody, with a 2
statement of any unexpended balance of money and of any gifts or be- 3
quests which it holds in behalf of the town, with its recommendations. 4

Law libraries
not affected by
three preced-
ing sections.

SECTION 13. The three preceding sections shall not apply to library 1
associations, nor to a library organized under a special act. 2

1888, 304, § 7.

R. L. 38, § 10.

BOARD OF FREE PUBLIC LIBRARY COMMISSIONERS.

Annual report.
1890, 347, § 2.
R. L. 38, § 12.
1906, 183
1910, 396, § 2.

SECTION 14. The commissioner of education shall make an annual 1
report of the acts of the board of free public library commissioners, 2
including therein a full detail of expenditures under section nineteen. 3

1913, 316.

1914, 373, § 1.

1918, 189.

Board to
advise officials
of public
libraries.
1890, 347, § 3.
R. L. 38, § 13.
1924, 114.

SECTION 15. The board of free public library commissioners shall 1
advise the librarian or trustees of any free public library, and may on 2
request advise the librarian or other person in charge of the library of 3
any state or county institution, relative to the selection or cataloguing 4
of books and any other matter pertaining to the maintenance or admin- 5
istration of such library. 6

Purchase of
books for
towns having
no public
library.
1890, 347, § 11.
R. L. 38, § 11.
[Not applicable
to cities. See
§ 21.]

SECTION 16. Said board, upon the application of the library trustees 1
of a town which has complied with sections seventeen and eighteen, and 2
which has no free public library owned and controlled by the town, may 3
expend not more than one hundred dollars for books to be selected and 4
purchased by said board and delivered to said trustees for the purpose of 5
establishing a free public library. 6

Acceptance of
law by towns.
1890, 344, § 4.
R. L. 38, § 16.
[Not applicable
to cities. See
§ 21.]

SECTION 17. A town shall not be entitled to the benefits of the two 1
preceding sections until it accepts the same or has accepted correspond- 2
ing provisions of earlier laws and has elected a board of library trustees 3
as provided in section ten, nor until said trustees have made provision 4
satisfactory to said commissioners for the care and distribution of the 5
books furnished by them. 6

- 1 SECTION 18. Such town shall, if its last assessed valuation was one
 2 million dollars or over, annually appropriate from the dog tax, or other-
 3 wise provide for the use and maintenance of its free public library, not
 4 less than fifty dollars; if such valuation was less than one million dollars
 5 and not less than two hundred and fifty thousand, not less than twenty-
 6 five dollars; and if such valuation was less than two hundred and fifty
 7 thousand dollars, not less than fifteen dollars.
- 1 SECTION 19. The board of free public library commissioners may
 2 annually expend a sum not exceeding ten thousand dollars in aid of free
 3 public libraries, especially in those towns the valuation of which does not
 4 exceed one million dollars. Such aid may include the furnishing of books
 5 in small quantities, visits to libraries, the instruction of librarians, and
 6 such other means of encouraging and stimulating the small libraries as
 7 said board shall deem advisable.
- 1 SECTION 20. The board may determine by examination or by such
 2 rules as it may establish the selection and appointment of supervising
 3 librarians and all other library workers who are paid wholly or in part,
 4 under the authority of said board, by the commonwealth. Such selec-
 5 tion and appointment shall not be subject to chapter thirty-one.
 6 In order to assist library trustees who seek advice from the board in
 7 securing qualified librarians and assistants, the board shall keep a registry
 8 of librarians which shall give due credit for experience and successful
 9 accomplishment as well as for formal examination.
- 1 SECTION 21. Sections ten to twelve, inclusive, and sections sixteen
 2 to eighteen, inclusive, shall not apply to cities.

Limit of ap-
 propriations
 for libraries
 in towns.
 1890, 347, § 5.
 R. L. 38, § 17.
 [Not applicable
 to cities. See
 § 21.]

Board may aid
 public libraries
 1892, 255
 1900, 253
 R. L. 38, § 15
 1906, 183
 1913, 316
 1914, 373, § 1.

Examination and registra-
 tion of
 librarians.
 1915, 106.

Certain sec-
 tions not
 applicable to
 cities.

TITLE XIII.

EMINENT DOMAIN AND BETTERMENTS.

CHAPTER 79. Eminent Domain.

CHAPTER 80. Betterments.

CHAPTER 80A. Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.

CHAPTER 79.

EMINENT DOMAIN.

SECT.	SECT.
1. The order.	21. Death of party entitled to damages.
2. By whom taking made.	22. Pleading and procedure.
3. Recording order of taking. Proceedings to acquire possession of property, etc.	23. Different interests in same parcel.
4. Taking of registered land.	24. Tenant for life or years and remainderman.
5. Taking of land already in public use.	25. Damages to be placed in trust.
6. Award of damages when taking is by the public.	26. Appointment of trustee.
7. Award of damages when taking is by private corporation.	27. Other forms of different interests.
8. Notice.	28. Notice to holders of different interests.
9. Award of damages caused by order not constituting a taking.	29. Apportionment of damages.
10. Award of damages caused by acts in pais.	30. Appointment of guardian ad litem or trustee.
11. Petition for award of damages when land lies in more than one county, city or town.	31. Petition by tenant or trustee.
12. Measure of damages.	32. Mortgaged land.
13. Buildings and trees on land taken.	33. Apportionment of damages between mortgagor and mortgagee.
14. Petition to superior court.	34. Petition to be advanced for speedy trial.
15. Petition for damages to property in Dukes County or Nantucket.	35. Evidence of assessed value of land taken or injured.
16. Time of filing petition.	36. Discontinuance of petition.
17. Extension of time when proceedings are quashed.	37. Interest.
18. Extension of time if validity of proceedings is contested.	38. Costs.
19. Extension of time if time for locating or constructing work is extended.	39. Settlement and tender.
20. Petition by guardian, conservator or trustee.	40. Security for damages.
	41. Collection of award.
	42. Removal of structures in street to enforce payment of damages.
	43. Effect of abandonment of easement.
	44. Taking by the United States.
	45. Provisions of this chapter and chapter 80A exclusive.

The order
1693-4, 6, § 3.
1796, 58, § 6.
1802, 135, § 4.
1827, 77, § 7.
R. S. 21, § 10.
1859, 132, § 2.

SECTION 1. The taking of real estate or of any interest therein by right of eminent domain may be effected in the following manner. A board of officers upon whom authority to take real estate by eminent domain on behalf of any body politic or corporate has been conferred by

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5 law, having first complied with all the preliminary requirements pre-
 6 scribed by law, may adopt an order of taking, which shall contain a
 7 description of the land taken sufficiently accurate for identification, and
 8 shall state the interest therein taken and the purpose for which such
 9 property is taken, and in case such taking is for an improvement for
 10 which betterments may be assessed shall state whether betterments are
 11 to be assessed therefor. In case there are trees upon the land taken, or
 12 structures affixed thereto, the order of taking shall state whether the
 13 same are to be included in the taking, and, if they are not so in-
 14 cluded, shall allow the owner a reasonable time after the date of the
 15 order or after entry or possession to remove the same, to be specified in
 16 the order.

G. S. 43, § 13.
 1874, 275, § 2.
 P. S. 49,
 §§ 9, 13.
 1890, 270.
 1895, 488, § 5.
 1899, 421, § 3.
 R. L. 48, §§ 8,
 96.
 1912, 554, § 7.
 1917, 344, 11,
 §§ 8, 67.
 1918, 257,
 § 187, subs. 1.
 1919, 5
 1920, 2.
 3 Mass. 406,
 2 Pick. 162.
 6 Gray, 442.
 7 Gray, 109.

16 Gray, 36.	158 Mass. 284.	258 Mass. 115.
121 Mass. 42.	164 Mass. 306.	259 Mass. 478.
123 Mass. 289.	184 Mass. 416.	293 Mass. 124.
131 Mass. 470.	247 Mass. 46, 417.	272 Mass. 161.
141 Mass. 317.	255 Mass. 67.	Op. A. G. (1919) 107.
149 Mass. 328.		

1 SECTION 2. Where no other provision is made by law, a taking of
 2 land by eminent domain by or on behalf of the commonwealth shall be
 3 made by the governor and council, a taking by or on behalf of a county
 4 by the county commissioners of such county, a taking by or on behalf
 5 of a city by the aldermen, a taking by or on behalf of a town by the
 6 selectmen, a taking by or on behalf of a district by its prudential com-
 7 mittee, and a taking by or on behalf of a private corporation by its
 8 board of directors.

By whom
 taking made.
 1918, 257.
 § 187, subs. 2.
 1919, 5.
 1920, 2.

1 SECTION 3. The board of officers by whom an order of taking has
 2 been adopted under section one shall within thirty days thereafter cause
 3 a copy thereof, signed by them or certified by their secretary or clerk, or,
 4 in case of a taking by or on behalf of a city by a board of officers having
 5 no secretary or clerk, certified by the city clerk, to be recorded in the
 6 registry of deeds of every county or district in which the property taken
 7 or any of it lies. The copy of an order of taking made under chapter one
 8 hundred and fifty-nine in connection with proceedings thereunder to
 9 abolish grade crossings by the department of public works, or by the
 10 department of public utilities, may be filed and recorded without the pay-
 11 ment of any fee therefor. Upon the recording of an order of taking under
 12 this section, title to the fee of the property taken or to such other interest
 13 therein as has been designated in such order shall vest in the body politic
 14 or corporate on behalf of which the taking was made; and the right to
 15 damages for such taking shall thereupon vest in the persons entitled
 16 thereto unless otherwise provided by law; provided, however, that when
 17 a taking is made for the purpose of a highway or town way or for ditches
 18 or drains for draining the same, the right to damages shall not vest until
 19 such way, drain or ditch has been entered upon or possession thereof has
 20 been taken for the purpose of constructing the same, and if such entry
 21 is not made or possession taken within two years of the date of the order,
 22 the taking shall be void.

Recording
 order of taking.
 Proceedings
 to acquire
 possession of
 property, etc.
 R. S. 39, § 75.
 1857, 225, § 2.
 G. S. 48, § 2;
 63, § 18.
 1862, 203.
 1863, 108.
 1869, 111,
 §§ 2, 3; 303, § 1.
 1874, 372, § 58.
 1878, 135, § 2.
 P. S. 49, § 88;
 50, § 2, 3;
 112, § 89, 136.
 1888, 111,
 §§ 3, 4.
 1890, 270;
 428, § 9.
 1893, 82; 407,
 § 8.
 1894, 145;
 288, § 6.
 1895, 488, § 5.
 1897, 229, § 2.
 1898, 134; 404,
 § 2; 463, § 3.
 1899, 379, § 2;
 421, § 3.
 1901, 313, § 2.
 R. L. 25,
 §§ 56, 48;
 48, § 92, 97;
 49, § 2.
 111, §§ 91, 157;
 112, § 66.
 1902, 101.
 1906, 463;
 1, § 41, 11, § 74,
 111, §§ 114,
 158.
 1908, 372, § 2.
 1909, 429.
 1910, 544.
 1917, 329, § 3;
 344, 11, §§ 63,
 68.

23 If the person in possession of property which has been taken in fee, or
 24 in which an easement has been taken, by eminent domain under this
 25 chapter refuses to permit the body politic or corporate by which the
 26 taking was made to enter thereon and take possession thereof or to exer-
 27 cise its rights under the taking after thirty days' notice in writing sent to
 28 him by registered mail or posted upon the property so taken or in which

1918, 257.
 § 187, subs. 3.
 1919, 5.
 1920, 2.
 1924, 110.
 1926, 124.
 1930, 417, § 12.
 98 Mass. 491.
 101 Mass. 434.
 122 Mass. 348.
 123 Mass. 543.
 136 Mass. 477.
 140 Mass. 570.
 141 Mass. 317.

an easement has been so taken, the board of officers having the direction 29
 and control of the public improvement in connection with which the 30
 taking was made may issue its warrant to the sheriff of the county in which 31
 the property is situated or to his deputy directing him to make entry on 32
 the property so taken and to take possession thereof or of the easement 33
 therein which has been taken, on behalf of said body politic or corporate, 34
 and such sheriff or his deputy shall forthwith execute said warrant using 35
 such force as he may deem necessary for the purpose. 36

147 Mass. 618.	199 Mass. 369.	247 Mass. 46.
150 Mass. 350, 480.	200 Mass. 94.	255 Mass. 67.
164 Mass. 18.	211 Mass. 165.	259 Mass. 478.
173 Mass. 48.	213 Mass. 485.	266 Mass. 329.
186 Mass. 128.	220 Mass. 116.	268 Mass. 329, 497.
188 Mass. 338.	224 Mass. 292.	272 Mass. 457.
189 Mass. 513.		

Taking of
 registered land.
 1890, 270.
 1898, 562, § 90.
 1899, 424, § 3.
 R. L. 128, § 89.
 1918, 257.
 § 187, subs. 4.
 1919, 5.
 1920, 2.
 241 Mass. 442.
 266 Mass. 329.

SECTION 4. If land of a registered owner, or any right or interest 1
 therein, is taken by eminent domain, the board of officers by whom the 2
 taking is made shall file for registration in the proper registry district 3
 a description of the registered land so taken, giving the name of each 4
 owner thereof, referring by number and place of registration in the 5
 registration book to each certificate of title, and stating what estate or 6
 interest in the land is taken, and for what purpose. A memorandum 7
 of the right or interest taken shall be made on each certificate of title 8
 by the assistant recorder. If the fee simple of part of the registered land 9
 is taken a new certificate shall be entered to the owner for the land re- 10
 maining to him after such taking. All fees on account of any memoran- 11
 dum of registration or entry of new certificates shall be paid by the body 12
 politic or corporate which takes the land. 13

Taking of land
 already in
 public use.
 1855, 148, § 3.
 R. S. 39, § 55.
 1853, 351, § 1.
 G. S. 63, § 19.
 1862, 223, § 2.
 1874, 359, § 1;
 372, § 60.
 1875, 163,
 § 1, 3.
 1878, 135, § 2.
 P. S. 54, §§ 13,
 15; 87, § 3;
 112, § 91.
 1882, 151, § 10.
 1884, 134.
 1889, 414, § 2.
 1893, 75.
 1895, 503, § 2.
 R. L. 28, § 11;
 53, §§ 17-19;
 87, § 17; 88,
 § 2; 111, § 95.
 1906, 463, 11,
 § 78; 508, § 5.
 1907, 474, § 3.
 1909, 504,
 §§ 23, 107.
 1915, 157, § 2.
 1917, 344, VI,
 §§ 7-9.
 1918, 257,
 § 187, subs. 5.
 1919, 5.
 1920, 2.
 10 Mass. 70.
 5 Pick. 402.
 10 Pick. 247,
 270.
 13 Pick. 195.
 16 Pick. 87.
 3 Met. 445.
 4 Cush. 63.
 1 Gray, 203.
 5 Gray, 451.

SECTION 5. No portion of a state institution shall be taken for a 1
 public way, canal, railroad or railway without leave of the general court 2
 specially obtained. No portion of a highway, public building or cemetery 3
 shall be taken for railroad purposes outside the limits of the route fixed 4
 for such railroad without the consent of the town in which the land sought 5
 to be taken is situated. No portion of the land taken for or held as a 6
 park by a town under chapter forty-five shall be taken or used for a public 7
 way, canal, railroad or railway, or for altering or widening the same, 8
 without the approval of the board having control of the public parks of 9
 such town. No portion of a common or park dedicated to the use of the 10
 public, or appropriated to such use without interruption for a period of 11
 twenty years, shall be taken or used for a public way, canal, railroad or 12
 railway, or for altering or widening the same, except with the consent of 13
 the city or town in which such common or park is situated after public 14
 notice, given in the manner provided in cases of the laying out and altera- 15
 tion of highways, stating the extent and limits of the portion thereof 16
 proposed to be taken. Such consent shall be expressed by a vote of the 17
 inhabitants, if ten or more voters file a request in writing to that effect 18
 with the selectmen or aldermen within thirty days after the publication 19
 of the notice; in the absence of such request, consent shall be presumed. 20
 In a city such vote shall be taken by ballot on a day appointed for the 21
 purpose by the aldermen, which may be the day of any election. Notice 22
 that such vote is to be taken with a statement of the question to be voted 23
 upon shall be given by the aldermen in the manner provided by law for 24
 giving notice of city elections, fourteen days at least before the day ap- 25
 pointed therefor, and all provisions of law relative to elections consistent 26

27 herewith shall be applicable to such vote, and a certificate of the result
 28 shall be recorded by the city clerk.

7 Gray, 223.
 110 Mass. 491.

118 Mass. 391.
 119 Mass. 516.
 124 Mass. 368.
 135 Mass. 263.
 138 Mass. 277.

140 Mass. 87.
 148 Mass. 578.
 153 Mass. 561.
 154 Mass. 424.

156 Mass. 172.
 157 Mass. 55.
 166 Mass. 224, 347.
 183 Mass. 307.

184 Mass. 140.
 185 Mass. 186.
 212 Mass. 583.
 223 Mass. 213.

1 SECTION 6. When a taking is made on behalf of the commonwealth,
 2 or of a county, city, town or district, the board by whom the taking is
 3 made shall, at the time when the order of taking is adopted, award the
 4 damages sustained by persons in their property by reason of such taking.
 5 Such damages shall be paid by the body politic or corporate on behalf
 6 of which the taking was made, unless other provision is made by law;
 7 but when a taking is made for the purposes of a highway or town way,
 8 or of a ditch or drain for draining the same, or for the purpose of abolish-
 9 ing a grade crossing under chapter one hundred and fifty-nine, the amount
 10 awarded shall not be payable until entry is made upon the land within
 11 the limits of the taking, or possession thereof is taken for the purpose of
 12 constructing such way, ditch or drain or for abolishing such grade
 13 crossing.

Award of
 damages when
 taking is by
 the public.
 1842, 86.
 1847, 259, § 4.
 G. S. 43, §§ 15,
 63.
 P. S. 49, §§ 15,
 69.
 1882, 154, § 5.
 1890, 428, § 5.
 1891, 125.
 1893, 407, § 7.
 1894, 216;
 288, § 5
 1895, 406, § 6.
 1897, 264.
 1898, 209;
 463, § 2
 1900, 463.
 1901, 313, § 3.

R. L. 25, § 37; 28, § 20;
 48, §§ 13, 69; 111, § 153.
 1903, 478.
 1905, 408, § 3.
 1906, 463, I, §§ 37, 68.
 1908, 390, § 1.
 1910, 508, § 2.
 1917, 329, § 3;
 344, II, §§ 14, 43.
 1918, 257, § 187,
 subs. 6.
 1919, 5.
 1920, 2.

22 Pick. 263.
 2 Met. 558.
 10 Met. 465.
 12 Met. 123.
 3 Cush. 25, 58.
 8 Cush. 360.
 2 Gray, 267.
 4 Gray, 537.
 5 Gray, 35, 372.
 9 Gray, 346.
 3 Allen, 538.
 98 Mass. 491.
 101 Mass. 439.

108 Mass. 535.
 116 Mass. 165.
 117 Mass. 76, 79.
 121 Mass. 42.
 122 Mass. 538.
 125 Mass. 216.
 137 Mass. 255.
 144 Mass. 139, 579.
 162 Mass. 170.
 164 Mass. 18, 354.
 166 Mass. 508.
 178 Mass. 382.
 183 Mass. 295.

187 Mass. 45.
 189 Mass. 439,
 505, 549.
 193 Mass. 488.
 197 Mass. 412, 531.
 202 Mass. 585.
 230 Mass. 116.
 221 Mass. 169.
 228 Mass. 202.
 259 Mass. 478.
 263 Mass. 124.
 272 Mass. 457.

1 SECTION 7. When a taking is made on behalf of a railroad corpora-
 2 tion, the damages shall be awarded by the county commissioners of the
 3 county in which the land taken lies, upon the petition of such corpora-
 4 tion or of any person entitled thereto, if filed within one year of the
 5 date when the taking is recorded. When the taking is made on behalf
 6 of a private corporation other than a railroad corporation the damages
 7 shall be awarded by the aldermen of the city, or the selectmen of the
 8 town, in which the land taken lies, upon the petition of such corporation
 9 or of any person entitled thereto, if filed within one year of the date
 10 when the taking is recorded; provided, that there shall be no award of
 11 the damages caused by the taking of land or other acts performed in the
 12 abolition or alteration of a grade crossing under chapter one hundred
 13 and fifty-nine, but the amount of such damages may be agreed upon by
 14 the party primarily liable therefor and any person entitled thereto. A
 15 petition for an award of damages under this section may be filed in the
 16 office of the board having jurisdiction of the subject matter thereof at any
 17 time within the period herein limited, but no petition shall be received
 18 or damages awarded under this section after a petition with respect to
 19 the same subject matter has been filed in the superior court under section
 20 fourteen.

Award of
 damages when
 taking is by
 private cor-
 poration.
 1833, 187, § 1.
 1834, 137, § 1.
 1835, 148, § 3.
 R. S. 39, §§ 55,
 56, 58, 63, 76.
 1849, 93, §§ 4,
 5; 153.
 1853, 351, § 1.
 1854, 448, § 33.
 G. S. 63, §§ 19,
 21, 29, 36, 39;
 64, §§ 4, 5.
 1864, 293.
 1868, 56.
 1874, 372.
 §§ 63, 64;
 283, § 1.
 1875, 223, § 1.
 P. S. 49, § 106;
 109, §§ 4, 5;
 112, §§ 95, 96.
 1884, 306, § 1.
 1895, 359
 R. L. 48, § 111.
 111, § 59.
 100, 122, § 3.
 1906, 463, II,
 §§ 83, 84
 1912, 725,
 II, § 3.

1917, 344, II, § 81.
 1918, 257, § 187, subs. 7.
 1919, 5.
 1920, 2.
 3 Met. 380.
 7 Met. 78.
 3 Cush. 107.
 4 Cush. 291, 467.
 10 Cush. 385.
 12 Cush. 224.

4 Gray, 301.
 7 Gray, 389, 450.
 7 Allen, 315.
 14 Allen, 55.
 103 Mass. 1, 10.
 105 Mass. 303.
 107 Mass. 352.
 109 Mass. 527.
 112 Mass. 334.
 113 Mass. 52, 277.

121 Mass. 124.
 124 Mass. 118.
 125 Mass. 1.
 127 Mass. 571.
 136 Mass. 75.
 141 Mass. 174.
 152 Mass. 506.
 172 Mass. 497.
 174 Mass. 90.
 194 Mass. 80.

Notice.

1835, 122.
R S 24, § 67.
G S 43, § 61.
1868, 160, § 4.
1871, 158.
1874, 51.
1874, 341.
P S 49, §§ 67,
89, 90, 80, § 71.
R L 48, § 93.
1904, 415, § 5.
1905, 390.
1911, 486, § 1.
1917, 344, II,
§§ 57, 64.
1918, 257,
§ 187, subs. 8.
1919, 5.
1920, 2.
1 Met. 404.
2 Met. 220.
2 Gray, 414.
98 Mass. 491.
119 Mass. 489.
121 Mass. 162.
136 Mass. 477.
146 Mass. 194.
166 Mass. 399.
174 Mass. 424.
178 Mass. 276.
197 Mass. 414,
533.

Award of damages caused by order not constituting a taking.

1842, 86.
1847, 259, § 4.
1849, 93, § 4.
G S 43, §§ 15,
63; 64, § 4.
P S 49, §§ 15,
69; 169, § 4.
1884, 296, § 1.
1895, 350, 488,
§ 13.
R L 48, §§ 14,
69, 122, § 3.
1917, 344, II,
§§ 15, 43.
1918, 257,
§ 187, subs. 9.
1919, 5.
1920, 2.
12 Mass. 466.
1 Pick. 418.
21 Pick. 344.
2 Met. 508.
3 Met. 380.
5 Met. 81, 368.
7 Met. 276.
8 Met. 260.
3 Cush. 91, 107.
7 Cush. 254.
9 Cush. 1.
10 Cush. 235.
12 Cush. 224.
2 Gray, 137.
4 Gray, 301.
5 Gray, 35, 110.

SECTION 8. Immediately after the right to damages becomes vested, the board of officers who have made a taking under this chapter shall give notice thereof to every person whose property has been taken or who is otherwise entitled to damages on account of such taking. Such notice shall be in writing and shall describe in general terms the purpose and extent of the taking, and shall state the amount of damages, if any, awarded to the person to whom it is sent, or, if no damages have been awarded, the time within which he may petition for an award of the same, and in either case the time within which he may petition the superior court to determine his damages under section fourteen. Such notice may be served by personal service, or by leaving an attested copy thereof at the last and usual place of abode of the person to be notified if he is a resident of the commonwealth, by any person authorized to serve civil process, or notice may be given to persons within or without the commonwealth, by registered mail or other suitable means. Failure to give notice shall not affect the validity of the proceedings, or the time within which a petition for damages may be filed, except as provided by section sixteen.

247 Mass. 46.

272 Mass. 457.

SECTION 9. When injury has been caused to the real estate of any person by the establishment, construction, maintenance, operation, alteration, repair or discontinuance of a public improvement which does not involve the taking of private property, and he is entitled to compensation by law for such injury, if such establishment, construction, maintenance, operation, alteration, repair or discontinuance was effected by or in accordance with a formal vote or order of the board of officers of a body politic or corporate duly authorized by law, the damages shall be awarded, determined and collected and notice of the order shall be given in the same manner as if there had been a taking of property on behalf of such body politic or corporate under section one. In case such establishment, construction, maintenance, operation, alteration, repair or discontinuance is an improvement for which betterments may be assessed, such vote or order shall state whether betterments are to be assessed therefor. The damages shall be assessed as of the date when the vote or order is adopted, but the right to damages shall not vest and the damages shall not be paid until the work which caused the injury has been completed, or until the public improvement which has been discontinued has ceased to be open to public use, and if the order does not go into effect, or is rescinded or altered, only so much of the damages shall be paid as has been actually sustained.

6 Gray, 544.
11 Gray, 26, 353.
3 Allen, 501, 574.
19 Allen, 591.
14 Allen, 55.
98 Mass. 428.
103 Mass. 1.
108 Mass. 261.
111 Mass. 27.
113 Mass. 52, 111, 218.
114 Mass. 490.
116 Mass. 458.
121 Mass. 5, 211.
122 Mass. 1, 342.
123 Mass. 522.
124 Mass. 461, 564.
125 Mass. 253.
126 Mass. 422.
127 Mass. 69.
131 Mass. 491.
133 Mass. 65, 361, 433, 488.
134 Mass. 267.
136 Mass. 75, 409.
137 Mass. 255, 478.

139 Mass. 389.
141 Mass. 174.
143 Mass. 499.
144 Mass. 139, 579.
147 Mass. 618.
149 Mass. 44.
151 Mass. 196.
152 Mass. 307.
153 Mass. 218, 245.
154 Mass. 190, 509.
157 Mass. 17.
158 Mass. 185.
159 Mass. 597.
162 Mass. 170.
163 Mass. 164.
164 Mass. 1, 18, 350, 354.
166 Mass. 403, 480.
167 Mass. 361.
170 Mass. 593.
172 Mass. 186, 197.
174 Mass. 556.
175 Mass. 246, 459.
176 Mass. 75.
177 Mass. 173.

178 Mass. 385, 386, 526.
181 Mass. 76.
182 Mass. 230, 351, 397, 537.
183 Mass. 178, 254, 294,
421, 586.
184 Mass. 279, 566.
186 Mass. 540, 594.
187 Mass. 45, 328, 356.
188 Mass. 405, 414.
189 Mass. 254, 439.
191 Mass. 75, 103, 223, 513.
194 Mass. 80, 302.
197 Mass. 4.
199 Mass. 274, 292.
200 Mass. 400, 425.
201 Mass. 585.
202 Mass. 115, 422, 585.
203 Mass. 31, 372.
209 Mass. 298, 419.
214 Mass. 254.
215 Mass. 381.
218 Mass. 220, 321.
220 Mass. 116, 376, 575.
221 Mass. 169.

1 SECTION 10. When the real estate of any person has been taken for
 2 the public use or has been damaged by the construction, maintenance,
 3 operation, alteration, repair or discontinuance of a public improvement
 4 or has been entered for a public purpose, but such taking, entry or
 5 damage was not effected by or in accordance with a formal vote or
 6 order of the board of officers of a body politic or corporate duly author-
 7 ized by law, or when the personal property of any person has been
 8 damaged, seized, destroyed or used for a public purpose, and by such
 9 taking, damage, entry, seizure, destruction or use he has suffered an
 10 injury for which he is entitled to compensation, the damages therefor
 11 may be recovered under this chapter. If the injury was caused by or
 12 on behalf of the commonwealth or of a county, city, town or district,
 13 the officer or board of officers under whose direction or control the
 14 injury was caused shall award the damages upon the petition of any
 15 person entitled thereto. If the injury was caused by a railroad corpora-
 16 tion, the county commissioners of the county in which the property
 17 taken, damaged, entered upon, seized, destroyed or used was located,
 18 and, if the injury was caused by a private corporation other than a
 19 railroad, the aldermen of the city or the selectmen of the town in which
 20 such property was located, shall award the damages upon the petition
 21 of any person entitled thereto or of the corporation liable therefor. In
 22 case of a specific taking, entry, seizure or other act causing destruction
 23 or damage or depriving the owner of the use of his property permanently
 24 or for a definite period of time the damages shall be assessed as of the
 25 date of such taking, entry, seizure or other act and the right thereto
 26 shall vest on such date and a petition for an award of damages therefor
 27 under this section may be filed within one year thereafter; otherwise
 28 damages shall be assessed with respect to any parcel of property as of
 29 the date when such property was first injuriously affected, the right
 30 thereto shall vest upon the completion of the public improvement which
 31 caused the injury, and a petition for an award of damages therefor
 32 under this section may be filed within one year after such completion.

Award of
 damages caused
 by acts in pais.
 1796, 88, § 3.
 R. S. 18, § 7;
 25, § 6.
 1859, 67.
 G. S. 24, § 5;
 41, §§ 19, 20.
 1871, 158.
 1873, 51.
 P. S. 35, § 5;
 52, §§ 14, 16.
 1893, 65.
 1891, 191, § 46.
 1895, 196, § 11.
 1899, 198, § 33.
 R. L. 32, § 13.
 51, §§ 15, 19,
 90, § 26.
 1907, 191, § 7.
 418.
 1916, 190, § 8.
 1917, 344.
 IV, §§ 21, 22.
 1918, 257.
 § 187, subs. 10,
 §§ 191, 193.
 1919, 5.
 1920, 2.
 8 Met. 172,
 462.
 10 Cush. 411.
 106 Mass. 84.
 174 Mass. 450.
 179 Mass. 365.
 187 Mass. 328,
 545.
 195 Mass. 64.
 199 Mass. 530.
 220 Mass. 575.
 229 Mass. 563.
 246 Mass. 349.

1 SECTION 11. If a single parcel of land taken or injured by a private
 2 corporation lies in more than one county or in more than one town, a
 3 petition for an award of damages under section seven may be made to
 4 the appropriate board of officers of either of such counties or of either of
 5 such towns. The board of officers to whom petition is first made shall
 6 have exclusive jurisdiction thereof, and shall award said damages as
 7 though the land lay entirely in one county, or in one town. If land
 8 injured by a public improvement lies outside the commonwealth, the
 9 petition may be made to the board which would have jurisdiction if it
 10 lay in the same county, or in the same town, as such public improvement.

Petition for
 award of
 damages when
 land lies in
 more than one
 county, city or
 town.
 1853, 5, §§ 1, 2.
 G. S. 63, § 23.
 1874, 372, § 73.
 P. S. 112, § 105.
 R. L. 111, § 109.
 1906, 463, 11,
 § 93.
 1918, 257.
 § 187, subs. 11.
 1919, 5.
 1920, 2.

142 Mass. 394.

1 SECTION 12. The damages for property taken under this chapter
 2 shall be fixed at the value thereof before the taking, and in case only
 3 part of a parcel of land is taken there shall be included damages for all
 4 injury to the part not taken caused by the taking or by the public im-
 5 provement for which the taking is made; and there shall be deducted
 6 the benefit accruing to the part not taken unless it was stated in the
 7 order of taking that betterments were to be assessed. In determining
 8 the damages to a parcel of land injured when no part of it has been
 9 taken, regard shall be had only to such injury as is special and peculiar

Messure of
 damages.
 R. S. 24, § 31.
 1842, 86, § 2.
 G. S. 43, § 16.
 1869, 174, § 2.
 1868, 75.
 1871, 382, § 3.
 P. S. 49, § 16,
 51, § 3.
 1895, 488,
 § 13.
 R. L. 48, § 15;
 50, § 3.
 1917, 344, 11,
 § 16, 111, § 3.

1918, 257,
 § 187, subs. 12.
 1919, 5.
 1920, 2.
 2 Mass. 489.
 5 Mass. 435.
 6 Mass. 246.
 454.
 17 Pick. 58.

to such parcel, and there shall be deducted the benefit accruing to such 10
 parcel, unless it was stated in the order of taking, or if there was no 11
 taking in the order for the establishment, construction, alteration, repair 12
 or discontinuance of the public improvement which caused the injury, 13
 that betterments were to be assessed. 14

2 Met 147.	116 Mass 200.	169 Mass 103.
3 Met 380.	117 Mass 363.	172 Mass 289.
5 Met 3088.	118 Mass 546.	173 Mass 100, 425.
4 Cush. 291.	119 Mass 126, 404.	507, 552.
2 Gray, 267, 271.	120 Mass 393, 395.	175 Mass 299.
4 Gray, 537.	121 Mass 124.	177 Mass 46.
5 Gray, 35.	122 Mass 1, 34, 226.	178 Mass 172, 225, 386.
7 Gray, 106.	371, 544, 557.	179 Mass 365.
11 Gray, 26, 413, 415.	127 Mass 571.	180 Mass 325.
13 Gray, 146, 546.	133 Mass 253.	181 Mass 374, 438.
14 Gray, 155, 214.	134 Mass 98.	183 Mass 178.
15 Gray, 106, 154.	135 Mass 561.	184 Mass 279, 304, 541.
1 Allen, 324.	136 Mass 75.	188 Mass 405.
3 Allen 133.	137 Mass 163, 319.	191 Mass 225, 513.
7 Allen, 313.	143 Mass 521.	193 Mass 196.
12 Allen, 223.	144 Mass 139, 317.	195 Mass 338.
98 Mass 312.	147 Mass 609.	196 Mass 171.
100 Mass 350.	151 Mass 28, 250.	201 Mass 585.
103 Mass 1, 10.	155 Mass 35.	202 Mass 115, 585.
104 Mass 18.	157 Mass 218.	209 Mass 298.
105 Mass 199.	158 Mass 21, 185, 526.	210 Mass 259.
106 Mass 53.	159 Mass 283.	212 Mass 299.
108 Mass 60, 70, 160, 535.	160 Mass 303.	215 Mass 150, 255, 381.
109 Mass 225, 243, 438.	162 Mass 422.	220 Mass 507.
110 Mass 224.	163 Mass 164.	221 Mass 169.
112 Mass 181.	164 Mass 1, 107, 368, 380.	223 Mass 119.
113 Mass 88, 97, 111, 262.	165 Mass 88.	235 Mass 1.
114 Mass 490, 513.	167 Mass 128.	264 Mass 9.
115 Mass 1, 377.	168 Mass 364, 541.	271 Mass 415.

Buildings and
 trees on land
 taken
 1093-4, 6, § 3.
 1796, 58, § 6.
 1802, 155, § 4.
 1827, 77, § 7.
 R. S. 24, § 10.
 1848, 98,
 § 1, 2.
 1859, 132,
 § 1, 2, 4.
 G. S. 43, §§ 13,
 74.
 1866, 174,
 § 2, 4.
 1868, 75.
 1869, 367, § 3.
 1871, 382,
 § 3, 4.
 P. S. 49, §§ 9,
 17, 80; 51, § 3.
 R. L. 48, §§ 8,
 16, 81, 50, § 3.
 1912, 554, § 7.
 1917, 344, 11,
 §§ 8, 17, 55,
 111, § 3.
 1918, 257,
 § 187, subs. 13.
 1919, 5.
 1920, 2.
 3 Mass 406.
 6 Gray, 412.
 7 Gray, 109.
 121 Mass 42.
 149 Mass 328.
 151 Mass 28.
 184 Mass 416.

SECTION 13. If there are trees upon or structures affixed to the land 1
 taken which are not included in the taking, the owner may remove the 2
 same, but the damages shall include the value thereof, so far as they 3
 enhance the value of the land, and the value thereof for purposes of 4
 removal shall be deducted from the damages. If part of a parcel to 5
 which structures are affixed is taken, the damages shall include the value 6
 of all structures upon such parcel so far as they enhance the value of 7
 the land, deducting therefrom the value of all structures or parts thereof 8
 left standing on the part not taken, and, if the taking did not include 9
 the structures, the value for purposes of removal of the structures upon 10
 the part taken. If the owner of trees upon land taken refuses or neg- 11
 lects to remove them within the time specified in the order of taking, 12
 he shall be deemed to have relinquished his rights thereto. If the owner 13
 of structures upon land taken refuses or neglects to remove them within 14
 the time specified in the order of taking, the officers having the direction 15
 and control of the public improvement in connection with which the 16
 taking was made shall sell such structures at public auction, after five 17
 days' notice of such sale, and hold the proceeds for the benefit of such 18
 owner, and the expenses of such sale shall be deducted from the owner's 19
 damages; but if such property is of less value than the estimated ex- 20
 pense of such sale no sale need be made. In that case, or if at the sale 21
 no person bids for such property, the owner thereof shall be held to 22
 have relinquished his right thereto. If the owner of personal property 23
 lying upon land taken refuses or neglects to remove it after reasonable 24
 notice in writing from the officers having the direction and control of 25
 the public improvement in connection with which the taking was made, 26
 he shall be held to have relinquished his right thereto. 27

Petition to
 superior court
 1756 7, 18, § 2.
 1786, 67, § 1.
 1812, 121.

SECTION 14. A person entitled to an award of his damages under 1
 this chapter or the body politic or corporate bound to pay the same, 2
 whether a petition has or has not been filed or award made under sec- 3

4 tion six, seven, nine or ten, may petition for the assessment of such
 5 damages to the superior court of the county in which the property
 6 taken or injured was situated. If a single parcel of land so taken or
 7 injured lies in more than one county, the petition may be filed in the
 8 superior court of either such county, and the court in which such petition
 9 is first filed shall have exclusive jurisdiction thereof and shall assess
 10 damages as though the land lay entirely in one county; provided, that
 11 if a petition for damages has previously been filed under section eleven,
 12 the petition to the superior court shall be filed in the same county. If
 13 the land injured lies outside the commonwealth, such petition shall be
 14 filed in the superior court of the county in which the public improvement
 15 which caused the injury is situated.

1833, 187, § 1.
 1844, 173.
 R 8, 24, § 13;
 39, §§ 57, 64.
 1841, 125, § 3.
 1812, 86, § 3.
 1847, 181, § 1.
 1848, 237.
 1851, 86.
 1857, 5, §§ 1, 2.
 1855, 10.
 G 8, 39, §§ 38,
 39, 43, § 19, 63,
 § 22, 23, 37.
 1869, 26;
 411, § 2.
 1870, 75, § 1.
 1874, 261
 1874, 312, 372.
 § 67, 74

1876, 22.
 1881, 7, 122.
 P. S. 27, § 42; 44, §§ 48, 49;
 49, §§ 32, 105, 107, 109,
 112, §§ 99, 105.
 1882, 154, § 5.
 1890, 270.
 1893, 407, § 7.
 1894, 175; 288, § 5
 1895, 406, § 6;
 488, § 13
 1897, 290, §§ 3, 4.
 1898, 463, § 2
 1899, 306, § 1, 379, §§ 3, 4;
 424, § 2.
 1900, 299.
 1901, 313, § 3.

R. L. 25, §§ 37, 49; 28, § 20;
 48, §§ 27, 109, 113; 111,
 §§ 103, 109.
 1905, 456, § 5.
 1906, 464, 11, §§ 87, 93
 1910, 508, § 2.
 1914, 33.
 1917, 344, 11, §§ 27, 79, 83
 1918, 257, § 187,
 subs. 14.
 1919, 5.
 1920, 2.
 100 Mass. 103.
 117 Mass. 76.
 119 Mass. 485.
 126 Mass. 287.
 127 Mass. 571.

129 Mass. 135.
 139 Mass. 172, 210.
 143 Mass. 52.
 149 Mass. 192.
 149 Mass. 329.
 160 Mass. 483, 486.
 174 Mass. 406
 176 Mass. 118
 189 Mass. 513, 540.
 194 Mass. 80.
 223 Mass. 66.
 224 Mass. 292.
 246 Mass. 549.
 264 Mass. 9.
 268 Mass. 497.
 271 Mass. 415.
 272 Mass. 372.

1 SECTION 15. Any person entitled to file a petition under section
 2 fourteen for damages arising from the taking of property in the county
 3 of Dukes or of Nantucket, or for injury thereto, may file such petition
 4 in the superior court for the county in which the property was situated
 5 or in the superior court for the county of Bristol.

Petition for
 damages to
 property in
 Dukes County
 or Nantucket.
 1857, 50.
 R. L. 48, § 110.
 1917, 344, 11,
 § 80.

1918, 257, § 187, subs. 15.

1919, 5.

1920, 2.

1 SECTION 16. A petition for the assessment of damages under section
 2 fourteen may be filed within one year after the right to such damages
 3 has vested; but any person whose property has been taken or injured,
 4 and who has not received notice under section eight or otherwise of the
 5 proceedings whereby he is entitled to damages at least sixty days before
 6 the expiration of such year, may file such petition within six months
 7 from the time when possession of his property has been taken or he has
 8 otherwise suffered actual injury in his property.

Time of filing
 petition.
 1756-7, 18, § 2.
 1786, 67, § 4.
 1812, 121.
 1827, 77, § 12.
 1854, 173, § 1.
 R 8, 24, § 14.
 1812, 86, § 3.
 1849, 200.
 1857, 133.
 G 8, 43, § 22.
 1874, 341.

P. S. 49, §§ 33, 89, 90
 1890, 270
 1892, 415, § 1.
 1893, 407, § 7.
 1894, 288, § 5.
 1895, 406, § 6; 488, § 13.
 1898, 463, § 2.
 1899, 424, § 3.
 1901, 313, § 3.
 R. L. 25, § 37; 48, §§ 28, 93.
 1905, 456, § 5.
 1917, 344, 11, §§ 28, 64.
 1918, 257, § 187, subs. 16.
 1919, 5.
 1920, 2.

8 Cush. 360
 11 Cush. 487
 2 Gray, 232.
 7 Gray, 389.
 9 Gray, 341.
 99 Mass. 236.
 117 Mass. 78, 566.
 120 Mass. 416.
 128 Mass. 97.
 137 Mass. 482.
 144 Mass. 459, 470.
 147 Mass. 618.
 150 Mass. 564.
 175 Mass. 590.

181 Mass. 380.
 185 Mass. 219.
 186 Mass. 79.
 187 Mass. 328.
 189 Mass. 513.
 193 Mass. 530.
 197 Mass. 412.
 205 Mass. 31.
 224 Mass. 292.
 246 Mass. 349.
 250 Mass. 471.
 251 Mass. 41.
 256 Mass. 41.
 268 Mass. 329.

1 SECTION 17. If a person petitions for an award or assessment of his
 2 damages within the time limited by law, or is a party to such petition
 3 by another person, and the petition is quashed, abated or otherwise
 4 avoided or defeated for any inaccuracy, irregularity or matter of form,
 5 or if, after verdict for such petitioner or other party, the judgment is
 6 arrested or reversed on a writ of error, or the proceedings are quashed

Extension of
 time when pro-
 ceedings are
 quashed.
 1847, 181, § 2.
 G 8, 63, § 31.
 1874, 372, § 80
 P. S. 112, § 112.
 R. L. 111, § 116.
 1906, 463, 11,
 § 100.

1918, 257,
§ 187, subs. 17.
1919, 5.
1920, 2.
125 Mass. 483.

on certiorari, such petitioner or other party may begin such proceedings anew within one year after such abatement, reversal or other determination.

268 Mass. 329.

Extension of
time if validity
of proceedings
is contested
1756-7, 18, § 2.
1786, 67, § 4.
1812, 121
1827, 77, § 12.
1834, 173, § 1.
1835, 148, § 7.
R. S. 24, § 14;
39, § 59.
1842, 86, § 3.
1849, 200.
1857, 133
G. S. 43, § 22;
63, § 30
1874, 372, § 79.

SECTION 18. If a suit, in which the right of a body politic or corporate to effect a particular public improvement or to make a particular taking is drawn in question, is brought within the time for filing a petition to the proper tribunal for an award or assessment of the damages caused by such improvement or taking, or within six months after the determination of an earlier suit involving the same question, brought within the time for filing such petition, which failed for want of jurisdiction, defect of form or other like cause not decisive of the merits of the controversy, the petition may be filed within six months after the final determination of such suit.

P. S. 49, § 33; 112, § 111.	1904, 186.	7 Gray, 450.
1892, 415, § 1.	1906, 463, II, § 99.	99 Mass. 236.
1899, 342.	1917, 344, II, § 28.	117 Mass. 79.
1900, 108, § 1.	1918, 257, § 187, subs. 18.	128 Mass. 97.
1901, 498.	1919, 5.	137 Mass. 478.
R. L. 48, § 28; 111, § 115.	1920, 2.	

Extension of
time if time for
locating or con-
structing work
is extended.
1862, 103
1874, 372, § 78.
P. S. 112, § 110.
R. L. 111, § 114.
1906, 463, II,
§ 98.
1918, 257,
§ 187, subs. 19.
1919, 5.
1920, 2.

SECTION 19. If the time for locating or constructing a public improvement by a private corporation shall be extended by statute, all unsettled claims against the corporation for damages to land shall be revived, and the claimants for such damages may petition to the proper tribunal within one year after the taking effect of such statute. This section shall not apply to cases in which, by reason of a defect in the original location of a public improvement already constructed, there has been a new location thereof.

Petition by
guardian,
conservator or
trustee.
R. S. 39, § 93.
G. S. 63, § 24.
1874, 372, § 74.
P. S. 112, § 106.
R. L. 111, § 110.

SECTION 20. If damages may be recovered under this chapter for the taking of or injury to property of a person under guardianship or conservatorship or property held in trust, the guardian, conservator or trustee may petition for and recover, and may release all such damages in like manner as if the land or other property were held in his own right.

1906, 463, II, § 94.	1918, 257, § 187, subs. 20.	1919, 5. 1920, 2.
1915, 23.		

Death of party
entitled to
damages.
1805, 99, § 2.
1822, 110, § 1.
1828, 112.
1834, 2.
R. S. 14, § 66;
93, § 7.
1842, 89, § 1.
1859, 228.

SECTION 21. If a person who is entitled to petition for an award or assessment of his damages under this chapter dies without filing such petition within the time limited therefor, his executor or administrator may within one year from the date of his appointment file such petition in the same manner and with the same effect as if filed by the deceased in his lifetime.

G. S. 17, § 58; 127, §§ 1, 21.	4 Cush. 408.	125 Mass. 166.
P. S. 25, § 10;	5 Cush. 543, 544.	132 Mass. 359.
165, §§ 1, 23.	9 Cush. 108, 478.	139 Mass. 172.
R. L. 171, §§ 1, 16	14 Gray, 183.	143 Mass. 280, 301.
1918, 257, § 187, subs. 21.	11 Allen, 34.	147 Mass. 471.
1919, 5.	106 Mass. 143.	155 Mass. 176.
1920, 2.	115 Mass. 346, 552.	173 Mass. 212.
1 Pick. 71	121 Mass. 550.	179 Mass. 583.
19 Pick. 47.	123 Mass. 254.	181 Mass. 430.

Pleading and
procedure.
1847, 259, § 3.
1855, 9, § 2.
G. S. 63, § 33.
1874, 372, § 69.
P. S. 112, § 101
1895, 488, § 13.
1899, 306, § 2.

SECTION 22. A petition brought under section fourteen shall name all parties adversely interested known to the petitioner, and process shall issue and service be made as in suits in equity. Any defence to the petition not relating to the amount of damages must be pleaded within thirty days after the return day of the subpoena; but no answer relating solely

6 to the amount of damages shall be filed by any party and no person shall
7 be defaulted for failure to enter an appearance. The trial shall be by the
8 court unless one of the parties within the time prescribed in actions at
9 law files a notice that he desires a trial by jury; and the court may appoint
10 an auditor. Interrogatories may be filed with the same effect as in actions
11 at law. In case of trial by jury, if either party requests it the jury shall
12 view the premises. Judgment shall be entered and execution issue as in
13 actions at law; and when the commonwealth is liable for the damages the
14 amount found due shall be certified and paid under section three of chap-
15 ter two hundred and fifty-eight.

16 Gray, 187	149 Mass. 176	190 Mass. 525.
123 Mass. 301.	181 Mass. 380.	250 Mass. 471.
125 Mass. 483.	189 Mass. 513.	268 Mass. 497.

R. L. 111, § 105.
1906, 463, 11,
§ 89.
1918, 257, § 187,
subs. 22.
1919, 5, § 333,
§ 31.
1920, 2,
15 Pick. 81.
21 Pick. 258.
23 Pick. 141.
2 Met. 520.
10 Met. 37, 465.
2 Cush. 361.
3 Cush. 1
5 Cush. 182.
12 Cush. 259.

1 SECTION 23. If joint tenants, or tenants in common, or other persons
2 having joint or several estates or interests in a single piece of property
3 sustain damages in such property which are recoverable under this
4 chapter, they may join in any petition to recover the damages thereby
5 incurred, or any one or more of them may petition for his or their
6 damages, subject to sections twenty-four to thirty-three, inclusive.

1917, 344, 11, § 77.	1919, 5.	213 Mass. 182.
1918, 257, § 187,	1920, 2.	268 Mass. 497.
subs. 23.	7 Cush. 533.	

Different inter- ests in same parcel
1874, 388,
§§ 1, 2.
P. S. 49, §§ 102,
103
R. L. 48, § 107.
1905, 266.

1 SECTION 24. If a tenant for life or for years and the remainderman
2 or reversioner sustain damages which are recoverable under this chapter,
3 by the taking of their property by eminent domain or by injury thereto
4 under authority of law, or if property so taken or injured is enumerated
5 by a contingent remainder, executory devise or power of appointment,
6 entire damages shall be assessed without apportionment thereof, and
7 shall be paid to, or be recoverable by, any person whom the parties may
8 appoint, and be held in trust by him for their benefit according to their
9 respective interests. The trustee shall, from the income thereof, pay
10 to the reversioner or remainderman the value of any annual rent or
11 other payment which would, but for such damages, have been payable
12 by the tenant, and the balance thereof to such tenant during the period
13 for which his estate was limited, and upon its termination, he shall pay
14 the principal to the reversioner or remainderman.

1920, 2.	114 Mass. 481.	149 Mass. 176.	195 Mass. 64.
23 Pick. 425.	121 Mass. 453.	168 Mass. 364.	209 Mass. 298.
103 Mass. 369.	126 Mass. 384.	178 Mass. 76.	215 Mass. 381.
106 Mass. 544.	133 Mass. 207.	192 Mass. 486.	230 Mass. 1.
108 Mass. 535.			

Tenant for life or years and remainderman.
R. S. 24, § 12.
1851, 290,
§§ 1, 2.
G. S. 43, § 17;
63, § 25.
1874, 372, § 75.
1875, 117,
§ 4.
P. S. 49, §§ 18,
28; 112, § 107.
1883, 253.
R. L. 48, § 17;
111, § 111.
1906, 463, 11,
§ 95.
1917, 344, 11,
§ 18.
1918, 257,
§ 187, subs. 24.
1919, 5.

1 SECTION 25. The amount so to be placed in trust shall include only
2 the damages assessed to the whole property; and any damage special to
3 a separate estate therein, and all interest or other earnings which accrue
4 between the taking and the receipt by the trustee of the damages to the
5 whole property, shall be awarded in the same proceedings separately.

1919, 5.	168 Mass. 364	209 Mass. 298.
1920, 2.	195 Mass. 64.	215 Mass. 381.

Damages to be placed in trust.
1874, 388, § 3.
P. S. 49, § 27.
R. L. 48, § 18.
1917, 344, 11,
§ 19
1918, 257,
§ 187, subs. 25.

1 SECTION 26. If a person having an interest in such property is, by
2 reason of legal disability, incapable of choosing a trustee, or is unascer-
3 tained or not in being, or if the parties cannot agree upon a choice, the
4 probate court of the county in which the property is situated shall,
5 upon application of the board of officers of the body politic or corporate
6 whose duty it is to award the damages, or of any person interested or
7 of any other person, acting in behalf of such persons, whether in being

Appointment of trustee.
1851, 290, § 2.
G. S. 43, § 18.
1875, 117, § 2.
P. S. 49, §§ 19,
29.
R. L. 48, § 19.
1917, 344, 11,
§ 20.
1918, 257,
§ 187, subs. 26.

1919, 5.
 1920, 2.
 126 Mass. 384.
 133 Mass. 207.
 178 Mass. 76.
 192 Mass. 486.
 209 Mass. 298.

or not, as may by any possibility be or become interested in said property, appoint a trustee, who shall give to the judge of probate a bond with such sureties and in such sum as the judge may order, conditioned for the faithful performance of his duties.

Other forms of different interests.
 R. S. 24, § 48.
 1851, 290.
 1865, 10.
 G. S. 43.
 §§ 53, 64.
 P. S. 49.
 §§ 20, 70.
 R. L. 48.
 §§ 20, 70.
 1917, 344, II.
 §§ 21, 44.
 1918, 257.
 § 187, subs. 27.

SECTION 27. If there are several parties, who have several estates in the same property at the same time, other than the estates and interests for which provision is made in section twenty-four, and the property is taken in whole or in part or receives injury for which damages are recoverable under this chapter, and one of such parties petitions the superior court to ascertain his damages, the other parties may become parties to the proceedings under such petition, and the damages of all of them may be determined together, in the manner provided in the three following sections.

1919, 5.	108 Mass. 535.	202 Mass. 585.
1920, 2.	115 Mass. 1.	209 Mass. 298.
5 Met. 308.	118 Mass. 125.	213 Mass. 182.
3 Cush. 1, 58, 91.	127 Mass. 374, 571.	215 Mass. 381.
7 Cush. 533.	187 Mass. 45.	230 Mass. 1.
10 Cush. 385.	195 Mass. 64, 338.	217 U. S. 189.

Notice to holders of different interests.
 R. S. 24, § 49.
 G. S. 43, § 54.
 P. S. 49, § 21.
 R. L. 48, § 21.
 1917, 344, II.
 § 22.

SECTION 28. Upon such petition, the court may order the petitioner to give notice thereof to all the other parties interested, by serving each of them with an attested copy of such petition and the order thereon fourteen days before the next return day, in order that the other parties may appear and become parties to the proceedings under the petition.

1918, 257, § 187, subs. 28.	209 Mass. 298.	230 Mass. 1.
1919, 5.	215 Mass. 381.	217 U. S. 189.
1920, 2.		

Apportionment of damages.
 R. S. 24, §§ 50, 51, 53.
 G. S. 43, §§ 55, 56, 58.
 P. S. 49, §§ 22, 23, 25.
 R. L. 48, §§ 22, 23.
 1917, 344, II.
 §§ 23, 24.
 1918, 257.
 § 187, subs. 29.
 1919, 5.
 1920, 2.
 198 Mass. 535.
 115 Mass. 1.
 187 Mass. 45.
 195 Mass. 64, 338.
 202 Mass. 585.

SECTION 29. If, on such petition, the court or jury find any of the parties entitled to damages, there shall first be found and set forth the total amount of damages sustained by the owners of such property, estimating the same as an entire estate and as if it were the sole property of one owner in fee simple; and such damages shall then be apportioned among the several parties who are found to be entitled thereto, in proportion to their several interests and to the damages sustained by them, respectively, and such apportionment shall be set forth in the finding or verdict; and if it is found that any party has not sustained damage, it shall be set forth in the finding or verdict that he is awarded no damages. The finding or verdict shall be conclusive upon all parties interested who have become parties to the petition.

209 Mass. 298.	230 Mass. 1.	268 Mass. 497.
215 Mass. 381.	250 Mass. 471.	217 U. S. 189.

Appointment of guardian ad litem or trustee.
 1874, 388, § 2.
 P. S. 49, § 26.
 R. L. 48, § 25.
 1917, 344, II.
 § 25.
 1918, 257.
 § 187, subs. 30.
 1919, 5.
 1920, 2.
 118 Mass. 110.

SECTION 30. If it appears in any proceedings under the seven preceding sections that an interest in such property is unrepresented by reason of a contingency or other cause by which the owner thereof is unknown or cannot then be ascertained, or because of the disability of such owner, a guardian ad litem to represent such interest may be appointed by the tribunal in which such proceedings are pending; or the judge of probate for the county in which such proceedings are pending may, upon petition of any party in interest, after such notice as he may order to all persons who, or whose issue unborn may be or may become interested in such apportionment, appoint a trustee, who, upon giving such bond as the judge of probate requires, shall represent such interest, and shall receive, manage and invest any money receivable on

13 account thereof, for the benefit of the parties entitled thereto, and
 14 shall pay the principal and interest thereof to such parties when en-
 15 titled thereto. Such guardian ad litem or trustee shall be allowed such
 16 costs, including counsel fees, as may be ordered by the court in which
 17 such proceedings are finally determined, to be paid from the damages
 18 apportioned to the interest which he represents.

1 SECTION 31. The tenant in possession of property which is en-
 2 cumbered by a contingent remainder, executory devise or power of ap-
 3 pointment may, subject to section sixteen, petition the superior court
 4 for the assessment of damages; and if he fails so to petition within the
 5 first six months of the year allowed by said section, a trustee under
 6 section twenty-four or section twenty-six may within the remaining
 7 six months thereof petition therefor.

1919, 5. 1920, 2.

Petition by
 tenant or
 trustee.
 1875, 117,
 §§ 3, 4
 P. S. 49, § 30.
 R. L. 48, § 26.
 1917, 344, II,
 § 26.
 1918, 257,
 § 187, subs. 31.

1 SECTION 32. If property which is taken in whole or in part by
 2 eminent domain or receives injury, for which damages are recoverable
 3 under this chapter, is mortgaged, both the mortgagor and the mortgagee,
 4 in addition to their rights under the mortgage, shall have the same
 5 powers, rights and privileges, and be subject to the same liabilities and
 6 duties, as are provided in this chapter for owners of property so taken
 7 or injured, and all petitions for the award or assessment of such damages
 8 shall state all mortgages which are known by the petitioner to exist
 9 upon the property. Mortgagors and mortgagees may join in any such
 10 petition, or become parties to any proceedings for the award or assess-
 11 ment of damages under this chapter, and, if the petition is filed by a
 12 mortgagor or mortgagee of property taken or injured, the tribunal to
 13 which it is presented shall order the petitioner to give notice thereof
 14 to all other mortgagors or mortgagees of the same property by serving
 15 on each of them, fourteen days at least before the time of hearing, an
 16 attested copy thereof and of the order thereon, that they may become
 17 parties to the proceedings.

187 Mass. 328. 190 Mass. 101. 240 Mass. 546.

Mortgaged
 land.
 1855, 247,
 §§ 1-5
 G. S. 63, § 26.
 1874, 372,
 §§ 76, 77.
 1881, 110
 P. S. 49, § 110;
 112, §§ 108,
 109.
 R. L. 48, § 114;
 111, § 112
 1906, 463, II,
 § 96.
 1917, 344, II,
 § 84.
 1918, 257,
 § 187, subs. 32.
 1919, 5.
 1920, 2.
 4 Cush. 291.
 5 Gray, 470
 12 Gray, 407.
 126 Mass. 1,
 427.
 131 Mass. 337.
 140 Mass. 403.
 149 Mass. 176.

1 SECTION 33. If mortgagors or mortgagees begin or become parties to
 2 such proceedings, entire damages shall, upon final judgment, be assessed
 3 for the property taken, and such portion thereof as is equal to the
 4 amount then unpaid thereon shall be ordered to be paid to every mort-
 5 gagee who is a party, in the order of his mortgage, and the remainder
 6 to the mortgagor; and separate judgment shall be entered accordingly
 7 for each mortgagee, who shall hold his judgment in trust, first, with
 8 any proceeds realized thereon, to satisfy his mortgage debt, and, after
 9 such debt is in any way satisfied, to assign the judgment or pay over
 10 any remainder of the proceeds to the mortgagor or other person entitled
 11 thereto.

1920, 2. 140 Mass. 403. 187 Mass. 328.
 5 Gray, 470. 149 Mass. 176. 240 Mass. 546.

Apportionment
 of damages
 between mort-
 gagee and
 mortgagor.
 1855, 247,
 §§ 1-3.
 G. S. 63, § 27.
 1874, 372, § 77.
 P. S. 112,
 § 109.
 R. L. 111,
 § 113.
 1906, 463, II,
 § 97.
 1918, 257,
 § 187, subs. 33.
 1919, 5.

1 SECTION 34. Upon the filing of a petition under section fourteen by
 2 or against the commonwealth or a county, city, town or district, the
 3 court shall, at the request of any party to the proceeding, advance the
 4 same so that it may be heard and determined with as little delay as
 5 possible.

1920, 2.

Petition to be
 advanced for
 speedy trial.
 1913, 68
 1918, 257,
 § 187, subs. 34.
 1919, 5.

Evidence of assessed value of land taken or injured
 1913, 401,
 § 1, 2.
 1915, 281,
 1918, 257,
 § 187, subs. 35
 1919, 5, 297,
 1920, 2.
 5 Gray, 35.
 152 Mass. 372.
 179 Mass. 147.
 222 Mass. 504.
 223 Mass. 119.

SECTION 35. The valuation made by the assessors of a town for the purposes of taxation for the three years next preceeding the date of the taking of or injury to real estate by the commonwealth or by a county, city, town or district under authority of law may, in proceedings brought under section fourteen to recover the damages to such real estate, the whole or part of which is so taken or injured, be introduced as evidence of the fair market value of the real estate by any party to the suit; provided, however, that if the valuation of any one year is so introduced, the valuations of all three years shall be introduced in evidence.

Discontinuance of petition
 1880, 141
 P. S. 49, § 108,
 R. L. 48, § 112.

SECTION 36. No petition brought under section fourteen shall be discontinued except by leave of court or by agreement of all the parties thereto; and any party thereto may prosecute the same.

1917, 344, 11, § 82. 1919, 5. 125 Mass. 483.
 1918, 257, § 187, subs. 36. 1920, 2.

Interest
 1895, 488, § 13.
 1913, 148; 325.
 1918, 257,
 § 187, subs. 37.
 1919, 5.
 1920, 2.
 15 Pick. 198.
 105 Mass. 303.
 108 Mass. 535.
 109 Mass. 438.

SECTION 37. Damages under this chapter shall bear interest at the rate of four per cent per annum from the date as of which they are assessed until paid, except as herein otherwise provided; but an award shall not bear interest after it is payable unless the body politic or corporate liable therefor fails upon demand to pay the same to the person entitled thereto.

116 Mass. 165. 171 Mass. 209. 192 Mass. 486.
 119 Mass. 95. 176 Mass. 101. 198 Mass. 580.
 125 Mass. 544. 183 Mass. 294. 199 Mass. 274.
 166 Mass. 508. 187 Mass. 489. 201 Mass. 10.

Costs
 1785, 75, § 7.
 1786, 67, § 1.
 1853, 187,
 § 14.
 R. S. 24, §§ 68,
 70; 39, §§ 56,
 62.
 1836, 278, § 2.
 1841, 125, § 3.
 1842, 86.
 1849, 153; 200.

SECTION 38. In all proceedings before county commissioners under this chapter, section eighteen of chapter thirty-four shall be applicable. In all proceedings brought under section fourteen, if a petition is filed after an award of damages has been made and the damages are increased, or if no award has been made and the petitioner is found to be entitled to damages, he shall recover costs, which shall be taxed as in actions at law; otherwise he shall pay costs.

G. S. 43, § 73; 1910, 508, § 2. 116 Mass. 165.
 63, §§ 21, 35. 1917, 344, 11, § 54. 117 Mass. 433.
 1870, 75, § 2. 1918, 257, § 187, subs. 38. 119 Mass. 95.
 1874, 372, § 68. 1919, 5. 126 Mass. 287.
 P. S. 49, § 79, 112, § 100. 1920, 2. 129 Mass. 135.
 1882, 154, § 5. 3 Mass. 268. 135 Mass. 570.
 1892, 415, § 2. 15 Pick. 496. 139 Mass. 210.
 1893, 225, § 2, 407, § 7. 3 Met. 312. 143 Mass. 192.
 1894, 288, § 5. 1 Cush. 559. 168 Mass. 516, 541.
 1895, 488, § 13. 3 Cush. 25. 174 Mass. 406.
 1898, 463, § 2. 4 Cush. 609. 178 Mass. 403.
 1901, 313, § 3. 8 Cush. 218. 182 Mass. 436.
 R. L. 25, § 37; 28, § 20; 16 Gray, 256. 183 Mass. 254.
 48, § 80; 111, § 104. 8 Allen, 341. 185 Mass. 535.
 1906, 463, 11, § 88. 102 Mass. 116.

Settlement and tender.
 1833, 187,
 § 1, 4.
 R. S. 39, §§ 56,
 62.
 1836, 278, § 2.
 1841, 125, § 3.
 1849, 153,
 G. S. 63, §§ 21,
 35.
 1874, 372,
 § 66, 68.
 1878, 205.
 P. S. 112, §§ 98,
 109; 108, § 27.

SECTION 39. Whenever damages may be recovered under this chapter, the body politic or corporate liable for such damages may after the right to such damages has become vested effect such settlement of the damages with the person entitled thereto as it may deem to be for its best interests, and it may as one of the terms of the settlement of a claim for damages growing out of the proceedings in respect of which betterments have been or are to be assessed agree in writing with the owner of the land assessed to assume such betterments. Such body politic or corporate may after the right to such damages has become

10 vested offer in writing to pay to the person entitled to receive the same
 11 the amount which it is willing to pay in settlement thereof, with interest
 12 thereon, together with taxable costs if a petition for the assessment of
 13 such damages is pending. If an award of damages has previously been
 14 made, the offer shall not be of a less amount than such award. Accep-
 15 tance thereof may be either in full satisfaction of all damages so sus-
 16 tained, or as a payment pro tanto without prejudice to any right to
 17 have the remainder thereof assessed by the appropriate tribunal. After
 18 notice of such offer, made as aforesaid, or payment of the amount thereof,
 19 no interest shall be recovered, except upon such amount of damages
 20 as shall, upon final adjudication, be in excess of the amount of said
 21 offer; provided, that all taxable costs accruing subsequently to said
 22 offer shall be recoverable by the petitioner in all cases, except as pro-
 23 vided in section thirty-eight.

1881, 226
 R. L. 50, § 11;
 111, § 102,
 101, 174, § 11
 1902, 503,
 1901, 317,
 1906, 463, 11,
 § 86, 88,
 1917, 344, III,
 § 11,
 1918, 257,
 § 187, subs. 39,
 1919, 5
 1920, 2
 131 Mass. 250,
 169 Mass. 249
 181 Mass. 463
 183 Mass. 481
 191 Mass. 441,
 192 Mass. 211,
 195 Mass. 538
 209 Mass. 329

1 SECTION 40. Before a taking is made or injury inflicted by a private
 2 corporation for which damages may be recovered under this chapter,
 3 such corporation shall give to the board of officers by whom such damages
 4 are to be awarded security to their satisfaction for the payment of all
 5 damages and costs which may be awarded by them or by the court for the
 6 land or other property taken or injured; and if, upon petition of the
 7 owner and notice to the adverse party, any security taken appears to
 8 them to have become insufficient, they shall require the corporation to
 9 give further security to their satisfaction. If the corporation fails to
 10 comply with this section any person entitled to such damages may treat
 11 the taking of his property or the proceedings by which the right to inflict
 12 injury thereon was acquired as void and any interference by such corpora-
 13 tion with the use and enjoyment of his property as unlawful.

Security for
 damages
 1833, 187,
 §§ 2, 3,
 1835, 148, § 1,
 R. S. 29,
 §§ 60, 61,
 1834, 2
 1855, 9, §§ 1-3,
 G. S. 63,
 §§ 32-34, 45,
 1874, 372,
 §§ 67, 67, 69,
 70, 72,
 P. S. 112,
 §§ 97, 99-102,
 104
 R. L. 111,
 §§ 101, 107,
 1906, 463, 11,
 §§ 85, 91.

1918, 257, § 187, subs. 40. 1919, 5. 1920, 2.

1 SECTION 41. If no petition under section fourteen is filed within the
 2 time limited, the award of damages shall be final and the amount thereof
 3 shall be paid upon demand, and if not so paid may be recovered in an
 4 action of contract.

Collection of
 award
 1874, 372, § 67,
 P. S. 112, § 99,
 R. L. 114,
 § 103.

1906, 463, II, § 87. 3 Mass. 367. 7 Pick. 217.
 1918, 257, § 187, subs. 41. 7 Mass. 292. 16 Gray, 347.
 1919, 5. 10 Mass. 368. 193 Mass. 488.
 1920, 2.

1 SECTION 42. If a private corporation has erected or laid poles,
 2 wires, pipes, rails or other structures in a public way, for the construc-
 3 tion, operation or maintenance of which damages may be recovered from
 4 such corporation under this chapter by the owners of any interest in land
 5 abutting upon such way, and such corporation does not pay such damages
 6 to an owner of any such interest after they have been finally determined
 7 and within thirty days after demand, the mayor of the city or the select-
 8 men of the town in which such structures are located may, upon request
 9 of such owner, remove all the structures of such corporation from that
 10 portion of the public way upon which the land in which such person has
 11 an interest abuts, first leaving a written statement at the office of such
 12 corporation in such city or town of the time when and place from which
 13 they intend to remove such structures, not less than forty-eight hours
 14 prior to such removal. If such corporation has no office in such town, such
 15 notice shall be deposited in the post office, postage prepaid, and directed
 16 to such corporation at its principal office in the commonwealth. The

Removal of
 structures in
 street to en-
 force payment
 of damages
 1881, 306, § 2,
 1895, 350
 R. L. 122, § 4,
 1918, 257,
 § 187, subs. 42.
 1919, 5
 194 Mass. 80.

town so removing any such structures may recover the expense thereof of such corporation. This section shall not prevent such owner from collecting the damages assessed.

Effect of abandonment of easement.
1900, 475, § 2.
R. L. 47, § 8.
1917, 344, 1, § 8.
1918, 257, § 187, subs. 43.
1919, 5.
1920, 2.

SECTION 43. When any easement or other right less than the fee which has been taken by eminent domain has been abandoned in accordance with law before the damages accruing from such taking have been finally determined, the fact of such abandonment may be considered in reduction of damages in any proceedings under this chapter for the award or assessment thereof.

188 Mass. 42.

Taking by the United States.
1871, 233, § 1.
1872, 309.
1879, 262.
P. S. 1, § 5.
R. L. 1, § 7.
1918, 257, § 187, subs. 44.
1919, 5.
1920, 2.
106 Mass. 356.
115 Mass. 1.
117 Mass. 302, 307.
129 Mass. 64.

SECTION 44. If the agents of the United States and the persons owning or interested in any property which is required for any purposes for which the United States is authorized to take property by eminent domain cannot agree upon the price to be paid for the interest of such persons therein, the United States may file a petition in the superior court for the county in which such property lies, praying for the condemnation of such property. Such petition shall contain a description of the property to which it relates, sufficiently accurate for identification, and a statement of the purpose for which it is sought to be taken. If the court, after notice to all parties interested, finds that the United States has the right to take such property by eminent domain, it shall determine the value thereof in accordance with this chapter, so far as it is applicable. If such value with costs and reasonable expenses to be taxed by the court is, within thirty days after final determination thereof, paid or tendered to said owners or parties interested, or in case of their neglect or refusal to receive the same, if it is paid to the commonwealth for their use and subject to their order, a decree of condemnation shall be entered by the court, and, if the property taken consists of real estate, a copy of the decree shall be recorded in the registry of deeds of every county or district in which said property or any of it lies, and the fee of said property shall thereupon vest in the United States.

Provisions of this chapter and chapter 80A exclusive.
1918, 257, § 187, subs. 45.
46.
1919, 5.
1920, 2.
1929, 380, § 2.
251 Mass. 457.
272 Mass. 161.

SECTION 45. No real estate shall be taken for public use by the formal vote or order of any board of officers except under this chapter or chapter eighty A, and no damages shall be assessed for the taking or seizure of property for a public purpose or for injury thereto by authority of law, except under this chapter or chapter eighty A, notwithstanding any general or special act hitherto enacted; provided, that nothing contained in this chapter or in chapter eighty A shall be construed as amending or in any way affecting chapter two hundred and fifty-three.

CHAPTER 80.

BETTERMENTS.

SECT.

1. Assessment of cost of public improvements.
2. Order, plan and estimate.
3. Surrender of land assessed.
4. Collection.
5. Petition for abatement.
6. Extension of time for filing petition.
7. Appeal to superior court.
8. Death of person entitled to petition for abatement.
9. Procedure.

SECT.

10. Appeal to county commissioners.
11. Contribution by lessee.
12. Assessment as lien. Effective date and duration of lien.
13. Apportionment.
14. [Repealed.]
15. Division of land assessed.
16. Reassessment.
17. Provisions of this chapter and chapter SOA exclusive.

1 SECTION 1. Whenever a limited and determinable area receives
 2 benefit or advantage, other than the general advantage to the com-
 3 munity, from a public improvement made by or in accordance with the
 4 formal vote or order of a board of officers of the commonwealth or of a
 5 county, city, town or district, and such order states that betterments
 6 are to be assessed for the improvement, such board shall within six
 7 months after the completion of the improvement determine the value of
 8 such benefit or advantage to the land within such area and assess upon
 9 each parcel thereof a proportionate share of the cost of such improve-
 10 ment, and shall include in such cost all damages awarded therefor under
 11 chapter seventy-nine; but no such assessment shall exceed the amount
 12 of such adjudged benefit or advantage. The board shall in the order of
 13 assessment designate as the owner of each parcel the person who was
 14 liable to assessment therefor on the preceding April first under the pro-
 15 visions of chapter fifty-nine.

Assessment of
 cost of public
 improvements.
 1866, 174,
 §§ 1, 5
 1898, 75.
 1899, 169, §§ 1,
 3-5; 367, § 1.
 1871, 217, § 1;
 382, §§ 1, 3
 P. S. 51, §§ 1, 3.
 1882, 154, § 7.
 1887, 124,
 §§ 1, 2
 1895, 305, § 5;
 450, § 4
 R. L. 50,
 §§ 1, 3, 10-21.
 1917, 344, III,
 §§ 1, 3, 20-22.
 1918, 257,
 § 219, subs. 1.
 1919, 5; 333, § 4.
 1920, 2
 1923, 377, § 1.

104 Mass. 401, 470, 491.	122 Mass. 119, 273.	187 Mass. 507.
106 Mass. 89, 544, 549.	123 Mass. 23, 50, 289.	191 Mass. 441, 513.
108 Mass. 60, 535.	126 Mass. 290.	195 Mass. 535
111 Mass. 226, 294	127 Mass. 179, 272.	201 Mass. 585.
113 Mass. 97, 262, 528.	133 Mass. 321.	219 Mass. 46
114 Mass. 513.	136 Mass. 556.	233 Mass. 65, 595.
115 Mass. 377.	144 Mass. 352.	247 Mass. 548.
116 Mass. 181, 189, 193, 200.	151 Mass. 250.	252 Mass. 218.
117 Mass. 181.	158 Mass. 21	253 Mass. 314.
119 Mass. 536.	164 Mass. 306.	259 Mass. 347.
121 Mass. 27, 382.	169 Mass. 240.	273 Mass. 305.

1 SECTION 2. An order under section one which states that better-
 2 ments are to be assessed for the improvement shall contain a descrip-
 3 tion sufficiently accurate for identification of the area which it is expected
 4 will receive benefit or advantage, other than the general advantage to
 5 the community, from such improvement, and shall refer to a plan of
 6 such area, and shall contain an estimate of the betterments that will be
 7 assessed upon each parcel of land within such area; and such order,
 8 plan and estimate shall be recorded, within thirty days from the adop-
 9 tion of the order, or from the acceptance by a town of the laying out,
 10 relocation or alteration of a way in case such acceptance is required
 11 before the establishment thereof, in the registry of deeds of every county
 12 or district in which the benefited area is situated. No betterments shall
 13 be assessed for such improvement unless the order, plan and estimate
 14 are recorded as herein provided, nor upon any parcel of land not within
 15 such area, nor for a greater amount than such estimate.

Order, plan
 and estimate.
 1860, 187,
 §§ 1, 3.
 P. S. 51, §§ 11-
 13
 1885, 299
 R. L. 50, §§ 23-
 25
 1917, 344, III,
 § 21-26.
 1918, 257,
 § 219, subs. 2.
 1919, 5.
 1920, 2
 1928, 129.
 253 Mass. 304
 259 Mass. 347.
 261 Mass. 191.
 273 Mass. 305.

Surrender of land assessed
1866, 174, § 8.
1868, 75.
1871, 382, § 5.
P. S. 51, § 4
R. L. 54, § 4.
1917, 344,
111, § 4
1918, 257,
§ 219, subs. 3.
1919, 5.
1920, 2.
119 Mass. 126.
120 Mass. 157.
121 Mass. 173.
127 Mass. 254,
408.
197 Mass. 412.

SECTION 3. An owner of land abutting on a public improvement and liable to assessment therefor under this chapter may give notice in writing to the board, within three months after the award of damages is made, that he elects to surrender his land; and if said board adjudge that the public convenience and necessity require the taking of such abutting estate for the improvement named, they may take the whole thereof, and shall thereupon estimate its value, excluding the benefit or advantage accruing from such improvement; and such owner shall convey the estate to the body politic or corporate on behalf of which the assessment was made and may recover therefrom in contract the value so estimated. The commonwealth, county, city, town or district may sell any portion of said land which is not needed for such improvement.

Collection.
1841, 115, § 3.
G. S. 48, § 5.
1866, 174, § 6.
1868, 75.
1871, 217, § 4;
382, § 6.
1877, 37.
1878, 184, § 3.
P. S. 50, §§ 5,
10, 25, 51, §§ 5, 7,
17.
1884, 237.
1891, 97.
1892, 245, § 1.
1893, 380.
1896, 236;
251, § 1.
1897, 274.
1898, 473, § 1.
R. L. 49, § 22;
50, §§ 10, 13.
1911, 75.
1917, 344, III,
§§ 10, 13.
1918, 257,
§§ 214, 219,
subs. 4, 17.
1919, 5.
1920, 2; 124.
1923, 377, § 2.
1927, 3.
106 Mass. 549.

SECTION 4. Within a reasonable time after making the assessment the board shall commit the list of assessments upon land in each town with their warrant to the collector of taxes thereof, and he shall forthwith send notice in accordance, except as to the date of notice, with section three of chapter sixty, to the person designated under section one as the owner of each parcel assessed, and any demand for the payment of such assessment shall be made upon such person. Except as otherwise herein provided, the collector shall have the same powers and be subject to the same duties with respect to such assessments as in the case of the annual taxes upon real estate, and the law in regard to the collection of the annual taxes, to the sale of land for the non-payment thereof and to redemption therefrom shall apply to assessments made under this chapter, so far as the same are applicable; but the owner of land assessed shall not be personally liable for the assessment thereon. Every collector of taxes receiving a list and warrant from the board shall collect the assessment therein set forth, and at such times as the board shall direct shall pay over to the treasurer of the body politic on behalf of which the assessment was made the amounts collected by him.

117 Mass. 181.
120 Mass. 297.

127 Mass. 179.
182 Mass. 198.

202 Mass. 258.
207 Mass. 17.

Petition for abatement.
1841, 115, § 4.
G. S. 48, § 6.
1874, 283, § 1.
P. S. 50, § 6.
51, § 16.
1895, 450, § 4.
R. L. 49, § 4;
50, § 12.
1917, 344, III,
§ 12.
1918, 257,
§§ 214, 219,
subs. 5.
1919, 5.
1920, 2.
1923, 377, § 3.

SECTION 5. The owner of any real estate upon which betterments have been assessed may, within six months after notice of such assessment has been sent out by the collector, file with the board a petition for an abatement thereof, and the board within sixty days after such filing shall grant such abatement as may be necessary to make such assessment conform to section one. Such petition may be filed with the clerk or secretary of the board, or delivered by mail or otherwise at their office. The board shall within ten days after their decision upon the petition give written notice thereof to the petitioner. If an assessment is abated by the board the assessment so determined shall stand as the assessment upon the land, and if it has not been paid shall be collected in the same manner as the original assessment. If the assessment has been paid, the person by whom it was paid shall be reimbursed by the body politic on behalf of which it was assessed to the amount of the abatement allowed, with interest at the rate of six per cent per annum from the time of payment.

Extension of time for filing petition.

SECTION 6. If a suit in which the validity of an assessment is drawn in question is brought within the time for filing a petition to the board

3 for the abatement thereof or within six months after the determination
 4 of an earlier suit involving the same question, brought within the time
 5 for filing such petition, which failed for want of jurisdiction, defect of
 6 form or other like cause not decisive of the merits of the controversy,
 7 the petition may be filed within six months after the final determination
 8 of such suit.

1918, 257,
 § 219, subs. 6.
 1919, 5.
 1920, 2.

1 SECTION 7. A person who is aggrieved by the refusal of the board to
 2 abate an assessment in whole or in part may within thirty days after
 3 notice of their decision appeal therefrom by filing a petition for the abate-
 4 ment of such assessment in the superior court for the county in which
 5 the land assessed is situated. If a single parcel of land so assessed lies in
 6 more than one county the petition may be filed in the superior court for
 7 either such county, and the court in which such petition is first filed shall
 8 have exclusive jurisdiction thereof.

Appeal to superior court
 1841, 115, § 4.
 G. S. 48, § 6.
 1866, 171, § 7.
 1868, 75.
 1871, 217, § 2;
 P. S. 50, § 6;
 51, § 6.
 R. L. 49, § 4;
 50, § 6.

1917, 344, III, § 6.	106 Mass. 89.	120 Mass. 108, 326.
1918, 257, §§ 214, 219, subs 7.	110 Mass. 421.	121 Mass. 27, 382.
1919, 5.	111 Mass. 226.	123 Mass. 23.
1920, 2.	114 Mass. 446.	126 Mass. 290.
9 Cush 233	115 Mass. 186, 188, 377.	136 Mass. 179.
104 Mass. 461.	116 Mass. 181.	174 Mass. 1.
	119 Mass. 126.	

1 SECTION 8. If a person who is entitled to petition for an abatement
 2 under this chapter dies within the time limited for such petition without
 3 having filed the same, his executor, administrator, heir or devisee, if
 4 interested, may, within one year after his interest vests, file such petition
 5 in the same manner and with the same effect as if filed by the deceased
 6 in his lifetime.

Death of person entitled to petition for abatement.
 1850, 228.
 G. S. 127, § 21.
 P. S. 165, § 23.
 R. L. 171, § 16.
 139 Mass. 172.

1 SECTION 9. Upon the filing of a petition under section seven, process
 2 shall issue and service be made as in suits in equity upon the body
 3 politic on behalf of which the assessment was made. Any defence to
 4 the petition not relating to the amount of the assessment must be pleaded
 5 within thirty days of the return day of the subpoena; but no answer
 6 relating solely to the amount of the assessment shall be filed, and there
 7 shall be no default for failure to enter an appearance. The trial shall
 8 be by the court unless one of the parties within the time prescribed in
 9 actions at law files a notice that he desires a trial by jury; and the court
 10 may appoint an auditor. Interrogatories may be filed with the same
 11 effect as in actions at law. The court, at the request of any party, shall
 12 advance the petition so that it may be heard and determined with as
 13 little delay as possible. In case petitions have been filed for the assess-
 14 ment of damages and for the abatement of betterments with respect to
 15 the same parcel of land and the same public improvement, the petitions
 16 shall be tried together. In case of trial by jury, if either party requests
 17 it the jury shall view the premises. If the assessment is not reduced
 18 the respondent shall recover costs and an execution shall issue there-
 19 for as in actions at law; but if the assessment is reduced the petitioner
 20 shall recover judgment for costs, and the assessment so determined shall
 21 stand as the assessment upon the land, and if it has not been paid shall
 22 be collected in the manner provided for an original assessment. If the
 23 assessment has been paid judgment shall be entered for the petitioner
 24 for the amount of the reduction, with interest at the rate of four per
 25 cent per annum from the time of payment.

Procedure.—
 1871, 217, §§ 3,
 4; 382, § 8.
 P. S. 51, § 7.
 R. L. 50, § 7.
 1917, 344,
 III, § 7.
 1918, 257,
 § 219, subs. 8.
 1919, 5; 333,
 § 22.
 1920, 2.
 126 Mass. 290.

Appeal to
county com-
missioners.
1878, 184, § 2.
P. S. 50,
§§ 8, 9.
R. L. 49, § 7.
1918, 257,
§ 219, subs. 9.
1919, 5.
1920, 2.

SECTION 10. A person who is aggrieved by the refusal of a board of officers of a city, town or district to abate an assessment may, instead of pursuing the remedy provided by section seven, appeal within the time limited therein to the county commissioners of the county in which the land assessed is situated, and the county commissioners shall hear the parties, and shall have the same powers and duties with respect to the abatement of such assessment as the board by which it was assessed, and may make an order as to costs. The decision of the county commissioners shall be final.

Contribution
by lessee
1871, 382, § 9.
P. S. 51, § 8.
R. L. 50, § 8.
1917, 344,
111, § 8.
1918, 257,
§ 219, subs. 10.
1919, 5.
1920, 2.
112 Mass. 187.
115 Mass. 186,
188.
120 Mass. 328.
207 Mass. 331.

SECTION 11. If an assessment is made upon land the whole or part of which is leased, the owner shall pay the assessment, and may collect of the lessee an additional rent for the portion so leased equal to ten per cent per annum on that proportion of the amount paid which the value of the leased portion bears to that of the whole estate, after deducting from the whole amount any money received for damages to such land in excess of what he has necessarily expended thereon by reason of such damages. A lessee aggrieved by the imposition of this burden may, within six months from the time demand is made upon him for such additional rent, file a petition in the superior court for the county in which the land is situated, to determine the proportion of the assessment which he ought to bear, and the proportion determined upon the petition shall be substituted for the proportion provided by this section. If such proportion is reduced the lessee shall recover costs from the owner; otherwise the owner shall recover costs from the lessee.

Assessment as
lien. Effective
date and
duration of
lien.
1841, 115, § 3.
G. S. 48, § 5.
1866, 174, § 6.
1868, 75.
1871, 217, § 4;
382, §§ 6, 8.
1878, 184, § 3;
249.
P. S. 50, §§ 5,
10, 25; 51,
§§ 5, 7.
3884, 237.
1886, 210.
1891, 97.
1893, 380.
1897, 274.

SECTION 12. Assessments made under this chapter shall constitute a lien upon the land assessed. The lien shall take effect upon the recording of the order stating that betterments are to be assessed for the improvement, and shall continue for two years from October first in the year in which the assessment is first placed on the annual tax bill under section thirteen, or, if an assessment has been apportioned, for two years after the last portion is payable, unless sooner paid. If the validity of an assessment made under this chapter is called in question in any legal proceeding to which the board which made the assessment or the body politic for the benefit of which it was made is a party, instituted prior to the expiration of the lien therefor, the lien shall continue until one year after the validity of the assessment is finally determined.

R. L. 49, § 23; 50, § 10.	1920, 2.	119 Mass. 294.
1917, 344, 111, § 10.	1923, 377, § 4.	120 Mass. 297.
1918, 257, §§ 214, 219,	114 Mass. 544.	202 Mass. 258.
subs. 11.	117 Mass. 181.	4 Op. A. G. 547.
1919, 5.		

Apportionment.
1866, 174,
§§ 6, 7.
1868, 75.
1869, 367, § 2.
1871, 217, § 4;
382, §§ 6, 8.
1878, 249.
P. S. 50, § 25;
51, §§ 5, 7.
1881, 237.
1891, 97.
1893, 380.
1896, 158.
§ 1, 4; 254.
1897, 151; 274.
1899, 319,
§§ 3, 4.

SECTION 13. Assessments made under this chapter shall bear interest at the rate of six per cent per annum from the thirtieth day after the assessments have been committed to the collector. The assessors shall add each year to the annual tax assessed with respect to each parcel of land all assessments, constituting liens thereon, which have been committed to the collector prior to April second of such year and which have not been apportioned as hereinafter provided, remaining unpaid when the valuation list is completed, with interest to the date when interest on taxes becomes due and payable. At any time before demand for payment by the collector and before the completion by the assessors of the

11 valuation list for the year in which such assessments will first appear on
 12 the annual tax bill, the board of assessors may, and at the request of the
 13 owner of the land assessed shall, apportion all assessments made under
 14 this chapter into such number of equal portions, not exceeding ten, as is
 15 determined by said board or as is requested by the owner, as the case
 16 may be, but no one of such portions shall be less than five dollars. The
 17 assessors shall add one of said portions, with interest on the amount re-
 18 maining unpaid from thirty days after the commitment of the original
 19 assessment to the collector to the date when interest on taxes becomes due
 20 and payable, to the first annual tax upon the land and shall add to the
 21 annual tax for each year thereafter one of said portions and one year's
 22 interest on the amount of the assessment remaining unpaid until all such
 23 portions shall have been so added; all assessments and apportioned parts
 24 thereof, and interest thereon as herein provided, which have been added
 25 to the annual tax on any parcel of land shall be included in the annual
 26 tax bill thereon. After an assessment or a portion thereof has been placed
 27 on the annual tax bill, the total amount of said bill shall be subject to
 28 interest under and in accordance with the provisions of section fifty-seven
 29 of chapter fifty-nine. The amount remaining unpaid of any assessment
 30 may be paid in full at any time notwithstanding a prior apportionment.

R. L. 49, §§ 14,
 15, 21, 23, 33,
 50, §§ 5, 10,
 15-17.
 1907, 177
 1908, 216, § 1;
 259.
 1910, 330
 1911, 450
 1917, 341, III,
 315, 40, 15,
 16, 18
 1918, 257,
 §§ 211, 219,
 subs. 12.
 1919, 5.
 1920, 2
 1923, 377, § 5
 196 Mass. 549
 261 Mass. 536
 4 Op. A. G. 347.

1 SECTION 14. [REPEALED, 1923, 377, § 6.]

1 SECTION 15. If land which is subject to a lien for an assessment
 2 made under this chapter is subsequently divided by sale, mortgage,
 3 partition or otherwise and such division has been duly recorded in the
 4 registry of deeds, the board, before the land has been advertised for sale
 5 for non-payment of the assessment, may, or upon the written request of
 6 the owner or mortgagee of a portion thereof, accompanied by a plan
 7 sufficient for the identification of the division of the whole estate, with
 8 the names of the different owners thereof, shall, divide said assessment or
 9 the amount thereof remaining unpaid, and the costs and interest accrued
 10 thereon, among the several parcels into which said land has been divided,
 11 assessing upon each parcel the part of the original assessment remaining
 12 unpaid proportionate to the special benefit received by such parcel from
 13 the improvement. After such assessment has been so divided, only the
 14 part of the assessment, interest and costs assessed upon each parcel shall
 15 constitute a lien upon such parcel. At least seven days prior to making
 16 such division the board shall send by registered mail to all owners of any
 17 interest in the land assessed, whose addresses are known to them, a notice
 18 of their intention to make such division and of the time appointed there-
 19 for, unless such notice has been waived. A person aggrieved by any
 20 action of the board under this section shall have the same remedy as a
 21 person aggrieved by the refusal of the board to abate an assessment.

Division of
 land assessed.
 1897, 138,
 §§ 1-5
 R. L. 49, §§ 16-
 20
 1908, 453.
 1918, 257,
 § 219, subs. 14.
 1919, 5.
 1920, 2
 217 Mass. 422.

1 SECTION 16. If an assessment is invalid and has not been paid in
 2 full or has been paid under such circumstances that it can be recovered
 3 back, it may be reassessed by the board in the amount for which the
 4 original assessment ought to have been made, at any time before the
 5 expiration of two years from the date of the assessment, if the land has
 6 in the meantime been alienated; otherwise at any time before the aliena-
 7 tion thereof. Such assessment shall be a lien upon any sum paid on

Reassessment.
 1871, 217, § 5;
 382, § 2.
 1872, 246.
 P. S. 51, § 2.
 1892, 245, § 3.
 R. L. 49, § 9;
 50, § 2
 1917, 344,
 411, § 2
 1918, 257,
 § 219, subs. 15.

1919, 5.
1920, 2.
115 Mass. 188,
132 Mass. 449,
187 Mass. 290,
210 Mass. 151.

account of the original assessment, and to the extent that it is not thereby satisfied shall be a lien upon the land. It shall be collected in the same manner as an original assessment, and shall in all other respects be subject to this chapter.

211 Mass. 121.

212 Mass. 174.

253 Mass. 314.

Provisions of this chapter and chapter 80A exclusive.
1918, 257,
§ 219, subs. 16.
1919, 5.
1920, 2.
1929, 380, § 3.
273 Mass. 303.

SECTION 17. Whenever a formal vote or order for the laying out or construction of a public improvement, or for the taking of land therefor, states that betterments are to be assessed, no betterments shall be assessed except under this chapter or chapter eighty A, and all proceedings relating to such betterments shall be as herein or therein provided, notwithstanding any special act hitherto enacted.

CHAPTER 80A.

EMINENT DOMAIN TAKINGS AND BETTERMENT ASSESSMENTS BY JUDICIAL PROCEEDINGS.

SECT.

1. Alternative method of taking property by eminent domain and assessment of betterments.
2. Order of intention to take, etc. Adoption, contents.
3. Same subject. Description and estimate. Notice of adoption. Recording.
4. Petition. Contents. Order of notice.
5. Answer to petition.
6. Default. Guardian ad litem, appointment, etc.
7. Hearing by court. Order.
8. Commissioners. Appointment, powers and duties.
9. Redetermination by jury. Proceedings, etc.
10. Commissioners' report, amendment, confirmation. Appeal, etc. Judgment of condemnation, entry, recording.

SECT.

11. Abandonment and discontinuance, proceedings. Interlocutory judgment of condemnation, entry, effect.
12. Taking absolute and rights vested, when. Compensation, damages.
13. Costs.
14. Apportionment of assessment of betterments. Lien.
15. Certain provisions of law applicable to proceedings under this chapter. Failure to join necessary party, effect. Compensation of commissioners, etc. Regulation, etc., of procedure.
16. Election to make takings and assess betterments under this chapter.

Alternative method of taking property by eminent domain and assessment of betterments.
1929, 380, § 1.

SECTION 1. A board of officers, hereinafter called the board, upon whom authority to take real estate by eminent domain on behalf of the commonwealth or of any county, city, town or district thereof, hereinafter described as the body politic, has been conferred by law, for the purpose of effecting a public improvement, may, at its election, instead of proceeding in accordance with chapter seventy-nine, or in accordance with chapters seventy-nine and eighty if betterments are to be assessed, institute proceedings for the taking of real estate or any interest therein, and for the assessment of betterments, in accordance with this chapter. So much of sections two to fifteen, inclusive, as relates to the assessment of betterments shall apply only to proceedings thereunder wherein the board votes under section two to assess betterments and so states in the order adopted thereunder.

1 SECTION 2. The board, having first complied with all the preliminary
 2 requirements prescribed by law, shall adopt an order of intention to
 3 take, which shall contain a description of the property to be taken suf-
 4 ficiently accurate for identification, and shall state the interest therein
 5 to be taken and the purpose for which such property is to be taken, and,
 6 if betterments are to be assessed therefor, shall so state; otherwise, it
 7 shall state that no betterments are to be assessed. In case there are
 8 trees upon land so to be taken, or structures affixed thereto, the order
 9 shall state whether the same are to be included in the taking, and, if
 10 they are not to be so included, shall allow the owner a reasonable time
 11 after the taking becomes absolute to remove the same, to be specified in
 12 the order.

Order of inten-
 tion to take, etc.
 Adoption,
 contents—
 1929, 380, § 1.

1 SECTION 3. The order shall contain an estimate of all damages sus-
 2 tained by every person in his property by reason of such taking as of
 3 the date of the adoption of the order, and shall contain an estimate of
 4 the cost of the improvement, including such damages, and, if better-
 5 ments are to be assessed, a description sufficiently accurate for identi-
 6 fication of the area which it is expected will receive benefit or advantage,
 7 other than the general advantage to the community, from such improve-
 8 ment, and shall refer to a plan of such area, and shall contain an esti-
 9 mate of the betterments that will be assessed upon each parcel of land
 10 within such area. Notice of the adoption of such order shall be sent
 11 forthwith by registered mail to every person, whose address is known,
 12 appearing of record to have an interest in any land to be taken, dam-
 13 aged or assessed, by or on account of the proposed improvement, setting
 14 forth all estimates contained in said order in relation to said land, and a
 15 like notice shall be posted in a conspicuous place on each parcel thereof.
 16 Such order, plan and estimate shall be recorded, within ten days from
 17 the adoption of the order, in the registry of deeds of every county or
 18 district in which property to be taken or assessed is situated.

Same subject.
 Description
 and estimate.
 Notice of
 adoption.
 Recording.
 1929, 380, § 1

1 SECTION 4. Within ten days from the recording of such order, plan
 2 and estimate, the board shall cause to be filed in the superior court of
 3 the county in which such proposed public improvement or the major
 4 part thereof is situated a petition on behalf and in the name of the body
 5 politic undertaking such improvement, to establish its right to take the
 6 property described in the order and, if betterments are to be assessed,
 7 to assess the same on account of the special benefits to be derived from
 8 the improvement, and to determine the compensation and damages to
 9 be paid, the area to be assessed and the amount of the benefits to be
 10 made the basis of assessments. The petition shall contain a copy of the
 11 order and estimates, and shall designate the registry or registries of
 12 deeds in which the order, plan and estimate have been recorded as
 13 provided in section three. The proceeding thus instituted shall be in
 14 rem against the land to be taken, damaged or assessed, but every person
 15 appearing of record to have an interest in any of said land at the time
 16 of the adoption of the order shall be made a party respondent. The
 17 court shall issue an order of notice to all of said respondents, returnable
 18 at any return day which occurs thirty days or more after the filing of
 19 the petition, which shall be served upon all respondents who are resi-
 20 dents of the commonwealth or can be found therein in the manner
 21 prescribed for serving a writ of summons in civil actions, and upon all
 22 other parties by posting a copy thereof on each parcel of land to be

Petition.
 Contents
 Order of
 notice.
 1929, 380, § 1.

taken, damaged or assessed and by sending a copy thereof by registered mail to each of said parties whose address is known, at least twenty days before said return day. Persons not in being, unascertained or unknown who may have an interest in any of such land shall be made parties respondent by such description as seems appropriate, and service may be made on such persons by publication, in such manner as the court may order.

Answer to
petition
1929, 380, § 1.

SECTION 5. Any of said respondents, and any other person claiming an interest in any of the land to be taken, damaged or assessed by or on account of said improvement, may appear and file an answer within thirty days after the return day of the petition. In such answer he may (1) deny the right of the petitioner to make the improvement, or to take or damage his land, (2) deny the right of the petitioner to levy an assessment upon his land, (3) impugn the validity or regularity of the proceedings for establishing the improvement, taking property by eminent domain or assessing betterments therefor so far as any absence of such validity or regularity may affect the legality of the taking or damaging of his land, or of the assessment of betterments thereon, in which case he shall specify the invalidity or irregularity relied on, (4) deny the sufficiency of the compensation or damages allotted to him in the estimate of the board, in which case he shall state the amount of compensation or damages claimed by him, (5) deny that his property will receive benefit or advantage, other than the general advantage to the community, from the establishment of the improvement, in the amount stated in the estimate, in which case he shall state the value of such benefit or advantage, if any, which he admits his property will receive.

Default.
Guardian ad
litem, appoint-
ment, etc
1929, 380, § 1.

SECTION 6. The court shall, on motion of the petitioner, enter a default against all persons served with process or who otherwise appear to have seasonably received personal notice of the petition and who have not appeared and answered within the time prescribed. The court shall appoint one or more disinterested persons to act as guardian or guardians ad litem for minors, for persons under disability, and for all persons not in being, unascertained, unknown or out of the commonwealth, who have been named or described as parties respondent and for whom no duly authorized person has appeared and answered, and such guardian or guardians ad litem shall be allowed thirty days from his or their appointment to appear and answer on behalf of the persons whom he or they represent.

Hearing by
court. Order.
1929, 380, § 1.

SECTION 7. If any person in his answer denies the right of the petitioner to make the improvement or to take or damage his property, or to levy an assessment thereon, or impugns the validity or regularity of the proceedings, the court shall forthwith hear and determine the issue thus raised, and may order the petition dismissed or may enter an order establishing the right of the petitioner to take the real estate, or interest therein, described in the order for the purpose therein stated and to assess betterments as therein set forth, or may enter such other order as law and justice may require. If the court does not order the petition dismissed, and one or more of the respondents allege exceptions or appeal to the supreme judicial court or the matter is reported to the supreme judicial court, further proceedings shall not be stayed unless the justice who heard and determined the matter so directs. If no such issue is

14 raised by any person in his answer, the court shall, on motion of the
15 petitioner, enter an order establishing the right of the petitioner to take
16 the real estate, or interest therein, described in the order for the purpose
17 therein stated and to assess betterments as therein set forth. An order
18 under this section establishing the right of the petitioner to take prop-
19 erty or to assess betterments shall be final and conclusive as to the valid-
20 ity of the proceedings up to the date of the adoption of such order.

1 SECTION 8. If the court shall enter an order establishing the right of
2 the petitioner to take the real estate, or interest therein, described in
3 the order for the purpose therein stated and to assess betterments as
4 therein set forth, and any person has in his answer denied the sufficiency
5 of his compensation or damages as estimated in the order under section
6 three or has denied that his property will receive benefit or advantage
7 in the amount estimated therein, the court shall appoint not more than
8 three disinterested persons as commissioners to hear and determine the
9 issues thus raised. The provisions of law in regard to auditors shall so
10 far as apt apply to such hearing, and all controversies as to the amount of
11 compensation, damages and betterments arising out of the same petition
12 shall be referred to the same commissioners. The commissioners shall
13 hear the parties as speedily as may be and shall thereafter file a draft
14 report with the clerk of the court and shall send notice of such filing to
15 the several parties. The commissioners shall not determine the com-
16 pensation or damages to which any person is entitled to be greater than
17 as alleged by him in his answer, nor less than as estimated by the board;
18 nor shall they determine the benefit to any parcel of land to be less than
19 as admitted by the owner in his answer nor more than as estimated by
20 the board.

Commissioners.
Appointment,
powers and
duties.
1929, 380, § 1.

1 SECTION 9. Any person aggrieved by the determination of the com-
2 missioners with respect to his compensation or damages may have a
3 redetermination thereof by a jury by making application therefor within
4 twenty days after the sending of the notice of the filing of the commis-
5 sioners' draft report. The application may be placed on the trial list of
6 the next ensuing sitting of the court with jury in the county and heard
7 and determined in the same manner as other civil cases and may be
8 advanced for speedy trial; but if there are two or more such applications
9 with respect to a particular public improvement which cannot be heard
10 forthwith without unduly delaying the trial of other civil cases, the
11 court may direct that a special jury be summoned to hear and determine
12 all such applications. The chief justice of the superior court shall pre-
13 side or designate one of the associate justices of said court to preside
14 over the sittings of such special jury, who shall have in the hearing and
15 determination of such applications all the powers of a justice of that
16 court presiding over the trial of an ordinary civil action. The award of
17 the commissioners shall be prima facie evidence of the compensation or
18 damages to which the applicant is entitled, and the jury shall not award
19 compensation or damages to any person in a greater amount than as
20 alleged by him in his answer nor less than as estimated by the board.
21 If the jury does not agree upon a verdict, or if the verdict is set aside,
22 the applicant shall be entitled to a new jury from time to time until a
23 verdict has been rendered and established; but he may at any time,
24 upon terms, waive his right to a trial by jury and accept the compensa-
25 tion or damages awarded by the commissioners.

Redetermina-
tion by jury.
Proceedings,
etc.
1929, 380, § 1.

Commissioners' report, amendment, confirmation. Appeal, etc. Judgment of condemnation, entry, recording. 1929, 380, § 1.

SECTION 10. If the verdict of the jury as finally established shall differ from the award of the commissioners with respect to the compensation or damages to which any person is entitled, the report of the commissioners shall be amended accordingly, and, after all applications for redetermination of compensation or damages have been disposed of, the report shall be presented to the court for confirmation. The report of the commissioners as thus amended shall be final and conclusive as to all questions of fact, but the court may hear and determine questions of law arising therefrom and may order the report to be confirmed or to be recommit-
 ted to the commissioners to be reconsidered in accordance with law, or may itself make such amendments and alterations as are necessary to render the report consistent with the law. If an appeal to the supreme judicial court or exceptions are taken with respect to the order of the justice of the superior court upon the motion for final confirmation of the commissioners' report, or if the matter is reported to the supreme judicial court, the same shall be heard and determined without awaiting further proceedings in the superior court. The operation of the order shall be stayed pending the disposition of such appeal, exceptions or report, and the order shall, if necessary, be modified to conform to the decision of the supreme judicial court. After the expiration of thirty days from the final confirmation of the report, or if the same is affirmed by the supreme judicial court, of thirty days from the date of the rescript of said court, if the proceedings have not in the meantime been discontinued, and if it shall be made to appear that all laws requiring appropriations of money, to be raised by loan or otherwise, in cases of taking of property by eminent domain, in so far as applicable, have been complied with, judgment of condemnation shall be entered upon motion of the petitioner which shall be final and conclusive against all the world with respect to the validity and extent of the taking, and the right of the petitioner to assess betterments therefor, and against all parties to the proceedings with respect to the amount of compensation or damages to which any person is entitled and the amount of benefit or advantage which each parcel of land within the designated area will receive from the improvement. If judgment of condemnation is not entered within six months from the confirmation of the commissioners' report, or from the rescript of the supreme judicial court, the petition shall be dismissed upon motion of any one or more of the parties respondent. The clerk of the court shall forthwith transmit for record to every registry of deeds designated in the petition as provided in section four a certified copy of any judgment of condemnation entered under this section or of any interlocutory judgment of condemnation entered under section eleven.

Abandonment and discontinuance, proceedings. Interlocutory judgment of condemnation, entry, effect. 1929, 380, § 1.

SECTION 11. The board may at any time before final judgment of condemnation abandon the proposed improvement and discontinue the proceedings, in which case all action taken thereunder and under the proceedings for the laying out or establishment of such improvement shall become void; but in such case, or in case the petition shall be dismissed on motion of a party respondent under section ten, any person who has suffered damage or loss or been put to expense by the proceedings shall be entitled to recover indemnity in full by order of the court and for which execution shall issue. In case of abandonment or dismissal as aforesaid, the clerk of the court shall forthwith transmit for record to every registry of deeds designated in the petition as provided in section four a certificate that all proceedings in relation to such improvement

13 have been discontinued or dismissed. At any time after the right of the
 14 petitioner to take the property described in the order for the purpose
 15 stated therein and to assess betterments therefor has been established,
 16 if it shall be made to appear that all laws requiring appropriations of
 17 money, to be raised by loan or otherwise, in cases of the taking of land
 18 by eminent domain, in so far as applicable, have been complied with, the
 19 court shall on motion of the petitioner enter an interlocutory judgment of
 20 condemnation, which shall have the same effect as a final judgment of
 21 condemnation, except with respect to compensation, damages and assess-
 22 ments for benefits, and the proceedings shall continue as herein provided
 23 with respect to compensation, damages, and assessments; but the peti-
 24 tioner shall not thereafter have the right to discontinue the proceedings.

1 SECTION 12. The taking shall become absolute and the right of the
 2 body politic to the real estate or interest therein described in the petition
 3 and the right of the respondents to compensation or damages shall vest
 4 upon the entry of either final or interlocutory judgment of condemnation,
 5 and it shall have immediate right of entry and possession, subject to the
 6 rights of the owners under section two with respect to structures and
 7 trees. The compensation or damages shall be payable when vested, or as
 8 soon thereafter as they are finally determined, and if not then paid may
 9 be recovered in an action of contract. In case two or more persons have
 10 appeared in the proceedings as parties respondent with interests adverse
 11 to each other with respect to a particular parcel of land, the body politic
 12 shall not be bound to pay such compensation until one or more of such
 13 persons have established his or their rights thereto in proper judicial
 14 proceedings to which the others of such persons are parties; but the
 15 proceedings to determine the amount of compensation shall not be stayed
 16 pending the establishment of such rights. Compensation and damages
 17 shall be assessed as of the date of the adoption of the order, and shall bear
 18 interest at the rate of four per cent per annum from the date when the
 19 right to damages becomes vested until payable, but shall not bear interest
 20 after they are payable unless the body politic fails upon demand to pay
 21 the same to the person entitled thereto. The body politic shall not pay
 22 compensation or damages to any person in excess of its estimate, except
 23 in accordance with an award of the commissioners, nor in excess of the
 24 award of the commissioners, except as amended in accordance with a
 25 verdict of the jury.

Taking
 absolute
 and rights
 vested, when.
 Compensation,
 damages.
 1929, 380, § 1.

1 SECTION 13. If the petition is dismissed under section seven, costs,
 2 as in actions at law, shall be awarded to the respondents, in addition to
 3 indemnity for loss and damages as provided in section eleven. If, upon
 4 entry of an interlocutory or final judgment of condemnation it appears
 5 that a respondent has been awarded greater compensation or damages
 6 than was allotted to him in the estimate contained in the order adopted
 7 under sections two and three or if betterments to be assessed on the
 8 land of any respondent have been determined to be less than as esti-
 9 mated in said order, such respondent shall be entitled to such costs;
 10 otherwise, he shall be liable for such costs.

Costs.
 1929, 380, § 1.

1 SECTION 14. If the right to assess betterments has been established,
 2 the board, within six months after the completion of the improvement,
 3 shall assess a proportionate share of the whole or part of the cost thereof
 4 upon each parcel of land with respect to which a benefit or advantage

Apportionment
 of assessment
 of betterments.
 Lien.
 1929, 380, § 1.

has been determined as herein provided and in the amount so determined, unless the betterments so assessed shall exceed the cost of the improvement, in which case they shall be proportionately reduced; and such assessments shall not thereafter be abated. The lien for such assessments shall take effect upon the recording of the order of intention to take under section three.

Certain provisions of law applicable to proceedings under this chapter. Failure to join necessary party, effect Compensation of commissioners, etc. Regulation, etc., of procedure. 1929, 380, § 1.

SECTION 15. The provisions of chapters seventy-nine and eighty, and all other provisions of law relative to proceedings under said chapters, shall apply to proceedings under this chapter, and to betterments assessed thereunder, so far as applicable and not inconsistent with the provisions hereof; but no petition for the assessment of compensation or damages or for the abatement of an assessment shall be maintained by any person who has been made a party to the proceedings for condemnation or with respect to property the record owners of which at the time of the adoption of the order under section two have been made parties thereto. Failure to make any person having an interest in the land taken, damaged or assessed a party respondent under section four shall not invalidate the proceedings, but such person shall not be bound by the judgment in the proceedings in respect to compensation, damages or assessments. The court shall determine the compensation of guardians ad litem and commissioners appointed under this chapter, and shall have power to establish and regulate the procedure thereunder, so far as not therein prescribed.

Election to make takings and assess betterments under this chapter. 1931, 426, § 198.

SECTION 16. In any case where the commonwealth, or a county, city, town or district thereof, has been or shall be authorized by provisions of general or special law to take real estate or any interest therein by eminent domain under chapter seventy-nine, the officer or board of officers thereof authorized to exercise such power may, unless otherwise provided, elect to take such property or interest under this chapter and, if betterments are to be assessed, to assess the same hereunder.

TITLE XIV.

PUBLIC WAYS AND WORKS.

- CHAPTER 81. State Highways.
- CHAPTER 82. The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs thereon.
- CHAPTER 83. Sewers, Drains and Sidewalks.
- CHAPTER 84. Repair of Ways and Bridges.
- CHAPTER 85. Regulations and By-laws relative to Ways and Bridges.
- CHAPTER 86. Boundaries of Highways and Other Public Places, and Encroachments thereon.
- CHAPTER 87. Shade Trees.
- CHAPTER 88. Ferries, Canals and Public Landings.
- CHAPTER 89. Law of the Road.
- CHAPTER 90. Motor Vehicles and Aircraft.
- CHAPTER 91. Waterways.
- CHAPTER 92. Metropolitan Sewers, Water and Parks.

CHAPTER 81.

STATE HIGHWAYS.

SECT.

DEPARTMENT OF PUBLIC WORKS.

- 1. General duties of department of public works.
- 2. Local officials to furnish information to department.
- 3. Road machinery to be provided. Purchase, etc., of storage quarters, etc.

LAYING OUT OF STATE HIGHWAYS.

- 4. Petition for laying out state highways.
- 5. Laying out. Abandonment. Width. Effect when narrower than previously existing way.
- 6. Alteration of location.
- 7. Taking by eminent domain. Stipulations in behalf of cities, etc., to indemnify commonwealth for payment of damages.
- 8. Construction of state highways by towns.
- 9. [Repealed.]
- 10. Contributions by cities and towns.
- 11. Taking of land to supply road materials.
- 12. Discontinuance. Abandonment.

SECT.

MAINTENANCE AND REPAIR OF STATE HIGHWAYS.

- 13. Department to maintain state highways.
- 14. Clearing trees and other obstructions near state highways.
- 15. Maintenance and repair by contract.
- 16. [Repealed.]
- 17. [Repealed.]
- 18. Liability for injury from defect in state highway.
- 19. Police jurisdiction. Removal of snow; expense, etc.
- 19A. [Repealed.]
- 20. Construction and maintenance of sidewalks.
- 21. Digging up state highways. Planting trees.
- 22. State highways not lost by prescription.

IMPROVEMENT OF WAYS NOT STATE HIGHWAYS.

- 23. [Repealed.]
- 24. Discretion vested in department.

<p>SECT. 25. Maintenance of certain ways improved by state funds. 26. Repair and improvement of public ways in small towns. 26A. Same subject. Contribution by county. 27. Same subject. Limited to thinly settled districts. 28. Same subject. Performance of the work.</p>	<p>SECT. 29. Same subject. Determination of contributions. FEDERAL AID. 30. Construction of rural post roads. VALUATION. 31. Valuation defined.</p>
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DEPARTMENT OF PUBLIC WORKS.

General duties of department of public works.
1893, 476, § 2.
R. L. 47, § 2.
1917, 344, 1, § 2, VIII, § 1.
1919, 350, § 111, 113.
1923, 57, § 1.
1926, 176.
1928, 357, § 1.
269 Mass. 10.
3 Op. A. G. 122.

SECTION 1. The department of public works, in this chapter called the department, shall compile statistics relative to the public ways of counties, cities and towns, and make such investigations relative thereto as it considers expedient. It may be consulted by, and shall without charge advise, officers of counties, cities or towns having the care of and authority over public ways as to their construction, maintenance, alteration or repair; but such advice shall not impair the legal duties and obligations of any county, city or town. It shall prepare maps of the commonwealth on which shall be shown county, city and town boundaries, the public ways and the state highways, with their names if practicable, and may sell such maps or other maps prepared by it from time to time in connection with the work under its charge relative to highways at such prices and on such conditions as it may determine. It shall collect and collate information relative to the geological formation of the commonwealth so far as it relates to materials suitable for road building, the location of which it shall, so far as practicable, designate on said maps, which shall be open to the inspection of officers of counties, cities and towns having the care of and authority over public ways. It shall give public notice of and hold at least one public meeting annually in each county for the open discussion of questions relative to the public ways.

Local officials to furnish information to department.
1893, 476, § 4.
R. L. 47, § 4.

SECTION 2. County commissioners and city and town officers who have the care of and authority over public ways shall, on request, furnish the department with any information required by it concerning such ways.

1917, 344, 1, § 4, VIII, § 1. 1919, 350, §§ 111, 113. 1931, 394, § 14.

Road machinery to be provided. Purchase, etc., of storage quarters, etc.
1893, 486.
1896, 513, § 1.
1897, 355, § 3.
1901, 416.
R. L. 47, § 19.
1917, 344, 1, § 27, VIII, § 1.
1919, 350, §§ 111, 113.
1921, 299.
1931, 394, § 15.
1 Op. A. G. 358.

SECTION 3. Steam road rollers and other road machinery, purchased by the department and owned by the commonwealth shall be managed and maintained under the direction of the department, which may engage competent engineers and mechanics to operate and keep said machines in repair, may purchase all needed materials and supplies, and may incur such other expenses as may be necessary to operate, maintain and transport said machines. Upon the application of the selectmen or road commissioners of a town of not more than twelve thousand inhabitants, the department may furnish such road machinery for use by the town in building or repairing ways therein. The expenses incurred under this section shall be paid by the towns using said machines, as apportioned and directed by the department. For the purpose of providing suitable quarters for the storage and repair of steam road rollers and other road machinery and tools and other equipment owned

15 by the commonwealth, the department may, subject to the approval
 16 of the governor and council, acquire by purchase or gift, land and build-
 17 ings and construct or alter buildings on any land so acquired.

LAYING OUT OF STATE HIGHWAYS.

1 SECTION 4. If county commissioners, aldermen or selectmen adjudge
 2 that public necessity and convenience require that the commonwealth
 3 lay out and take charge of a new or existing way as a highway in whole
 4 or in part, in their county, city or town, they may apply, by a written
 5 petition, to the department, requesting that said way be laid out and
 6 taken charge of by the commonwealth.

Petition for
 laying out
 state-highways
 1893, 476, § 6.
 1894, 497, § 1.
 1898, 476.
 R. L. 47, § 5.
 1909, 464, § 1.
 1917, 344,
 1, § 5, VIII, § 1.

1919, 350, §§ 111, 113.
 1931, 394, § 16.

173 Mass. 403.
 269 Mass. 16.

1 Op. A. G. 537.

1 SECTION 5. If the department determines that public necessity and
 2 convenience require that such way should be laid out or be taken charge
 3 of by the commonwealth, it shall file in the office of the county com-
 4 missioners for the county where the way is situated a certified copy of
 5 a plan thereof, a copy of the petition therefor, and a certified copy of a
 6 certificate that it has laid out and taken charge of said way in accord-
 7 ance with said plan, and shall file in the office of the clerk of such town
 8 a copy of the plan showing the location of the portion lying in each
 9 town and a copy of the certificate that it has laid out and taken charge
 10 of said highway in accordance with said plan, and thereafter said way
 11 shall be a state highway, and shall be constructed by the department at
 12 the expense of the commonwealth; but any state highway so laid out
 13 and constructed may be abandoned or discontinued as provided in sec-
 14 tion twelve. The width of a state highway shall be such as the depart-
 15 ment deems necessary. If the width of a state highway be less than that
 16 of the way previously existing, that portion of the way which lies between
 17 the boundary or location lines of the state highway and the boundary
 18 lines of the way previously existing shall remain a public way unless the
 19 department determines that it should be abandoned, or the county
 20 commissioners of the county, or the city or town in which the way is
 21 situated, having jurisdiction of the way, abandon at any time said
 22 portion in the manner provided by law for the alteration, relocation or
 23 discontinuance of public ways.

Laying out.
 Abandonment.
 Width.
 Effect when
 narrower than
 previously
 existing way.
 1893, 476, § 6.
 1894, 497, § 2.
 1896, 345, § 3.
 1897, 355, § 1.
 R. L. 47, § 6.
 1904, 108, § 1.
 1909, 464, § 2.
 1917, 344,
 1, § 6, VIII, § 1.
 1919, 350,
 §§ 111, 113
 1921, 427, § 1
 1931, 394, § 17
 269 Mass. 16.
 1 Op. A. G. 284,
 392, 489, 537
 2 Op. A. G. 378,
 396.

1 SECTION 6. The department may alter the location of a state high-
 2 way in a city or town by filing a plan thereof and a certificate that the
 3 department has laid out and taken charge of said state highway, as
 4 altered in accordance with said plan, in the office of the county commis-
 5 sioners for the county where said highway is situated, and by filing a
 6 copy of the plan or location as altered in the office of the clerk of such
 7 city or town.

Alteration of
 location
 1909, 475, § 1.
 R. L. 47, § 7.
 1917, 344,
 1, § 7, VIII, § 1.
 1919, 350,
 §§ 111, 113.
 1921, 445.
 1931, 394, § 18
 3 Op. A. G. 113.

1 SECTION 7. If it is necessary to acquire land for the purposes of a
 2 state highway outside the limits of an existing public way, the depart-
 3 ment may take the same by eminent domain on behalf of the common-
 4 wealth under chapter seventy-nine. When injury has been caused to
 5 the real estate of any person by the laying out or alteration of a state
 6 highway, he may recover compensation therefor from the common-
 7 wealth under chapter seventy-nine. The mayor, if so authorized by the
 8 aldermen, or the selectmen, if so authorized by the town, may stipulate

Taking by em-
 inent domain.
 Stipulations in
 behalf of cities,
 etc., to indemnify
 common-
 wealth for pay-
 ment of
 damages.
 1893, 497, § 3.
 1909, 475, § 1.
 1901, 345.
 R. L. 47, § 9.
 1917, 344,
 1, § 9, VIII, § 1.

1919, 350.
 §§ 111, 113.
 1931, 394, § 19.
 172 Mass. 223.
 10.

in writing in behalf of the city or town to indemnify and save harmless 9
 the commonwealth against all claims and demands for damages which 10
 may be sustained by any persons whose property has been taken for, or 11
 has been injured by the laying out or alteration of, any highway which 12
 the department proposes to lay out and construct or alter as a state 13
 highway, and thereupon such city or town shall be liable ultimately for 14
 the amount of any verdict against the commonwealth for such damages, 15
 and for costs, and the amount thereof may be recovered by the com- 16
 monwealth in contract. 17

Construction
 of state high-
 ways by towns.
 1893, 476, §§ 9,
 10.
 1894, 497, § 4.
 1897, 355, § 2.
 1900, 404
 R. L. 47, § 10.
 1917, 344, I.
 § 10, VIII, § 1.
 1919, 350.
 §§ 111, 113.
 1931, 394, § 20.
 269 Mass. 16.
 1 Op. A. G. 370,
 397.

SECTION 8. The department, when about to construct a highway, 1
 shall give to each town in which it lies a copy of the plans and specifica- 2
 tions therefor and a notice that the department is ready for its construc- 3
 tion; and said town may, without advertisement, contract with the 4
 department for the construction of so much of such highway as lies 5
 within its limits, in accordance with the plans and specifications and 6
 under the supervision and subject to the approval of the department, 7
 at a price agreed upon between the department and said town. If, 8
 within ten days, such town does not elect so to contract, or if it has 9
 waived the right to contract, the department shall advertise in two or 10
 more newspapers published in each county in which the highway lies, 11
 and in three or more daily newspapers published in Boston, for sealed 12
 proposals for the construction of such highway, stating the time and 13
 place for opening such proposals, and reserving the right to reject any 14
 and all proposals. If a proposal is satisfactory, the department, with 15
 the approval of the governor and council, shall make a contract in writ- 16
 ing on behalf of the commonwealth for such construction. After the 17
 proposals have been accepted or rejected they shall be kept by the 18
 department, and shall be open to public inspection for three years, and 19
 may then be destroyed by the department. The department may, in 20
 the same manner and under the same conditions, contract with a town, 21
 or, if a town shall not elect so to contract, with a person for the grading 22
 of a state highway or for furnishing labor, materials or any other element 23
 in its construction. The construction of all state highways shall be 24
 under the supervision and subject to the approval of the department 25
 and in accordance with plans and specifications furnished by it, shall be 26
 fairly apportioned by the department among the different counties, and 27
 not more than ten miles of state highway shall be constructed, on peti- 28
 tion as aforesaid, in any one county in any one year, without the previ- 29
 ous written approval of the governor and council. 30

SECTION 9. [REPEALED, 1931, 432.]

Contributions
 by cities and
 towns.
 1904, 125, § 1.
 1917, 344, I.
 § 15, VIII, § 1.
 1919, 350.
 §§ 111, 113.
 1931, 394, § 22.

SECTION 10. The mayor, selectmen or road commissioners or the 1
 board or officer having charge of the maintenance and care of highways, 2
 if so authorized by the city council or by the town, may agree in writing, 3
 in behalf of such city or town, to contribute money, labor or materials 4
 toward the cost of any state highway which the department proposes to 5
 lay out and construct within such city or town. 6

Taking of
 land to supply
 road materials.
 R. L. 48,
 §§ 105, 106.
 1916, 487, 511.
 1917, 344, I.
 § 18, VIII, § 1.

SECTION 11. The department shall have the same power as alder- 1
 men, selectmen or road commissioners in relation to the purchase or 2
 taking of land to furnish materials for the construction, repair or im- 3
 provement of public ways in the manner provided in section thirty-eight 4

5 of chapter eighty-two; provided, that all contracts for such purchase
 6 and all takings by the department shall first be approved by the governor
 7 and council. Such purchases or taking shall not operate in any way to
 8 interfere with the control of the police departments of the various
 9 municipalities within the land so taken. Land taken under this section
 10 shall be held and used for no other purpose than as specified herein;
 11 provided, that the department may allow county, city or town officers
 12 to use materials from such land for the above specified purposes upon
 13 such terms as may be agreed upon. For this purpose the department may
 14 expend not more than five thousand dollars in any year. Any person
 15 sustaining injury or damage by any taking of land or rights in land
 16 under this section may recover compensation therefor from the com-
 17 monwealth under chapter seventy-nine.

1919, 350,
 §§ 111, 113.
 1931, 394, § 23.

1 SECTION 12. The department, with the concurrence of the county
 2 commissioners, may discontinue as a state highway any way or section
 3 of way laid out and constructed under the provisions of section five by
 4 filing in the office of the county commissioners for the county and in the
 5 office of the clerk of the town in which such way is situated a certified
 6 copy of a plan showing the way so discontinued and a certificate that it
 7 has discontinued such way; and thereafter the way or section of way
 8 so discontinued shall be a town way. Said department may also abandon
 9 any land or rights in land which may have been taken or acquired by
 10 it by filing in the office of the county commissioners for the county and
 11 in the office of the clerk of the town in which such land is situated a
 12 certified copy of a plan showing the land so abandoned and a certificate
 13 that it has abandoned such land, and by filing for record in the registry
 14 of deeds for the county or district in which the land lies a description
 15 and plan of the land so abandoned; and said abandonment shall revert
 16 the title to the land or rights abandoned in the persons in whom it was
 17 vested at the time of the taking, or their heirs and assigns.

Discontin-
 uance.
 Abandonment.
 1900, 475, § 2.
 R. L. 47, § 8.
 1917, 344, 1.
 § 8, VIII, § 1.
 1919, 350,
 §§ 111, 113.
 1921, 427, § 2.
 1927, 105.
 1931, 394, § 24.
 2 Op. A. G. 378.
 3 Op. A. G. 113.

MAINTENANCE AND REPAIR OF STATE HIGHWAYS.

1 SECTION 13. State highways shall be maintained and kept in good
 2 repair and condition by the department at the expense of the common-
 3 wealth. The department shall keep all state highways reasonably clear
 4 of brush and shall cause suitable shade trees to be planted thereon if
 5 practicable.

Department to
 maintain state
 highways.
 1893, 476, § 6.
 1894, 497,
 §§ 2, 7.
 1896, 345, § 3.

1897, 355, § 1.	1917, 344, 1, §§ 6,	1 Op. A. G. 284.
R. L. 47, §§ 6, 11.	11, VIII, § 1	2 Op. A. G. 385.
1904, 108, § 1, 244.	1919, 350, §§ 111, 113.	3 Op. A. G. 59.
1909, 464, § 2.	1931, 426, § 9.	

1 SECTION 14. The department, if it can obtain consent of the owner,
 2 shall remove the trees, limbs of trees, shrubbery or any structure or other
 3 obstacle from lands bordering upon state highways, which in its opinion
 4 obstruct the view of persons traveling upon the highway or make travel-
 5 ing thereon dangerous. If the owner does not desire the material which
 6 has been so removed, the department may sell or otherwise dispose of
 7 it. The department shall cause all debris resulting from any cutting
 8 or trimming done along the state highway, under authority of this or
 9 of any other chapter, to be disposed of in such manner that it will not
 10 constitute a fire menace to adjoining property.

Clearing trees
 and other ob-
 structions near
 state highways.
 1914, 304
 1917, 344, 1,
 § 12, VIII, § 1.
 1919, 350,
 §§ 111, 113.
 1931, 394, § 25.

Maintenance and repair by contract.
1893, 476, § 10.
R. L. 47, § 15.
1917, 344, 1.
§ 19, VIII, § 1.
1919, 350.
§§ 111, 113.

SECTION 15. The department may contract with the town in which a state highway lies or with a private person or may make other provision for the maintenance and repair thereof in accordance with the regulations of the department and subject to its supervision and approval. Such contracts may be made without previous advertisement.

1931, 394, § 26.

SECTION 16. [REPEALED, 1931, 349.] 1

SECTION 17. [REPEALED, 1931, 349.] 1

Liability for injury from defect in state highway.
1893, 476, § 13
1894, 497, § 6.
1896, 345, § 1.
1900, 253,
§§ 1, 2.
R. L. 47, § 13.
1917, 344, 1.
§ 16, VIII, § 1.
1919, 350,
§§ 111, 113.
1931, 394, § 27.
236 Mass. 599
246 Mass. 499
2 Op. A. G. 396
3 Op. A. G. 174.

SECTION 18. The commonwealth shall be liable for injuries sustained by persons while traveling on state highways, if the same are caused by defects within the limits of the constructed traveled roadway, in the manner and subject to the limitations, conditions and restrictions specified in sections fifteen, eighteen and nineteen of chapter eighty-four, except that the commonwealth shall not be liable for injury sustained because of the want of a railing in or upon any state highway, or for injury sustained upon the sidewalk of a state highway or during the construction, reconstruction or repair of such highway. The amount which may be recovered for any such injury shall not exceed one fifth of one per cent of the valuation of the town in which the injury was received, nor shall it exceed four thousand dollars. Notice of the injury as required by law shall be given to a member of the department.

Police jurisdiction.
Removal of snow, expense, etc.
1893, 476, § 14
1894, 497, § 6.
1896, 345, § 2.
1900, 253, § 2.
R. L. 47, § 14.
1917, 344, 1.
§ 17, VIII, § 1.
1919, 350,
§§ 111, 113.
1923, 482, § 1.
1927, 273.
1931, 122, § 5;
394, § 28.
231 Mass. 386.

SECTION 19. A town shall have police jurisdiction over all state highways within its limits. It shall forthwith give written notice to the department or its employees of any defect or want of repair in such highways; but it may make necessary temporary repairs of a state highway without the approval of the department.

The department shall at the expense of the commonwealth keep such state highways or parts thereof as it may select sufficiently clear of snow and ice to be reasonably safe for travel; and the town in which any such state highway or part thereof lies shall forthwith give written notice to the department or its employees of any failure to keep such highway or part thereof clear of ice and snow as aforesaid. The department shall annually in January certify to the state treasurer the amount of expenditures incurred in each town during the preceding year for keeping such state highways or parts thereof clear of ice and snow as aforesaid. One half the amount of such expenditures, not exceeding fifty dollars per mile in towns with a valuation of less than two million dollars, not exceeding seventy-five dollars per mile in towns with a valuation of two million dollars and less than five million dollars and not exceeding one hundred dollars per mile in cities and towns with a valuation of five million dollars or over, shall be made a part of the state tax for such cities and towns, respectively. If a city or town elects to keep any such state highways or parts thereof clear of ice and snow as aforesaid upon terms and prices agreed upon by it and the department and under the direction of the department, the department shall repay to it, from the annual appropriation for state highways, the amount expended therefor in excess of the amount which such city or town would have been required to repay in case such expenditures had been made by the department. The department may, upon petition, exempt any town from the whole or any part of

29 any payment required hereunder, if in its judgment it would prove an
30 undue burden.

1 SECTION 19A. [INSERTED, 1924, 428, § 1; REPEALED, 1928, 357, § 7.]

1 SECTION 20. The department shall from time to time construct side-
2 walks along such parts of the state highways as it determines public con-
3 venience and necessity require. Sidewalks may also be constructed along
4 state highways and maintained in accordance with sections twenty-five
5 and twenty-six of chapter eighty-three.

Construction and maintenance of sidewalks
1896, 345, § 1
R. L. 47, § 18
1917, 344, 1,
§ 26, VIII, § 1.

1919, 350, §§ 111, 113.

1931, 394, § 29; 439.

1 SECTION 21. No state highway shall be dug up, nor opening made
2 therein for any purpose, and no tree shall be planted or removed or ob-
3 struction or structure placed thereon or removed therefrom or changed
4 without the written permit of the department, and then only in accord-
5 ance with its regulations, and the work shall be done under its supervi-
6 sion and to its satisfaction, and the entire expense of replacing the high-
7 way in as good condition as before shall be paid by the persons to whom
8 the permit was given or by whom the work was done; but a town may
9 dig up a state highway without the approval of the department in ease of
10 immediate necessity; but in such cases it shall forthwith be replaced in as
11 good condition as before at the expense of the town.

Digging up state highways.
Planting trees
1893, 476, § 14
1894, 497,
§§ 2, 7
1897, 355, § 1.
R. L. 47,
§§ 11, 21.
1906, 463, III,
§ 72
1914, 742,
§ 130
1917, 344, 1,
§ 29, VIII, § 1
1919, 350,
§§ 111, 113
1931, 394, § 30.

1 Op. A. G. 317, 392.

2 Op. A. G. 385.

3 Op. A. G. 59, 242.

1 SECTION 22. No length of possession, or occupancy of land within
2 the limits of a state highway, by an owner or occupant of adjoining land
3 shall give him any title thereto, and any fences, buildings or other obstruc-
4 tions encroaching upon a state highway shall, upon written notice by the
5 department, be removed forthwith by the owner or occupant of adjoining
6 land, and if not so removed, the department may remove the same
7 to such adjoining land.

State highways not lost by prescription.
1893, 476, § 12.
R. L. 47, § 20.
1917, 344, 1,
§ 28, VIII, § 1.
1919, 350,
§§ 111, 113
1931, 394, § 31.

IMPROVEMENT OF WAYS NOT STATE HIGHWAYS.

1 SECTION 23. [REPEALED, 1925, 288, § 2.]

1 SECTION 24. The department may, whenever any money is appro-
2 priated by the general court for its use in the construction or improve-
3 ment of any particular way, expend such money in constructing or
4 improving the whole or such part of said way as it deems best, either
5 upon the location of the existing way or upon any new location that
6 may be established by the county commissioners or the selectmen, and
7 no part of the way so improved shall thereby become a state highway or
8 be maintained as such. The department may, however, lay out the
9 whole or any part of any such way as a state highway.

Discretion vested in department.
1915, 8.
1917, 344, 1,
§ 24, VIII, § 1.
1919, 350,
§§ 111, 113
1931, 394, § 32.

1 SECTION 25. When any public way has been constructed or improved
2 in whole, or in part, with money furnished by the commonwealth, and
3 the way is not laid out as a state highway, the town in which the way
4 lies shall thereafter keep and maintain in good repair and condition that
5 part of the way which has been so constructed or improved; and the
6 expense thereof shall be borne by the town or county, or both, as may be
7 agreed upon at the time such construction or improvement is undertaken.

Maintenance of certain ways improved by state funds
1913, 774, § 1.
1917, 344, 1,
§ 25, VIII, § 1.
1919, 350,
§§ 111, 113.
1921, 428
1931, 394, § 33.

If the department shall determine at any time that such way is not being maintained in proper condition, it shall so notify the mayor or selectmen having charge of the repairs of said way and the county commissioners, and shall specify in said notice what repairs and improvements are necessary; and the officials in charge of the way shall forthwith proceed to make the specified repairs and improvements. If said officials do not make such repairs or improvements within fifteen days from the receipt of such notice, or within such further time as the department may allow, the department may proceed to have the repairs or improvements made, and may pay for the same from any money which may be available for the repair and maintenance of state highways. The department shall annually, in January, certify to the state treasurer the amount of such expenditures during the preceding year. So much of the expenditures as by agreement are to be paid by the towns shall be made a part of the state tax for such towns; and so much of the expenditures as by agreement are to be paid by the counties shall be paid by the county treasurers to the state treasurer. The department may embody the provisions of this section in all contracts and agreements for work to be done in the construction or improvement of public ways, other than state highways, constructed or improved in whole, or in part, with money furnished by the commonwealth.

Repair and improvement of public ways in small towns. 1918, 155, § 1. 1919, 350, §§ 111, 113. 1922, 281. 1926, 315, § 1. 1930, 171. 1931, 122, § 7. 262 Mass. 127.

SECTION 26. There may be expended for the repair and improvement of public ways, other than state highways, in towns having valuations of less than five million dollars, as established by the last preceding valuation made for the purpose of apportioning the state tax, and in which the proportionate amount paid by such towns of every million dollars of such tax as so established, divided by the number of miles of such public ways, hereinafter known as the road mileage ratio, is less than twelve dollars, such sums not exceeding one hundred dollars per mile as the general court may appropriate therefor; provided, that such towns shall contribute or make available for use in connection therewith the following amounts for each mile of such public ways within their respective limits, according to the following schedule based on their road mileage ratio:—

1. Less than one dollar and forty cents, fifteen dollars.
2. One dollar and forty cents and less than two dollars, twenty-five dollars.
3. Two dollars and less than two dollars and eighty cents, forty dollars.
4. Two dollars and eighty cents and less than three dollars and fifty cents, fifty dollars.
5. Three dollars and fifty cents and less than five dollars and fifty cents, seventy-five dollars.
6. Five dollars and fifty cents and less than seven dollars, one hundred dollars.
7. Seven dollars and less than nine dollars, one hundred and twenty-five dollars.
8. Nine dollars and less than twelve dollars, one hundred and fifty dollars.

The amounts appropriated as aforesaid and contributed by the towns shall be expended under the direction of the department of public works on such ways as said department and the selectmen of the towns may agree upon.

1 SECTION 26A. The county commissioners of the county wherein any
 2 public way is to be repaired or improved under the provisions of the
 3 preceding section may contribute and expend county funds therefor in
 4 accordance with such agreements as the commissioners may make with
 5 the department and the selectmen of the town. Said county funds may
 6 be paid to the department or to the town from time to time as the work
 7 progresses, to the extent that the said commissioners are satisfied that
 8 the work for which agreements have been made is being done in accord-
 9 ance therewith. Such contributions or expenditures by a county shall
 10 not render it liable for defects in any way or for damages to persons
 11 traveling thereon, and when the work of repair or maintenance for which
 12 such contribution or expenditure is made is completed, there shall be
 13 no further obligation on the part of the county as to the repair and
 14 maintenance thereof until a further contribution is made by the county
 15 commissioners for such purpose.

Same subject.
 Contribution
 by county.
 1921, 120, § 1.
 1931, 394, § 34.
 262 Mass. 127.

1 SECTION 27. Expenditure of state funds under section twenty-six
 2 shall be made only upon the written petition of the selectmen, contain-
 3 ing such information as the department may require. No work shall
 4 be done under said section in any district where dwelling houses or
 5 structures devoted to business are situated at intervals averaging less
 6 than two hundred feet for the distance of a quarter of a mile.

Same subject.
 Limited to
 thinly settled
 districts.
 1918, 155, § 2.
 1919, 350,
 § 111, 113.
 1931, 426, § 73.
 262 Mass. 127.

1 SECTION 28. The said towns may contract with the department for
 2 the performance of the work authorized by section twenty-six; or, if
 3 the selectmen so request, the department may have the work done by
 4 such persons and in such manner as it may determine, in which event
 5 the towns shall pay their proportionate part of the expense when and
 6 as ordered by the department. The cost of any materials, machinery or
 7 tools purchased by the department for or on account of the work in any
 8 town shall be considered as a part of the expenditures in such town
 9 under section twenty-six; and such machinery or tools shall belong to
 10 the commonwealth.

Same subject.
 Performance
 of the work
 1918, 155, § 3.
 1919, 350,
 § 111, 113.
 1931, 394, § 35.
 262 Mass. 127.

1 SECTION 29. The department shall determine, as nearly as possible,
 2 the number of miles of such public ways in towns entitled to the benefits
 3 under section twenty-six, and shall inform the selectmen of such towns
 4 of the contributions required from them under said section.

Same subject.
 Determination
 of contribu-
 tions.
 1918, 155, § 4.

1919, 350, §§ 111, 113.

1926, 315, § 2.

1931, 394, § 36.

FEDERAL AID.

1 SECTION 30. The department may make all contracts and agree-
 2 ments and do all other things necessary to co-operate with the United
 3 States in the construction and maintenance of rural highways, under
 4 an act of congress approved on July eleventh, nineteen hundred and
 5 sixteen, entitled "An Act to provide that the United States shall aid
 6 the states in the construction of rural post roads, and for other pur-
 7 poses", and submit such plans, estimates and programs for the improve-
 8 ment of highways as will meet the requirements of the secretary of agri-
 9 culture under said act, and it may use therefor any funds which may
 10 be available for the construction and maintenance of state highways,
 11 and may make any agreements or contracts that may be required to
 12 secure federal aid in the construction of highways under the provisions

Construction
 of rural post
 roads.
 1917, 67, § 2.
 1918, 18, § 1.
 1919, 89, 350,
 § 111, 113.
 1931, 394, § 37.

of the act of congress aforesaid, and of all other acts in amendment 13 thereof, or in addition thereto, and may, in such agreements or contracts, 14 provide, among other things, for such labor preferences to honorably 15 discharged soldiers, sailors and marines as are made necessary by fed- 16 eral legislation, and may provide that no other preference or discrimina- 17 tion among citizens of the United States shall be made in connection 18 with the expenditure of any money received from the federal govern- 19 ment by virtue of the said legislation, and also any money received 20 from the United States on account of the construction of highways. 21 The department may also, for the purpose of securing federal aid, use 22 any money appropriated by a county, city or town for the construction 23 of a way or any part thereof for which federal aid may be secured, and 24 make contracts or agreements involving the expenditure of said money, 25 provided the county commissioners or the selectmen or duly authorized 26 officials of the city or town have agreed in writing to pay the money 27 thus appropriated upon the order of the department. The department 28 may also maintain the roads constructed under this section or said act 29 of congress, from any money appropriated by the general court for the 30 maintenance of state highways or for the repair or maintenance of other 31 public ways. 32

VALUATION.

Valuation defined, 1917, § 44, I, § 16. 1918, 155, § 4.

SECTION 31. The valuation of a town for the purposes of this chapter 1 shall be the last preceding valuation made for the purpose of apportion- 2 ing the state tax. 3

CHAPTER 82.

THE LAYING OUT, ALTERATION, RELOCATION AND DISCONTINU-
ANCE OF PUBLIC WAYS, AND SPECIFIC REPAIRS THEREON.

SECT.	SECT.
PROCEDURE OF COUNTY COMMISSIONERS IN RESPECT TO HIGHWAYS.	16. Payment of county's share of expense.
1. Jurisdiction of county commissioners.	PROCEDURE OF CITY AND TOWN OFFICERS IN RESPECT TO HIGHWAYS.
2. Petition and bond.	17. Jurisdiction of cities and towns over highways.
3. Notice to towns and publication.	18. Record of action to be sent to county commissioners.
4. View and adjudication.	19. Appeal to county commissioners.
5. When final order may be entered.	20. Not applicable to railroad crossings.
6. Changes between the termini. Building line.	PROCEDURE OF CITY AND TOWN OFFICERS IN RESPECT TO TOWN WAYS AND PRIVATE WAYS.
7. Taking by eminent domain and damages.	21. Jurisdiction over town ways.
8. Performance of work of construction. Expense, apportionment.	22. Notice.
9. Culverts and cattle passes.	23. Acceptance by town.
10. Specific repairs.	24. Taking by eminent domain and damages.
11. Relocation.	25. Sewers and pipes in unaccepted ways.
12. Payment of damages and cost of construction.	
13. Liability of petitioners for costs.	
14. Construction of highways when towns neglect.	
15. Warrants against delinquent towns.	

SECT.
PROCEDURE OF COUNTY COMMISSIONERS IN
RESPECT TO TOWN WAYS AND PRIVATE
WAYS.

- 26. Unreasonable refusal of selectmen to act.
- 27. Unreasonable refusal of town to accept a way.
- 28. Completion of way by county commissioners.
- 29. Laying out private way by commissioners.
- 30. Discontinuance by commissioners.
- 31. Recognizance for costs. Notice and hearing.
- 32. Record of laying out conclusive.

SECT.
32A. Discontinuance of certain ways as
public ways.

WAYS AND PARTS OF WAYS FOR SPECIAL
PURPOSES.

- 33. Footways.
- 34. Reserved spaces in public ways.
- 35. Bicycle paths.
- 36. Penalty for misuse of bicycle paths.
- 37. Building lines.
- 38. Gravel pits.

FILING OF PETITIONS.

- 39. Filing of petitions with county commissioners.

PROCEDURE OF COUNTY COMMISSIONERS IN RESPECT TO HIGHWAYS.

1 SECTION 1. County commissioners within their respective counties
2 may lay out, alter, relocate and discontinue highways and order specific
3 repairs thereon in the manner herein provided, unless other provision
4 is made by law. Sections one to thirteen, inclusive, shall apply to city
5 councils or aldermen when authorized by city charters to lay out, alter,
6 relocate and discontinue highways and to order specific repairs thereon,
7 so far as applicable, and any hearing under any provision of said sections
8 required to be held before a city council or board of aldermen so author-
9 ized may be held before a duly authorized committee thereof.

Jurisdiction of
county com-
missioners.
C. L. 64, § 1.
1693-4, 6, § 3.
1756-7, 18, § 1.
1786, 67, § 4.
1797, 30, § 1.
1825, 171,
§§ 1, 2, § 3.
R. S. 24, § 1.
G. S. 43,
§§ 1, 81,
P. S. 49,
§§ 1, 91.

1892, 415, § 4. 1912, 554. 1917, 344, II, §§ 1, 65, VIII, § 1.
R. L. 48, §§ 1, 94. 1913, 546. 1931, 167.

1 SECTION 2. If common convenience and necessity require a new high-
2 way from town to town or from place to place within the same town, or
3 the alteration, specific repair or discontinuance of an existing highway,
4 application therefor shall be made, by petition in writing, to the county
5 commissioners having jurisdiction thereof. The petitioners shall, if so
6 required by the county commissioners, before any action is taken upon
7 such petition, cause a sufficient recognizance to be given to the county,
8 with surety to the satisfaction of the commissioners, for the payment of
9 all costs and expenses to the county which shall arise by reason of the
10 proceedings on such petition, if the petitioners do not prevail.

Petition and
bond.
C. L. 64, § 1.
1693-4, 6, § 3.
1756-7, 18, § 1.
1786, 67, § 4.
1797, 30, § 1.
1825, 171,
§§ 1, 2,
R. S. 24,
§§ 1, 41,
G. S. 43, §§ 1, 2.
P. S. 49, §§ 1, 2.
R. L. 48, §§ 1, 2.
1912, 554, § 1.
1917, 344, II,
§§ 1, 2,
VIII, § 1.

7 Mass. 157. 9 Allen, 263. 188 Mass. 521.
1 Met. 336. 11 Allen, 530. 189 Mass. 308, 326.
9 Met. 423. 108 Mass. 68. 200 Mass. 94.
7 Cush. 394. 114 Mass. 583. 204 Mass. 607.
9 Gray, 57, 186. 122 Mass. 110. 212 Mass. 182.
1 Allen, 37. 133 Mass. 321. 233 Mass. 595.
6 Allen, 10, 20. 186 Mass. 133. 245 Mass. 474.8 Allen, 21.

1 SECTION 3. Fifteen days at least before the time appointed for a
2 view or hearing, the commissioners shall cause notice of the time and
3 place appointed therefor and a copy of such petition to be served upon
4 the clerk of every town within which such new highway, alteration, spe-
5 cific repair or discontinuance is prayed for. They shall also cause copies
6 of the petition, or abstracts thereof, and of the notice, to be posted in two
7 public places in each of said towns and to be published in such news-
8 paper as they shall order; the posting and the last publication to be seven
9 days at least before any view, hearing or adjudication on such petition.

Notice to
towns and
publication.
1756-7, 18, § 1.
1827, 77, § 7.
R. S. 24, § 2.
G. S. 43, § 3.
P. S. 49, §§ 3, 4.
R. L. 48, § 3.
1912, 554, § 2.
1917, 344, II,
§ 3, VIII, § 1.
1931, 280
2 Mass. 117.
3 Mass. 187.
18 Fiek. 309.

9 Met. 423. 7 Gray, 109. 197 Mass. 412.

View and
adjudication.
1825, 171, § 3.
1827, 77, § 7.
1828, 103, § 3.
R. S. 24,
§§ 3, 4, 6.
G. S. 43, §§ 4-6.
P. S. 49, §§ 4-6.
R. L. 48, §§ 3, 5.
1912, 554,
§§ 3, 4.
1917, 344, II,
§§ 4, 5.
VIII, § 1.
18 Pick. 309.
20 Pick. 71.
22 Pick. 278.

SECTION 4. They shall view the premises if they consider it expedient or if requested by any party interested; and shall hear the parties, either at the time of the view, at a regular or special meeting or at an adjournment thereof, as they determine; and as soon as may be after the hearing, they shall determine whether the laying out, altering, specifically repairing or discontinuing such highway is required by the common convenience and necessity. If they adjudicate that the action prayed for is not required by common convenience and necessity, the petition shall be dismissed; otherwise they shall proceed in the manner prescribed in section five.

2 Met. 185.
9 Met. 423.
7 Gray, 109.

16 Gray, 36.
9 Allen, 203.
11 Allen, 530.

117 Mass. 416.
192 Mass. 522.

When final
order may be
entered.

1827, 77, § 7.
1828, 103, § 3.
R. S. 24, § 6.
1839, 76, § 1.
G. S. 43, § 8.
P. S. 49, § 8.
R. L. 48, § 7.
1912, 554, § 6.
1917, 344, II,
§§ 5, 7.
VIII, § 1.
1918, 257,
§ 208.
1919, 5.
1920, 2.
1922, 251, § 1.
20 Pick. 71.
9 Met. 423.
9 Gray, 57.

SECTION 5. If at the time of the view or hearing upon a petition for laying out, specifically repairing or altering a highway no person interested objects, the commissioners may, within six months thereafter, lay out, order specific repairs upon or alter such highway without further notice. If at such time any person interested objects, the commissioners shall not lay out, order specific repairs upon or alter such highway without another hearing, at which any party interested may be heard with respect to the manner in which the proposed improvement shall be carried out. Notice of such hearing shall be given in the manner prescribed in section three. If at the time of a view upon a petition for discontinuing a highway, the commissioners decide that it ought to be discontinued, they may at the same time adjudge that it be discontinued, without a further or subsequent meeting therefor; and if a return of said proceedings and adjudication is made and accepted at the next regular meeting of the commissioners, it shall be a discontinuance of such highway. The commissioners may adjudicate and decree in respect to a portion of a way described in a petition pending before them, leaving the petition open pending a further or final adjudication and decree in respect to a further portion of said way or a final adjudication and decree as to the remainder of such way.

Changes be-
tween the
termini.

Building line.
R. S. 24, § 5.
G. S. 43, § 7.
P. S. 49, § 7.
R. L. 48, § 6.
1912, 554, § 5.
1917, 344, II,
§ 6, VIII, § 1.
1920, 351, § 1.

SECTION 6. They may make such changes between the termini of the highway described in the petition, relative to the direction and course of such highway or to the alteration, specific repair or discontinuance thereof, as in their opinion the public convenience requires, and, in connection with the laying out, alteration or relocation thereof, may establish a building line not more than forty feet distant from the exterior line of such highway, extending for such distance from points where such highway joins an intersecting way, as defined in section one of chapter ninety, as may be necessary to insure the safety of the public, and thereafter no structures shall be erected or maintained between such building line and such highway except steps, windows, porticos, other usual projections appurtenant to the front wall of a building, embankments, walls, fences and gates, to the extent prescribed by the order establishing such building line. A building line so established may be discontinued in the manner provided for the discontinuance of a highway.

Taking by
eminent do-
main and
damages.
1827, 77, § 7.

SECTION 7. If it is necessary, for the purpose of laying out, altering or relocating a highway, or establishing a building line in connection therewith, to acquire land, or an easement or right therein, including an ease-

4 ment in land adjoining the location of the highway consisting of a right
 5 to have the land of the location protected by having the surface of the
 6 adjoining land slope from the boundary of the location, the commissioners
 7 shall, at the same time that the highway is laid out, altered or relocated,
 8 take such land, easement or right by eminent domain under chapter
 9 seventy-nine. Any person sustaining damage in his property by the
 10 laying out, alteration, relocation or discontinuance of a highway, or by
 11 specific repairs thereon, or by the establishment or discontinuance of a
 12 building line, shall be entitled to recover the same under said chapter.
 13 If no entry has been made upon land taken for highway purposes, or if
 14 the location has for any other cause become void, or if specific repairs
 15 which have been ordered are not made, a person who has suffered loss or
 16 been put to expense by the proceedings shall be entitled to recover
 17 indemnity therefor under said chapter.

1828, 103, § 3.
 R. S. 24, § 6.
 1839, 76, § 1.
 G. S. 43, § 8.
 P. S. 49, § 8.
 R. L. 48, § 7.
 1912, 554, § 6.
 1917, 344, II, § 7, VIII, § 1.
 1918, 257, § 208.
 1919, 5.
 1920, 2.
 1928, 199.
 1929, 331, § 2.
 20 Pick. 71.
 193 Mass. 327.

1 SECTION 8. The commissioners, in their return, shall determine and
 2 specify the manner in which a new highway shall be laid out or an exist-
 3 ing one altered, relocated or specifically repaired, and shall specify in
 4 sufficient detail the work required so that the same may be completed in
 5 accordance with the commissioners' directions, and the time within which
 6 it shall be completed, and each town shall perform the work so required
 7 within its limits unless other provision is made. They may apportion the
 8 expense thereof upon the county and towns, respectively, or they may
 9 agree with the towns in which the highway is located or with the depart-
 10 ment of public works, or both, as to the apportionment of such expense
 11 to be paid by the towns, county or state, respectively. The selectmen or
 12 mayor shall give notice to said commissioners of the time when the work
 13 ordered is begun, and the commissioners or their agents shall examine
 14 the work as often as may be necessary during its progress to ascertain
 15 that it is well done according to the direction of the commissioners, and,
 16 in case the town does not perform the work to the acceptance of said com-
 17 missioners, the provisions of sections fourteen and fifteen shall apply.
 18 The commissioners shall transmit to the clerk of each town in which the
 19 highway lies a description and plan of the location and bounds thereof
 20 within the limits of such towns respectively, which description shall be
 21 recorded within ten days by the clerk in a book kept for that purpose.

Performance of work of construction. Expense, apportionment. 1693-4, 6, § 3. 1796, 58, § 6. 1802, 135, § 4. 1827, 77, § 7. R. S. 24, § 10. 1859, 132, § 2. G. S. 43, § 13. P. S. 49, § 9. R. L. 48, § 8. 1912, 554, § 7. 1917, 344, II, § 8, VIII, § 1. 1921, 401. 1931, 394, § 38. 3 Mass. 406. 12 Cush 254. 7 Gray, 109. 100 Mass. 159. 119 Mass. 556. 121 Mass. 42. 125 Mass. 216. 131 Mass. 470. 149 Mass. 328. 151 Mass. 28. 158 Mass. 284.

1 SECTION 9. If the commissioners require a culvert, cattle pass or
 2 other passageway to be made under a highway, they may order the
 3 town to construct the same as a part of the highway, and may order
 4 the whole or any part of the expense to be paid by the county.

Culverts and cattle passes. 1867, 256. P. S. 49, § 64. R. L. 48, § 57.

1917, 344, II, § 9, VIII, § 1.

1 SECTION 10. If, upon a petition for the laying out or alteration of a
 2 highway, the commissioners, after a view and hearing, are of the opinion
 3 that the existing highway between the termini mentioned in the petition
 4 can be so far amended as to supersede the necessity of laying out a new
 5 highway or of altering the location of existing ways, they may, after
 6 notice to the towns interested, direct specific repairs to be made in the
 7 existing ways in such manner as the public convenience may require;
 8 and may apportion the expense thereof upon the county and towns re-
 9 spectively as in laying out highways. At the time of ordering specific
 10 repairs upon a highway, they may direct it to be closed for public travel
 11 for a reasonable time. Towns in which specific repairs are ordered shall

Specific repairs. 1835, 152, § 7. 1839, 90. R. S. 24, §§ 7, 8. G. S. 43. P. S. 49, § 9-11. §§ 10-12. R. L. 48, § 9-11. 1912, 554, § 8. 1917, 344, II, § 10-12. VIII, § 1. 3 Met. 336. 3 Met. 375. 169 Mass. 390. 188 Mass. 53. 268 Mass. 185.

make them. Nothing in this chapter with respect to commissioners' 12
orders for specific repairs shall relieve towns from their duties and lia- 13
bilities with respect to keeping public ways in repair. 14

Relocation.
1835, 182, § 8.
R. S. 24, § 9.
1851, 214.
G. S. 43, § 12.
1873, 165.
P. S. 49, § 13.
R. L. 48, § 12.
1912, 554, § 9.
1917, 344, II,
§ 13, VIII, § 1.
1922, 251, § 2.
11 C.ash. 394.
2 Gray, 274.
4 Allen, 488.
100 Mass. 159.
110 Mass. 305.
114 Mass. 583.
117 Mass. 416,
585.
120 Mass. 401.
122 Mass. 273.
133 Mass. 321.
153 Mass. 161.
164 Mass. 1.
167 Mass. 137.
176 Mass. 22.
177 Mass. 511.
186 Mass. 133.
189 Mass. 308,
324, 326, 505.
200 Mass. 94.
212 Mass. 182.

SECTION 11. If application is made to the commissioners by a town, 1
or by five inhabitants thereof, to relocate or order specific repairs on a 2
way within such town, whether it was laid out by authority of the town 3
or otherwise, they may, either for the purpose of establishing the bound- 4
ary lines of such way or of making alterations in the course or width 5
thereof, or of making specific repairs thereon, relocate it in the manner 6
prescribed for laying out highways in sections two to nine, inclusive. The 7
expense shall be assessed upon the petitioners or upon the county or 8
town, or upon the land benefited by the improvement under chapter 9
eighty, as the commissioners may order. The commissioners may, with- 10
out petition, after giving notice as provided in section three, relocate any 11
public way for the purpose of establishing its boundaries, or of making 12
specific repairs thereon, in which case no part of the expense shall be 13
assessed upon the town. 14

The commissioners may adjudicate and decree in respect to a portion 15
of a way described in a petition pending before them, leaving the petition 16
open pending a further or final adjudication and decree in respect to a 17
further portion of said way or a final adjudication and decree as to the 18
remainder of such way. 19

Payment of
damages and
cost of con-
struction.
1827, 77, § 11.
R. S. 24, §§ 38,
42.
1842, 86, §§ 1, 2.
G. S. 43, § 47.
P. S. 49, § 58.
R. L. 48, § 52.
1903, 243, § 1.
1917, 344, II,
§ 30, VIII, § 1.
2 Gray, 274.
9 Allen, 530.
186 Mass. 133.
189 Mass. 308,
326.

SECTION 12. When a highway has been finally laid out, altered, 1
relocated or discontinued, or when specific repairs are ordered on an 2
existing highway by the county commissioners, the county shall be 3
primarily liable for all damages thereby caused, or for all amounts 4
awarded or assessed as indemnity. The commissioners shall determine 5
what proportion if any of the expenses of the proceedings, cost of con- 6
struction, damages and indemnity shall be assessed upon the land 7
benefited under chapter eighty and whether the remainder, if any, shall 8
be borne by the county, or by the towns in which the parts of the high- 9
way are respectively located. The commissioners shall notify each 10
such town of any balance due from such town to the county under this 11
section and may enforce payment as provided in section fifteen. 12

Liability of
petitioners for
costs.
1827, 77, § 11.
R. S. 24, § 43.
G. S. 43, § 48.
P. S. 49, § 59.
R. L. 48, § 53.
1917, 344, II,
§ 31, VIII, § 1.
3 Met 312.
16 Gray, 256.

SECTION 13. If a highway is not finally laid out, relocated, altered or 1
discontinued, or if specific repairs are not ordered, the expenses of the 2
proceedings shall be paid by the persons who have recognized therefor. 3
If they refuse or neglect, when required by the commissioners, to pay 4
such expenses, such expenses or costs shall be paid by the county; and 5
thereupon the commissioners may collect the same from the persons who 6
so recognized, as provided by section eighteen of chapter thirty-four. 7

Construction of
highways when
towns neglect.
1827, 77, § 7.
R. S. 24, § 44.
G. S. 43, § 49.
P. S. 49, § 60.
R. L. 48, § 54.
1908, 431, § 4.
1917, 344, II,
§ 32, VIII, § 1.
5 Greenl. 254.
16 Gray, 195,
347.

SECTION 14. If, after a highway has been laid out by the commis- 1
sioners, a city or town whose duty it is to make such highway, or a part 2
thereof, does not make and complete the same within the time and in the 3
manner prescribed and to the acceptance of the commissioners, they 4
may forthwith cause such highway to be completed as aforesaid, and 5
shall direct the expenses and charges of completing the same to be paid 6
by the county and shall order notice thereof to be given to each delin- 7
quent city or town, stating the proportion which it is to pay. 8

1 SECTION 15. If a delinquent city or town does not pay its proportion
 2 of such expenses and charges within sixty days after the date of said
 3 notice, with interest thereon at the rate of ten per cent a year from the
 4 time when the same is paid by the county, the commissioners may, after
 5 a hearing, issue a warrant against such city or town for the amount which
 6 it was ordered to pay, with interest and the further costs of such notice
 7 and warrant, which shall be collected and paid into the county treasury.

16 Gray, 193, 347.

103 Mass. 129.

143 Mass. 245.

Warrants
 against delin-
 quent towns.
 1789, 67, § 6.
 1827, 77, § 7.
 R. S. 24, § 45.
 G. S. 43, § 50.
 P. S. 49, § 61.
 R. L. 48, § 55.
 1908, 131, § 5.
 1917, 344, II.
 § 33, VIII, § 1.

1 SECTION 16. When a highway which has been laid out, specifically
 2 repaired, relocated or altered, is completed, in whole or in part, the
 3 commissioners shall view and carefully examine it throughout, and if
 4 they find that it has been well made according to their directions, they
 5 shall order the proportion of the expense for which the county is liable
 6 under section twelve or which has been assessed upon the land benefited
 7 to be paid by the county. Said commissioners, before work ordered
 8 by them is wholly completed, may pay to the city or town such proportion
 9 of the county's share of the expense as they determine, having regard
 10 to the amount of work done and the proportion of the expense which
 11 they have determined the county shall pay.

Payment of
 county's share
 of expense.
 1827, 77, § 8.
 R. S. 24,
 §§ 46, 47.
 1841, 105, § 1.
 G. S. 43,
 §§ 51, 52.
 P. S. 49,
 §§ 62, 63.
 R. L. 48, § 56.
 1912, 554, § 10.
 1917, 344, II.
 § 34, VIII, § 1.
 6 Met. 329.

PROCEDURE OF CITY AND TOWN OFFICERS IN RESPECT TO HIGHWAYS.

1 SECTION 17. The city council of a city and the selectmen or road
 2 commissioners of a town may exercise original jurisdiction, concurrent
 3 with the county commissioners, of petitions for altering, relocating or
 4 making specific repairs upon a highway within the town limits, but
 5 except as to such parts thereof as, by such action, become unnecessary
 6 for public use, a city or town shall not discontinue any highway or di-
 7 minish the width thereof, nor shall it assess upon the county any part of
 8 the expense of altering, relocating or repairing. The proceedings of
 9 cities and towns and their officers hereunder shall be the same as in the
 10 laying out of highways or town ways. Nothing in sections seventeen to
 11 nineteen, inclusive, shall diminish the powers over highways granted to a
 12 city by its charter.

Jurisdiction of
 cities and towns
 over highways
 1891, 170,
 §§ 1, 2.
 R. L. 48, § 58.
 1913, 546, § 1.
 1917, 344, II.
 § 35, VIII, § 1.
 189 Mass. 505.
 200 Mass. 94.

1 SECTION 18. Within two weeks after final action relative to the
 2 alteration or relocation of a highway or making specific repairs thereon,
 3 under the preceding section, the town clerk shall send a certified copy of
 4 the record of such final action to the county commissioners, who shall
 5 enter it upon their records.

1917, 344, II, § 36, VIII, § 1.

Record of
 action to be
 sent to county
 commissioners.
 1891, 170, § 6.
 R. L. 48, § 59.
 1913, 546, § 2.

1 SECTION 19. An appeal may be taken to the county commissioners
 2 from any action under the two preceding sections, and they shall there-
 3 upon give a public hearing, with not less than fourteen days' notice
 4 thereof, in the manner required in the laying out of highways or town
 5 ways and also by publishing in a newspaper a copy of the notice not less
 6 than seven days before the hearing. At such hearing the county com-
 7 missioners may finally decide such appeal.

Appeal to
 county com-
 missioners.
 1891, 170, § 4.
 R. L. 48, § 60.
 1913, 546, § 3.
 1917, 344, II,
 § 37, VIII, § 1.

1 SECTION 20. The three preceding sections shall not affect sections
 2 fifty-nine to eighty-two, inclusive, of chapter one hundred and fifty-

Not applicable
 to railroad
 crossings

1891, 170, § 5.
R. L. 48, § 64.
1913, 546, § 5.
1917, 344, II,
§ 38, VIII, § 1.

nine, and sections ninety-five to one hundred and fourteen, inclusive, and section two hundred and fifty-two of chapter one hundred and sixty, relative to railroad corporations and street railway companies.

PROCEDURE OF CITY AND TOWN OFFICERS IN RESPECT TO TOWN WAYS AND PRIVATE WAYS.

Jurisdiction
over town
ways.

C. L. 64, § 2.
1693-4, 6, § 4.
1713-14, 8, § 1.
1727-8, 1, § 2.
1746-7, 10.
1785, 75, § 7.
1786, 67, § 1.

SECTION 21. The selectmen or road commissioners of a town or city council of a city may lay out, relocate or alter town ways, for the use of the town or city, and private ways for the use of one or more of the inhabitants thereof; or they may order specific repairs to be made upon such ways; and a town, at a meeting, or the city council of a city, may discontinue a town way or a private way.

R. S. 24, §§ 66, 70.	1 Cush. 496.	145 Mass. 561.
1842, 86.	7 Cush. 394.	150 Mass. 309.
G. S. 43, §§ 59, 60, 81.	13 Gray, 254.	169 Mass. 390.
P. S. 49, §§ 65, 66, 91.	16 Gray, 175.	189 Mass. 505.
1892, 415, § 1.	4 Allen, 529.	197 Mass. 531.
R. L. 48, §§ 65, 66, 94.	11 Allen, 530.	200 Mass. 94.
1917, 344, II, §§ 39, 40,	108 Mass. 68, 202.	208 Mass. 348.
65, VIII, § 1.	137 Mass. 255, 326.	215 Mass. 381.
9 Pick. 145.	143 Mass. 490.	271 Mass. 415.
11 Met. 521.	144 Mass. 579.	4 Op. A. G. 15.

Notice.

1835, 122.
R. S. 24, § 67.
G. S. 43, § 61.
1871, 158.
1873, 51.
P. S. 49, § 67.
R. L. 48, § 67.
1917, 344, II,
§ 41, VIII, § 1.
1 Met. 404.
2 Met. 220.
2 Gray, 414.
98 Mass. 491.
119 Mass. 480.
121 Mass. 132.
136 Mass. 477.
174 Mass. 424.
197 Mass. 531.
241 Mass. 340.
271 Mass. 415.

SECTION 22. Seven days at least prior to the laying out, relocation or alteration of a town way or private way a written notice of the intention of the selectmen or road commissioners of the town to lay out, relocate or alter the same shall be left by them, at the usual place of abode of the owners of the land which will be taken for such purpose, or delivered to such owner in person or to his tenant or authorized agent. If the owner has no such place of abode in the town and no tenant or authorized agent therein known to the selectmen or if, being a resident in the town, he is not known as such to the selectmen or road commissioners, such notice shall be posted in a public place in the town seven days at least before the laying out, relocation or alteration of such way. This section shall not apply to cities.

Acceptance

by town.
1727-8, 1, § 1.
1785, 75, § 7.
1786, 67, § 1.
R. S. 24, § 69.
G. S. 43, § 65.
P. S. 49, § 71.
R. L. 48, § 71.
1917, 344, II,
§ 45, VIII, § 1.
2 Greenl. 55.
3 Greenl. 438.

SECTION 23. No town way or private way which has been laid out, relocated or altered by the selectmen or road commissioners shall, except as hereinafter provided, be established until such laying out, relocation or alteration, with the boundaries and measurements of the way, is filed in the office of the town clerk and, not less than seven days thereafter, is accepted by the town at a town meeting. This section shall not apply to cities.

2 Mass. 529.	105 Mass. 535.	135 Mass. 162.	192 Mass. 455.
5 Pick. 492.	118 Mass. 138.	145 Mass. 539.	197 Mass. 531.
9 Pick. 145.	120 Mass. 130.	153 Mass. 12.	250 Mass. 203.
9 Met. 423.	123 Mass. 543.	187 Mass. 53.	271 Mass. 415.

Taking by
eminent do-
main and
damages.

1727-8, 1, § 2.
1786, 67, § 1.
R. S. 24, § 68.
1842, 86.
G. S. 43, § 62.
1871, 158.
1873, 51.
P. S. 49, § 68.
R. L. 48, § 68.
1917, 344, II,
§ 42, VIII, § 1.
1918, 207,
§ 209.

SECTION 24. If it is necessary to acquire land for the purposes of a town way or private way which is laid out, altered or relocated by the selectmen, road commissioners or other officers of a town under this chapter, such officers shall within thirty days after the termination of the town meeting at which the laying out, alteration or relocation of such town way or private way is accepted by the town, adopt an order for the taking of such land by eminent domain under chapter seventy-nine or institute proceedings for such taking under chapter eighty A. Any person sustaining damage in his property by the laying out, altera-

10 tion or relocation of a town way or private way shall be entitled to
 11 recover the same under said chapter seventy-nine, unless such damage
 12 was sustained in connection with a taking made in proceedings insti-
 13 tuted under said chapter eighty A, and any person sustaining damage in
 14 his property by the discontinuance of a town way or private way or by
 15 specific repairs thereon shall be entitled to recover the same under said
 16 chapter seventy-nine. If no entry has been made upon land taken
 17 under said chapter seventy-nine for the purpose of a town way, or if
 18 the location has for any other cause become void, a person who has
 19 suffered loss or been put to expense by the proceedings shall be entitled
 20 to recover indemnity therefor under said chapter seventy-nine. If a
 21 private way is laid out, relocated, altered or discontinued by a town,
 22 or if a town makes specific repairs thereon, or if a town way is discon-
 23 tinued, the persons upon whose application such way is laid out, relo-
 24 cated, altered or discontinued or upon whose application specific repairs
 25 are made thereon shall, before such way is entered upon for the purposes
 26 of construction, or is closed up, give such town security satisfactory to
 27 the selectmen that they will indemnify such town for all damages and
 28 charges which it is obliged to pay by reason thereof, and all such dam-
 29 ages and charges shall be repaid to the town by the persons making such
 30 application; provided, however, that in case of the discontinuance of a
 31 town way the selectmen may order a part of the damages to be paid
 32 by the town. The first sentence of this section shall not apply to cities.

1919, 5.
 1920, 2.
 1927, 23.
 1931, 426, § 199.
 1 Met. 404.
 4 Gray, 360.
 5 Gray, 31.
 11 Allen, 530.
 137 Mass. 255.
 144 Mass. 139.
 169 Mass. 390.
 170 Mass. 593.
 178 Mass. 382.
 189 Mass. 515.
 197 Mass. 412.
 531.
 255 Mass. 67.
 271 Mass. 415.

1 SECTION 25. In a town which accepts the provisions of this section
 2 or has accepted corresponding provisions of earlier laws, the selectmen,
 3 road commissioners or sewer commissioners may, when a town way is
 4 laid out, relocated or altered, enter and lay sewers and water pipes
 5 therein before possession is taken for the purpose of constructing such
 6 way, in like manner as if it had been actually constructed. Such entry
 7 shall not be deemed an entry for the purpose of constructing the way,
 8 and until such way has been constructed, sewer assessments shall be
 9 levied only upon the estates of persons connecting their drains with such
 10 sewers. If such laying out, relocation or alteration becomes void under
 11 the provisions of section three of chapter seventy-nine, all sewers or
 12 water pipes so laid therein shall be deemed to have been legally laid
 13 and placed therein; and damages may be recovered therefor under
 14 chapter seventy-nine; and the right to recover the same shall accrue
 15 when such laying out, alteration or widening becomes void. This section
 16 shall not apply to cities.

Sewers and
 pipes in un-
 accepted ways.
 1893, 65.
 R. L. 48, § 72.
 1917, 344, II.
 § 46, VIII, § 1.
 271 Mass. 415.

PROCEDURE OF COUNTY COMMISSIONERS IN RESPECT TO TOWN WAYS
 AND PRIVATE WAYS.

1 SECTION 26. If the selectmen or road commissioners unreasonably
 2 refuse or neglect to lay out, relocate or alter a town way or private way
 3 when requested in writing by one or more of the inhabitants of a town,
 4 the county commissioners, on the petition in writing of a person ag-
 5 grieved, filed within one year after such request, may lay out, relocate
 6 or alter such way, and may determine its boundaries and measurements,
 7 and, if it is necessary to acquire land for the purposes of such way, may
 8 take the same by eminent domain on behalf of the town under chapter
 9 seventy-nine, and the costs of the proceedings shall be paid by the
 10 town. If it is a private way, the damages and costs, or such part thereof

Unreasonable
 refusal of se-
 lectmen to act.
 1713-14,
 8, § 2.
 1746-7, 10.
 1786, 67, § 2.
 R. S. 24, § 71.
 G. S. 43,
 §§ 67, 81.
 P. S. 49,
 §§ 73, 91.
 1892, 415, § 4.
 R. L. 48,
 §§ 74, 94.
 1917, 344, II.
 §§ 48, 65,
 VII, § 1.

1918, 257,
§ 210.
1919, 5.
1920, 2.
8 Greenl. 271.
9 Met. 423
12 Met. 298.
7 Cush. 394.

as the county commissioners consider reasonable, shall be repaid to the town by the persons for whose use it was laid out, relocated or altered, and security for such payment, satisfactory to the county commissioners, shall be given to the town by such persons before the same is entered upon for the purpose of constructing or altering the same.

11 Cush. 189. 4 Gray, 414. 173 Mass. 48. 215 Mass. 381.

Unreasonable refusal of town to accept a way.
1736-7, 14
1786, 67, § 3.
R. S. 24, § 72.
G. S. 43.
§§ 68, 81.
P. S. 49.
§§ 74, 91.
1802, 415, § 4.
R. L. 48.
§§ 75, 94.
1917, 344, II.
§§ 49, 65,
VIII, § 1.

SECTION 27. If a town unreasonably refuses or delays to accept a town way or private way laid out, relocated or altered by the selectmen or road commissioners, any person aggrieved thereby may within one year thereafter apply by petition in writing to the county commissioners, who, unless sufficient cause is shown against such application, may approve the way as laid out, relocated or altered by the selectmen or road commissioners, and may direct the laying out, relocation or alteration and approval to be recorded by the clerk of such town, which shall have like effect as if accepted by the town.

8 Greenl. 271. 2 Mass. 118. 3 Mass. 188. 9 Met. 423.

Completion of way by county commissioners.
1845, 222.
§§ 1, 2.
G. S. 43.
§§ 69, 81.
P. S. 49.
§§ 75, 91.
1802, 415, § 4.
R. L. 48.
§§ 76, 94.
1917, 344, II.
§§ 50, 65,
VIII, § 1.

SECTION 28. If a town in which a town way or private way has been laid out, relocated, altered or approved in pursuance of the two preceding sections does not make and complete the same in the manner prescribed by the county commissioners, and to their satisfaction, within six months after it has been laid out, relocated, altered or approved, or within the time directed by them, they shall, forthwith, cause such way to be completed, and the expenses, interest and charges thereof shall be determined and paid in the manner provided in sections fourteen and fifteen.

Laying out private way by commissioners.
1837, 164.
G. S. 43.
§§ 66, 81.
P. S. 49.
§§ 72, 91.
1802, 415, § 4.
R. L. 48.
§§ 73, 94.

SECTION 29. If the laying out, relocation or alteration of a private way is desired in a town for the use of one or more persons who are not inhabitants thereof, or if the laying out, relocation or alteration of a private way lying partly in one town and partly in another is desired, the county commissioners may cause such way to be laid out, relocated or altered, in the manner provided in section twenty-six.

1917, 344, II, §§ 47, 65, VIII, § 1.

Discontinuance by commissioners.
1764-5, 6.
1786, 67, § 2.
R. S. 24.
§§ 73, 74.
G. S. 43.
§§ 70, 71, 81.
P. S. 49.
§§ 76, 77, 91.
1802, 415, § 4.
R. L. 48.
§§ 77, 78, 94.

SECTION 30. Upon the application in writing of a person aggrieved by the refusal of a town to discontinue a town way or private way, the county commissioners may order such way to be discontinued. If a town way has been laid out, relocated or altered by the county commissioners, it shall not within two years thereafter be discontinued, relocated or altered by the town; and if such way has been discontinued by the county commissioners, the town shall not within two years thereafter lay out the same again.

1917, 344, II, §§ 51, 52, 65, VIII, § 1. 2 Pick. 44. 2 Op. A. G. 177.

Recognizance for costs. Notice and hearing.
1827, 77, § 13.
R. S. 24, § 75.
G. S. 43.
§§ 72, 81.
P. S. 49.
§§ 78, 91.
1802, 415, § 4.

SECTION 31. If an application is made to the county commissioners under sections twenty-six, twenty-seven, twenty-nine or thirty, they may cause a recognizance to be given to the county such as is required in applications for highways; and like proceedings may be had on such recognizance. They shall also cause notice to be given, before they proceed to view or to hear the parties, as in the case of highways.

R. L. 48, §§ 79, 94. 1917, 344, II, §§ 53, 65, VIII, § 1. 9 Met. 423.

1 SECTION 32. When a town way or private way is laid out, relocated
 2 or altered by the selectmen or road commissioners or by the county
 3 commissioners, they shall in their report or return thereof specify the
 4 manner in which such way is laid out, relocated or altered and shall
 5 transmit to the town clerk a description of the location and bounds
 6 thereof, which shall within ten days be recorded by him in a book kept
 7 for that purpose; and no town shall contest the legality of a way laid
 8 out by it and accepted and recorded as provided in this chapter. Sec-
 9 tions twenty-six to thirty-two, inclusive, shall apply to cities.

Record of
 laying out
 conclusive.
 1848, 98,
 §§ 1, 2
 1859, 132,
 38, 11, 2, 4,
 R. S. 24, § 77
 G. S. 43, §§ 74,
 76, 81,
 P. S. 49, §§ 80,
 82, 91
 1892, 415, § 4.
 R. L. 48,
 §§ 81, 83, 91.

1917, 344, 11, §§ 55, 56, 65, VIII, § 1.
 9 Gray, 341.

114 Mass. 548.
 151 Mass. 28.

1 SECTION 32A. Upon petition in writing of the board or officers of
 2 a town having charge of a public way, the county commissioners may,
 3 whenever common convenience and necessity no longer require such
 4 way to be maintained in a condition reasonably safe and convenient for
 5 travel, adjudicate that said way shall thereafter be a private way and
 6 that the town shall no longer be bound to keep the same in repair, and
 7 thereupon such adjudication shall take effect; provided, that sufficient
 8 notice to warn the public against entering thereon is posted where such
 9 way enters upon or unites with an existing public way. This section
 10 shall not apply to ways in cities.

Discontin-
 uance of
 certain ways
 as public
 ways.
 1924, 289.

WAYS AND PARTS OF WAYS FOR SPECIAL PURPOSES.

1 SECTION 33. Cities and towns may lay out footways for the use of
 2 the public in the manner provided for the laying out of town ways.

R. L. 48, § 84.
 1917, 344, 11, § 58, VIII, § 1.

108 Mass. 196.
 120 Mass. 300.

220 Mass. 300.

Footways.
 1874, 299
 P. S. 49, § 83.

1 SECTION 34. If the city council of a city, or a town, accepts this sec-
 2 tion or has accepted the corresponding provisions of earlier laws, the
 3 board or officers authorized to lay out highways or town ways may reserve
 4 spaces between the side lines thereof for the use of horseback riders, for
 5 bicycle paths or for street railways, except such as may be operated by
 6 steam, for drains, sewers and electric wires, for trees and grass, and for
 7 planting.

Reserved
 spaces in
 public ways.
 1894, 324
 R. L. 48, § 85
 1906, 463, 111,
 § 50.
 1917, 344, 11,
 § 59, VIII, § 1.
 183 Mass. 586,
 234 Mass. 393.

1 SECTION 35. The board or officers authorized to lay out highways or
 2 town ways may lay out, construct and maintain bicycle paths under
 3 the provisions of law relative to the laying out, construction and main-
 4 tenance of public ways.

183 Mass. 586.

4 Op. A. G. 183.

Bicycle paths.
 1898, 351
 R. L. 48, § 86.
 1917, 344, 11,
 § 60, VIII, § 1.

1 SECTION 36. Whoever trespasses upon bicycle paths named in the
 2 two preceding sections by driving thereon with a horse or other animal,
 3 except to cross the same, shall be punished by a fine of not more than
 4 twenty dollars; but the aldermen or selectmen may prescribe limits
 5 within which this section shall not apply.

Penalty for
 misuse of
 bicycle paths.
 1869, 174
 R. L. 48, § 87.
 1917, 344, 11,
 § 61, VIII, § 1.
 183 Mass. 586.

1 SECTION 37. If a city by its city council or a town accepts this section
 2 or has accepted corresponding provisions of earlier laws, a building line
 3 not more than forty feet distant from the exterior line of a highway or
 4 town way may be established in the manner provided for laying out ways,
 5 and thereafter no structures shall be erected or maintained between such

Building lines.
 1893, 462
 R. L. 48, § 103.
 1913, 572,
 1917, 56, 344,
 11, § 73,
 VIII, § 1.
 1925, 130,
 241 Mass. 340.

247 Mass. 417. building line and such way, except steps, windows, porticos, other usual 6
 248 Mass. 447. projections appurtenant to the front wall of a building, embankments, 7
 255 Mass. 67. walls, fences and gates, to the extent prescribed in the vote establishing 8
 262 Mass. 404. such building line, and except that any structure existing at the time of 9
 the establishment of the building line may be permitted to remain and 10
 to be maintained to such extent and under such conditions as may be 11
 prescribed in the vote establishing such building line. Whoever sustains 12
 damage thereby may recover the same under chapter seventy-nine. A 13
 building line established under this section may be discontinued in the 14
 manner provided for the discontinuance of a highway or town way. Who- 15
 ever sustains damages by the discontinuance of a building line may 16
 recover the same under chapter seventy-nine. 17

Gravel pits.
 1869, 237.
 § 1, 2.
 P. S. 49, § 99.
 1899, 85.
 R. L. 48, § 105.
 1910, 511, § 1.
 1917, 344, II,
 § 76, VIII, § 1.
 260 Mass. 592.

SECTION 38. The county commissioners, aldermen or selectmen or 1
 road commissioners may purchase or select and lay out land within 2
 their respective counties, cities or towns, not appropriated to public 3
 uses or owned by any other town, from which may be taken materials 4
 necessary for the construction, repair or improvement of public ways; 5
 and may lay out such ways as they consider necessary for convenient 6
 access thereto. All proceedings relative to such land and ways shall be 7
 the same as are provided in the laying out of other ways, and if it is 8
 necessary to acquire land for the purposes of this section, the same may 9
 be taken by eminent domain under chapter seventy-nine. 10

FILING OF PETITIONS.

Filing of pe-
 titions with
 county com-
 missioners.
 1874, 283, § 1.
 1875, 223, § 1.
 P. S. 49, § 106.

SECTION 39. Petitions to the county commissioners relative to high- 1
 ways and town ways may be filed with and the recognizance taken by 2
 the clerk of said commissioners, and such filing shall be the commence- 3
 ment of proceedings. 4

R. L. 48, § 111.

1917, 344, II, § 81, VIII, § 1.

CHAPTER 83.

SEWERS, DRAINS AND SIDEWALKS.

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5. Separate system of plumbing.
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SECT.

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14. Assessment for construction.
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23. Payment of part of cost by city or town.
24. Assessment for particular sewers.

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26. Sidewalk assessments.

GENERAL PROVISIONS RELATING TO ASSESSMENTS.

27. Recording of statement.
28. Application of betterment law.

CONSTRUCTION AND MAINTENANCE OF SEWERS AND DRAINS.

1 SECTION 1. The aldermen of a city or the sewer commissioners, Laying out
 2 selectmen or road commissioners of a town may lay out all such main of sewers
 3 drains or common sewers as they adjudge necessary for the public con- 1799-10, 5, § 2.
 4 venience or the public health, in public or private ways or in the land 1796, 47, § 2.
 5 of any person, and may take land by eminent domain under chapter R S 27, § 2.
 6 seventy-nine which may be necessary therefor, and may prescribe the 1841, 115,
 7 manner in which and the materials with which such drains or sewers § 1, 6.
 8 shall be built; but all such drains or sewers built in public ways shall 1857, 225, § 1.
 9 be built and repaired with brick or stone or in some other substantial G. S. 48, §§ 1,
 10 manner. They may also lay out particular sewers from common sewers 3, 9.
 11 to the boundary of the way. Drains and sewers so laid out shall be built, 1869, 111, § 1.
 12 repaired, maintained and owned by the town. 1871, 158, § 2.
 1873, 51.
 P. S. 50, §§ 1,
 13,
 1890, 124
 1892, 245, § 4.
 1893, 304, § 2,
 423, § 24.

R. L. 49, §§ 1, 12, 25.	124 Mass. 564.	151 Mass. 174.
4 Allen, 41.	126 Mass. 431.	159 Mass. 324.
8 Allen, 127.	128 Mass. 396.	160 Mass. 282.
13 Allen, 146.	131 Mass. 323.	163 Mass. 303.
104 Mass. 13.	134 Mass. 476.	174 Mass. 545.
110 Mass. 433.	139 Mass. 384.	185 Mass. 142.
113 Mass. 218.	142 Mass. 110.	192 Mass. 287.
114 Mass. 483.	146 Mass. 298, 336, 467.	201 Mass. 329.
119 Mass. 294.	149 Mass. 44, 410.	229 Mass. 403.
122 Mass. 255.	150 Mass. 12.	263 Mass. 55.

1 SECTION 2. Plans and descriptions of all main drains and common Plans and
 2 sewers belonging to a town, with a true record of the charges of making records
 1878, 232, § 2.

P. S. 50, § 14.
R. L. 49, § 24.
1907, 365.

and repairing said drains and sewers and of all assessments therefor, shall be kept in the office of the town clerk or in such other office of the town as the town by ordinance or by-law may determine.

Sewer connections.
1892, 245, § 4.
1899, 319,
§§ 1, 2.
1900, 112.
R. L. 49, §§ 12,
31, 32.

SECTION 3. The board or officers of a city or town having charge of the repair and maintenance of sewers may, upon request of the owner of land and payment by him of the actual cost thereof, construct a particular sewer from the street line to a house or building. A town may appropriate money for connecting estates within its limits with common sewers, and no estate shall, in any year in which such an appropriation is made, be connected with a common sewer except in the manner hereinafter provided. If bonds or notes are issued to pay the cost of making such connections, the assessments provided for in section twenty-four shall be applied to the payment of such bonds or notes. If the board of health of a town making such appropriation shall order land abutting upon a public or private way in which a common sewer has been laid to be connected with such sewer, or if the owner of such land shall make to the board or officer having charge of the maintenance and repair of sewers application to connect his land with a common sewer, such board or officer shall make such connection.

Drains for highways.
1917, 329,
§§ 1, 3
1919, 350,
§§ 111, 113
1931, 394, § 39.

SECTION 4. The department of public works, county commissioners, and the officers having charge of highways in any city or town may construct ditches or drains for the purpose of properly draining any highway, and may carry water away from any highway and over or through any land as they may deem necessary for public convenience or for the proper care or construction of such highway, and may purchase or take by eminent domain under chapter seventy-nine, on behalf of the commonwealth, county, city or town, such land or interest therein as may be necessary therefor. Such ditches and drains shall be under the control of said officials, who may enter upon any land for the purpose of constructing, repairing or maintaining the same; but they shall not enter upon or construct any ditches, drains or other works or lay any conduits or pipes or discharge any water within the location of any railroad corporation, except at such time and in such manner as they may agree upon with such corporation, or, in case of failure so to agree, as may be approved by the department of public utilities. The owner or occupant of land through which any ditch or drain has been constructed under this section may, after securing a permit from the officers having control of the ditch or drain, construct and maintain a bridge over the same. The damages sustained by any person in his property by takings or other acts herein authorized may be recovered under chapter seventy-nine. The department, board or officers who have taken an easement under this section may discontinue or abandon the same by filing for record in the registry of deeds a suitable instrument.

SEPARATION, PURIFICATION AND DISPOSAL OF SEWAGE.

Separate system of plumbing.
1903, 383, § 1.

SECTION 5. In this section surface or storm water and such other waters as shall be specified by the department of public health shall be designated as waters and all other waters and sewage shall be designated as sewage. When a town has provided both a drain for waters

5 and a sewer for sewage in a public way, the owner of every parcel of
6 land abutting on such way or connected with such drain or sewer shall
7 arrange his plumbing so that the waters shall be kept separate from the
8 sewage; and shall make such connections with the drain and sewer re-
9 spectively that the waters shall pass into the drain and the sewage into
10 the sewer in accordance with the directions of the board or officer having
11 charge of the repair and maintenance of sewers in such town.

1 SECTION 6. A town, with the approval of the department of public
2 health, after a public hearing by said department of all parties inter-
3 ested, of which notice shall be given by publication in one or more
4 newspapers, may purchase land within its limits, or take the same by
5 eminent domain under chapter seventy-nine, for the treatment, purifi-
6 cation and disposal of sewage. Towns or persons owning or operating
7 filter beds or other works for the treatment, purification and disposal of
8 sewage shall provide and maintain works adequate for the treatment of
9 the sewage at all times, and shall operate such works in such manner as
10 will prevent a nuisance therefrom or the discharge or escape of unpurified
11 or imperfectly purified sewage or effluent into any stream, pond or other
12 water, or other objectionable result.

Establishment
of sewage dis-
posal works.
1890, 124.
R. L. 49, § 1.
1909, 433, § 1.
134 Mass. 476.
150 Mass. 12.
163 Mass. 303.

1 SECTION 7. If the department of public health determines upon
2 examination that a filter bed or other works for the treatment, purifica-
3 tion and disposal of sewage causes the pollution of a stream, pond or other
4 water, or is likely to become a source of nuisance or create objectionable
5 results in its neighborhood by reason of defective construction, inadequate
6 capacity or negligence or inefficiency in maintenance or operation or
7 from other cause, it may issue notice in writing to the town or person
8 owning or operating such works requiring such enlargement or improve-
9 ment in the works or change in the method of operation thereof as may
10 be necessary for the proper maintenance and operation of the works and
11 the efficient purification and disposal of the sewage. If said depart-
12 ment determines after investigation that the unsatisfactory operation
13 of a sewage disposal system is due wholly or partly to the discharge
14 into the system of manufacturing waste or other substance of such
15 character as to interfere with the efficient operation of said works, it
16 may if necessary prohibit the entrance of such waste or other material,
17 or may regulate the entrance thereof into the system, or may require
18 the treatment of such waste or other material in such manner as may
19 be necessary to prevent its interference with the operation of the works.

Prevention of
nuisance from
works.
1909, 433, § 3.
1919, 350, § 97.

REGULATIONS AND PENALTIES.

1 SECTION 8. Whoever digs or breaks up the ground in a public way
2 for the laying, altering or repairing of a drain or sewer, without the
3 written consent of the board or officer having charge of the maintenance
4 and repair of sewers in the town in which such way is situated, shall forfeit
5 five dollars, to the use of such town.

Digging up
public ways.
1709-10, 5, § 1.
1796, 47, § 1.
R. S. 27, § 1.
G. S. 48, § 8.
P. S. 50, § 12.

R. L. 49, § 29.

1 SECTION 9. Whoever, by himself, his agents or servants, deposits
2 in or along any ditch or drain constructed under section four any ma-
3 terial which will obstruct the flow of water therein shall be punished by

Obstruction
of ditches.
1917, 329, § 4.

a fine of ten dollars, and shall be liable in tort to the commonwealth, the county, city or town controlling the ditch or drain for all damages caused thereby, for the cost and expense of removing the obstructing material and of restoring the ditch or drain to its former condition.

Obstruction
of sewers:
1892, 245, § 4.
R. L. 49, § 12.
1909, 433, § 2.
Op. A. G.
(1920) 148.

SECTION 10. The aldermen of a city or the sewer commissioners, selectmen or road commissioners of a town may make necessary regulations regarding the use of common sewers to prevent the entrance or discharge therein of any substance which may tend to interfere with the flow of sewage or the proper operation of the sewerage system or disposal works, and may make regulations for the construction and use of particular sewers, and impose penalties not exceeding twenty dollars for their violation.

Requirement
of connection
with sewer.
1890, 132.
R. L. 49, § 30.
160 Mass. 282.

SECTION 11. The board of health of a town may require the owner or occupant of any building upon land abutting on a public or private way, in which there is a common sewer, to connect the same therewith by a sufficient drain, and such owner or occupant who fails to comply with such order shall be punished by a fine of not more than two hundred dollars.

Repair of
private drain.
1893, 312.
R. L. 49, § 35.

SECTION 12. If a city council or a town accepts this section or has accepted corresponding provisions of earlier laws, the board of health may require the owner or occupant of an estate which drains into a private drain in a public or private way to put such drain in good repair and condition. If he fails to comply with said order within ten days after notice thereof, he shall be punished by a fine of not more than twenty dollars for every day during which such failure continues.

Enforcement
by equity
jurisdiction
1897, 116, § 2.
R. L. 49, § 36.
1903, 383, § 4.
1909, 433, § 4.
Op. A. G.
(1920) 148.

SECTION 13. The supreme judicial court and the superior court shall have jurisdiction in equity to restrain the unlawful use of common sewers or the placing or depositing of materials therein or the violation of regulations regarding the use thereof made under section ten, and to enforce the provisions of sections five to seven, inclusive.

SEWER ASSESSMENTS.

Assessment for
construction
1841, 115, § 2.
G. S. 48, § 4.
1878, 232, § 1.
P. S. 50, § 4.
1893, 423,
§§ 23, 24.
R. L. 49, § 3.
9 C.ush. 233.
99 Mass. 627.
111 Mass. 123.
112 Mass. 541.
117 Mass. 363.
118 Mass. 168.

SECTION 14. A person who enters his particular drain into a main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall pay to the town a proportional part of the charge of making and repairing the same, and of the charge, not already assessed, of making and repairing other main drains and common sewers through which the same discharges, which shall be ascertained, assessed and certified by the aldermen, sewer commissioners, selectmen or road commissioners.

120 Mass. 108, 297.	139 Mass. 328, 384.	192 Mass. 287.
128 Mass. 282.	143 Mass. 585.	201 Mass. 329.
132 Mass. 42.	146 Mass. 298.	217 Mass. 422.
136 Mass. 183.	150 Mass. 12.	229 Mass. 403.

Assessment for
sewerage
systems

SECTION 15. The city council of a city or a town may adopt a system of sewerage for a part or the whole of its territory, and may provide

3 that assessments under section fourteen shall be made upon owners of
 4 land within such territory by a fixed uniform rate, based upon the esti-
 5 mated average cost of all the sewers therein, according to the frontage
 6 of such land on any way in which a sewer is constructed, or according
 7 to the area of such land within a fixed depth from such way, or according
 8 to both such frontage and area; but no assessment in respect to any
 9 such land, which by reason of its grade or level or any other cause can-
 10 not be drained into such sewer, shall be made until such incapacity is
 11 removed. If the assessment is according to the area within such fixed
 12 depth, the lien therefor shall attach to the parcel assessed.

1878, 232, § 5.
 1879, 55
 P. S. 50, § 7.
 1891, 528
 R. L. 49, § 5.
 7 Cush. 277
 110 Mass. 433.
 136 Mass. 179.
 139 Mass. 384.
 150 Mass. 12.
 163 Mass. 23.
 172 Mass. 28.
 176 Mass. 247.
 188 Mass. 81.
 192 Mass. 287.
 210 Mass. 151.
 217 Mass. 422.

1 SECTION 16. The aldermen of any city except Boston or the sewer
 2 commissioners, selectmen or road commissioners of a town, may from
 3 time to time establish just and equitable annual charges for the use of
 4 common sewers, which shall be paid by every person who enters his
 5 particular sewer therein. The money so received may be applied to the
 6 payment of the cost of maintenance and repairs of such sewers or of any
 7 debt contracted for sewer purposes.

Assessment
 for use of
 sewers.
 1892, 245, § 1.
 R. L. 49, § 6.
 175 Mass. 242.

1 SECTION 17. The aldermen of any city except Boston or a town in
 2 which main drains or common sewers are laid may determine that a
 3 person who uses such main drains or common sewers in any manner,
 4 instead of paying an assessment under section fourteen, shall pay for the
 5 permanent privilege of his estate such reasonable amount as the alder-
 6 men or the sewer commissioners, selectmen or road commissioners shall
 7 determine.

Payment for
 permanent
 privilege.
 1878, 184.
 § 1, 2.
 P. S. 50, §§ 8, 9.
 R. L. 49, § 7.
 1918, 257, § 212.
 1919, 5.
 1920, 2.
 192 Mass. 287.

1 SECTION 18. The city council of a city or a town which itself is, or
 2 the officers of which are, entitled, under sections fourteen to seventeen,
 3 inclusive, or under any special act, to assess upon land the whole or a
 4 part of the cost of laying, making, maintaining or repairing main drains
 5 or common sewers, may determine that such assessments shall be made
 6 by two or more of the methods provided in said sections or special acts,
 7 and may determine what part of the expense or estimated average cost
 8 shall be paid under each method.

Determination
 of method of
 assessment.
 1892, 245, § 2.
 R. L. 49, § 8.

1 SECTION 19. The aldermen of a city or the sewer commissioners,
 2 selectmen or road commissioners of a town may extend the time for the
 3 payment of such assessments upon land which is not built upon until
 4 it is built upon or for a fixed time; but interest at a rate not less than
 5 the town pays upon any loan for sewer purposes shall be paid annually
 6 upon the assessment from the time it was made, and the assessment
 7 shall be paid within three months after such land is built upon or at the
 8 expiration of such fixed time.

Extension of
 time of pay-
 ment.
 1892, 245, § 3.
 R. L. 49, § 9.
 1918, 257, § 213.
 1919, 5.
 1920, 2.
 210 Mass. 151.

1 SECTION 20. The owners of land or parts thereof not liable to assess-
 2 ment, or not in fact assessed, may use the common sewers for the dis-
 3 posal of their sewage from such land only on payment of such reasonable
 4 amount as the aldermen or the sewer commissioners, selectmen or road
 5 commissioners shall determine.

Fee for use of
 sewers.
 1892, 245, § 3.
 R. L. 49, § 10.

Land abutting upon more than one way. 1892, 245, § 5. R. L. 49, § 11.

SECTION 21. If land abuts upon more than one way, assessments for sewers based wholly or in part upon frontage shall be assessed upon the frontage upon one such way and upon so much of the frontage upon such other way as is not exempted by the board whose duty it is to make the assessment; and such board may exempt from assessment so much of the frontage upon such other way as they consider just and equitable.

Sewers built by land owners. 1895, 227. R. L. 49, § 13.

SECTION 22. If an ordinance or by-law provides that any drain or sewer laid in any land or way, public or private, which is opened or proposed to be opened for public travel and accommodation shall be a main drain or common sewer, and such drain or sewer is laid in a private way or land at the expense of the owner thereof, his land shall not be assessed for such drain or sewer, except for the cost of connecting it with common drains or sewers already established.

Payment of part of cost by city or town. 1841, 115, § 5. G. S. 48, § 7. P. S. 50, § 11. 1892, 245, § 9. R. L. 49, §§ 26, 27.

SECTION 23. This chapter shall not prevent a town from providing, by ordinance or otherwise, that a part of the expense of laying out, constructing, maintaining and repairing main drains or common sewers shall be paid by such town; and any city except Boston and any town adopting a system of sewerage which had not, prior to May sixth, eighteen hundred and ninety-two, actually levied assessments for the cost of such system shall pay such portion, not less than one quarter nor more than two thirds, of the cost of laying out, constructing, maintaining and repairing the common sewers as the city council or the sewer commissioners, selectmen or road commissioners may determine.

Assessment for particular sewers. 1892, 245, § 4. 1899, 319, §§ 2, 5. 1900, 112. R. L. 49, §§ 12, 32, 34. 234 Mass. 108.

SECTION 24. The owner of any land benefited by the laying out of a particular sewer from the common sewer to the boundary of the way shall pay to the town for the permanent privilege of using the same such reasonable amount as the aldermen or the sewer commissioners, selectmen or road commissioners determine, which may be fixed at the estimated average cost of all such particular sewers within the territory for which a system of sewers has been built or adopted. The board or officers authorized to lay out sewers shall assess the cost of connecting private land with a common sewer under section three upon the land so connected, and may require that an applicant for a connection of his land with a sewer shall pay in advance an amount equal to the estimated assessment therefor, which shall be applied to the payment of the assessment, and the remainder, if any, shall be repaid to the applicant.

SIDEWALKS.

Establishment of sidewalks. 1855, 43, §§ 1, 2. G. S. 45, §§ 7, 8. P. S. 50, §§ 20, 21. R. L. 49, §§ 42-45. 1918, 257, § 218. 1919, 5. 1920, 2. 114 Mass. 546. 207 Mass. 123.

SECTION 25. The aldermen of a city or the selectmen or road commissioners of a town may, if in their judgment the public convenience so requires, establish sidewalks in the public ways thereof and determine the grade of each such sidewalk and the materials with which it shall be constructed, and may order the reconstruction of existing sidewalks. No such sidewalk shall be dug up or obstructed without the consent of the board or officer having charge of the maintenance and repair of public ways in a city, or the selectmen or road commissioners in a town.

1 SECTION 26. In the order for the construction of a new sidewalk or
 2 the reconstruction of a sidewalk with material of more permanent
 3 character than that with which it was originally constructed, the board
 4 making the order may provide for the assessment of a reasonable amount,
 5 not exceeding one half the cost, upon the abutting estates. If an ordi-
 6 nance or by-law so provides, the total assessed upon any individual
 7 estate shall not exceed one per cent of the value thereof as fixed by the
 8 last preceding annual assessment for taxes.

Sidewalk
 assessments
 1872, 303,
 §§ 1, 1,
 1871, 107,
 § 1, 2,
 P. S. 50, §§ 22-
 24,
 1895, 411
 R. L. 19, §§ 42-
 45
 1918, 257, § 218.

1919, 5.	142 Mass. 200	208 Mass. 348.
1920, 2.	166 Mass. 244.	261 Mass. 191
114 Mass. 388.	185 Mass. 142.	Op. A. G. (1918) 36.

GENERAL PROVISIONS RELATING TO ASSESSMENTS.

1 SECTION 27. Whenever the aldermen of a city or the sewer commis-
 2 sioners, selectmen or road commissioners of a town lay out or determine
 3 to construct a sewer or drain in a public way, or in a way opened or
 4 dedicated to the public use which has not become a public way, or adopt
 5 an order for the establishment or reconstruction of a sidewalk for such
 6 a way, and assessments may be made or charges imposed under this
 7 chapter for the construction of such improvement or the use thereof,
 8 they shall forthwith cause to be recorded in the registry of deeds of the
 9 county or district in which such city or town is situated a statement of
 10 their action, which shall specify the ways in which such sewer, drain or
 11 sidewalk is located. All assessments made or charges imposed under
 12 this chapter upon any land which abuts upon any such way in which
 13 such sewer, drain or sidewalk is located shall constitute a lien upon such
 14 land from the time such statement is recorded.

Recording of
 statement
 G. S. 48, § 5
 1878, 184, § 3,
 249
 P. S. 50,
 §§ 3, 10, 25,
 1886, 210
 1891, 97
 1893, 380,
 1895, 117,
 1896, 236,
 1897, 274,
 1899, 319,
 §§ 3, 4
 R. L. 49,
 §§ 23, 33,
 1918, 257,
 §§ 215, 218.
 1919, 5,
 1920, 2
 1921, 486, § 20,
 261 Mass. 191.

273 Mass. 303.

1 SECTION 28. The provisions of chapter eighty relative to the appor-
 2 tionment, division, reassessment, abatement and collection of assess-
 3 ments, and to interest, shall apply to assessments made under this
 4 chapter.

Application of
 betterment
 law
 1918, 257,
 §§ 216, 218.

1919, 5.	1920, 2.	261 Mass. 191.
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CHAPTER 84.

REPAIR OF WAYS AND BRIDGES.

SECT.

HIGHWAYS AND TOWN WAYS.

1. Ways to be repaired by towns.
2. Repair of bridges by several towns.
3. Enforcement of order for repair.
4. Warrants against delinquent towns.
5. Joint repair of certain highways.
6. Ways spread with tar to be covered with sand.
7. Duties of surveyors and road commissioners.
8. Fences to prevent spread of disease not to be removed.
9. Ditches by the side of ways.
10. Entry upon adjacent land; damages.
11. State aid for keeping highways open in winter.
- 11A. Participation of county in maintenance of certain public ways.

PRIVATE WAYS AND BRIDGES.

12. Meeting of proprietors.
13. Penalties for neglecting to comply with votes.
14. Financing repairs.

SECT.

DAMAGES FOR DEFECTS IN WAYS.

15. Injury to person or property.
16. No liability if load excessive.
17. No liability for snow and ice.
18. Notice of injury. Limitation of action.
19. Service of notice.
20. Correction of defective notices.
21. Notice to owner of private property.
22. Penalty for neglect to repair.
23. Dedicated ways not chargeable unless legally laid out.
24. Liability for dedicated ways unless entrance is marked.
25. Location not to be denied if repairs have been made.
26. Liability of abutting owner.

HIGHWAYS AND TOWN WAYS.

Ways to be repaired by towns
1693-4, 6, § 1.
1786, 81, § 1.
R. S. 25, § 1.
G. S. 44, § 1.

SECTION 1. Highways and town ways shall, unless otherwise provided, be kept in repair at the expense of the town in which they are situated, so that they may be reasonably safe and convenient for travelers, with their horses, teams and carriages at all seasons.

1877, 234, § 1.	105 Mass. 470.	213 Mass. 103, 446.
P. S. 52, § 1.	106 Mass. 276.	217 Mass. 227.
R. L. 51, § 1.	120 Mass. 300.	222 Mass. 591.
1917, 344, IV, § 1.	136 Mass. 419.	225 Mass. 271.
VIII, § 1.	145 Mass. 326.	232 Mass. 111.
13 Pick. 343.	156 Mass. 75.	237 Mass. 203.
11 Gray, 353.	176 Mass. 413.	240 Mass. 517.
13 Gray, 59, 344, 601.	188 Mass. 595.	254 Mass. 208.
14 Gray, 242.	192 Mass. 220.	260 Mass. 539.
16 Gray, 228.	196 Mass. 18.	261 Mass. 64.
1 Allen, 182.	197 Mass. 66, 241.	262 Mass. 338.
8 Allen, 51.	204 Mass. 105.	263 Mass. 55.
100 Mass. 255.	205 Mass. 400.	269 Mass. 19.
103 Mass. 129.	208 Mass. 571.	

Repair of bridges by several towns.
1852, 238.
G. S. 44, § 2.
P. S. 52, § 2.
R. L. 51, § 2.
1917, 344, IV, § 2.
VIII, § 1.

SECTION 2. If two or more towns within the same county which are required by law to maintain or keep in repair a bridge upon a highway or town way, differ as to the mode or time of doing the same, the county commissioners, upon application of either of said towns, after notice to all parties interested and a hearing, may pass such orders relative to the maintenance and repair of such bridge as in their opinion the public good may require.

Enforcement of order for repair.
1917, 344, IV, § 3.
VIII, § 1.

SECTION 3. If any town does not comply with any orders passed by the county commissioners under the preceding section, within the time and in the manner prescribed in such orders and to the acceptance of the commissioners, the commissioners shall forthwith cause such bridge

5 to be completed in accordance with such orders and shall direct the
6 expenses and charges of completing the same to be paid in the first
7 instance by the county, and shall order notice thereof to be given to the
8 delinquent town, stating the proportion which it is to pay.

1 SECTION 4. If a delinquent town does not pay its proportion of such
2 expenses and charges within sixty days after the date of such notice,
3 with interest at a rate to be fixed by the county commissioners, not
4 exceeding ten per cent a year from the time when the same was paid by
5 them, the commissioners, after a hearing, may issue a warrant against
6 such town for the amount which it was ordered to pay, with interest and
7 further costs of such notice and warrant, which shall be collected and
8 paid into the county treasury.

Warrants
against delin-
quent towns.
1917, 344,
IV, § 4,
VIII, § 1.

1 SECTION 5. When a highway runs through two or more towns, they
2 may appropriate monev for the construction, repair, maintenance or
3 improvement thereof in common, and may purchase road machinery
4 therefor in common. Money so appropriated shall be expended by
5 such persons and in such manner as the towns concerned shall agree
6 upon.

Joint repair of
certain high-
ways.
1907, 196,
1917, 344,
IV, § 5,
VIII, § 1.

1 SECTION 6. Any public way which has been spread with tar, oil or
2 similar substance, shall, within three hours thereafter, be covered with
3 sand, gravel, peastone or other similar material in such manner as to
4 render the way safe for travel. But such way may be so treated without
5 being so covered if the tar, oil or other similar substance is first applied
6 to not more than one half of the traveled width of the way, and such
7 portion becomes safe for travel before the remaining part of the way is
8 similarly treated, or if there is a reasonably safe and convenient alternate
9 route or detour which has not been so treated, or if so treated has been
10 rendered safe for travel as herein provided. Violation of any provision
11 of this section shall be punished by a fine of not less than ten nor more
12 than one hundred dollars.

Ways spread
with tar to be
covered with
sand.
1916, 124,
§§ 1-3,
1917, 344,
IV, §§ 7-9,
VIII, § 1.

1 SECTION 7. Surveyors of highways and road commissioners shall
2 remove whatever obstructs the public ways within their respective
3 towns or districts, or endangers, hinders or incommodes persons travel-
4 ing thereon; and shall forthwith cause snow to be removed or trodden
5 down so as to make such ways reasonably safe and convenient. If a
6 town neglects to vote a sufficient amount for the proper repair of ways
7 therein, or does not otherwise effectually provide therefor, each sur-
8 veyor, in his district, or the road commissioners, may employ persons
9 to make such repairs, who shall be paid by the town; and towns may
10 authorize their surveyors or road commissioners or any other person to
11 enter into contracts for making or repairing the ways therein.

Duties of sur-
veyors and
road commis-
sioners.
1693-4, 6, § 1.
1786, 81, § 1.
1796, 58,
§§ 5, 8.
R. S. 25, §§ 3,
14, 15.
G. S. 44, §§ 8,
11, 14.
1871, 158.
1873, 51.
1877, 234, § 1.
1880, 62.
P. S. 52, §§ 6,
10, 13.
1885, 123, § 2

1899, 330.
E. L. 51, §§ 6, 10, 13.
1917, 344, IV, §§ 15, 16,
19, VIII, § 1.
4 Pick. 149.
13 Pick. 343.
11 Gray, 342.
13 Gray, 347.
8 Allen, 51, 473.
97 Mass. 472.

98 Mass. 581.
107 Mass. 414.
115 Mass. 431.
116 Mass. 455.
120 Mass. 565.
128 Mass. 516.
131 Mass. 470.
134 Mass. 522.
136 Mass. 235.
147 Mass. 245.

148 Mass. 174.
149 Mass. 85.
151 Mass. 422.
152 Mass. 61.
180 Mass. 539.
197 Mass. 480.
200 Mass. 175.
207 Mass. 460.
222 Mass. 22.
262 Mass. 214.

Fences to prevent spread of disease not to be removed. 1786, 81, § 1. R. S. 25, § 4. G. S. 44, § 9.

SECTION 8. No surveyor, road commissioner or other person shall, without an order from the board of health, remove or take down fences, gates or bars which have been placed on a way for the purpose of preventing the spread of a disease dangerous to the public health.

P. S. 52, § 11.

R. L. 51, § 11.

1917, 344, IV, § 17, VIII, § 1.

Ditches by the side of ways. 1786, 81, § 1. R. S. 25, § 5. G. S. 44, § 10. P. S. 52, § 12. 1917, 344, IV, § 18, VIII, § 1. 2 Met. 599. 8 Gray, 409.

SECTION 9. A surveyor or road commissioner may cause a water-course occasioned by the wash of a way to be conveyed by the side of the way; but the aldermen or selectmen, upon complaint of a person whose building has been incommoded or whose business has been obstructed thereby, may, after a view, order the surveyor or road commissioner to make alterations in such work.

15 Gray, 486.

Entry upon adjacent land; damages. R. S. 25, § 6. 1859, 67. G. S. 44, §§ 19, 20. 1868, 264. P. S. 52, § 14-16. R. L. 51, § 14-16.

SECTION 10. The selectmen or road commissioners may enter upon, use or survey or take by eminent domain under chapter seventy-nine any land they may deem necessary for the purpose of securing or protecting a public way; and any person thereby injured in his property and any owner of land adjoining a way who has sustained damage in his property by an act done for the purpose of repairing the way may recover such damages under chapter seventy-nine.

1917, 344, IV, §§ 20-22.

VIII, § 1.

1 Pick. 418.

2 Met. 599.

8 Met. 172.

8 Cush. 69.

10 Cush. 411.

5 Gray, 372.

8 Gray, 409.

13 Gray, 601.

14 Gray, 216, 218.

15 Gray, 486.

104 Mass. 13.

106 Mass. 84.

109 Mass. 123.

113 Mass. 111, 218.

117 Mass. 78, 79.

119 Mass. 372, 392.

120 Mass. 416.

121 Mass. 5, 241, 262.

122 Mass. 110.

123 Mass. 522.

125 Mass. 371, 519, 529.

128 Mass. 550.

136 Mass. 10.

137 Mass. 255.

144 Mass. 579.

145 Mass. 561.

147 Mass. 452.

151 Mass. 196.

153 Mass. 245.

158 Mass. 564.

161 Mass. 530.

163 Mass. 77.

169 Mass. 390.

175 Mass. 459, 590.

177 Mass. 173.

187 Mass. 545.

189 Mass. 254, 540.

194 Mass. 80.

195 Mass. 64.

220 Mass. 575.

229 Mass. 563.

231 Mass. 138.

State aid for keeping high-ways open in winter. 1920, 488, §§ 1-3. 1923, 482, § 2.

SECTION 11. The department of public works may co-operate with the proper officers of cities, towns and counties in keeping open and reasonably passable for vehicles during the winter months such highways as may be selected by said department, having regard to the importance thereof for commercial uses and the co-operation and aid to be rendered by cities, towns and counties and persons in carrying on this work, and for this purpose may expend such sums as may be annually appropriated therefor and may accept financial or other assistance from any city, town, county or person; provided, however, that the work carried on under this section shall be supplemental to work undertaken and performed by cities and towns under other provisions of law, and that nothing in this section shall render the commonwealth liable for damages for which it is not liable under other provisions of law or relieve cities or towns from keeping their highways clear from ice and snow as required by other provisions of law.

Participation of county in maintenance of certain public ways. 1921, 120, § 2.

SECTION 11A. When a public way other than a state highway has been constructed or improved in whole or in part by aid of money contributed by a county, the said way shall be kept and maintained in good repair and condition by the town in which the same lies, but the county may aid in such maintenance, and for such purpose the county commissioners may grant sums of money from the county treasury to be paid to the

7 town to aid in such repairs as the commissioners may order. Such money
 8 may be paid to the town from time to time as the work progresses to the
 9 extent that the commissioners are satisfied that the same is being done in
 10 accordance with their directions. Such grants or contributions shall not
 11 render a county liable for defects in any way or for damages to persons
 12 traveling thereon, and when the work of repair or maintenance for which
 13 such grants or contributions are made is completed there shall be no
 14 further obligation on the part of the county as to the repair or mainte-
 15 nance thereof until a further grant or order is made by the county commis-
 16 sioners for such purposes.

PRIVATE WAYS AND BRIDGES.

1 SECTION 12. If four or more persons are the proprietors and rightful
 2 occupants of a private way or bridge, and three of them make application
 3 in writing to a justice of the peace to call a proprietors' meeting, the justice
 4 may issue his warrant therefor, stating the time, place and purpose of
 5 the meeting. The warrant shall be posted in a public place of the town
 6 in which such way or bridge is situated, seven days at least before the
 7 time appointed for the meeting. The proprietors and occupants so
 8 assembled shall choose a clerk and surveyor, who shall be sworn. They
 9 may determine the manner of calling future meetings, what repairs of
 10 the way or bridge are necessary and the proportion of money and of labor
 11 and materials to be furnished by each proprietor and occupant for such
 12 repairs. The surveyor shall have the same powers with respect to such
 13 way or bridge as are exercised by surveyors of highways.

Meeting of
 proprietors.
 1787, 17, § 1.
 R. S. 25, §§ 34,
 35.
 G. S. 44, §§ 27,
 28.
 P. S. 52, §§ 26,
 27.
 R. L. 51, §§ 25,
 26.
 1917, 344,
 IV, §§ 31, 32,
 VIII, § 1.

1 SECTION 13. A proprietor or occupant who refuses or neglects to
 2 comply with such vote, when required by the surveyor, shall be liable
 3 to him in contract for the amount of his proportion, with ten per cent
 4 interest thereon. If a person chosen clerk or surveyor under the pre-
 5 ceeding section refuses or neglects to accept that trust and take the oath,
 6 he shall forfeit five dollars. Damages and forfeitures recovered under
 7 this section shall be applied to the use of the proprietors for repairing
 8 said way or bridge.

Penalties for
 neglecting to
 comply with
 votes.
 1787, 17, §§ 1, 2.
 R. S. 25, §§ 36-
 38.
 G. S. 44, §§ 29-
 31.
 P. S. 52, §§ 28-
 30.
 R. L. 51, §§ 27-
 29.

1917, 344, IV, §§ 33-35, VIII, § 1.

1 SECTION 14. The proprietors and occupants may, at a meeting for
 2 that purpose, authorize any person to contract for making and keeping
 3 in repair such private way or bridge, may vote to raise such amount as
 4 they consider necessary for carrying such contracts into effect; and may
 5 choose assessors, who shall assess each proprietor and occupant for his
 6 proportion of such amount according to his interest in such way or bridge,
 7 and shall deliver the lists of such assessments to the surveyor, with proper
 8 warrants of distress, in substance as is prescribed by law for collection of
 9 town taxes, and the surveyor may levy and collect such taxes in the
 10 same manner as collectors of taxes are empowered to collect taxes. If a
 11 surveyor neglects or refuses to pay over according to the direction of
 12 his warrant the moneys so collected, he shall be liable to such proprietors
 13 or occupants in contract for the amount collected, together with twenty
 14 per cent interest in addition thereto.

Financing
 repairs
 1801, 80.
 R. S. 25, §§ 39-
 42.
 G. S. 44, §§ 32-
 34.
 1871, 298, § 1.
 P. S. 52, §§ 31-
 32.
 R. L. 51, §§ 30-
 32.
 1917, 344,
 IV, §§ 36-38,
 VIII, § 1.

DAMAGES FOR DEFECTS IN WAYS.

Injury to person or property
 C. L. 12, § 2.
 1693-4, 6, § 6.
 1786, 81, § 7.
 R. S. 25, § 22.
 1838, 104.
 1850, 5, § 1.
 G. S. 44, § 22.
 1877, 294,
 §§ 2, 3.
 1878, 250, § 1.
 P. S. 52, §§ 18,
 20.
 R. L. 51, § 18.
 1917, 344, IV,
 § 24, VIII, § 1.
 B23, 447.
 1931, 426, § 200.
 8 Met. 388.
 1 Cush. 451.
 2 Cush. 609.
 4 Cush. 247,
 310.
 6 Cush. 141.
 8 Cush. 522.
 11 Cush. 563.
 12 Cush. 488.
 1 Gray, 178,
 295, 596.
 7 Gray, 100,
 104.
 9 Gray, 386.
 11 Gray, 154,
 342.
 13 Gray, 59,
 344.

SECTION 15. If a person sustains bodily injury or damage in his property by reason of a defect or a want of repair or a want of a sufficient railing in or upon a way, and such injury or damage might have been prevented, or such defect or want of repair or want of railing might have been remedied by reasonable care and diligence on the part of the county, city, town or person by law obliged to repair the same, he may, if such county, city, town or person had or, by the exercise of proper care and diligence, might have had reasonable notice of the defect or want of repair or want of a sufficient railing, recover damages therefor from such county, city, town or person; but he shall not recover from a county, city or town more than one fifth of one per cent of its state valuation last preceding the commencement of the action nor more than four thousand dollars; nor shall a county, city or town be liable for an injury or damage sustained upon a way laid out and established in the manner prescribed by statute until after an entry has been made for the purpose of constructing the way, or during the construction and repairing thereof, provided that the way shall have been closed, or other sufficient means taken to caution the public against entering thereon. No action shall be maintained under this section by a person the combined weight of whose carriage or vehicle and load exceeds six tons.

14 Gray, 242.
 15 Gray, 577.
 16 Gray, 181, 508.
 1 Allen, 30.
 2 Allen, 552.
 3 Allen, 374, 402.
 4 Allen, 113, 537.
 5 Allen, 98.
 8 Allen, 136, 137, 237,
 522, 564.
 10 Allen, 25, 147.
 11 Allen, 318.
 12 Allen, 566, 572.
 13 Allen, 180, 190.
 14 Allen, 290, 475, 508.
 97 Mass. 258, 268,
 272, 273.
 98 Mass. 80.
 100 Mass. 49, 185, 255.
 101 Mass. 93, 99.
 102 Mass. 329.
 103 Mass. 509.
 104 Mass. 73, 75, 78, 84.
 105 Mass. 82, 310, 470,
 473, 599.
 106 Mass. 271,
 276, 450.
 107 Mass. 339.
 108 Mass. 580.
 109 Mass. 126, 204, 284,
 446, 519.
 110 Mass. 21, 131, 305,
 330, 334, 506, 511, 514,
 520, 522.
 111 Mass. 357.
 112 Mass. 43, 302, 489.
 113 Mass. 503, 506.
 114 Mass. 211, 507.
 115 Mass. 571.
 116 Mass. 93, 420.
 117 Mass. 294, 509.
 119 Mass. 46, 237, 273,
 276, 491, 564.
 120 Mass. 580.
 121 Mass. 161, 216, 294,
 337, 442.
 122 Mass. 100, 223,
 389, 494.
 123 Mass. 511.
 124 Mass. 165, 281, 434.
 125 Mass. 520.
 126 Mass. 324.
 127 Mass. 270, 290, 329,
 311, 480.
 128 Mass. 321, 567,
 580, 583.
 129 Mass. 514, 534.
 130 Mass. 361.
 131 Mass. 29, 452.
 132 Mass. 49.
 134 Mass. 507.
 136 Mass. 402.
 138 Mass. 1.
 139 Mass. 313.
 140 Mass. 84, 311,
 328, 552.
 141 Mass. 17, 189, 242.
 142 Mass. 280, 536.
 143 Mass. 296.
 144 Mass. 491.
 145 Mass. 91, 160, 196,
 326, 476.
 147 Mass. 245, 391, 440,
 448, 505.
 148 Mass. 484,
 544, 598.
 149 Mass. 147, 289.
 150 Mass. 218.
 151 Mass. 212, 422.
 153 Mass. 409, 514.
 154 Mass. 69, 140, 475.
 155 Mass. 314.
 156 Mass. 289, 391.
 158 Mass. 464.
 161 Mass. 3.
 164 Mass. 263.
 168 Mass. 382.
 170 Mass. 384.
 171 Mass. 472.
 175 Mass. 501, 516.
 178 Mass. 326.
 180 Mass. 233, 585.
 183 Mass. 265.
 187 Mass. 564.
 188 Mass. 595.
 189 Mass. 7.
 192 Mass. 220.
 193 Mass. 26, 597.
 194 Mass. 183, 396.
 195 Mass. 151.
 196 Mass. 38.
 197 Mass. 76, 241,
 311, 480.
 200 Mass. 101, 242.
 201 Mass. 280.
 204 Mass. 22, 105.
 205 Mass. 493.
 206 Mass. 327.
 207 Mass. 325.
 208 Mass. 190, 307, 571.
 211 Mass. 46, 171, 573.
 212 Mass. 211, 512.
 213 Mass. 29, 446,
 560, 581.
 216 Mass. 550.
 217 Mass. 227, 312.
 219 Mass. 88, 168,
 302, 418.
 222 Mass. 456.
 223 Mass. 525.
 225 Mass. 270.
 227 Mass. 462.
 230 Mass. 467.
 231 Mass. 372.
 232 Mass. 111.
 234 Mass. 130.
 235 Mass. 119.
 236 Mass. 275.
 237 Mass. 203.
 246 Mass. 499.
 250 Mass. 123, 368.
 253 Mass. 119.
 254 Mass. 208, 498.
 255 Mass. 325.
 256 Mass. 408.
 258 Mass. 203, 267.
 260 Mass. 539.
 261 Mass. 64, 183, 188.
 262 Mass. 104, 291,
 338, 514.
 263 Mass. 55.
 265 Mass. 1, 94.
 266 Mass. 159, 208, 262.
 268 Mass. 324.
 269 Mass. 19, 571.
 272 Mass. 577.
 274 Mass. 439.
 3 Op. A. G. 174.

No liability if
 load excessive.
 1813, 160, § 4.
 R. S. 39, § 13.
 1838, 104.

SECTION 16. If a person, without the consent of the county, city, town or person required by law to keep a bridge in repair or his or its agent, permits more than twenty neat cattle or horses to be upon a bridge

4 which is more than fifty feet from one abutment, pier or trestle part to
 5 another, or drives or transports over such bridge a vehicle with a load
 6 exceeding forty-five hundred pounds in weight exclusive of the team and
 7 vehicle, and thereby breaks or injures the bridge, such county, city, town
 8 or person shall not be liable for any damage caused thereby.

1931, 426, § 201.

10 Pick. 35.

201 Mass. 564.

262 Mass. 104.

1 SECTION 17. A county, city or town shall not be liable for an injury
 2 or damage sustained upon a public way by reason of snow or ice thereon,
 3 if the place at which the injury or damage was sustained was at the time
 4 of the accident otherwise reasonably safe and convenient for travelers.

170 Mass. 384.
 174 Mass. 181, 188.
 177 Mass. 498.

197 Mass. 480
 201 Mass. 299.
 219 Mass. 88.

250 Mass. 368
 258 Mass. 367, 570.
 262 Mass. 104

1840, 69.
 G. S. 62, §§ 23,
 24
 P. S. 108,
 §§ 4, 5
 R. I. 52, § 31.
 1917, 344, V.
 § 38, VIII, § 1.

1 SECTION 18. A person so injured shall, within ten days thereafter,
 2 if such defect or want of repair is caused by or consists in part of snow
 3 or ice, or both, and in all other cases, within thirty days thereafter, give
 4 to the county, city, town or person by law obliged to keep said way in
 5 repair, notice of the time, place and cause of the said injury or damage;
 6 and if the said county, city, town or person does not pay the amount
 7 thereof, he may recover the same in an action of tort if brought within
 8 two years after the date of such injury or damage. Such notice shall
 9 not be invalid or insufficient solely by reason of any inaccuracy in stating
 10 the time, place or cause of the injury, if it is shown that there was no
 11 intention to mislead and that the party entitled to notice was not in fact
 12 misled thereby.

134 Mass. 149, 374, 507.
 136 Mass. 136.
 138 Mass. 74.
 141 Mass. 215.
 145 Mass. 549.
 151 Mass. 212, 578.
 152 Mass. 45, 266.
 153 Mass. 514.
 155 Mass. 334.
 158 Mass. 279, 336.
 162 Mass. 51.
 164 Mass. 393.
 166 Mass. 32.
 167 Mass. 595.
 168 Mass. 251, 556.
 178 Mass. 566.
 182 Mass. 117.
 188 Mass. 204, 242.
 197 Mass. 178.
 201 Mass. 286, 348.
 208 Mass. 29.
 223 Mass. 173.
 228 Mass. 357, 529.
 230 Mass. 294, 467.
 232 Mass. 451.
 254 Mass. 109.
 257 Mass. 414.
 258 Mass. 203, 570.
 259 Mass. 564
 262 Mass. 104, 369.

265 Mass. 1, 506.
 268 Mass. 373.
 269 Mass. 433.
 272 Mass. 170.

Time.
 132 Mass. 299, 324.
 133 Mass. 529.
 135 Mass. 110.
 147 Mass. 402.
 182 Mass. 117.
 188 Mass. 204.
 265 Mass. 1.

Place.
 128 Mass. 521.
 130 Mass. 115.
 131 Mass. 202.
 132 Mass. 187, 324.
 133 Mass. 526, 529.
 134 Mass. 484, 507.
 135 Mass. 110.
 136 Mass. 136.
 138 Mass. 74, 599.
 139 Mass. 91.
 147 Mass. 402.
 155 Mass. 596.
 156 Mass. 145.
 158 Mass. 279, 336.

162 Mass. 192.
 177 Mass. 324.
 182 Mass. 117.
 219 Mass. 302.
 223 Mass. 173, 286.
 252 Mass. 152.
Cause.
 130 Mass. 161, 275, 398, 494.
 131 Mass. 441.
 443, 516, 551, 553.
 132 Mass. 187, 324, 441.
 133 Mass. 529.
 134 Mass. 149.
 135 Mass. 110
 136 Mass. 278, 419.
 139 Mass. 235.
 140 Mass. 129, 227, 422.
 142 Mass. 486.
 147 Mass. 402.
 155 Mass. 344.
 177 Mass. 373.
 182 Mass. 117.
 188 Mass. 204.
 250 Mass. 368.
 258 Mass. 570.
 262 Mass. 104, 369.
 265 Mass. 506.
 268 Mass. 524.
 273 Mass. 456.

No liability for
 snow and ice.
 1806, 510
 R. I. 51, § 19.
 1917, 344, IV,
 § 25, VIII, § 1.
 169 Mass. 516.

Notice of in-
 jury. Limita-
 tion of action.
 1877, 234, § 3.
 P. S. 52, § 19.
 1882, 36
 1888, 114.
 1894, 422
 R. I. 51, § 20.
 1917, 344, IV,
 § 26, VIII, § 1.
 128 Mass. 318,
 321, 387.
 129 Mass. 525.
 130 Mass. 402.
 131 Mass. 189,
 441, 516.
 132 Mass. 178,
 534.

1 SECTION 19. Such notice shall be in writing, signed by the person
 2 injured or by some one in his behalf, and may be given, in the case of a
 3 county, to one of the county commissioners or the county treasurer;
 4 in the case of a city, to the mayor, the city clerk or treasurer; in the case
 5 of a town, to one of the selectmen or to the town clerk or treasurer. If
 6 the person injured dies within the time required for giving the notice,
 7 his executor or administrator may give such notice within thirty days
 8 after his appointment. If by reason of physical or mental incapacity
 9 it is impossible for the person injured to give the notice within the time
 10 required, he may give it within ten days after such incapacity has been

Service of
 notice
 1877, 234, § 4.
 1879, 244.
 1881, 236.
 P. S. 52, § 21.
 R. I. 51, § 21.
 1910, 166, § 1.
 1912, 221, § 1.
 1917, 344, IV,
 § 27, VIII, § 1.
 129 Mass. 525.
 130 Mass. 275,
 494
 132 Mass. 187,
 534.
 133 Mass. 529.
 134 Mass. 484.

138 Mass. 74.
78
139 Mass. 91.
144 Mass. 184.
145 Mass. 105.
150 Mass. 517.
151 Mass. 212.
167 Mass. 595.
173 Mass. 310.
188 Mass. 204.
201 Mass. 348.
204 Mass. 522.
216 Mass. 506.
223 Mass. 286.

removed, and if he dies within said ten days his executor or administrator 11
may give the notice within thirty days after his appointment. Any 12
form of written communication signed by the person so injured, or 13
by some person in his behalf, or by his executor or administrator, or by 14
some person in behalf of such executor or administrator, which con- 15
tains the information that the person was so injured, giving the time, 16
place and cause of the injury or damage, shall be considered a sufficient 17
notice. 18

228 Mass. 529.
229 Mass. 511.
230 Mass. 294, 467.

232 Mass. 451.
234 Mass. 284.
258 Mass. 203.

262 Mass. 104.
265 Mass. 506.

Correction of defective notices.

1864, 389.
R. L. 51, § 22.
1917, 344, IV.
§ 28, VIII, § 1.
168 Mass. 251.
182 Mass. 117.
200 Mass. 284.
201 Mass. 273.
219 Mass. 302.
223 Mass. 286.
229 Mass. 511.
234 Mass. 284.
252 Mass. 152.
258 Mass. 570.
259 Mass. 564.
265 Mass. 506.
273 Mass. 450.

SECTION 20. A defendant shall not avail himself in defence of any 1
omission to state in such notice the time, place or cause of the injury 2
or damage, unless, within five days after receipt of a notice, given within 3
the time required by law and by an authorized person referring to the 4
injuries sustained and claiming damages therefor, the person receiving 5
such notice, or some person in his behalf, notifies in writing the person 6
injured, his executor or administrator, or the person giving or serving 7
such notice in his behalf, that his notice is insufficient and requests 8
forthwith a written notice in compliance with law. If the person au- 9
thorized to give such notice, within five days after the receipt of such 10
request, gives a written notice complying with the law as to the time, 11
place and cause of the injury or damage, such notice shall have the 12
effect of the original notice, and shall be considered a part thereof. 13

Notice to owner of private property.

1908, 305.
1913, 324.
1922, 241.
1930, 98, § 1.
208 Mass. 29.
473.
209 Mass. 552.
210 Mass. 86.
211 Mass. 298.
213 Mass. 352.
216 Mass. 506.
223 Mass. 286.
229 Mass. 174.
511.
230 Mass. 294.
467.
232 Mass. 354.
543.
236 Mass. 165.
253 Mass. 542.
254 Mass. 109.
255 Mass. 33.
258 Mass. 368.
259 Mass. 336.
262 Mass. 104.
265 Mass. 506.

SECTION 21. The three preceding sections, so far as they relate to 1
notices of injuries resulting from snow or ice, shall apply to actions 2
against persons founded upon the defective condition of their premises, 3
or of adjoining ways, when caused by or consisting in part of snow or 4
ice; provided, that notice within thirty days after the injury shall be 5
sufficient, and that if by reason of physical or mental incapacity it is 6
impossible for the injured person to give the notice within thirty days 7
after the injury, he may give it within thirty days after such incapacity 8
has been removed, and in case of his death without having been for 9
thirty days at any time after his injury of sufficient capacity to give the 10
notice, his executor or administrator may give the notice within thirty 11
days after his appointment. Such notice may be given by posting it in 12
a conspicuous place on said premises and by leaving it with any person 13
occupying the whole or any part of said premises, if there be such a per- 14
son, and no such notice shall be invalid by reason of any inaccuracy or 15
misstatement in respect to the owner's name if it appears that such error 16
was made in good faith and did not prevent or unreasonably delay the 17
owner from receiving actual notice of the injury and of the contention 18
that it occurred from the defective condition of his premises or of a way 19
adjoining the same. 20

Penalty for neglect to repair.

C. L. 12, § 2.
1693-4, 6, § 6.
1786, 81, § 7.
R. S. 25, § 24.

SECTION 22. If a town neglects to repair any way which it is obliged 1
to keep in repair, or neglects to make the same reasonably safe and 2
convenient when encumbered with snow, it shall pay such fine as the 3
court may impose. 4

G. S. 44, § 24.
1877, 234, § 1.
P. S. 52, § 23.

R. L. 51, § 23.
1917, 344, IV, § 29.
VIII, § 1.

13 Pick. 343.
103 Mass. 129.
197 Mass. 480.

1 SECTION 23. A way opened and dedicated to the public use, which
 2 has not become a public way, shall not, except as provided in the two
 3 following sections, be chargeable upon a town as a highway or town
 4 way unless laid out and established in the manner prescribed by statute.

Dedicated ways
 not chargeable
 unless legally
 laid out
 1846, 203, § 1.
 G. S. 43, § 82.
 P. S. 49, § 94.

R. L. 48, § 98	16 Gray, 228.	126 Mass. 540.	173 Mass. 455
1917, 344, II, § 69,	1 Allen, 150.	128 Mass. 63.	178 Mass. 326.
VIII, § 1	3 Allen, 398.	131 Mass. 143.	201 Mass. 267.
19 Pick. 405.	108 Mass. 196	135 Mass. 187.	209 Mass. 542.
4 Cush. 332.	110 Mass. 62	139 Mass. 326.	221 Mass. 342.
8 Cush. 195.	112 Mass. 346.	143 Mass. 521	232 Mass. 111.
5 Gray, 73.	120 Mass. 300, 401.	150 Mass. 255	239 Mass. 329.
7 Gray, 338.	122 Mass. 60.	151 Mass. 79.	262 Mass. 514.
12 Gray, 415.			

1 SECTION 24. The board or officer having authority over public ways
 2 in a town shall, if the public safety so requires, cause such ways to
 3 be closed where they enter upon and unite with an existing public way
 4 or may by other sufficient means caution the public against entering
 5 thereon; otherwise the town shall be liable for damages arising from
 6 defects therein as in the case of ways duly laid out and established.

Liability for
 duty to close ways
 unless entrance
 is marked.
 1846, 203,
 § 2, 3.
 G. S. 43, § 83
 P. S. 49, § 95
 R. L. 48, § 99.

1917, 344, II,	112 Mass. 362.	140 Mass. 328.	201 Mass. 267.
§ 70, VIII, § 1.	126 Mass. 540	150 Mass. 255.	229 Mass. 485.
3 Allen, 398.	130 Mass. 361	173 Mass. 455.	232 Mass. 111.
102 Mass. 489.	138 Mass. 564.	178 Mass. 326.	262 Mass. 514.
108 Mass. 196.	139 Mass. 336.		

1 SECTION 25. If, upon the trial of an indictment or action brought
 2 to recover damages for an injury received by reason of a defect or want
 3 of repair or want of sufficient railing in any way, it appears that the
 4 defendant has, within six years before such injury, made repairs on
 5 such way, it or he shall not deny the location thereof.

Location not
 to be denied
 if repairs
 have been
 made.
 R. S. 25, § 26.
 G. S. 44, § 26.

P. S. 52, § 25.	2 Pick. 51.	6 Allen, 449.	112 Mass. 512.
R. L. 51, § 24.	3 Pick. 408.	101 Mass. 193.	117 Mass. 509.
1917, 344, IV, § 30,	18 Pick. 312.	107 Mass. 232.	120 Mass. 1
VIII, § 1.	5 Gray, 73.	110 Mass. 305.	130 Mass. 361.
5 Greenl. 368.	7 Gray, 338		

1 SECTION 26. If the owner of a lot abutting upon a public way in a
 2 city dedicates to the public or permits it to use a portion of his land
 3 lying between said way and a building fronting on the same, he shall
 4 keep such portion in such condition as, in the opinion of the aldermen,
 5 the safety and convenience of the public requires; and if he, after reason-
 6 able notice given by the aldermen or the mayor, neglects or refuses to
 7 make the specific repairs or improvements so required, or to close the
 8 same to public use by a substantial railing or guard, the aldermen may
 9 put said land into such condition and assess the expense thereof upon
 10 the owner; and assessments so made may be collected in the same
 11 manner as betterment assessments.

Liability of
 abutting owner.
 1853, 315,
 § 1, 4.
 G. S. 43, § 84.
 1867, 241.
 P. S. 49, § 96
 R. L. 48, § 100.
 1917, 344, II,
 § 71, VIII, § 1.
 1 Allen, 150.

CHAPTER 85.

REGULATIONS AND BY-LAWS RELATIVE TO WAYS AND BRIDGES.

SECT.	SECT.
1. Direction signs, etc., cities and towns to maintain.	17A. Soliciting from vehicles upon public ways prohibited.
2. Same subject. Maintenance, etc., on state highways, etc., by department of public works, regulated.	18. Moving of buildings.
3. Change of name of ways and parks.	19. Bears and other wild animals.
3A. Unaccepted ways, naming.	20. Regulation of speed on county bridges.
3B. Same subject. Renaming.	21. Regulation of speed on town bridges.
4. Construction of sidewalks by abutter.	22. Regulation of speed on incorporated bridges.
5. Removal of snow from sidewalks.	23. Regulation of speed on state ways.
6. Assessment of cost of removing snow.	24. Regulations to be posted on bridge.
7. Agreement of owner to remove snow.	25. Jurisdiction of courts over bridges.
8. Permits for signs and other structures projecting into ways.	26. Drawbridges.
9. Not applicable to certain structures.	27. Duties of draw tender.
10. Regulation of use of ways for certain purposes.	28. Owner of vessel liable for injury to bridge.
10A. Coasting regulated.	29. Removal of vessel obstructing draw.
11. Fast driving; arrest without warrant.	30. Traction engines and other heavy vehicles.
12. Regulation of bicycles by cities and towns.	31. Limitations on speed of heavy vehicles.
13. Use of bicycles on highways.	32. Penalties.
14. Terms defined.	33. Scope of preceding sections.
14A. Funeral processions.	34. Protection of bridges from heavy loads.
15. Lights on vehicles.	35. Highway bridges, construction, etc., liability for damage to. Penalty.
16. Driver of vehicle at night to give name.	
17. Penalty.	

Direction signs, etc., cities and towns to maintain. 1794, 63, §§ 1, 3, 4. R. S. 25, §§ 28, 31, 32. G. S. 45, §§ 1, 4, 5. P. S. 53, §§ 1, 4, 5. 1887, 162.

SECTION 1. Except as otherwise provided in section two, every city and town shall erect and maintain on the ways therein, except state highways and ways under the control of the metropolitan district commission, at such places as are convenient for the direction of travelers and at forks or intersections of ways which lead to adjoining cities or towns, direction signs, upon which shall be stated the name of the city, town or place to which each such way leads, and the distance to the same.

R. L. 52, §§ 1-3. 1917, 344, V, §§ 1-3, VIII, § 1. 1928, 357, § 2.

Same subject. Maintenance, etc., on state highways, etc., by department of public works, regulated. 1906, 234. 1928, 357, § 3.

SECTION 2. The department of public works, in this chapter called the department, shall erect and maintain on state highways and on ways leading thereto, and on all main highways between cities and towns, such direction signs, warning signs or lights, curb, street or other traffic markings, mechanical traffic signal systems and similar devices as it may deem necessary for promoting the public safety and convenience. No such signs, lights, markings, signal systems or devices shall be erected or maintained on any state highway by any authority other than said department except with its written approval as to location, shape, size and color thereof and except during such time as said approval is in effect. No rule, regulation, order, ordinance or by-law of a city or town hereafter made or promulgated relative to or in connection with

13 such signs, lights, markings, signal systems or devices on any way within
 14 its control shall take effect until approved in writing by said depart-
 15 ment or be effective after said approval is revoked. Said department,
 16 after a public hearing and with the approval of the governor and coun-
 17 cil, may from time to time make, alter, rescind or add to rules and
 18 regulations to direct, govern and restrict the movement of vehicles on
 19 all state highways and to carry out the purposes of section nine of chapter
 20 eighty-nine on highways, including state highways, which are designated
 21 thereunder by said department as through ways, with penalties for the
 22 violation thereof not exceeding twenty dollars for each offence; pro-
 23 vided, that nothing in this section shall be construed to give said depart-
 24 ment the power to regulate the speed at which motor vehicles may be
 25 operated on such public ways. The superior court shall have jurisdiction
 26 in equity to enforce the provisions of this and the preceding section and
 27 any rule or regulation made thereunder or to enjoin the violation thereof.
 28 Said department may, after notice, revoke any approval granted under
 29 this section.

1 SECTION 3. When the name of any public way, place or section, or
 2 of any public park, is changed by the board or officer having jurisdiction
 3 thereof, if the name changed has been in use for twenty-five years or
 4 more, there shall be a right of appeal from such action to the depart-
 5 ment. Said appeal shall be taken within thirty days after such change,
 6 and shall be by petition of at least twenty-five inhabitants of the town
 7 in which such change has been made, requesting the reversal of such
 8 action. Notice of the filing of such petition shall forthwith be filed by
 9 the department in the office of the clerk of the town in which the change
 10 has been made, and upon the filing of such petition, a public hearing
 11 shall be given by said department, after such public notice as it shall
 12 determine, and unless the department shall approve of such change, the
 13 same shall be of no effect.

Change of
 name of ways
 and parks.
 1909, 134,
 1917, 344,
 V, § 3,
 VIII, § 1,
 1931, 394, § 40.

1 SECTION 3A. No way in any city or town which is open for public
 2 use but has not become a public way shall be given a name unless the
 3 same is first approved by its board of survey, or, if there is no such board,
 4 its board of aldermen or board of selectmen.

Unaccepted
 ways, naming.
 1927, 71.

1 SECTION 3B. When any way in a city or town which is open for pub-
 2 lic use but has not become a public way is known by a name, identical
 3 with the name of another such way or of a public way in the same city
 4 or town, or so similar thereto as, in the opinion of its board of survey, or,
 5 if there is no such board, its board of aldermen or board of selectmen,
 6 to lead to confusion, said board, after a public hearing thereon of which
 7 notice shall be given in the manner provided in section seventy-four of
 8 chapter forty-one, may by order change the name of either such way
 9 which has not become a public way. Said board shall cause to be placed
 10 on each way, the name of which is changed hereunder, at or near each
 11 point where any other way enters or unites with it, a suitable sign bear-
 12 ing the name of such way as changed and stating that it is not a public
 13 way, and shall cause to be filed in the registry of deeds of the district
 14 in which such way is located, and also in case such way is in a city, in
 15 the office of the city engineer or, in case it is in a town, in the office of
 16 the town clerk, a copy of the order effecting such change signed by the
 17 chairman of the board ordering the same. Nothing in this or the pre-

Same subject.
 Renaming.
 1927, 71.

ceding section, nor any action taken under and in accordance with either 18
of them, shall impose any additional liability upon any city or town. 19

Construction
of sidewalks
by abutter.
1849, 24.
G. S. 45, § 6.
P. S. 53, § 6.
R. L. 52, § 4.
1917, 344,
V, § 5.
VIII, § 1.
100 Mass. 255.
121 Mass. 161.
133 Mass. 569.
264 Mass. 90.

SECTION 4. A person owning or occupying land adjoining a public 1
way in a town may construct a sidewalk within such way and along the 2
line of such land, indicating the width of such sidewalk by trees, posts 3
or curbstones set at reasonable distances apart, or by a railing; and, if a 4
sidewalk is so constructed, whoever rides or drives a horse or team upon 5
and along the same shall forfeit one dollar, to be recovered by such owner 6
or occupant in tort. But this section shall not affect the authority of 7
surveyors of highways or of road commissioners, or any other authority 8
which can legally be exercised over ways, or diminish the liability of any 9
person for unreasonably obstructing ways, nor shall it apply to cities. 10

Removal of
snow from
sidewalks.
1857, 64, §§ 1, 2.
G. S. 45, § 9.
1863, 114,
§§ 1, 2.
1878, 89, § 1.
P. S. 53, §§ 7-9.
R. L. 52, § 5.
1917, 344, V,
§ 6, VIII, § 1.
16 Pick. 504.

SECTION 5. Cities by ordinance and towns by by-laws may provide 1
for the removal of snow and ice from sidewalks within such portions of 2
the city or town as they consider expedient by the owner or occupant of 3
land abutting upon such sidewalks. Such ordinances and by-laws shall 4
determine the time and manner of removal and shall affix penalties, not 5
exceeding fifty dollars in the case of a city or ten dollars in the case of a 6
town, for each violation thereof. 7

166 Mass. 133.

Assessment of
cost of remov-
ing snow.
1902, 205, § 1.
1917, 344,
V, § 7.
VIII, § 1.

SECTION 6. Any town which accepts this section or has accepted 1
corresponding provisions of earlier laws, may cause the snow and ice 2
to be removed from its permanent sidewalks constructed of brick, stone, 3
cement, concrete or asphalt, and may provide that the assessors may 4
assess upon the estates abutting on said sidewalks, from which snow or 5
ice has thus been removed, the whole or any part of the cost of such 6
removal; and the provisions of chapter eighty relative to the abatement 7
and collection of betterments shall apply to such assessments. 8

Agreement
of owner to
remove snow.
1902, 205, § 2.
1917, 344,
V, § 8.
VIII, § 1.

SECTION 7. Any person, or the agent of any person, owning an estate 1
abutting on any sidewalk as aforesaid, may, on or before November first 2
in any year, procure the exemption of such estate from the assessment 3
aforesaid for the following year by a stipulation in writing with the select- 4
men that he will remove snow and ice from the sidewalk on which the 5
estate abuts, at such time and in such manner as the selectmen or road 6
commissioners shall direct; and if he fails to fulfil his stipulation the 7
assessment above provided for shall be made and collected as if no such 8
stipulation had been made. 9

Permits for
signs and other
structures
projecting into
ways.
1915, 176,
§§ 1, 2.
1917, 344,
V, §§ 9, 10.
VIII, § 1.

SECTION 8. The municipal board or officer having charge of the laying 1
out of public ways may grant permits for the placing and maintaining of 2
signs, advertising devices, clocks, marquees, permanent awnings and 3
other like structures projecting into or placed on or over public ways 4
in its town, and may fix the fees therefor, not exceeding one dollar for 5
any one permit, and may make rules and regulations relating thereto, 6
and prescribe the penalties for a breach of any such rules and regulations, 7
not exceeding five dollars for each day during which any such structure 8
is placed or maintained contrary to the rules and regulations so made, 9
after five days' notice to remove the same has been given by such board 10
or officer, or by a police officer of the town. All such structures shall be 11
constructed, and, when attached to a building, shall be connected there- 12

13 with, in accordance with the requirements of the inspector of buildings,
 14 building commissioner or other board or officer having like authority
 15 in the town.

1 SECTION 9. The preceding section shall not apply to signs or other
 2 structures projecting into or over the way a distance of less than six
 3 inches, nor to poles, wires, conduits, and appurtenances of railroad, rail-
 4 way, telegraph and telephone, water, gas, electric light, heat and power
 5 companies.

Not applicable
 to certain
 structures
 1915, 176, § 3.
 1917, 344,
 V, § 11,
 VIII, § 1.

1 SECTION 10. Towns may make ordinances and by-laws to prevent
 2 the pasturing of cattle or other animals, either with or without a keeper;
 3 relative to the passage and driving of sheep, swine and neat cattle; pro-
 4 hibiting persons from riding or driving beasts of burden, carriage or
 5 draught, at a rate of speed inconsistent with public safety or convenience;
 6 regulating the passage of street cars, or other vehicles, or the use of sleds
 7 for coasting; regulating and controlling persons who frequent public
 8 places playing on hand organs, drums, trumpets or other musical instru-
 9 ments, upon or through any public way, and may affix penalties of not
 10 more than twenty dollars for each violation thereof. They may, by
 11 ordinance or by-law, regulate the transportation of the offal of slaughtered
 12 animals upon or through any public way and affix a penalty of not more
 13 than one hundred dollars for each violation thereof.

Regulation of
 use of ways
 for certain
 purposes.
 1857, 82.
 G. S. 45, § 10.
 1865, 31, § 1.
 1869, 201.
 1874, 225.
 1875, 136.
 1876, 20.
 P. S. 53, §§ 10-
 13, 15, 16.
 1892, 300.
 1901, 192, § 1.
 R. L. 52.
 §§ 6, 7.
 1917, 344, V,
 § 12, VIII, § 1.
 14 Gray, 52.
 140 Mass. 432.
 148 Mass. 375.
 162 Mass. 496.

1 SECTION 10A. Selectmen in towns, and the aldermen or other board
 2 or officer having charge of ways in cities, may by regulation designate
 3 certain ways or parts of ways, other than state highways, upon which
 4 and the hours during which coasting may be permitted and may in like
 5 manner regulate the use of such ways by vehicles during such hours.

Coasting
 regulated.
 1924, 296.

1 SECTION 11. Whoever violates an ordinance or by-law prohibiting
 2 persons from riding or driving at a rate of speed inconsistent with public
 3 safety or convenience may be arrested without a warrant by an officer
 4 authorized to make arrests and kept in custody not more than twenty-
 5 four hours, Sunday excepted; and within such time he shall be brought
 6 before a proper magistrate and proceeded against according to law.

Fast driving;
 arrest without
 warrant.
 1865, 31, § 2.
 P. S. 53, § 14.
 R. L. 52, § 8.
 1917, 344,
 V, § 13,
 VIII, § 1.

1 SECTION 12. No ordinance, by-law or regulation relative to the use
 2 of bicycles or tricycles shall be made by a city or town, except that the
 3 city council or selectmen may by general regulations authorize the use
 4 of velocipedes or similar machines by children on the sidewalks of a
 5 public way, square or park; but the mayor of a city or the selectmen of
 6 a town may, in their discretion, upon special occasions and subject to
 7 reasonable conditions, grant permits to persons to ride bicycles or tri-
 8 cycles during a specified time and upon specified portions of the public
 9 ways at any rate of speed.

Regulation of
 bicycles by
 cities and
 towns.
 1894, 479,
 §§ 3, 5.
 R. L. 52, § 9.
 1917, 344,
 V, § 14,
 VIII, § 1.
 4 Op. A. G.
 183.

1 SECTION 13. Whoever, without such a permit, rides a bicycle in or
 2 upon a public way, square or park or land or driveway appurtenant to
 3 a public reservoir, at a rate of speed exceeding ten miles an hour, or
 4 rides it in or upon any such place without a suitable alarm bell adapted
 5 for use by the rider or, during the period from one half hour after sunset
 6 to one half hour before sunrise, without a light attached to the bicycle
 7 visible from the front and rear, or rides it on a sidewalk, shall be pun-

Use of
 bicycles on
 highways.
 1894, 479,
 §§ 1, 4.
 1898, 121.
 R. L. 52,
 §§ 10, 11,
 1917, 344, V,
 §§ 15, 16,
 VIII, § 1.
 1921, 377.

ished by a fine of not more than twenty dollars, and shall be further liable for all damages occasioned to any persons thereby; provided that proceedings for the enforcement of such penalty shall be commenced not later than sixty days after the offence is committed.

Terms defined.
1894, 479, § 2.
1909, 312.
R. L., 52, § 12.
1917, 344,
V., § 17,
VIII, § 1.

SECTION 14. The term "sidewalk", as used in the two preceding sections, shall mean a sidewalk laid out as such by a city, town or district, and any walk which is reserved by custom or specially prepared for the use of pedestrians. It shall not include crosswalks, or footpaths on ways lying outside of the thickly settled parts of cities and towns which are worn only by travel and are not improved by such cities or towns or by abutters. The terms "bicycle" and "tricycle", as used in said sections, shall include all vehicles propelled by foot or hand power of the person riding them. The terms "park" and "square", as used in said sections, shall not include any spaces under the control of park commissioners, or of a park board or a park department of a city or town having power to make regulations relative to such spaces, and the said sections shall not abridge the powers of such commissioners, board or department, except that they or it shall make no regulations requiring the display of a lamp or lantern upon a bicycle, and such regulation whenever made shall be void.

Funeral processions.
1929, 347.

SECTION 14A. A funeral procession of not more than ten vehicles shall have the right, except on Sundays and legal holidays, to use any parkway, boulevard or other public way to the same extent and subject to the same regulations and restrictions as vehicles commonly known as pleasure vehicles.

Lights on vehicles.
1911, 578,
§§ 1, 2.
1914, 182.
1916, 30.
1917, 183; 344,
V., §§ 18, 19,
VIII, § 1.
1931, 394, § 41.
232 Mass. 344.
265 Mass. 74.

[Penalty, § 17.]

SECTION 15. Every vehicle, whether stationary or in motion, on any public way, shall have attached to it a light or lights which shall be so displayed as to be visible from the front and the rear during the period from one half an hour after sunset to one half an hour before sunrise; provided, that this section shall not apply to any vehicle which is designed to be propelled by hand, or to any vehicle designed for the transportation, as its principal freight, of hay or straw while loaded with such freight, and that upon the written application of the owner of a vehicle and the presentation of reasons therefor the department may, in writing, in such form and subject to such requirements as it may elect, and without expense to the applicant, exempt said vehicle from the provisions of this section for such period of time as said department may elect.

Driver of vehicle at night to give name
1911, 578, § 3.
1917, 344, V.,
§ 20, VIII, § 1.

SECTION 16. Every person shall while driving or in charge of or occupying a vehicle during the period from one hour after sunset to one hour before sunrise, when requested by a police officer, give his true name and address.

[Penalty, § 17.]

Penalty.
1911, 578,
§§ 4-6.
1917, 344,
V., §§ 21-23,
VIII, § 1.

SECTION 17. Whoever violates any of the provisions of the two preceding sections shall be punished by a fine of not more than five dollars. The driver or custodian of a vehicle shall be deemed to be the party responsible therefor and shall be liable to the foregoing penalty. The two preceding sections shall not apply to motor vehicles.

1 SECTION 17A. Whoever, for the purpose of soliciting any alms, con-
 2 tribution or subscription or of selling any merchandise, except newspapers,
 3 or ticket of admission to any game, show, exhibition, fair, ball, enter-
 4 tainment or public gathering, signals a moving vehicle on any public
 5 way or causes the stopping of a vehicle thereon, or accosts any occupant
 6 of a vehicle stopped thereon at the direction of a police officer or signal
 7 man, or of a signal or device for regulating traffic, shall be punished by
 8 a fine of not more than fifty dollars.

Soliciting from
 vehicles upon
 public ways
 prohibited.
 1931, 139,
 1931, 273.

1 SECTION 18. No person shall move a building in a public way without
 2 written permission from the selectmen or road commissioners, to be
 3 granted upon such terms as in their opinion the public safety may re-
 4 quire; and the superior court shall have jurisdiction in equity to enforce
 5 this section.

200 Mass. 101, 175.

Moving of
 buildings
 1879, 314, § 1.
 P. S. 53, § 17.
 R. L. 52, § 13.
 1917, 344, V.
 § 24, VIII, § 1.

1 SECTION 19. Whoever leads or drives a bear or other dangerous wild
 2 animal or causes it to travel upon or be conveyed over a public way
 3 unless properly secured in some covered vehicle or cage shall be punished
 4 by a fine of not less than five nor more than twenty dollars. Any such
 5 animal which is found upon a public way not so secured or caged may
 6 be killed by a sheriff, constable or police officer.

Bears and
 other wild
 animals.
 1804, 105,
 §§ 1-3
 R. L. 52,
 §§ 16, 17.
 1917, 344,
 V, §§ 25, 26,
 VIII, § 1.

1 SECTION 20. The county commissioners may establish by-laws regu-
 2 lating the speed at which persons may ride or drive over any bridge in
 3 their county which has cost not less than one thousand dollars and which
 4 was constructed or is maintained in whole or in part by said county,
 5 except bridges controlled by the commonwealth, and may affix penalties
 6 not exceeding two dollars for a breach thereof.

R. L. 52, § 18. 1917, 344, V, § 27, VIII, § 1.

Regulation
 of speed on
 county bridges.
 1829, 88, § 2.
 R. S. 25, § 44.
 G. S. 45, § 11.
 P. S. 53, § 18.
 1882, 108, § 1.
 1888, 313.

1 SECTION 21. A town may establish ordinances or by-laws to pro-
 2 hibit persons from riding or driving horses at a rate faster than a walk
 3 over any bridge within its limits which has cost not less than five hun-
 4 dred dollars, and may affix penalties not exceeding one dollar for a
 5 breach thereof.

R. L. 52, § 19. 1917, 344, V, § 28, VIII, § 1.

Regulation of
 speed on town
 bridges.
 1829, 88, § 1.
 R. S. 25, § 45.
 G. S. 45, § 12.
 P. S. 53, § 19.

1 SECTION 22. The proprietors of an incorporated bridge may make
 2 by-laws to prohibit persons from riding or driving horses over such bridge
 3 at a rate faster than a walk; and may affix penalties not exceeding two
 4 dollars for each offence, to be recovered to the use of the corporation.

P. S. 53, § 20. 1917, 344, V, § 29, VIII, § 1.
 R. L. 52, § 20. 7 Gray, 457.

Regulation of
 speed on in-
 corporated
 bridges.
 1821, 101.
 R. S. 25, § 47.
 G. S. 45, § 13.

1 SECTION 23. The governor, with the advice and consent of the coun-
 2 cil, may make by-laws for the regulation of travel on ways belonging to
 3 the commonwealth. Whoever violates any such by-law shall be pun-
 4 ished by a fine of not more than fifty dollars.

P. S. 53, §§ 22, 23. R. L. 52, § 21. 1917, 344, V, § 30, VIII, § 1.

Regulation of
 speed on
 state ways.
 1804, 163,
 §§ 1, 2.

1 SECTION 24. No person shall be liable to penalty under the four pre-
 2 ceding sections for violation of a by-law relating to travel on a bridge,
 3 unless a white board containing in black letters the substance of said
 4 by-law is kept posted in a conspicuous place at each end of the bridge.

G. S. 45, § 14. 1882, 108, § 3. 1917, 344, V, § 31,
 P. S. 53, § 21. R. L. 52, § 22. VIII, § 1.

Regulations to
 be posted on
 bridge.
 1821, 101.
 1829, 88, § 2.
 R. S. 25,
 §§ 46, 47.

Jurisdiction of courts over bridges.
1873, 131, § 4.
P. S. 53, § 27.

SECTION 25. District courts and trial justices, in the towns in which the bridge terminates, shall have jurisdiction of complaints for the violation, on such bridges, of the five preceding sections.

1882, 108, § 2.

R. L. 52, § 25.

1917, 344, V, § 32, VIII, § 1.

Drawbridges.
1876, 122, § 1.
P. S. 53, § 28.
R. L. 52, § 26.
1917, 344,
V, § 33,
VIII, § 1.
1931, 394, § 42.
4 Op. A. G.
592.

SECTION 26. The department, county commissioners or any city or town in which a draw for the passage of vessels through a bridge used as a way and maintained at the public expense is situated, whichever has control of said bridge, may make ordinances or by-laws regulating the passage of vessels through such draw, not inconsistent with the regulations of the United States on tide water bridges, and may affix penalties not exceeding fifty dollars for each violation thereof; but no such ordinance or by-law shall take effect until approved by the department.

Duties of vessel tender.
1876, 122,
§§ 2, 3.
P. S. 53,
§§ 29, 30.
R. L. 52,
§§ 27, 28.
1917, 344,
V, §§ 34, 35,
VIII, § 1.
1931, 394, § 43.
1 Op. A. G.
340.

SECTION 27. When such ordinances or by-laws have been approved, the department, county commissioners or the city or town shall place said draw under the direction of a suitable draw tender, and shall post a copy of such ordinances or by-laws in some conspicuous place near by. Such draw tender shall have full control of the passing of vessels through the draw, shall furnish all facilities for such passing, shall allow no detention, having due regard for the public travel, and shall enforce the ordinances or by-laws aforesaid.

Owner of vessel liable for injury to bridge.
1816, 122, § 2.
1876, 122, § 4.
P. S. 53, § 31.
R. L. 52, § 29.
1917, 344, V,
§ 36, VIII, § 1.

SECTION 28. If a vessel, through the negligence of the persons having it in charge, or through their neglect to comply with such ordinances or by-laws, or disregard of the directions of such draw tender, injures a bridge or draw, or a pier or wharf connected therewith, the owner of such vessel shall be liable to the individual or body politic or corporate having control of said bridge, for the damage, to be recovered in tort.

Removal of vessel obstructing draw.
1876, 122, § 5.
P. S. 53, § 32.
R. L. 52, § 30.
1917, 344,
V, § 37,
VIII, § 1.

SECTION 29. Such draw tender may remove a vessel which obstructs such draw, or interferes with the passage of other vessels through the same, or is made fast, without his consent, to such draw or bridge or to a pier or wharf connected therewith, or the persons in charge of which wilfully violate any such ordinance or by-law; and the expense of such removal may be recovered by the commonwealth, county, city or town.

Traction engines and other heavy vehicles.
1913, 803,
§§ 1, 3.
1917, 344,
V, §§ 39, 41,
VIII, § 1.
1918, 116,
§§ 1, 3.
1922, 526
1925, 180, § 2;
342, § 2.
1930, 353, § 1.
1931, 138, § 1.
273 Mass. 5-7.

SECTION 30. No vehicle shall travel or object be moved, on any public way, which has any device attached to or made a part of its wheels or the rollers or other supports on which it rests, which will injure the surface of the way; nor shall any vehicle travel or object be moved, on any public way, which weighs more than fourteen, or, in case of a vehicle equipped with pneumatic tires, more than fifteen, or, in case of a semi-trailer unit, whether or not so equipped, more than twenty, tons, without a permit from the board or officer having charge of such way, or, in case of a way determined by the department of public works to be a through route, from the commissioner of public works; provided, that a vehicle having three axles, of a type other than a semi-trailer unit, when operated on such through routes, may weigh more than fourteen, or, in case of such a vehicle equipped with pneumatic tires, more than fifteen, tons, but not more than twenty tons except when operated under a permit from said commissioner. No vehicle shall travel or object be moved on any public way, outside of the metropolitan parks or sewerage districts, the weight of which resting on the surface of such way exceeds eight hundred pounds

[Penalty, § 32.]

18 upon any inch of the tire, roller or other support, without such a permit.
 19 Such a permit may limit the time within which it shall be in force and the
 20 ways which may be used and may contain any provisions or conditions
 21 necessary for the protection of such ways from injury. If, in the opinion
 22 of the board or officer having charge of any public way, the travel or
 23 moving thereon at any season of the year of any vehicle or object which
 24 weighs more than ten thousand pounds would cause injury to such way
 25 more serious than the ordinary wear and tear which the type of construc-
 26 tion of such way is designed to withstand, such board or officer may by
 27 regulation prohibit such vehicle or object from passing over such way
 28 during such season without a permit therefor. All such regulations shall,
 29 when affecting ways which are determined by the department of public
 30 works to be through routes, be subject to the approval of such depart-
 31 ment. Such regulations shall be published and shall take effect as pro-
 32 vided in case of rules and orders under section twenty-two of chapter
 33 forty and shall be posted in a conspicuous place at both ends of the part
 34 of said way from which traffic is prohibited thereby. Any person driving,
 35 operating or moving a vehicle or object in violation of this section or of
 36 any regulation adopted hereunder, or the owner thereof, shall be liable
 37 in tort to the body politic or corporate having charge of the way for any
 38 injury to the way thereby caused. All the aforesaid limitations as to
 39 weight shall be inclusive of the load.

1 SECTION 31. No traction engine, with or without trailers, and no
 2 motor truck which with its load weighs more than four tons shall be op-
 3 erated upon any public way at a speed greater than fifteen miles an
 4 hour; and no vehicle which with its load weighs more than four tons
 5 shall travel upon any such way at a speed greater than four miles an
 6 hour when equipped with metallic tires, nor greater than twelve miles
 7 an hour when equipped with tires of rubber or other similar substance.
 8 The board or officer having charge of any bridge may make regulations
 9 prohibiting any vehicle to which this or the preceding section applies
 10 from passing over such bridge at a speed greater than six miles an hour,
 11 which shall be in force if conspicuously posted at each end of such bridge
 12 with a statement of the load capacity of such bridge.

Limitations on
 speed of heavy
 vehicles.
 1913, 803, § 2.
 1917, 344,
 V, § 40,
 VIII, § 1.
 1918, 116, § 2.
 [Penalty, § 32.]

1 SECTION 32. Any person violating any provision of the two preced-
 2 ing sections or the regulations made or permits granted under authority
 3 thereof shall be punished by a fine of not more than one hundred dollars,
 4 to be paid to the commonwealth when state highways are injured, and
 5 to the county, city or town when any public way is injured which is
 6 under the care of said county, city or town, for use on the public ways
 7 of said county, city or town.

Penalties.
 1913, 803, § 4.
 1917, 344,
 V, § 42,
 VIII, § 1.

1 SECTION 33. Nothing in the three preceding sections shall affect the
 2 liability of the commonwealth or of any county, city or town to pay for
 3 any damage or injury to any person or property.

Scope of
 preceding
 sections.
 1913, 803, § 5.

1917, 344, V, § 43, VIII, § 1.

1 SECTION 34. Except as otherwise provided in the following section,
 2 the department, person or local authorities having control of any bridge
 3 on any road may maintain notices at each end of such bridge legible at a
 4 distance of fifty feet, stating the maximum weight of vehicle with load
 5 which the bridge will safely carry to be six tons or over.

Protection of
 bridges from
 heavy loads.
 1919, 222,
 1923, 313, § 1.
 1931, 394, § 44.

Highway
bridges, con-
struction, etc.,
liability for
damage to.
Penalty.
1923, 343, § 2.
1931, 394, § 15.

SECTION 35. No bridge on a public highway having a span in excess of ten feet, except a bridge constructed under the provisions of chapter one hundred and fifty-nine, shall be constructed or reconstructed by any county or town except in accordance with plans and specifications therefor approved by the department. Said department shall approve or alter to meet its approval all such plans submitted to it and shall determine the maximum load which any such bridge may safely carry, and the department or the local authorities having control of such bridge may maintain notices at each end thereof, legible at a distance of fifty feet, stating the maximum weight of vehicle with load which the bridge will safely carry. The owner of a vehicle operated on any bridge posted under this or the preceding section shall be responsible for all damage resulting thereto if the weight of the vehicle and load exceeds the maximum load as posted under this or the preceding section, as the case may be, and the amount of the damage may be recovered in an action at law by the person or authorities charged with the maintenance of the bridge. Any person operating a vehicle, the weight of which with its load exceeds the maximum weight as posted under this or the preceding section, that causes damage to a bridge so posted shall be punished by a fine of not more than two hundred dollars.

CHAPTER 86.

BOUNDARIES OF HIGHWAYS AND OTHER PUBLIC PLACES, AND ENCROACHMENTS THEREON.

SECT.

- 1. Erection of monuments.
- 2. Fences taken as boundaries when true boundaries unknown.
- 3. Encroachment on public ways not validated by prescription.

SECT.

- 4. Sale of materials removed.
- 5. Removal of gates and bars.
- 6. Barbed wire fences.
- 7. Removal of unused structures.

1 SECTION 1. The county commissioners, aldermen, selectmen or road
 2 commissioners shall cause permanent bounds to be erected at the termini
 3 and angles of all ways laid out by them. Such bounds shall be of stone,
 4 Portland cement or concrete not less than three feet long, two feet of
 5 which at least shall be set in the ground, or of stone not less than three
 6 feet long with holes drilled therein and filled with lead placed a few
 7 inches below the traveled part of the way, or if stone, Portland cement
 8 or concrete bounds are impracticable, a heap of stones, a living tree, a
 9 permanent rock, or the corner of a building, or such other permanent
 10 bounds as said officers may determine. If they neglect to establish
 11 such monuments after being notified so to do by an owner of land abut-
 12 ting on such way, the county or city, if it is a highway, or the town if it
 13 is a town way, shall forfeit to him fifty dollars for each month during
 14 which such neglect continues.

Erection of monuments.
 1848, 192.
 1875, 95.
 1879, 132, § 3.
 G. S. 44, § 88.
 P. S. 49, § 98.
 R. L. 48, § 191.
 1917, 344, II, § 75, VIII, § 1.
 7 Cush. 394.
 7 Gray, 465.
 183 Mass. 189.
 189 Mass. 505.

1 SECTION 2. If buildings or fences have been erected and continued
 2 for more than twenty years, fronting upon or against a highway, town
 3 way, private way, training field, burying place, landing place, street,
 4 lane or alley, or other land appropriated for the general use or conven-
 5 ience of the inhabitants of the commonwealth, or of a county, city, town
 6 or parish, and from the length of time or otherwise the boundaries
 7 thereof are not known and cannot be made certain by the records or by
 8 monuments, such buildings or fences shall be taken to be the true
 9 boundaries thereof.

Fences taken as boundaries when true boundaries unknown.
 1734-5, 2, § 2.
 1786, 67, § 7.
 R. S. 24, § 61.
 G. S. 46, § 1.
 P. S. 54, § 1.
 R. L. 53, § 1.
 1917, 344, VI, § 1, VIII, § 1.
 2 Pick. 47.
 17 Pick. 309.

8 Met. 578.	6 Allen. 20.	138 Mass. 8.	195 Mass. 299.
13 Met. 115.	8 Allen. 473.	148 Mass. 309.	206 Mass. 513.
11 Cush. 487.	100 Mass. 159.	181 Mass. 507.	230 Mass. 569.
4 Gray, 215.	107 Mass. 234.	189 Mass. 308.	239 Mass. 127.
15 Gray, 573.	110 Mass. 527.	190 Mass. 323.	268 Mass. 162.
3 Allen. 349.	113 Mass. 411.		

1 SECTION 3. If the boundaries of a public way are known or can be
 2 made certain by records or monuments, no length of possession, or occu-
 3 pancy of land within the limits thereof, by the owner or occupant of ad-
 4 joining land shall give him any title thereto, unless it has been acquired
 5 prior to May twenty-sixth, nineteen hundred and seventeen, and any
 6 fences, buildings or other obstructions encroaching upon such way shall,
 7 upon written notice from the county commissioners or board or officer
 8 having authority over ways in towns, be forthwith removed by the
 9 owner or occupant of adjoining land, and if not so removed said com-
 10 missioners, board or officer may cause the same to be removed upon said
 11 adjoining land.

Encroachment on public ways not validated by prescription.
 1917, 344, II, § 74.
 265 Mass. 162.

Sale of materials removed.
1786, 81, § 6
R. S. 24, § 43,
G. S. 46, § 3
P. S. 54, § 3
R. L. 53, § 2.
1917, 344.
VI. § 2.
VIII. § 1.

SECTION 4. If such building, fence or other encumbrance is adjudged a nuisance and ordered to be abated, the materials may be sold at auction and the proceeds applied to the payment of the expenses of the prosecution and removal, and, if insufficient, the court may order the remainder to be raised and levied upon the property of the defendant.

8 Met. 578.

Removal of gates and bars.
C. L. 65, § 3
1693-4, 6, § 5.
1786, 81, § 5
R. S. 25, §§ 27,
45.
G. S. 46, §§ 4, 5.
P. S. 54, §§ 4, 5.
R. L. 53, § 3.
1917, 344.
VI. § 3.
VIII. § 1.
10 Mass. 71.
8 Allen, 473.
130 Mass. 113.

SECTION 5. Any person may remove gates, rails, bars or fences which are upon or across a public or private way legally laid out, unless they have been placed there to prevent the spread of disease dangerous to the public health, or unless they have been erected or continued by the license of the county commissioners or of the selectmen or road commissioners or of the person for whose use such private way was laid out. A person aggrieved by such removal may apply to the county commissioners, selectmen or road commissioners, respectively, and if upon examination it appears that such gates, rails, bars or fences were erected or continued by such license, they shall order them replaced.

Barbed wire fences.
1884, 272.
R. L. 53, § 4.
1917, 344.
VI. § 4.
VIII. § 1.

SECTION 6. Whoever builds or maintains a barbed wire fence within six feet of the ground along a sidewalk located on a public way shall be punished by a fine of not less than twenty nor more than fifty dollars.

173 Mass. 429.

Removal of unused structures.
1889, 398.
R. L. 53, § 5.

SECTION 7. The aldermen or selectmen may cause the removal from public ways and places of unused poles, wires, structures or other appliances, at the expense of the owners thereof.

1917, 344, VI. § 5, VIII. § 1.

153 Mass. 200.

CHAPTER 87.

SHADE TREES.

SECT.

1. Public shade trees defined.
2. Powers of tree wardens.
3. Cutting of public shade trees. Hearing.
4. Approval of mayor or selectmen required if objection made.
5. Cutting down bushes and small trees. Trimming trees, etc., that obstruct travel.

SECT.

6. Penalty.
7. Planting of shade trees.
8. Trees on state highways.
9. Signs and marks on shade trees.
10. Injury to trees on state highways.
11. Injury to trees of another person.
12. Injury to shrubs, trees and fixtures.
13. Duties of tree wardens in cities.

1 SECTION 1. All trees within a public way or on the boundaries
 2 thereof shall be public shade trees; and when it appears in any pro-
 3 ceeding in which the ownership of or rights in a tree are material to the
 4 issue, that, from length of time or otherwise, the boundaries of the
 5 highway cannot be made certain by records or monuments, and that for
 6 that reason it is doubtful whether the tree is within the highway, it shall
 7 be taken to be within the highway and to be public property until the
 8 contrary is shown.

Public shade trees defined. 1899, 330, § 2. R. L. 53, § 12. 1908, 296, § 2. 1910, 321. 1915, 145, §§ 2, 13. 211 Mass. 561. 273 Mass. 483.

1 SECTION 2. The tree warden of a town may appoint and remove
 2 deputy tree wardens. He and they shall receive such compensation as
 3 the town determines or, in default thereof, as the selectmen allow. He
 4 shall have the care and control of all public shade trees, shrubs and
 5 growths in the town, except those within a state highway, and those in
 6 public parks or open places under the jurisdiction of the park commis-
 7 sioners, and shall have care and control of the latter, if so requested
 8 in writing by the park commissioners, and shall enforce all the provisions
 9 of law for the preservation of such trees, shrubs and growths. He shall
 10 expend all money appropriated for the setting out and maintenance of
 11 such trees, shrubs and growths, and no tree shall be planted within a
 12 public way without the approval of the tree warden, and in towns until
 13 a location therefor has been obtained from the selectmen or road com-
 14 missioners. He may make regulations for the care and preservation of
 15 public shade trees and establish fines and forfeitures of not more than
 16 twenty dollars in any one case for violation thereof; which, when posted
 17 in one or more public places, and, in towns, when approved by the select-
 18 men, shall have the effect of town by-laws.

Powers of tree wardens. 1896, 190, §§ 2, 4. 1897, 428, § 1. 1899, 330, § 1, 2. R. L. 53, § 12. 1908, 296, § 2. 1910, 321. 1915, 145, §§ 2, 13. 211 Mass. 561.

1 SECTION 3. Except as provided by section five, public shade trees
 2 shall not be cut, trimmed or removed, in whole or in part, by any person
 3 other than the tree warden or his deputy, even if he be the owner of the
 4 fee in the land on which such tree is situated, except upon a permit in
 5 writing from said tree warden, nor shall they be cut down or removed by
 6 the tree warden or his deputy or other person without a public hearing
 7 at a suitable time and place, after notice thereof posted in two or more
 8 public places in the town and upon the tree at least seven days before
 9 such hearing, and after authority granted by the tree warden therefor.
 10 Any person injured in his property by the action of the officers in charge
 11 of the public shade trees as to the trimming, cutting, removal or retention

Cutting of public shade trees. Hearing. 1867, 242, § 1. P. S. 54, §§ 10, 11. 1896, 190, § 3. 1897, 428, § 1. 1899, 330, § 3. R. L. 53, § 13. 1908, 296, §§ 3, 4. 1915, 145, §§ 3, 13. 211 Mass. 561. 265 Mass. 65. 269 Mass. 202. 273 Mass. 483.

of any such tree, or as to the amount awarded to him for the same, may recover the damages, if any, which he has sustained, from the town under chapter seventy-nine.

[Penalty, § 6.]

Approval of mayor or selectmen required if objection made.
1915, 145, § 4.
[Penalty, § 6.]

SECTION 4. Tree wardens shall not cut down or remove or grant a permit for the cutting down or removal of a public shade tree if, at or before a public hearing as provided in the preceding section, objection in writing is made by one or more persons, unless such cutting or removal or permit to cut or remove is approved by the selectmen or by the mayor.

Cutting down bushes and small trees. Trimming trees, etc., that obstruct travel.
1915, 145, § 5.
222 Mass. 22.
235 Mass. 515.
269 Mass. 202.
[Penalty, § 6.]

SECTION 5. Tree wardens and their deputies, but no other person, may, without a hearing, trim, cut down or remove trees, less than one and one half inches in diameter one foot from the ground, and bushes, standing in public ways; and, if ordered by the mayor, selectmen, road commissioners or highway surveyor, shall trim or cut down trees and bushes, if the same shall be deemed to obstruct, endanger, hinder or incommode persons traveling thereon. Nothing contained in this chapter shall prevent the trimming, cutting or removal of any tree which endangers persons traveling on a highway, or the removal of any tree, if so ordered by the proper officers, for the purpose of widening the highway, and nothing herein contained shall interfere with gypsy and brown tail moth suppression, as carried on under the direction of the state forester and the United States department of agriculture, except so much as relates to the cutting and removal of trees, shrubs and growths that are one and one half inches or more in diameter one foot from the ground.

Penalty.
1915, 145, § 6.

SECTION 6. Violations of any provision of the three preceding sections shall be punished by forfeiture of not more than five hundred dollars to the use of the city or town.

Planting of shade trees.
1915, 145, § 7.

SECTION 7. Towns may appropriate money to be expended by the tree warden in planting shade trees in the public ways, or, if he deems it expedient, upon adjoining land, at a distance not exceeding twenty feet from said public ways, for the purpose of improving, protecting, shading or ornamenting the same; provided, that the written consent of the owner of such adjoining land shall first be obtained.

Trees on state highways.
1905, 270, § 1.
1908, 297, § 1.
1915, 145,
§§ 8, 13.
1931, 394, § 46.

SECTION 8. The department of public works, in this chapter called the department, shall have the care and control of all trees, shrubs and growths within state highways, and may trim, cut or remove such trees, shrubs and growths, or license the trimming, cutting or removal thereof. No such tree, shrub or other growth shall be trimmed, cut or removed by any person other than an agent or employee of the department, even if he be the owner of the fee in the land on which such tree, shrub or growth is situated, except upon a permit in writing from the department. Any person injured in his property by the action of the department as to the trimming, cutting, removal or retention of any such tree, shrub or other growth, may recover the damages, if any, which he has sustained, from the commonwealth under chapter seventy-nine.

1 SECTION 9. Whoever affixes to a tree in a public way or place a
 2 notice, sign, advertisement or other thing, whether in writing or other-
 3 wise, or cuts, paints or marks such tree, except for the purpose of pro-
 4 tecting it or the public and under a written permit from the officer having
 5 the charge of such trees in a city or from the tree warden in a town, or
 6 from the department in the case of a state highway, shall be punished
 7 by a fine of not more than fifty dollars. Tree wardens shall enforce the
 8 provisions of this section; but if a tree warden fails to act in the case of
 9 a state highway within thirty days after the receipt by him of a com-
 10 plaint in writing from the department, the department may proceed
 11 to enforce this section.

Signs and
 marks on shade
 trees.
 1893, 493.
 1899, 330,
 §§ 7, 8.
 R. L. 208, § 104.
 1905, 279, § 2.
 1915, 145,
 §§ 9, 13.
 1931, 394, § 47.

1 SECTION 10. Whoever without authority trims, cuts down or removes
 2 a tree, shrub or growth, within a state highway or maliciously injures,
 3 defaces or destroys any such tree, shrub or growth shall be punished by
 4 imprisonment for not more than six months, or by a fine of not more
 5 than five hundred dollars to the use of the commonwealth.

Injury to trees
 on state high-
 ways.
 1905, 279, § 3.
 1908, 297, § 2.
 1915, 145,
 §§ 10, 13.

1 SECTION 11. Whoever wilfully, maliciously or wantonly cuts, de-
 2 stroys or injures a tree, shrub or growth which is not his own, standing
 3 for any useful purpose, shall be punished by imprisonment for not more
 4 than six months or by a fine of not more than five hundred dollars.

Injury to trees
 of another
 person.
 1698, 7, § 1.
 1785, 28, § 1.
 1829, 63.

R. S. 126, § 42.
 G. S. 161, § 82.
 1868, 321.

P. S. 203, § 95.
 R. L. 208, § 100.

1902, 544, § 30.
 1915, 145, § 11.

1 SECTION 12. Whoever wantonly injures, defaces or destroys a shrub,
 2 plant or tree, or fixture of ornament or utility, in a public way or place
 3 or in any public enclosure, or negligently or wilfully suffers an animal
 4 driven by or for him or belonging to him to injure, deface or destroy
 5 such shrub, plant, tree or fixture, shall be punished by a fine of not more
 6 than five hundred dollars, and shall in addition thereto be liable to the
 7 town or any person for all damages to its or his interest in said shrub,
 8 plant, tree or fixture caused by such act. Whoever by any other means
 9 negligently or wilfully injures, defaces or destroys such a shrub, plant,
 10 tree or fixture shall likewise be liable to the town or any person for all
 11 damages to its or his interest in said shrub, plant, tree or fixture caused
 12 by such act.

Injury to
 shrubs, trees
 and fixtures.
 1856, 256, § 2.
 G. S. 46, § 7.
 P. S. 54, § 7.
 1899, 330,
 §§ 6, 7.
 R. L. 208,
 §§ 101, 102.
 1902, 544,
 §§ 31, 32.
 1915, 145,
 §§ 12, 13.
 1926, 311.

1 SECTION 13. The powers and duties conferred and imposed upon
 2 tree wardens in towns by this chapter shall be exercised and performed
 3 in cities by the officers charged with the care of shade trees within the
 4 limits of the highway.

Duties of tree
 wardens in
 cities.
 1910, 363, § 1.
 1915, 145,
 §§ 1, 13.

CHAPTER 88.

FERRIES, CANALS AND PUBLIC LANDINGS.

<p>SECT.</p> <p style="text-align: center;">FERRIES.</p> <p>1. Ferryman to be licensed.</p> <p>2. Establishment of tolls.</p> <p>3. Safe boats to be kept. Penalty.</p> <p>4. Remedy for damage by default of ferryman.</p> <p>5. Penalty for keeping ferry without a license.</p> <p>6. Maintenance of ferry by towns.</p> <p>7. Apportionment of expense.</p> <p>8. Penalty for neglect to maintain ferry.</p> <p style="text-align: center;">CANALS.</p> <p>9. Certificate of character of load.</p> <p>10. Penalty for false statement.</p>	<p>SECT.</p> <p>11. Examination of load.</p> <p>12. Fencing dangerous canals.</p> <p>13. Fencing, if order not complied with. Penalty.</p> <p style="text-align: center;">LANDING PLACES.</p> <p>14. Laying out and alteration. Structures upon.</p> <p>15. Laying out by county commissioners.</p> <p>16. Ascertainment of boundaries.</p> <p>17. Discontinuance.</p> <p>18. Recognizance for costs.</p> <p>19. Rules and regulations.</p>
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FERRIES.

SECTION 1. The county commissioners may license for such time as they determine any suitable person to keep a ferry for hire, and may revoke such license when necessary. Each ferryman shall give to the state treasurer a bond with sufficient sureties for the faithful performance of his duty.

123 Mass. 460.

4 Op. A. G. 422.

SECTION 2. The commissioners shall establish at each ferry the fares or tolls for passengers, horses, vehicles and other things there transported, having regard to the length and situation of the ferry and to the number of persons using the same. This and the preceding section shall not apply to ferries established by law prior to April thirtieth, eighteen hundred and thirty-six.

SECTION 3. Each ferryman shall keep sufficient and safe boats in good repair and shall give ready attendance on passengers on all occasions according to the regulations established for his ferry. If he neglects to keep such boats or to give such attendance, he shall forfeit not more than twenty dollars, and be liable for all damages caused thereby.

P. S. 55, § 3.

R. L. 55, § 3.

SECTION 4. Whoever suffers damage by the negligence or default of a ferryman may recover the same by an action upon his bond; which may be prosecuted as an action brought on the bond of a sheriff is prosecuted.

R. L. 55, § 4.

8 Gray, 547.

SECTION 5. Whoever without license keeps a ferry and demands or receives pay or toll therefor shall forfeit not more than five dollars for each day during which he keeps such ferry, and shall be liable for all damages caused thereby to any person authorized to keep a ferry.

G. S. 47, § 5.

P. S. 55, § 5.

R. L. 55, § 5.

1 SECTION 6. If the commissioners determine that it is necessary to
 2 establish a ferry, and no person appears to keep it for the profits thereof,
 3 the town in which such ferry is required shall provide a person to keep
 4 it at such place and seasons as the commissioners order. Such person
 5 shall be licensed as aforesaid, and the expense of maintaining such ferry,
 6 in excess of the amount received for tolls, shall be paid by the town.

Maintenance
 of ferry by
 towns.
 1796, 12, § 4.
 R. S. 26, § 7.
 G. S. 47, § 6.
 P. S. 55, § 6.
 R. L. 55, § 6.
 [Penalty, § 8.]

1 SECTION 7. The commissioners may, either when such ferry is estab-
 2 lished between two towns or thereafter, upon the application of ten voters
 3 of either town and after notice to both towns and a hearing, order that
 4 such towns shall maintain said ferry either jointly or alternately, and shall
 5 adjudge in what proportion they shall bear the expense of such mainte-
 6 nance; and the commissioners may, upon a new application and after
 7 notice and a hearing, revise such order. Their determination shall be
 8 final.

Apportionment
 of expense
 1759-60, 21,
 § 2
 1764-5, 31.
 1796, 12, § 5.
 R. S. 26, § 8.
 G. S. 47, § 7.
 1874, 265, § 1.
 P. S. 55, § 7.
 R. L. 55, § 7.

[Penalty, § 8.]

1 SECTION 8. A town which neglects to maintain a ferry as provided
 2 in the two preceding sections shall forfeit not more than one hundred
 3 dollars for each month such neglect continues.

Penalty for
 neglect to
 maintain ferry.

1759-60, 21, § 3.
 1764-5, 31.

1796, 12, § 6.
 R. S. 26, § 9.

G. S. 47, § 8.
 1874, 265, § 2.

P. S. 55, § 8.
 R. L. 55, § 8.

CANALS.

1 SECTION 9. The master of a boat laden with goods, wares or mer-
 2 chandise which enters the waters of a canal to be carried thereon, shall
 3 exhibit a certificate signed by him to the collector of tolls, stating the
 4 name of the owner of the boat, the name of the place to which it is destined
 5 and the quantity or weight of the respective articles laden on board, dis-
 6 tinguishing each article, as to quantity or weight, according to the toll
 7 which it is liable to pay. A master who neglects or refuses to exhibit such
 8 certificate, or knowingly, and with intent to defraud the proprietors of
 9 the canal, makes or delivers a false certificate of the kind or quantity of
 10 goods, wares or merchandise laden on board such boat, shall forfeit one
 11 hundred dollars. The proprietors shall prepare the proper blank forms
 12 of certificates of loading; and masters of boats shall be entitled to use
 13 them without expense.

Certificate of
 character of
 load.
 1834, 154, § 1.
 R. S. 39, § 88.
 G. S. 62, § 20.
 P. S. 108, § 1.
 R. L. 55, § 9.

1 SECTION 10. Whoever knowingly and with intent to defraud such
 2 proprietors makes or causes to be made a false statement of the quantity
 3 or quality of goods, wares or merchandise laden or to be laden on board
 4 of a boat used on such canal shall forfeit one hundred dollars.

Penalty for
 false state-
 ment.
 1834, 154, § 2.
 R. S. 39, § 90.

G. S. 62, § 21.

P. S. 108, § 2.

R. L. 55, § 10.

1 SECTION 11. A collector of tolls on a canal may detain a boat and
 2 cause the goods, wares and merchandise laden on board to be weighed;
 3 and if it is found that the loading is greater than the quantity stated
 4 in the certificate, the master of the boat, in addition to the penalty
 5 hereinbefore provided, shall pay the costs and charges of unloading,
 6 weighing and reloading such goods, wares or merchandise; otherwise
 7 the proprietors of the canal shall pay all such costs and charges, and
 8 be liable in tort for all damages caused by such detention.

Examination
 of load.
 1834, 154, § 3.
 R. S. 39, § 91.
 G. S. 62, § 22.
 P. S. 108, § 3.
 R. L. 55, § 11.

1 SECTION 12. The city council of a city or the selectmen of a town
 2 may, for the purpose of determining whether a canal or waterway within

Fencing dan-
 gerous canals.
 1887, 393, § 1.

R. L. 52, § 32. the limits of the city or town is dangerous to the public, give a public
 1917, 344, V. hearing thereon, after notice in writing, to the person owning, operating
 § 44, VIII, § 1. or controlling said canal or waterway, and if after such hearing the council
 or selectmen shall adjudge said canal or waterway to be dangerous to the
 public, they shall order that a suitable fence be erected along said canal
 or waterway or any portion thereof. The person so ordered to erect the
 fence may within thirty days after written notice of said order, appeal
 therefrom to the department of public works, which shall thereupon give
 due notice and hear all parties interested, and its decision thereon shall
 be final.

Fencing, if order not complied with. Penalty
 1887, 393, § 2. SECTION 13. If such order of the city council or selectmen is not
 R. L. 52, § 33. or, in the event of an appeal to said department, within sixty days after
 1917, 344, V. written notice of its decision affirming such order, the city council or
 § 45, VIII, § 1. selectmen shall cause a suitable fence to be erected and shall recover the
 cost thereof in contract from the person required to erect it, who, for
 such neglect, shall also be punished by a fine of not less than fifty nor
 more than one hundred dollars.

LANDING PLACES.

Laying out and alteration. Structures upon
 1908, 606, §§ 1, 4. SECTION 14. The city council or board of selectmen may, upon peti-
 1930, 164. tion in writing by ten or more voters of the city or town, lay out or alter
 common landing places therein which shall not, where the tide ebbs and
 flows, extend below low water mark; and all the provisions of law relating
 to the laying out and alteration of town ways shall apply to the laying
 out and alteration of common landing places. Any person who is dam-
 aged in his property by such laying out and alteration may recover his
 damages under chapter seventy-nine. A city or town may erect on any
 such common landing place structures which may extend beyond low
 water mark, subject to the provisions of chapter ninety-one, and may
 maintain the same. The city council or board of selectmen may make
 rules and regulations governing the operation and use of said structures,
 and may appoint a custodian thereof and fix his salary, or it may, on
 behalf of the city or town, lease said structures.

Laying out by county commissioners. 1908, 606, §§ 5, 8. SECTION 15. Any person aggrieved by the failure of the selectmen
 of a town to lay out suitable landing places therein, after petition there-
 for, or by the failure of a town to accept a common landing place laid
 out by the selectmen, may, if an inhabitant of such town or of an ad-
 joining town, within six months after such petition to the selectmen
 or after such failure of the town, appeal by petition in writing to the
 county commissioners, who, unless sufficient cause to the contrary is
 shown, may lay out suitable common landing places, or may approve a
 landing place laid out by the selectmen, and may direct the laying out
 of such landing places to be recorded by the clerk of the town, and such
 laying out or approval shall have the same effect as a laying out by the
 selectmen and an acceptance by the town. The proceedings of the
 county commissioners upon such an appeal shall, so far as is practicable,
 be the same as those provided by law in regard to the laying out of high-
 ways by county commissioners.

1 SECTION 16. Upon the representation of ten or more inhabitants of
2 a county to the county commissioners that the exact location of a com-
3 mon landing place in such county cannot be readily ascertained, they
4 shall, after giving the notice required in laying out highways, ascertain
5 the correct location of such landing place, erect the necessary bounds
6 thereof and make a record thereof as in laying out highways.

Ascertainment
of boundaries.
1882, 109
R. L. 48, § 102.
1917, 311, 11,
§ 72, VIII, § 1.

1 SECTION 17. A town at a meeting called for the purpose may discon-
2 tinue any common landing place laid out under this chapter. Any resi-
3 dent of the town, or of an adjoining town aggrieved by such discon-
4 tinuance may, within six months thereafter, appeal to the county
5 commissioners, who shall give notice to the clerk of the town in which
6 such landing place is situated, and to the clerks of every adjoining
7 town, of a hearing on such appeal and of the time and place appointed
8 therefor, at least thirty days before the time appointed for the hearing,
9 and they shall also cause copies of the petition, or abstracts thereof,
10 and of the notice, to be posted in two public places in each of said towns,
11 and to be published three weeks successively in such newspaper as they
12 shall order; the posting and the last publication to be fourteen days
13 at least before any view, hearing or adjudication on such appeal. The
14 proceedings of the county commissioners shall, so far as is practicable,
15 be in accordance with the law regarding the discontinuance of a way by
16 county commissioners, and the decision of the county commissioners
17 shall be final.

Discontin-
uation
1908, 606,
§§ 2, 6, 8

1 SECTION 18. Before any action is taken upon an appeal under sec-
2 tion fifteen or seventeen the appellants shall cause a sufficient recogni-
3 zance to be given to the county, with sureties to the satisfaction of the
4 county commissioners, for the payment of all costs and expenses to the
5 county which shall arise by reason of the proceedings on such appeal, if
6 the appellants do not prevail.

Recognizance
for costs
1908, 606, § 7.

1 SECTION 19. The selectmen may make rules and regulations con-
2 cerning the use of a common landing place laid out under this chapter.

Rules and
regulations.
1908, 606, § 3.

CHAPTER 89.

LAW OF THE ROAD.

SECT.

1. Persons meeting to turn to the right.
2. Persons passing in same direction to turn to left.
3. Sleigh bells.
4. Vehicles to keep to right when view obstructed.
5. Penalties.
6. Rules of road not applicable to street cars.
- 6A. Street cars to stop during passage of fire apparatus.

SECT.

7. Fire engines, patrol wagons and ambulances to have right of way.
- 7A. Movement, etc., of vehicles near fires or during passage of fire apparatus, regulated.
8. Right of way at intersecting ways.
9. Through ways.
10. Violation of one-way street regulations, etc., effect on civil liability.

Persons meeting to turn to the right.
1820, 65, § 1.
R. S. 51, § 1.
G. S. 77, § 1.
P. S. 93, § 1.

SECTION 1. When persons traveling with vehicles meet on a way, each shall seasonably drive his vehicle to the right of the middle of the traveled part of such way, so that the vehicles may pass without interference.

R. L. 54, § 1.
1917, 344, VII, § 1,
VIII, § 1
1 Pick. 345.
4 Pick. 125.
23 Pick. 291.
8 Met. 213.
11 Met. 403.
12 Met. 415.

10 Cush. 495.
2 Gray, 181.
11 Gray, 418.
3 Allen, 176.
12 Allen, 84.
100 Mass. 313.
158 Mass. 17, 46.
159 Mass. 142.
177 Mass. 530.

187 Mass. 53.
204 Mass. 165.
209 Mass. 155.
210 Mass. 240.
213 Mass. 79.
229 Mass. 53.
1 Op. A. G. 595.
4 Op. A. G. 183.

[Penalty, § 5.]

Persons passing in same direction to turn to left.
G. S. 77, § 2.
P. S. 93, § 2.
R. L. 54, § 2.

SECTION 2. The driver of a vehicle passing another vehicle traveling in the same direction shall drive to the left of the middle of the traveled part of a way; and, if it is of sufficient width for the two vehicles to pass, the driver of the leading one shall not wilfully obstruct the other.

1917, 344, VII, § 2,
VIII, § 1.
119 Mass. 66.
121 Mass. 216.
195 Mass. 151.

199 Mass. 574.
200 Mass. 57.
210 Mass. 44.
212 Mass. 392.
213 Mass. 79.

228 Mass. 477.
229 Mass. 53.
264 Mass. 383.
4 Op. A. G. 183.

[Penalty, § 5.]

Sleigh bells.
1820, 65, § 2.
R. S. 51, § 2.
G. S. 77, § 3.
P. S. 93, § 3.

SECTION 3. No person shall travel on a way with a sleigh or sled drawn by a horse, unless there are at least three bells attached to some part of the harness.

R. L. 54, § 3.
1917, 344, VII, § 3,
VIII, § 1.

11 Gray, 342.
8 Allen, 436.

202 Mass. 443.
209 Mass. 155, 489.

[Penalty, § 5.]

Vehicles to keep to right when view obstructed.
1908, 512, § 1.
1917, 344, VII,
§ 4, VIII, § 1.

SECTION 4. Whenever on any way, public or private, there is not an unobstructed view of the road for at least one hundred yards, the driver of every vehicle shall keep his vehicle on the right of the middle of the traveled part of the way, whenever it is safe and practicable so to do.

217 Mass. 18

259 Mass. 415.

[Penalty, § 5.]

Penalties.
1820, 65, § 4.
R. S. 51, § 3.
G. S. 77, § 4.
P. S. 93, § 4.

SECTION 5. Whoever violates any of the provisions of the four preceding sections shall, upon complaint made within three months after the commission of the offence, forfeit not more than twenty dollars,

4 and be liable in an action commenced within twelve months after the
5 date of such violation for all damage caused thereby.

1917, 344, VII,
§ 5, VIII, § 1.
1 Pick. 345.
11 Met. 403.

12 Met. 415.
2 Gray, 181.
11 Gray, 342, 418.
3 Allen, 176.

8 Allen, 436.
100 Mass. 313.
119 Mass. 66.
158 Mass. 46.

R. L. 51, § 4
1908, 512, § 2.

1 SECTION 6. In construing rules, by-laws and regulations concerning
2 the use and operation of vehicles on ways, street railway cars or other
3 cars moving upon rails shall not be considered to be vehicles within
4 the provisions of the five preceding sections, unless it is expressly so
5 provided.

Rules of road
not applicable
to street cars
1913, 223.
1917, 344, VII,
§ 6, VIII, § 1.
[See Chap. 90,
§ 14.]

1 SECTION 6A. Every motorman of a car upon a street railway shall,
2 upon the approach of any fire apparatus going to a fire or responding to
3 an alarm, immediately stop said car and keep the same at a standstill
4 until such apparatus has passed. Violation of any provision of this
5 section shall be punished by a fine of not more than twenty-five dollars.

Street cars to
stop during
passage of fire
apparatus.
1925, 306, § 1.

1 SECTION 7. The members and apparatus of a fire department while
2 going to a fire or responding to an alarm, police patrol wagons and
3 ambulances, and hospital ambulances shall have the right of way through
4 any street, way, lane or alley. Whoever wilfully and maliciously ob-
5 structs or retards the passage of any of the foregoing in the exercise of
6 such right shall be punished by a fine of not more than fifty dollars or
7 imprisonment for not more than three months.

Fire engines,
patrol wagons
and ambulances
to have right of
way
1874, 37.
P. S. 35, § 27.
1889, 57.
R. L. 32, § 37.
1904, 161.
1919, 333,
§§ 1, 2.

1 SECTION 7A. Upon the approach of any fire apparatus which is
2 going to a fire or responding to an alarm, every person driving a vehicle
3 on a way shall immediately drive said vehicle as far as possible toward
4 the right-hand curb or side of said way and shall keep the same at a
5 standstill until such fire apparatus has passed. No person shall drive a
6 vehicle over a hose of a fire department without the consent of a mem-
7 ber of such department. No person shall drive a vehicle within three
8 hundred feet of any fire apparatus going to a fire or responding to an
9 alarm, nor drive said vehicle, or park or leave the same unattended,
10 within six hundred feet of a fire or within the fire-lines established thereat
11 by the fire department. Violation of any provision of this section shall
12 be punished by a fine of not more than twenty-five dollars.

Movement,
etc. of vehicles
near fires or
during pas-
sage of fire
apparatus,
regulated.
1925, 306, § 2.
1926, 278.

1 SECTION 8. Every driver of a motor or other vehicle approaching
2 an intersection of any ways, which for the purposes hereof shall mean
3 the area embraced within the extensions of the lateral curb lines, or, if
4 none, then the lateral boundary lines, of intersecting ways as defined
5 in section one of chapter ninety, shall grant the right of way to a vehicle
6 which has already entered such intersection, and every driver of a ve-
7 hicle entering such an intersection shall grant the right of way to a
8 vehicle so entering from his right at approximately the same instant;
9 but the foregoing provisions of this section shall not apply at any inter-
10 section of ways when a driver is otherwise directed by a police officer,
11 or by a lawful traffic regulating sign, device or signal maintained by
12 or with the written approval of the department of public works and
13 while said approval is in effect or otherwise lawfully maintained.

Right of way
at intersecting
ways.
1929, 222.
1926, 350, § 1.
1928, 357, § 4.
1929, 147, § 1
246 Mass. 409.
248 Mass. 62.
252 Mass. 205.
256 Mass. 560.
257 Mass. 103,
575.
267 Mass. 238.
269 Mass. 238.
286.
271 Mass. 274.
273 Mass. 40.

Through ways.
1926, 350, § 2.
1928, 357, § 5.
1929, 147, § 2.

SECTION 9. For the purposes of this section, the department of public works may from time to time designate any state or other highway or part thereof as a through way, and may after notice revoke any such designation; and any city or town may, with the approval of said department and while such approval is in effect, designate any way or part thereof within the control of such city or town as a through way and may, after notice and like approval, revoke any such designation. Said department may, after notice, revoke any approval granted under this section. No such designation of a through way shall become effective as to regulation of traffic at any point of intersection with another way until said department or the board or officer having control of ways in a city or town, as the case may be, shall have caused suitable warning signs and signals to be erected at or near such point. Every vehicle immediately before entering the limits of a through way except at a terminus thereof shall be brought to a full stop except when the driver is otherwise directed by a police officer, or by a lawful traffic regulating sign, device or signal maintained by or with the written approval of said department and while such approval is in effect or otherwise lawfully maintained. For the purposes of this section, a way joining a through way at an angle, whether or not it crosses the same, shall be deemed to intersect it, and the word "way", unless the context otherwise requires, shall include a through or other way.

Violation of
one-way street
regulations,
etc., effect
on civil
liability.
1930, 57, § 1.

SECTION 10. The violation by the operator or driver of a motor or other vehicle of any rule, regulation, ordinance or by-law limiting traffic on any specified way to traffic moving in one direction shall not, in respect to any civil liability, render such operator or driver, or such vehicle or any occupant thereof, a trespasser upon said way.

CHAPTER 90.

MOTOR VEHICLES AND AIRCRAFT.

SECT.

MOTOR VEHICLES.

1. Definitions.
- 1A. Registration of motor vehicles, etc., when prohibited. Exceptions.
2. Registration of motor vehicles and trailers.
3. Motor vehicles owned by non-residents.
- 3A. Operation of motor vehicle by non-resident, when equivalent to appointment of registrar as attorney, etc.
- 3B. Operation of motor vehicle by any person, when so equivalent.
- 3C. Service of process under two prior sections, how made. Effect.
- 3D. Applications for registration or license to contain power of attorney, etc. Service of process upon registrar, etc.

SECT.

- 3E. Fee paid to registrar, when taxed in costs. Registrar to keep record of processes.
- 3F. Unconstitutionality of any of §§ 3A-3E, effect.
4. [Repealed.]
5. Motor vehicles owned or controlled by manufacturers, dealers or repair men. "Dealer" defined.
6. Number plates.
7. Brakes and other equipment.
- 7A. Periodic inspection.
8. License to operate.
9. Operation of unregistered or improperly equipped motor vehicles.
- 9A. Non-scatterable glass wind shields, when required.
10. Operation without license.
11. Certificate of registration and license to be carried by operator. Exception.

- SECT.
12. Employing, etc., unlicensed, etc., operator prohibited.
 13. Precautions for safety of vehicle.
 14. Precautions for safety of other travelers.
 15. Precautions at railroad crossings.
 16. Offensive or illegal operating prohibited.
 17. Speed limits.
 18. Special speed regulations.
 19. Dimensions of motor trucks and trailers.
 20. Penalties and punishments.
 21. Arrest. Bail.
 22. Suspension or revocation of certificates of registration, licenses, etc.
 23. Illegal operating. Concealment of identity.
 24. Reckless, unauthorized or drunken driving. Fraud in connection with license. Penalties, etc.
 - 24A. Motor vehicles used in commission of crimes, reports to registrar.
 25. Refusal to obey officer penalized.
 26. Reporting accidents.
 27. Court records.
 28. Appeals and hearings.
 29. Investigations of causes of accidents. Deputy registrar, investigators, etc.
 30. Records of registrar. Destruction of records, etc.
 31. Rules and regulations.
 - 31A. Transportation of personal property by motor vehicles regulated.
 32. Records of garages, etc., and of certain open air parking spaces.
 - 32A. Serial numbers of motor vehicles or engines, authority to restore or substitute.
 - 32B. Records of motor vehicles leased upon a mileage basis.
 33. Fees.
 34. Disposition of fees and fines. Highway Fund.

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE.

- 34A. Definitions.
- 34B. Certificates. Acceptance, form, copies. Penalties.
- 34C. Policy or bond covering more than one motor vehicle or trailer.
- 34D. Deposit of cash, etc., in lieu of bond or policy.
- 34E. Receipt for and retention of cash, etc., so deposited.
- 34F. Notice to registrar, etc., upon service of writ.
- 34G. Proceedings if judgment against principal on bond is not satisfied.

- SECT.
- 34H. Revocation of registration upon cancellation of policy or bond, etc. Exceptions.
 - 34I. Registrar to keep records and books.
 - 34J. Penalty for operating, etc., motor vehicle knowing that policy, etc., has not been provided, etc.

AIRCRAFT.

35. Definitions.
36. Licensing of pilots and registration of aircraft.

Licenses.

37. Advisory board of aeronautical experts.
38. Test flights. Determination of competency.
39. Designation of licenses.
40. Term of licenses. Fees.
41. License, when not required.

Registration.

42. Applications for registration.
43. Preliminary exhibition and operation of aircraft.
44. Designation for registration.
45. Symbols; form and arrangement. Exceptions.
46. Expiration of registrations. Renewals, fees.
47. Registration, when not required. Limitations upon flying of unregistered aircraft.
48. Experimental operation of unregistered aircraft.
49. Suspension or revocation of license or registration.

General Provisions.

50. Accident involving injury or death, or damage to aircraft. Notice to registrar.
51. Operation over open air assembly regulated.
52. Acrobatic flying by certain aircraft regulated.
53. Use of aircraft for certain feats of daring prohibited. Dropping of missiles regulated.
54. Load regulated.
55. Minimum altitude for flying.
56. Landing regulated.
57. Landing fields; establishment, maintenance and regulation.
58. Rules and regulations, and appeals therefrom.
59. Penalties.
60. Court enforcement of provisions as to aircraft.

MOTOR VEHICLES.

Definitions.	SECTION 1. The following words used in this chapter shall have the	1
1902, 315, § 4.	following meanings, unless a different meaning is clearly apparent from	2
1903, 473,	the language or context, or unless such construction is inconsistent with	3
§§ 13, 15,	the manifest intention of the legislature:	4
1906, 412, § 2.		
1909, 534,		
§§ 1, 31.		
	1914, 204, § 1, 420, §§ 2, 3.	1923, 464, § 1.
	1915, 16, § 1, 99.	1924, 189
	1916, 260	1928, 316, § 2;
	1917, 187, § 1	381, § 2.
	1919, 214, 294, § 1;	1929, 203.
	350, § 115.	1930, 332, § 1.
	1920, 476.	1931, 47, § 1; 142, § 1.
		241 Mass. 557.
		248 Mass. 62.
		250 Mass. 512.
		257 Mass. 198.
		303, 434, 575.
		269 Mass. 386, 471.
		273 Mass. 40.
	[For further definitions see §§ 5, 34A, 35.]	
	“Application”, an application by mail or otherwise to the registrar or	5
	any agent designated by him for the purpose, upon a blank provided by	6
	the registrar, and with which is deposited the fee provided in section	7
	thirty-three.	8
	“Automobile”, any motor vehicle except a motor cycle.	9
226 Mass. 474.	“Dealer”, any person who is engaged principally in the business of	10
	buying, selling or exchanging motor vehicles.	11
	“Department”, the department of public works.	12
	“Garage”, any place where five or more motor vehicles are stored or	13
	housed at any one time for pay, except only such places in which motor	14
	vehicles are kept by the owners thereof without payment for storage.	15
209 Mass. 24.	“Intersecting way”, any way which joins another at an angle, whether	16
246 Mass. 409.	or not it crosses the other.	17
	“Motor cycle”, any motor vehicle having but two or three wheels in	18
	contact with the ground, and a saddle on which the driver sits astride,	19
	or a platform on which he stands, or any bicycle having a motor attached	20
	thereto and a driving wheel or wheels in contact with the ground in	21
	addition to the wheels of the bicycle itself.	22
	“Motor vehicles”, automobiles, semi-trailer units, motor cycles and all	23
	other vehicles propelled by power other than muscular power, except	24
	railroad and railway cars and motor vehicles running only upon rails or	25
	tracks, road rollers, street sprinklers, snow loaders, power excavators,	26
	power graders and concrete mixers.	27
233 Mass. 105.	“Non-resident”, any person whose legal residence is not within the	28
	commonwealth.	29
	“Number plate”, the sign or marker furnished by the registrar on which	30
	is displayed the register number or mark of a motor vehicle assigned to	31
	such motor vehicle by the registrar.	32
	“Operator”, any person who operates a motor vehicle.	33
	“Persons”, wherever used in connection with the registration of a	34
	motor vehicle, all persons who own or control such vehicles as owners,	35
	or for the purpose of sale, or for renting, as agents, salesmen or other-	36
	wise.	37
	“Police officer” or “officer”, any constable or other officer authorized	38
	to make arrest or serve process, provided he is in uniform or displays his	39
	badge of office.	40
	“Register number”, the number or mark assigned by the registrar to a	41
	motor vehicle, whether or not such number or mark includes a letter or	42
	letters; and said number or mark, except on motor cycles, shall always be	43
	in separate Arabic numerals at least four inches in height, with strokes	44
	not less than one half of an inch in width.	45
	“Registrar”, the registrar of motor vehicles.	46

47 "Thickly settled or business district", the territory contiguous to any
 48 way which is built up with structures devoted to business, or the territory
 49 contiguous to any way where the dwelling houses are situated at such
 50 distances as will average less than two hundred feet between them for a
 51 distance of a quarter of a mile or over.

52 "Trailer", a vehicle used for carrying passengers for hire or commodi-
 53 ties in connection with commerce and having no motive power of its own,
 54 but which is drawn by a motor vehicle. It shall not include a pair of
 55 wheels commonly used as an implement for other purposes than trans-
 56 portation.

57 "Way", any public highway, private way laid out under authority of
 58 statute, way dedicated to public use, or way under the control of park
 59 commissioners or body having like powers.

1 SECTION 1A. No motor vehicle or trailer, except one owned by a
 2 person, firm or corporation, for the operation of which security is required
 3 to be furnished under section six of chapter one hundred and fifty-nine A,
 4 or one owned by any other corporation subject to the supervision and
 5 control of the department of public utilities or by a street railway com-
 6 pany under public control, or by the commonwealth or any political
 7 subdivision thereof, shall be registered under sections two to five, inclu-
 8 sive, unless the application therefor is accompanied by a certificate as
 9 defined in section thirty-four A. Ambulances, fire engines and apparatus,
 10 police patrol wagons and other vehicles used by the police department of
 11 any city or town or park board solely for the official business of such
 12 department or board (whether or not owned as aforesaid) shall not be
 13 subject to the requirements of this section.

Registration
 of motor
 vehicles, etc.,
 when pro-
 hibited.
 Exceptions.
 1925, 316, § 1.
 1926, 368, § 1.
 1930, 332, § 2.
 1931, 47, § 2;
 408, § 6.
 263 Mass. 579.
 271 Mass. 94.

1 SECTION 2. Application for the registration of motor vehicles and
 2 trailers may be made by the owner thereof. The application shall con-
 3 tain, in addition to such other particulars as may be required by the
 4 registrar, a statement of the name, place of residence and address of the
 5 applicant, with a brief description of the motor vehicle or trailer, includ-
 6 ing the name of the maker, the number, if any, affixed by the maker, and,
 7 in case of a motor vehicle, the engine number and the character of the
 8 motor power. The registration fee as required in section thirty-three
 9 shall accompany such application.

Registration of
 motor vehicles
 and trailers.
 1903, 473, § 1.
 1905, 311, § 2.
 1906, 412, § 8.
 1907, 580, § 1.
 1908, 648, § 3.
 1909, 534,
 § 2, § 31.
 1912, 400.
 1919, 234, § 1.
 1922, 503, § 1.
 1923, 362, § 64.
 1924, 224, 427.
 1928, 316, § 3.
 1930, 272;
 352, § 3.
 1931, 47, § 3.
 191 Mass. 439.
 197 Mass. 241.
 202 Mass. 443.
 205 Mass. 329.
 206 Mass. 516.
 213 Mass. 137.
 560.
 216 Mass. 184.
 225 Mass. 281.
 226 Mass. 75.
 474.
 227 Mass. 162.
 228 Mass. 346.
 235 Mass. 122.
 241 Mass. 124.
 362, 559.
 244 Mass. 248.
 247 Mass. 453.
 250 Mass. 88.
 256 Mass. 30.
 258 Mass. 481.
 268 Mass. 407.
 270 Mass. 557.
 271 Mass. 23,
 404.
 273 Mass. 557.
 2 Op. A. G.
 579.

10 The registrar or his duly authorized agents shall register in a book or
 11 upon suitable index cards to be kept for the purpose the motor vehicle
 12 or trailer described in the application, giving to the vehicle a distinguish-
 13 ing mark or number to be known as the register number for that vehicle,
 14 and shall thereupon issue to the applicant a certificate of registration.
 15 The certificate shall contain the name, place of residence and address of
 16 the applicant and the register number or mark, and shall be in such form
 17 and contain such further information as the registrar may determine.

18 An applicant for the registration of a motor vehicle or trailer under
 19 this section who does not file his application until after the thirtieth
 20 day of September in any year shall be entitled to a reduction in the fee
 21 for such registration as provided in section thirty-three.

22 Upon the transfer of ownership of any motor vehicle or trailer its
 23 registration shall expire, and the person in whose name such motor
 24 vehicle or trailer is registered shall forthwith return the certificate of
 25 registration to the registrar with a written notice containing the date of
 26 the transfer of ownership and the name, place of residence and address

3 Op. A. G.
116, 318.
4 Op. A. G.
608.
Op. A. G.
(1917) 45, 101.
Op. A. G.
(1920) 28.

of the new owner; provided, that on the death of an owner of a motor 27
vehicle or trailer its registration shall be deemed to continue in force as 28
a valid registration until the end of the year or until the ownership of 29
such motor vehicle or trailer is transferred by the executor or adminis- 30
trator of the estate of such owner, whichever occurs first. 31

A person who transfers the ownership of a registered motor vehicle or 32
trailer owned by him to another or loses possession thereof, upon the 33
filing of a new application and upon payment of the proper substitution 34
fee provided in section thirty-three, may have registered in his name for 35
the remainder of the calendar year another motor vehicle or trailer; 36
provided that if the fee provided for registration of the vehicle sought 37
to be registered is more than the fee for registration of the vehicle trans- 38
ferred as aforesaid, the applicant shall pay, in addition to the substitu- 39
tion fee, the difference between said fees for registration. 40

A person who, before the first day of August in any year, transfers the 41
ownership or loses possession of any vehicle registered in his name and 42
who does not apply for registration of another vehicle but who, on or 43
before the first day of September in the same year, files in the office of the 44
registrar a written application for a rebate shall be entitled to a rebate 45
of one half the fee paid for the registration of the vehicle transferred or 46
lost possession of as aforesaid; provided, that no such rebate shall be 47
paid except upon a certificate, filed with the comptroller, setting forth 48
the facts, and signed by the registrar or his authorized agent; and pro- 49
vided, also, that the rebate shall be paid out of the fees received for the 50
registration of motor vehicles and trailers without specific appropria- 51
tion. The registrar, at his discretion, may assign to the vehicle of any 52
person who surrenders his registration certificate as herein provided, 53
and who desires to register another vehicle, the register number of the 54
vehicle described in the surrendered certificate. 55

The registrar shall furnish at his office, without charge, to every per- 56
son whose vehicle is registered under this chapter, two number plates 57
of suitable design, each number plate to have displayed upon it the 58
register number assigned to that vehicle; provided, that number plates 59
assigned to ambulances, fire engines and apparatus, police patrol wagons 60
and other vehicles used by the police department of any city or town or 61
park board solely for the official business of such department or board 62
may be of a distinctive type or types. The number plates so furnished 63
shall, except as provided by section nine, be valid only for the year for 64
which they are issued. 65

If the registrar shall determine at any time that, for any reason, a 66
motor vehicle or trailer is unsafe or improperly equipped or otherwise 67
unfit to be operated, he may refuse to register the vehicle, and the 68
registrar may for like reasons revoke any registration already made. 69
The horse power of every motor vehicle sought to be registered shall be 70
determined by the commissioner of public works, and his determination 71
shall be final and conclusive. The registration of every motor vehicle 72
and trailer registered under this section shall expire at midnight on 73
December thirty-first of each year. 74

Motor vehicles
owned by non-
residents.
1903, 473, § 6.
1905, 311,
§ 2, 7.
1906, 412, § 8.
1907, 580, § 1.
1908, 648, § 3.

SECTION 3. Subject to the provisions of section three A and except 1
as otherwise provided in section ten, a motor vehicle or trailer registered 2
in any other state or country and owned by a non-resident who has 3
complied with the laws relative to motor vehicles and trailers, and the 4
operation thereof, of the state or country of registration may be operated 5

6 on the ways of this commonwealth without registration under this
 7 chapter, to the extent, as to length of time of operation and otherwise,
 8 that, as finally determined by the registrar, the state or country of
 9 registration grants substantially similar privileges in the case of motor
 10 vehicles and trailers duly registered under the laws and owned by resi-
 11 dents of this commonwealth; provided, that no motor vehicle or trailer
 12 owned by a non-resident shall be so operated beyond the expiration of
 13 a period of thirty days except during such time as the owner thereof
 14 maintains in full force a policy of liability insurance providing indemnity
 15 for or protection to him, and to any person responsible for the operation
 16 of such motor vehicle or trailer with his express or implied consent,
 17 against loss by reason of the liability to pay damages to others for bodily
 18 injuries, including death at any time resulting therefrom, caused by
 19 such motor vehicle or trailer, at least to the amount or limits required
 20 in a motor vehicle liability policy as defined in section thirty-four A, nor
 21 unless the owner or operator of such motor vehicle or trailer, while
 22 operating the same during such additional time, has on his person or
 23 in the vehicle in some easily accessible place a permit issued by the
 24 registrar which then authorizes the operation of such vehicle without
 25 registration under this chapter. The registrar or his authorized agents
 26 may, upon application, issue to any non-resident owner a permit as
 27 aforesaid in such form and subject to such conditions and regulations
 28 as the registrar may establish, if such owner satisfies him, by furnishing
 29 such evidence as he may require, that such owner is the holder of a
 30 policy of liability insurance providing indemnity or protection as afore-
 31 said and will continue to maintain the same in full force during the life
 32 of the permit. The registrar may suspend or revoke the right of any
 33 non-resident operator to operate in this commonwealth, and may sus-
 34 pend or revoke the right of any non-resident owner to operate or have
 35 operated in this commonwealth any motor vehicle or trailer for the
 36 same causes and under the same conditions that he can take such action
 37 regarding resident owners, operators, motor vehicles and trailers owned
 38 in this commonwealth. Every such vehicle so operated shall have dis-
 39 played upon it two number plates, substantially as provided in section
 40 six, bearing the distinguishing number or mark of the state or country
 41 in which such vehicle is registered, and none other except as authorized
 42 by this chapter.

1909, 534.
 § 3, 31.
 1910, 605, § 1.
 1914, 204, § 2.
 1919, 294, § 1.
 1923, 431, § 1.
 1931, 142, § 2.
 202 Mass. 413.
 210 Mass. 41.
 233 Mass. 105.
 269 Mass. 471.

1 SECTION 3A. The acceptance by a person who is a resident of any
 2 other state or country of the rights and privileges conferred by section
 3 three, as evidenced by the operation, by himself or agent, of a motor
 4 vehicle thereunder, or the operation by such a person, by himself or
 5 his agent, of a motor vehicle on a public way in this commonwealth
 6 otherwise than under said section, shall be deemed equivalent to an
 7 appointment by him of the registrar, or his successor in office, to be his
 8 true and lawful attorney upon whom may be served all lawful processes
 9 in any action or proceeding against him, growing out of any accident
 10 or collision in which such person or his agent may be involved, while
 11 operating a motor vehicle on such a way, and said acceptance or opera-
 12 tion shall be a signification of his agreement that any such process
 13 against him which is so served shall be of the same legal force and va-
 14 lidity as if served on him personally. This section shall not authorize
 15 the service of process upon any person who has executed a power of
 16 attorney under section three D.

Operation of
 motor vehicle
 by non-
 resident, when
 equivalent to
 appointment of
 registrar
 as attorney,
 etc.
 1923, 431, § 2.
 1928, 344
 233 Mass. 478.
 258 Mass. 531.
 274 U. S. 354.

Operation of motor vehicle by any person, when so equivalent. 1923, 431, § 2. 1928, 344.

SECTION 3B. The operation by any person, by himself or his agent, of any motor vehicle, whether registered or unregistered, and with or without a license to operate, on any public way in this commonwealth, shall be deemed equivalent to an appointment by such person of the registrar, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against him, growing out of any accident or collision in which he or his agent may be involved while operating a motor vehicle on any public way in this commonwealth, and such operation shall be a signification of an agreement by such person that any such process against him which is served upon the registrar or his successor in office shall be of the same force and validity as if served upon him personally. This section shall not apply in case of any cause of action, for the service of process in which provision is made by section three A, nor shall it authorize service of process upon any person who has executed a power of attorney under section three D.

Service of process under two prior sections, how made. Effect. 1928, 344.

SECTION 3C. Service of process under section three A or three B shall be made by leaving a copy of the process with a fee of two dollars in the hands of the registrar, or in his office, and such service shall be sufficient service upon a defendant who has thereunder appointed the registrar or his successor his true and lawful attorney therefor; provided, that notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff to the defendant, and the defendant's return receipt and the plaintiff's affidavit of compliance herewith are filed with the papers in the case on or before the return day of the process or within such further time as the court may allow, or that such notice and copy are served upon the defendant, if found within the commonwealth, by an officer duly qualified to serve legal process, or, if found without the commonwealth, by a sheriff or deputy sheriff of any county of this commonwealth or by any duly constituted public officer qualified to serve like process in the state or jurisdiction where the defendant is found, and the officer's return showing such service to have been made is filed in the case on or before the return day of the process or within such further time as the court may allow. The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

Applications for registration or license to contain power of attorney, etc. Service of process on registrar, etc. 1928, 344; 350.

SECTION 3D. Every application under sections two to five, inclusive, for the registration of a motor vehicle or trailer or under section eight for a license to operate motor vehicles shall contain an irrevocable power of attorney, in such form as the registrar may prescribe, constituting and appointing, in case the certificate of registration or license applied for is issued, the registrar or his successor in office the true and lawful attorney of the applicant, upon whom may be served all lawful processes in any action or proceeding against him, growing out of any accident or collision in which he or his agent may be involved while operating a motor vehicle within the commonwealth during the period covered by the certificate of registration or by the license as the case may be, and containing an agreement that any process against him which is so served shall, if he is notified of such service as hereinafter provided, be of the same legal force and validity as if served on him personally and that the mailing by the registrar of a copy of such process to him at his last address as appearing

16 on the registrar's records shall be sufficient notice to him of such service.
 17 Service of such process shall be made by leaving duplicate copies thereof
 18 with a fee of two dollars in the hands of the registrar, or in his office, and
 19 the registrar shall forthwith send one of said copies by mail, postage pre-
 20 paid, addressed to the defendant at his last address as appearing on the
 21 registrar's records; and an affidavit of the registrar, or of any person
 22 authorized by him to send such copy, that such copy has been so mailed
 23 shall be prima facie evidence thereof. One of the duplicates of such
 24 process, certified by the registrar as having been served upon him, shall
 25 be sufficient evidence of service upon him under said power of attorney.
 26 The court in which the action is pending may order such continuances as
 27 may be necessary to afford the defendant reasonable opportunity to
 28 defend the action.

1 SECTION 3E. The fee of two dollars paid by the plaintiff under section
 2 three C or three D to the registrar at the time of the service shall be
 3 taxed in his costs if he prevails in the action or proceeding. The registrar
 4 shall keep a record of all processes served upon him under said sections
 5 three C and three D, which shall show the day and hour of service.

Fee paid to registrar, when taxed in costs. Registrar to keep record of processes. 1928, 344.

1 SECTION 3F. The provisions of sections three A to three E, inclusive,
 2 shall be separable, and if any such provision shall be held to be unconsti-
 3 tutional, such unconstitutionality shall not affect the validity of the
 4 remaining provisions thereof.

Unconstitutionality of any of §§ 3A-3E, effect 1928, 344.

1 SECTION 4. [REPEALED, 1931, 142, § 3.]

1 SECTION 5. Every manufacturer of or dealer in motor vehicles or
 2 trailers or motor vehicle bodies or tops and every person engaged in the
 3 business of repairing motor vehicles or trailers, instead of registering each
 4 such vehicle owned or controlled by him, may make application for a
 5 general distinguishing number or mark, and the registrar, if satisfied of
 6 the facts stated in the application, may issue to the applicant a certificate
 7 of registration containing the name and business address of the applicant
 8 and the general distinguishing number or mark assigned to him, and made
 9 in such form and containing such further information as the registrar
 10 may determine; and all motor vehicles or trailers owned or controlled by
 11 such manufacturer of or dealer in motor vehicles or trailers or motor
 12 vehicle bodies or tops, or by such person engaged in the business of re-
 13 pairing motor vehicles or trailers, shall be regarded as registered under
 14 such general distinguishing number or mark until sold or let for hire or
 15 loaned for a period of five successive days; provided, that number plates
 16 furnished as hereinafter provided are properly displayed thereon. The
 17 registrar shall, upon payment of the fee provided in section thirty-three,
 18 furnish at his office to every manufacturer of or dealer in motor vehicles or
 19 trailers or motor vehicle bodies or tops, and to every person engaged in
 20 the business of repairing motor vehicles or trailers, whose vehicles are
 21 registered in accordance with this section, such number of pairs of number
 22 plates as he may request in writing of suitable design having displayed
 23 upon them the register number which is assigned to the vehicles of such
 24 manufacturer, dealer or person, with a different letter or letters or mark
 25 on each pair of number plates. Number plates furnished hereunder shall,
 26 except as provided by section nine, be valid only for the year for which

Motor vehicles owned or controlled by manufacturers, dealers or repair men. "Dealer" defined. 1903, 473, § 2. 1905, 511, § 3. 1907, 380, § 2. 1909, 534, §§ 1, 31. 1915, 16, § 2. 1919, 294, § 1. 1920, 262, § 1. 1922, 303, § 2. 1923, 464, § 2. 1928, 316, § 4. 1929, 238, § 1. 208 Mass. 137. 213 Mass. 560. 225 Mass. 281. 226 Mass. 474. 241 Mass. 559. 242 Mass. 229. 254 Mass. 79. 263 Mass. 505.

they are issued. Every registration under this section shall expire at midnight on December thirty-first of each year. The word "dealer", for the purposes of the registration of motor vehicles or trailers under any provision of this chapter, may include, in the discretion of the registrar, a person whose principal business is financing the purchase of or insuring motor vehicles, but only in respect to such vehicles as such person may take in possession by foreclosure or subrogation of title and all the provisions of this chapter relating to certificates of registration of dealers shall apply to certificates issued to such a person under this provision.

Number plates.
1903, 473,
§§ 1, 3.
1905, 311, § 2.
1906, 412, § 8.
1907, 550, § 1.
1908, 648, § 3.
1909, 534,
§§ 5, 6, 31.
1910, 605, § 2.
1914, 420, § 1.
1919, 294, § 4.
1920, 432.
1922, 342, § 1.
1931, 142, § 4.
206 Mass. 516.
238 Mass. 318.
241 Mass. 557.
254 Mass. 110.

SECTION 6. Every motor vehicle or trailer registered under this chapter when operated in or on any way in this commonwealth shall have its register number displayed conspicuously thereon on the two number plates furnished by the registrar in accordance with section two or five or on temporary number plates authorized by the registrar as hereinafter provided, one number plate to be attached at the front and the other at the rear of said vehicle, so that the said number plates and the register number thereon shall be always plainly visible. The said number plates shall be kept clean and the numbers legible, and during the period when the vehicle is required to display lights the rear register number shall be illuminated so as to be plainly visible at a distance of sixty feet. No number plates other than such as are procured from the registrar or such as may be authorized by him for temporary use, except as provided in section three, shall be displayed on any motor vehicle or trailer so operated; provided, that a motor vehicle or trailer which by reason of its interstate operation is registered in this commonwealth and elsewhere may display the register number plates of this and any other state or country in which it is registered, if, while being operated on the ways of this commonwealth, the number plates furnished by the registrar, or temporary number plates authorized by him as hereinafter provided, are displayed as required hereby. If any number plate supplied by the registrar is lost or mutilated or if the register number thereon becomes illegible, the owner or person in control of the vehicle for which said number plate was furnished shall make application for a new number plate, and thereupon the registrar shall issue to such applicant a permit allowing him to place a temporary number plate bearing his register number on said vehicle until a number plate of the regular design is made and delivered to said applicant; provided, that all such temporary number plates and the register numbers thereon shall conform to the regular number plates and be displayed as nearly as may be as herein provided for said regular number plates.

Brakes and other equipment.
1903, 473,
§§ 10, 11.
1909, 534,
§§ 7, 31.
1913, 19, § 3.
1918, 17.
1919, 212, § 1.
1921, 189; 434;
485.
1922, 342, § 2.
1923, 335.
1928, 328,
§§ 1, 2.
1929, 43.
190 Mass. 54.
202 Mass. 413.
229 Mass. 19.
237 Mass. 328.
257 Mass. 530.

SECTION 7. Every motor vehicle operated in or upon any way shall be provided with brakes adequate to control the movement of such vehicle and conforming to rules and regulations made by the registrar, and such brakes shall at all times be maintained in good working order. Every automobile shall be provided with at least two braking systems, each with a separate means of application, each operating directly or indirectly on at least two wheels and each of which shall suffice alone to stop said automobile within a proper distance as defined in said rules and regulations; provided, that if said systems are connected, combined or have any part in common, such systems shall be so constructed that a breaking of any one element thereof will not leave the automobile without brakes acting directly or indirectly on at least two wheels. One braking

13 system shall be so constructed that it can be set to hold the automobile
 14 stationary. Every motor cycle shall be provided with at least one brake
 15 adequate to stop it within a proper distance as defined as aforesaid.
 16 Every motor vehicle so operated shall be provided with a muffler or other
 17 suitable device to prevent unnecessary noise and with a suitable bell, horn
 18 or other means of signalling, and with suitable lamps; and automobiles
 19 shall be provided with a lock, a key or other device to prevent such
 20 vehicle from being set in motion by unauthorized persons, or otherwise,
 21 contrary to the will of the owner or person in charge thereof. Every
 22 automobile operated during the period from one half an hour after sunset
 23 to one half an hour before sunrise shall display at least two white lights,
 24 or lights of yellow or amber tint, or, if parked within the limits of a way,
 25 one white light on the side of the automobile nearer the centre of the way,
 26 and every motor cycle so operated at least one white light, or light of
 27 yellow or amber tint, and every such motor cycle with a side-car at-
 28 tached, in addition, one such light on the front of the side-car, and every
 29 motor truck, trailer and commercial motor vehicle used solely as such,
 30 having a carrying capacity of three tons or over, in addition, a green light
 31 attached to the extreme left of the front of such vehicle, so attached and
 32 adjusted as to indicate the extreme left lateral extension of the vehicle or
 33 load, which shall in all cases aforesaid be visible not less than two hundred
 34 feet in the direction toward which the vehicle is proceeding or facing;
 35 and every such motor vehicle shall display at least one red light in the
 36 reverse direction; provided, that an automobile need display no light
 37 when parked within the limits of a way in a space in which unlighted
 38 parking is permitted by the rules or regulations of the board or officer
 39 having control of such way. Every automobile so operated shall have a
 40 rear light so placed as to show a red light from behind and a white light so
 41 arranged as to illuminate and not obscure the rear register number. No
 42 headlamp shall be used upon any motor vehicle so operated unless such
 43 lamp is equipped with a lens or other device, approved by the registrar,
 44 designed to prevent glaring rays. No rear lamp shall be used upon any
 45 motor vehicle so operated unless approved by the registrar. Application
 46 for the approval of a lens, or other device, or of a rear lamp, accompanied
 47 by a fee of fifty dollars, may be made to the registrar by any manufacturer
 48 thereof or dealer therein. Every automobile used for the carriage of
 49 passengers for hire, and every commercial motor vehicle or motor truck,
 50 so constructed, equipped or loaded that the person operating the same is
 51 prevented from having a constantly free and unobstructed view of the
 52 highway immediately in the rear, shall have attached to the vehicle a
 53 mirror or reflector so placed and adjusted as to afford the operator a clear,
 54 reflected view of the highway in the rear of the vehicle.

260 Mass. 193
 261 Mass. 421

1 SECTION 7A. The registrar shall include in the rules and regulations
 2 prepared by him under section thirty-one, rules and regulations pro-
 3 viding for the periodic inspection of all motor vehicles and trailers,
 4 for the purpose of determining whether they are properly equipped
 5 and maintained in good working order, as required by the preceding
 6 section.

Periodic
 inspection.
 1929, 252.

1 SECTION 8. Application for license to operate motor vehicles may be
 2 made by any person; but before such a license is granted the applicant
 3 shall pass such examination as to his qualifications as the registrar shall
 4 require, and no license shall be issued until the registrar or his author-

License to
 operate
 1903, 473, § 4.
 1905, 311, § 4.
 1908, 648, § 4.
 1909, 534.
 §§ 8, 31.

1916, 605, § 3.
 1915, 10, § 1.
 1921, 463, § 1.
 1923, 464, § 3.
 1925, 283.
 209 Mass. 155.
 213 Mass. 560.
 217 Mass. 91.
 261 Mass. 228.
 265 Mass. 408.
 273 Mass. 146.
 4 Op. A. G. 183,
 422.

Operation of
 unregistered or
 improperly
 equipped
 motor vehicles.
 1903, 473, § 3.
 1909, 534,
 §§ 9, 31.
 1915, 87.
 1919, 88;
 294, § 3.
 1922, 303, § 3.
 1928, 187, § 1;
 381, § 3.
 1929, 180.
 1931, 95.
 197 Mass. 241.
 201 Mass. 155.
 213 Mass. 137.
 217 Mass. 91.
 219 Mass. 396.
 227 Mass. 102.
 230 Mass. 275.
 233 Mass. 105.
 236 Mass. 10.
 238 Mass. 318.
 239 Mass. 590.
 250 Mass. 88.
 251 Mass. 569.
 256 Mass. 30.
 258 Mass. 481.
 260 Mass. 193.
 262 Mass. 475.
 263 Mass. 579.
 269 Mass. 373,
 471.
 271 Mass. 23.
 273 Mass. 356,
 557.

Certain mis-
 statements in
 applications
 not to affect
 registration,
 etc.

ized agent is satisfied that the applicant is a proper person to receive it, 5
 and no such license shall be issued to any person under sixteen years of 6
 age. To each licensee shall be assigned some distinguishing number or 7
 mark, and the licenses issued shall be in such form as the registrar shall 8
 determine. They may contain special restrictions and limitations con- 9
 cerning the type of motor, horse power, design and other features of the 10
 motor vehicles which the licensee may operate. They shall contain the 11
 distinguishing number or mark assigned to the licensee, his name, place 12
 of residence and address, a brief description of him for purposes of 13
 identification, and such other information as the registrar shall deem 14
 necessary. A person to whom a license to operate motor vehicles has 15
 been issued, unless such license contains a special limitation or restric- 16
 tion, may operate any registered motor vehicle. Special licenses shall 17
 be issued to operators of motor-propelled fire apparatus who are mem- 18
 bers of a municipal fire department. Every person licensed to operate 19
 motor vehicles as aforesaid shall endorse his usual signature on the 20
 margin of the license, in the space provided for the purpose, immediately 21
 upon the receipt of said license, and such license shall not be valid until 22
 so endorsed. All licenses issued to operators shall be valid for one year 23
 only from the date of issue. Every application for an original license 24
 filed under this section shall be sworn to by the applicant before a justice 25
 of the peace or notary public. 26

SECTION 9. No person shall operate any motor vehicle or draw any 1
 trailer, and the owner or custodian of such a vehicle shall not permit 2
 the same to be operated upon or to remain upon any way except as 3
 authorized by section three, unless such vehicle is registered in accord- 4
 ance with this chapter and carries its register number displayed as 5
 provided in section six, and, in the case of a motor vehicle, is equipped 6
 as provided in section seven, except that any motor vehicle or trailer 7
 may, if duly registered, be operated or remain upon any way between 8
 the hours of twelve o'clock noon on December thirty-first of one year 9
 and twelve o'clock noon on January first of the following year if it 10
 carries its register number of either year displayed as provided in section 11
 six, and except that a tractor or trailer may be operated without such 12
 registration upon any way for a distance not exceeding one half mile, 13
 if said tractor or trailer is used exclusively for agricultural purposes, 14
 or for a distance not exceeding three hundred yards, if such tractor or 15
 trailer is used for industrial purposes other than agricultural purposes, 16
 for the purpose of going from property owned or occupied by the owner 17
 of such tractor or trailer to other property so owned or occupied; but 18
 violation of this section shall not constitute a defence to actions of tort 19
 for injuries suffered by a person, or for the death of a person, or for 20
 injury to property, unless it is shown that the person injured in his 21
 person or property or killed was the owner or operator of the motor 22
 vehicle the operation of which was in violation of this section, or unless 23
 it is shown that the person so injured or killed, or the owner of the prop- 24
 erty so injured, knew or had reasonable cause to know that this section 25
 was being violated. A motor vehicle or trailer shall be deemed to be 26
 registered in accordance with this chapter notwithstanding any mistake 27
 in so much of the description thereof contained in the application for 28
 registration or in the certificate required to be filed under section thirty- 29
 four B as relates to the engine, serial or maker's number thereof. 30

1 SECTION 9A. No person shall operate for the carriage of persons for
 2 hire any automobile with a wind shield of glass, and the owner or cus-
 3 todian of such an automobile shall not permit the same to be operated
 4 for such purpose, unless such glass is of a type known as non-scatterable
 5 glass and approved by the department. The term "non-scatterable
 6 glass", as used herein, shall include any glass designed to minimize the
 7 likelihood of personal injury from its scattering, when broken.

Non-scatter-
 able glass
 wind shields,
 when required.
 1930, 354, § 1.

1 SECTION 10. No person shall operate a motor vehicle upon any way
 2 unless licensed under this chapter, except as is otherwise herein pro-
 3 vided; but this section shall not prevent the operation of motor vehicles
 4 by unlicensed persons if riding with or accompanied by a licensed operator,
 5 excepting only persons who have been licensed and whose licenses are
 6 not in force because of revocation or suspension, persons whose right to
 7 operate is suspended by the registrar, and persons less than sixteen years
 8 of age; but such licensed operator shall be liable for the violation of any
 9 provision of this chapter, or of any regulation made in accordance here-
 10 with, committed by such unlicensed operator; provided, that the ex-
 11 aminers of operators, in the employ of the registrar, when engaged in
 12 their official duty, shall not be liable for the acts of any person who is
 13 being examined. The motor vehicle of a non-resident may be operated
 14 on the ways of the commonwealth in accordance with section three by
 15 its owner or by his chauffeur or employee without a license from the
 16 registrar if the operator is duly licensed under the laws of the state or
 17 country where such vehicle is registered, or has complied fully with its
 18 laws respecting the licensing of operators of motor vehicles and has such
 19 license or evidence of such compliance on his person or in the vehicle
 20 in some easily accessible place; and a non-resident who holds a license
 21 to operate motor vehicles under the laws of the state or country in
 22 which he resides, and has the license on his person or in the vehicle in
 23 some easily accessible place, may at any time operate, without a license
 24 from the registrar, any type of motor vehicle which he is licensed to
 25 operate under said license, irrespective of the ownership of such vehicle;
 26 provided, that the laws relative to registration are complied with and
 27 that, as finally determined by the registrar, his state or country grants
 28 substantially similar privileges to residents of this commonwealth and
 29 prescribes and enforces standards of fitness for operators of motor
 30 vehicles substantially as high as those prescribed and enforced by this
 31 commonwealth; but if any such non-resident or his chauffeur or em-
 32 ployee be convicted by any court or trial justice of violating any pro-
 33 vision of the laws of the commonwealth relating to motor vehicles or
 34 to the operation thereof, whether or not he appeals, he shall be there-
 35 after subject to and required to comply with all the provisions of this
 36 chapter relating to the registration of motor vehicles owned by residents
 37 of the commonwealth and the licensing of the operators thereof. A
 38 record of the trial shall be sent forthwith by the court or trial justice
 39 to the registrar.

Operation
 without license.
 1903, 473, § 5.
 1909, 534,
 § 3 10, 31
 1940, 665, § 4
 1914, 204, § 3.
 1945, 11;
 16, § 4
 1923, 464, § 4.
 1929, 262
 1930, 332, § 4.
 1931, 47, § 4;
 142, § 5.
 197 Mass. 241.
 208 Mass. 137.
 209 Mass. 155.
 213 Mass. 560.
 217 Mass. 91.
 221 Mass. 24.
 233 Mass. 105.
 242 Mass. 367.
 261 Mass. 228.
 262 Mass. 475.
 265 Mass. 408.
 269 Mass. 466.
 273 Mass. 146.

1 SECTION 11. Every person operating a motor vehicle shall have the
 2 certificate of registration for the vehicle and of the trailers, if any, and
 3 his license to operate, upon his person or in the vehicle in some easily
 4 accessible place, except that the certificates of registration of dealers
 5 need not so be carried. If for any reason the registrar or his agents are

Certificate of
 registration
 and license to
 be carried by
 operator.
 Exception.
 1903, 473, § 1.
 1905, 311, § 2.

1906, 412, § 8.
1907, 580, § 1.
1908, 648, § 3.
1909, 534.
§§ 11, 31.
1919, 294, § 4.
1929, 101
238 Mass. 318.
[Penalty, § 20.]

unable to issue promptly to an applicant the certificate of registration or the license applied for, they may issue a receipt for the fee paid, and said receipt shall be carried in lieu of the certificate or license as the case may be, and for the period of thirty days from the date of its issue said receipt shall have the same force and effect given to the certificate or license by this chapter. If, in compliance with a written demand of the registrar or any of his authorized agents, a certificate of registration or license to operate is returned for inspection or for any other purpose, except for suspension or revocation, such written demand shall be carried in lieu of the certificate or license, as the case may be, and for the period of thirty days from its date said demand shall have the same force and effect given to the certificate or license by this chapter.

Employing, etc., unlicensed, operator prohibited
1903, 473, § 5.
1909, 534.
§§ 12, 31.

SECTION 12. No person shall employ for hire as an operator any person not licensed in accordance with this chapter. No person shall allow a motor vehicle owned by him or under his control to be operated by any person who has no legal right so to do, or in violation of this chapter.

1911, 37. 1925, 201, § 1. 234 Mass. 95. 265 Mass. 408.
1915, 16, § 5. 217 Mass. 91. 247 Mass. 532. 273 Mass. 146.
1923, 464, § 5.

Precautions for safety of vehicle.
1903, 473, § 11.
1909, 534.
§§ 13, 31.
262 Mass. 312.
265 Mass. 78.
128

SECTION 13. No chauffeur or operator, when operating a motor vehicle, shall have or permit to be on or in such vehicle or on or about his person anything which may interfere with or impede the proper operation of the vehicle or of any of the machinery or appliances by which the vehicle is operated or controlled. No person having control or charge of a motor vehicle shall allow such vehicle to stand in any way and remain unattended without first locking or making it fast or effectively setting the brakes thereon, and stopping the motor of said vehicle.

Precautions for safety of other travelers.
1902, 315.
§§ 2, 3
1905, 473.
§§ 7, 8, 15.
1909, 534.
§§ 14, 31
1910, 605, § 5.
1914, 190.
1917, 280.
1925, 305.
1928, 166.
187 Mass. 221.
180 Mass. 54.
191 Mass. 439.
193 Mass. 490.
206 Mass. 516.
225 Mass. 402.
226 Mass. 140.
228 Mass. 253.
229 Mass. 53.
231 Mass. 243.
237 Mass. 206.
241 Mass. 580.
243 Mass. 10.
244 Mass. 313.
247 Mass. 270.
250 Mass. 258.
253 Mass. 603.
257 Mass. 272.
258 Mass. 234.
260 Mass. 206.
263 Mass. 252.
265 Mass. 128, 472.
267 Mass. 70.
270 Mass. 213.
271 Mass. 274.
421.
272 Mass. 165.
273 Mass. 7.
13, 40.

SECTION 14. Every person operating a motor vehicle shall bring the vehicle and the motor propelling it immediately to a stop when approaching a horse or other draft animal being led, ridden or driven, if such animal appears to be frightened and if the person in charge thereof shall signal so to do; and, if traveling in the opposite direction to that in which such animal is proceeding, said vehicle shall remain stationary so long as may be reasonable to allow such animal to pass; or, if traveling in the same direction, the person operating shall use reasonable caution in thereafter passing such animal. In approaching or passing a car of a street railway which has been stopped to allow passengers to alight from or board the same, the person operating a motor vehicle shall not drive such vehicle within eight feet of the running board or lowest step of the car then in use by passengers for the purpose of alighting or boarding, except by the express direction of a traffic officer or except at points where passengers are protected by safety zones. Upon approaching a pedestrian who is upon the traveled part of any way and not upon a sidewalk, every person operating a motor vehicle shall slow down. The person operating a motor vehicle on any way upon approaching an intersecting way or a curve or a corner in said way where his view is obstructed shall slow down and upon approaching any junction of said way with an intersecting way before turning into the same shall slow down and keep to the right of the intersection of the center lines of both ways or extensions thereof, when turning to the right, and shall pass to the right of the intersection of the center lines of said ways or extensions thereof before turning to the left.

1 SECTION 15. Every person operating a motor vehicle, upon approach-
 2 ing a railroad crossing at grade, shall reduce the speed of the vehicle to a
 3 reasonable and proper rate, and shall proceed cautiously over the cross-
 4 ing. Whoever violates any provision of this section shall be punished
 5 by a fine of not less than ten nor more than fifty dollars.

Precautions at
 railroad cross-
 ings.
 1917, 246, § 3.
 231 Mass. 95
 271 Mass. 101.
 273 Mass. 277.

1 SECTION 16. No person shall operate a motor vehicle, nor shall any
 2 owner of such vehicle permit it to be operated, in or over any way,
 3 public or private, whether laid out under authority of law or otherwise,
 4 which motor vehicles are prohibited from using, provided notice of
 5 such prohibition is conspicuously posted at the entrance to such way.
 6 No person operating a motor vehicle shall in a thickly settled or busi-
 7 ness district open the muffler cut-out or sound a bell, horn or other
 8 device for signalling so as to make a harsh, objectionable or unreason-
 9 able noise, or at any time permit such motor vehicle to make any un-
 10 necessary noise, by opening the muffler cut-out, or otherwise, or permit
 11 any unreasonable amount of smoke to escape from such vehicle. No
 12 person shall use on or in connection with any motor vehicle a spot light,
 13 so called, the rays from which shine more than two feet above the road
 14 at a distance of thirty feet from the vehicle, except that such a spot light
 15 may be used for the purpose of reading signs, and as an auxiliary light
 16 in cases of necessity when the other lights required by law fail to operate.

Offensive or
 illegal operat-
 ing prohibited.
 1907, 263.
 1909, 534,
 §§ 15, 31
 1910, 605, § 5.
 1913, 190
 1917, 200
 1919, 212, § 2
 199 Mass. 490,
 542
 4 Op. A. G.
 183.
 [Penalty, § 20.]

1 SECTION 17. No person operating a motor vehicle on any way shall
 2 run it at a rate of speed greater than is reasonable and proper, having
 3 regard to traffic and the use of the way and the safety of the public. It
 4 shall be prima facie evidence of a rate of speed greater than is reason-
 5 able and proper as aforesaid if a motor vehicle is operated on any way
 6 outside of a thickly settled or business district at a rate of speed ex-
 7 ceeding thirty miles per hour for the distance of a quarter of a mile,
 8 or inside a thickly settled or business district at a rate of speed exceed-
 9 ing twenty miles per hour for the distance of one eighth of a mile, or in
 10 any place where the operator's view of the road traffic is obstructed
 11 either upon approaching an intersecting way, or in traversing a crossing
 12 or intersection of ways, or in going around a corner or a curve in a way,
 13 at a rate of speed exceeding fifteen miles per hour.

Speed limits.
 1902, 315, § 1.
 1903, 473,
 § 5, 15
 1905, 412, § 1.
 1909, 534,
 §§ 15, 31
 1910, 605, § 6.
 1931, 201
 187 Mass. 221.
 199 Mass. 490,
 209 Mass. 24
 211 Mass. 546.
 214 Mass. 267.
 217 Mass. 179.
 219 Mass. 81.
 225 Mass. 402.
 231 Mass. 243.
 237 Mass. 206.
 241 Mass. 580.
 242 Mass. 219.
 244 Mass. 313.

246 Mass. 518.
 257 Mass. 212, 272.
 258 Mass. 234.
 259 Mass. 191.

260 Mass. 206.
 261 Mass. 60
 263 Mass. 252.
 266 Mass. 230.

268 Mass. 590.
 271 Mass. 362.
 272 Mass. 256.
 3 Op. A. G. 26.

[Penalty, § 20.]

1 SECTION 18. The city council or the selectmen and park commis-
 2 sioners, on ways within their control, may make special regulations as to
 3 the speed of motor vehicles and as to the use of such vehicles upon par-
 4 ticular ways, and may prohibit the use of such vehicles altogether on
 5 certain ways; provided, that no such special regulation shall be effec-
 6 tive unless it shall have been published in one or more newspapers, if
 7 there be any, published in the town in which the way is situated, other-
 8 wise in one or more newspapers published in the county in which the
 9 town is situated; nor unless notice of the same is posted conspicuously
 10 by the town or park commissioners making the regulation at points
 11 where any way affected thereby joins other ways; nor until after the
 12 department of public works shall have certified in writing, after a pub-
 13 lic hearing, that such regulation is consistent with the public interests;
 14 and no regulation shall be valid which excludes motor vehicles from any

Special speed
 regulations.
 1903, 473, § 14.
 1905, 366, § 1
 1906, 353, § 4;
 412, § 9
 1908, 263.
 1909, 534,
 § 17, 31
 1928, 337, § 8.
 187 Mass. 221.
 191 Mass. 439.
 199 Mass. 490,
 512
 205 Mass. 344.
 217 Mass. 18.
 231 Mass. 386.
 3 Op. A. G. 78.
 4 Op. A. G. 7.
 [Penalty, § 20.]

state highway or from any main highway leading from any town to another; provided, that nothing herein contained shall be construed as affecting the right of the metropolitan district commission to make rules and regulations governing the use and operation of motor vehicles on lands, roadways and parkways under its care and control. The aldermen or the selectmen may, after a public hearing, upon special occasions and subject to such regulations concerning the closing, use and control of the way as they deem necessary for public convenience and safety, grant permits to persons to drive motor vehicles in hill-climbing contests during a specified time and upon specified parts of a public way at any rate of speed.

Dimensions of motor trucks and trailers.
1919, 252, § 1, 2.
1925, 180, § 1.
1927, 72.
1929, 313.
1930, 297.
1931, 138, § 2.
266 Mass. 220.
Op. A. G. (1919) 57.

[Penalty, § 20.]

SECTION 19. No motor vehicle or trailer, the outside width of which is more than ninety-six inches or the extreme over-all length of which is more than twenty-eight feet, shall be operated on any way without a special permit so to operate from the board or officer having charge of such way or, in case of a state highway or a way determined by the department of public works to be a through route, from said department; provided, that such width may be exceeded by the lateral projection of pneumatic tires beyond the rims of the wheels for such distance on either side of the vehicle or trailer as will not increase its outside width above one hundred and two inches; and provided, further, that the extreme over-all length of a semi-trailer unit, wherever used, may exceed twenty-eight feet but not forty feet, and such length of any other motor vehicle, or any trailer, when used in localities or on ways designated by the said department may exceed twenty-eight feet but not thirty-three feet, except in either case as authorized by a special permit granted as aforesaid, and that, when used for the transportation of poles or single units of lumber or metal, such length may exceed twenty-eight feet but not sixty feet, except as authorized by a special permit granted as aforesaid. The aforesaid dimensions of width and length shall be inclusive of the load. No semi-trailer unit shall be operated on any way to draw any trailer or other vehicle except as authorized by a special permit granted as aforesaid or except in localities or on ways designated by said department, and in such localities or on such ways not more than one trailer or other vehicle shall be so drawn except as authorized by a special permit granted as aforesaid; and no other motor vehicle shall be operated on any way to draw more than one trailer or other vehicle.

Penalties and punishments.
1902, 315, § 5.
1903, 473,
§ 9, 15.
1905, 311, § 5.
1906, 353, § 3;
412, § 3.
1907, 203.
1908, 648, § 6.
1909, 534,
§ 5 18, 31.
1913, 116.
1915, 19.
1919, 212, § 3;
252, § 3.
1922, 130.
219 Mass. 296.
242 Mass. 367.
247 Mass. 552.
273 Mass. 557.

SECTION 20. Any person convicted of a violation of any provision of this chapter the punishment for which is not otherwise provided, or of a violation of any rule or regulation of the registrar made under authority of section thirty-one, or of a violation of a special speed regulation lawfully made under authority of section eighteen, shall be punished by a fine of not more than twenty-five dollars for the first offence, not less than twenty-five nor more than fifty dollars for a second offence, and not less than fifty nor more than one hundred dollars for subsequent offences committed during any period of twelve months; provided, that any person convicted of using a spot light, as prohibited by section sixteen, shall be punished by a fine of not less than twenty nor more than one hundred dollars, and that any person convicted of operating a motor vehicle or trailer in violation of the preceding section or of the terms of any permit granted thereunder shall be punished by a fine of not more

15 than one hundred dollars. A complaint against a person for the violation
 16 of section eleven or seventeen or of a regulation made under section
 17 eighteen may be placed on file at the discretion of the court or trial justice
 18 if the violation appears to have been unintentional or if no person or
 19 property could have been endangered thereby. Upon a third or sub-
 20 sequent conviction in the same year of a violation of section seventeen
 21 or of a regulation made under section eighteen the registrar shall forth-
 22 with revoke the license of the person so convicted, and no new license
 23 shall be issued to such person for at least thirty days after the date of
 24 such conviction, nor thereafter except in the discretion of the registrar.

1 SECTION 21. Any officer authorized to make arrests may arrest with-
 2 out warrant and keep in custody for not more than twenty-four hours,
 3 unless Sunday intervenes, any person operating a motor vehicle on any
 4 way who does not have in his possession a license to operate motor ve-
 5 hicles granted to him by the registrar, and who violates any statute,
 6 by-law, ordinance or regulation relating to the operation or control of
 7 motor vehicles; and at or before the expiration of said period of time
 8 such person shall be brought before a magistrate and proceeded against
 9 according to law. An investigator or examiner appointed under section
 10 twenty-nine, may arrest without warrant, keep in custody for a like
 11 period, bring before a magistrate and proceed against in like manner,
 12 any person operating a motor vehicle while under the influence of in-
 13 toxicating liquors, irrespective of his possession of such a license. Any
 14 person operating a motor vehicle who is arrested as aforesaid and solely
 15 because he has violated a provision of section seventeen or a regulation
 16 under section eighteen shall be admitted to bail for his appearance in
 17 court upon the deposit of one hundred dollars in cash with any person
 18 authorized to take bail, in lieu of furnishing a surety or sureties.

Arrest.
 Bail
 1907, 494
 1909, 534,
 §§ 19, 31,
 1921, 349,
 1931, 426,
 § 202
 251 Mass. 569.

1 SECTION 22. The registrar may suspend or revoke any certificate of
 2 registration or any license issued under this chapter, after due hearing,
 3 for any cause which he may deem sufficient, and he may suspend the
 4 license of any operator or the certificate of registration of any motor
 5 cycle in his discretion and without a hearing, and may order the license
 6 or registration certificate to be delivered to him, whenever he has reason
 7 to believe that the holder thereof is an improper or incompetent person
 8 to operate motor vehicles, or is operating improperly or so as to endanger
 9 the public; and neither the certificate of registration nor the license
 10 shall be reissued unless, upon examination or investigation, or after a
 11 hearing, the registrar determines that the operator should again be
 12 permitted to operate. The registrar, under the same conditions and
 13 for the same causes, may also suspend the right of any person to operate
 14 motor vehicles in the commonwealth under section ten until he shall
 15 have received a license from the registrar.

Suspension or
 revocation of
 certificates of
 registration,
 licenses, etc.
 1903, 473, § 9.
 1905, 311, § 5
 1906, 412, § 3.
 1908, 648,
 §§ 4, 6,
 1909, 534,
 §§ 20, 31,
 1913, 95,
 1915, 16, § 6.
 1923, 464, § 6
 269 Mass. 177.

1 SECTION 23. Any person convicted of operating a motor vehicle
 2 after his license to operate has been suspended or revoked or after notice
 3 of the suspension of his right to operate a motor vehicle without a license
 4 has been issued by the registrar and received by such person or by his
 5 agent or employer and prior to the restoration of such license or right to
 6 operate or to the issuance to him of a new license to operate, and any
 7 person convicted of operating or causing or permitting any other person

Illegal
 operating.
 Concealment
 of identity
 1903, 473, § 9.
 1905, 311, § 5.
 1906, 412, § 3.
 1908, 648, § 6.
 1909, 534,
 §§ 21, 31,
 1915, 16,
 §§ 6, 7, 19.

1921, 304
1925, 201, § 2.
1926, 267, § 2;
296.

to operate a motor vehicle after the certificate of registration for such 8
vehicle has been suspended or revoked and prior to the restoration of 9
such registration or to the issuance of a new certificate of registration for 10
such vehicle, shall, except as provided by section twenty-eight of chapter 11
two hundred and sixty-six, be punished for a first offence by a fine of not 12
less than fifty nor more than one hundred dollars or by imprisonment 13
for not more than ten days, or both, and for any subsequent offence by 14
imprisonment for not less than ten days nor more than one year, and any 15
person who attaches or permits to be attached to a motor vehicle a 16
number plate assigned by the registrar to another vehicle, or who ob- 17
scures or permits to be obscured the figures on any number plate at- 18
tached to any motor vehicle, or who fails to display on a motor vehicle 19
the number plate and the register number duly issued therefor, with 20
intent to conceal the identity of such motor vehicle, shall be punished 21
by a fine of not more than one hundred dollars or by imprisonment for 22
not more than ten days, or both. 23

Reckless, un-
authorized or
drunken
driving.
Fraud in
connection
with license.
Penalties, etc.
1906, 412, § 4.
1908, 648, § 7.
1909, 534,
§§ 22, 21.
1913, 123.
1916, 290.
1924, 183.
1925, 201, § 3;
297, § 1.
1926, 253; 296.
1928, 213, § 1;
281, § 1.
1929, 274.
213 Mass. 232.
214 Mass. 435.
221 Mass. 489.
226 Mass. 189.
240 Mass. 214.
242 Mass. 532.
247 Mass. 500.
250 Mass. 128,
512, 555.
252 Mass. 71,
241
254 Mass. 566.
257 Mass. 198,
434
258 Mass. 98,
609
261 Mass. 369,
345, 458.
263 Mass. 22.
266 Mass. 424.
273 Mass. 146.
3 Op. A. G. 570.
Op. A. G.
(1919) 82.
Investigation,
etc., as to
previous con-
viction.

SECTION 24. Whoever upon any way, or in any place to which the 1
public has a right of access, operates a motor vehicle recklessly, or while 2
under the influence of intoxicating liquor, or negligently so that the 3
lives or safety of the public might be endangered, or upon a bet or wager 4
or in a race, or whoever operates a motor vehicle for the purpose of 5
making a record and thereby violates any provision of section seventeen 6
or any regulation under section eighteen, or whoever without stopping 7
and making known his name, residence and the number of his motor 8
vehicle goes away after knowingly colliding with or otherwise causing 9
injury to any other vehicle or property, or whoever uses a motor vehicle 10
without authority knowing that such use is unauthorized, or whoever 11
loans or knowingly permits his license to operate motor vehicles to be 12
used by another person, or whoever makes false statements in an appli- 13
cation for such a license or falsely impersonates the person named in 14
such an application, or procures such false impersonation, whether of 15
himself or of another, shall be punished by a fine of not less than twenty 16
nor more than two hundred dollars or by imprisonment for not less 17
than two weeks nor more than two years, or both; except that for an 18
offence of operating a motor vehicle while under the influence of intoxi- 19
cating liquor committed within a period of six years immediately following 20
his final conviction of a like offence by a court or magistrate of the 21
commonwealth, a person shall be punished by imprisonment for not less 22
than one month nor more than two years. Before a magistrate or other 23
officer authorized to receive complaints in criminal cases reduces a com- 24
plaint to writing, or before a prosecuting officer presents evidence to 25
the grand jury, charging a person with having operated a motor vehicle 26
while under the influence of intoxicating liquor, he shall communicate 27
with the office of the registrar, and shall inquire as to whether there is 28
in said office any record or other information tending to show that such 29
person has been finally convicted of a like offence by a court or magistrate 30
of the commonwealth within a period of six years immediately preceding 31
the commission of the offence with which he is charged, and if it shall 32
appear to such magistrate or other officer, or to the grand jury, as the 33
case may be, that such person has so been convicted, the complaint or 34
indictment shall contain an averment to that effect which shall specify 35
such court or magistrate and the date of such conviction. Any person 36
who operates a motor vehicle upon any way, or in any place to which 37

Penalty for
not stopping,
etc., after
collision, etc.

38 the public has a right of access, and who, without stopping and making
39 known his name, residence and the number of his motor vehicle, goes
40 away after knowingly colliding with or otherwise causing injury to any
41 person, shall be punished by imprisonment for not less than two months
42 nor more than two years. A conviction of a violation of this section
43 shall be reported forthwith by the court or magistrate to the registrar,
44 who may in any event and shall, unless the court or magistrate recom-
45 mends otherwise, revoke immediately the license of the person so con-
46 victed, and no appeal from the judgment shall operate to stay the rev-
47 ocation of the license. If it appears by the records of the registrar that
48 the person so convicted is the owner of a motor vehicle or has exclusive
49 control of any motor vehicle as a manufacturer or dealer, the registrar
50 may revoke the certificate of registration of any or all motor vehicles so
51 owned or exclusively controlled. The registrar in his discretion may issue
52 a new license to any person acquitted in the appellate court, or after
53 an investigation or upon hearing may issue a new license to a person
54 convicted in any court; provided, that no new license shall be issued
55 by the registrar to any person convicted of operating a motor vehicle
56 while under the influence of intoxicating liquor until one year after the
57 date of final conviction, if for a first offence, or five years after any sub-
58 sequent conviction, and to any person convicted of violating any other
59 provision of this section until sixty days after the date of final conviction,
60 if for a first offence, or one year after the date of any subsequent con-
61 viction; and provided, further, that notwithstanding the foregoing, no
62 new license shall be issued by the registrar to any person convicted of
63 operating a motor vehicle while under the influence of intoxicating
64 liquor, until ten years after the date of final conviction, in case the
65 registrar determines, upon investigation and after a hearing, that the
66 action of the person so convicted in committing such offence caused an
67 accident resulting in the death of another, nor at any time after a sub-
68 sequent final conviction of a like offence, in case the registrar determines
69 in the manner aforesaid that the action of such person so subsequently
70 convicted in committing such subsequent offence caused an accident
71 resulting in the death of another. The prosecution of any person for
72 operating a motor vehicle while under the influence of intoxicating
73 liquor, if the offence is committed within a period of six years immedi-
74 ately following his final conviction of a like offence by a court or magis-
75 trate of the commonwealth, shall not in any event be placed on file or
76 otherwise disposed of except by trial, judgment and sentence according
77 to the regular course of criminal proceedings, nor shall the execution of
78 the sentence for such later offence be suspended under section one of
79 chapter two hundred and seventy-nine. The prosecution for the viola-
80 tion of any other provision of this section, if a second or subsequent
81 offence, shall not, unless the interests of justice require such disposition,
82 be placed on file or otherwise disposed of except by trial, judgment and
83 sentence according to the regular course of criminal proceedings; and
84 such a prosecution shall be otherwise disposed of only on motion in
85 writing, stating specifically the reasons therefor, and verified by affidavit
86 if facts are relied on. If the court or magistrate certifies in writing that
87 he is satisfied that the reasons relied upon are sufficient and that the
88 interests of justice require the allowance of the motion, the motion shall
89 be allowed, and the certificate shall be filed in the case. A copy of the
90 motion and certificate shall be sent by the court or magistrate forthwith
91 to the registrar.

Revocation of
license upon
conviction, etc.

Prosecutions
for operating
motor vehicle
while under
influence of
intoxicating
liquor, etc.,
if second or
subsequent
offence, etc.,
disposition, etc.

Motor vehicles used in commission of crimes, reports to registrar 1926, 361, § 1.

SECTION 24A. If a motor vehicle is used in connection with the commission of a felony, of any larceny, or of any offence punishable under any provision of sections twenty-two, one hundred and thirteen to one hundred and seventeen, inclusive, and one hundred and twenty of chapter two hundred and sixty-six, of which a person is convicted, the material facts relative to such use, including the registration number of the vehicle, so far as disclosed in the proceedings, shall be reported forthwith to the registrar by the clerk of the court in which or by the trial justice before whom the conviction occurs.

Refusal to obey officer penalized. 1906, 412, §§ 6, 7. 1909, 534, §§ 23, 31.

SECTION 25. Any person who, while operating or in charge of a motor vehicle, shall refuse, when requested by a police officer, to give his name and address or the name and address of the owner of such motor vehicle, or who shall give a false name or address, or who shall refuse or neglect to stop when signalled to stop by any police officer who is in uniform or who displays his badge conspicuously on the outside of his outer coat or garment, or who refuses, on demand of such officer, to produce his license to operate such vehicle or his certificate of registration, or to permit such officer to take the license or certificate in hand for the purpose of examination, or who refuses, on demand of such officer, to sign his name in the presence of such officer, and any person who on the demand of an officer of the police or other officer mentioned in section twenty-nine or authorized by the registrar, without a reasonable excuse fails to deliver his license to operate motor vehicles or the certificate of registration of any motor vehicle operated or owned by him or the number plates furnished by the registrar for said motor vehicle, or who refuses or neglects to produce his license when requested by a court or trial justice, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

Reporting accidents. 1913, 530, 1917, 186, 270 Mass. 7.

SECTION 26. Every person operating a motor vehicle which is in any manner involved in an accident in which any person is killed or injured shall forthwith report in writing to the registrar. The registrar may revoke or suspend the license of any person violating this section.

Court records. 1905, 311, § 6. 1906, 412, § 5. 1907, 408, 1909, 534, §§ 24, 31.

SECTION 27. A full record shall be kept by every court and trial justice of every case in which a person is charged with a violation of any provision of this chapter, and an abstract of such record shall be sent forthwith by the court or trial justice to the registrar. Said abstracts shall be made upon forms prepared by the registrar, and shall include all necessary information as to the parties to the case, the nature of the offence, the date of the hearing, the plea, the judgment and the result; and every such abstract shall be certified by the clerk of the court or by the trial justice as a true abstract of the record of the court. The registrar shall keep such records in his main office, and they shall be open to the inspection of any person during reasonable business hours. Courts and trial justices shall, upon their own initiative or upon the request of the registrar or his agents, furnish to the registrar the details of all particularly flagrant cases which may be heard before them; and they may make such recommendations to the registrar as to the suspension or revocation of the licenses and certificates of registration of the defendants in such cases as they may deem necessary.

1 SECTION 28. Any person aggrieved by a ruling or decision of the
 2 registrar may, within ten days thereafter, appeal from such ruling or
 3 decision to the department of public works, which may, after a hearing,
 4 order such ruling or decision to be affirmed, modified or annulled, but
 5 no such appeal shall operate to stay any ruling or decision of the registrar.
 6 In the administration of the laws and regulations relative to motor
 7 vehicles the commissioner or an associate commissioner of the depart-
 8 ment, or an employee thereof, if duly authorized by a writing filed in the
 9 office of the department, or the registrar, may summon witnesses in
 10 behalf of the commonwealth and may administer oaths and take testi-
 11 mony. The department or the registrar may also cause depositions to be
 12 taken, and may order the production of books, papers, agreements and
 13 documents. Any person who swears or affirms falsely in regard to any
 14 matter or thing respecting which an oath or affirmation is required by the
 15 department or by the registrar or by this chapter shall be deemed guilty
 16 of perjury. The fees for the attendance and travel of witnesses shall be
 17 the same as for witnesses in civil actions before the courts, and shall be
 18 paid by the commonwealth upon the certificate of the department or the
 19 registrar filed with the comptroller. The supreme judicial or superior
 20 court may, upon the application of the department or the registrar,
 21 enforce all lawful orders of the department or the registrar under this
 22 section.

Appeals and
 hearings.
 1905, 311, § 1.
 1908, 648, § 1.
 1909, 534,
 §§ 25, 31,
 1919, 350,
 § 115
 1922, 202.
 1923, 362, § 65.
 1931, 426, § 203.

1 SECTION 29. The registrar shall appoint competent persons to act
 2 as investigators and examiners, may remove them for cause, and may
 3 define their duties. He may also appoint, and for cause remove, a deputy
 4 registrar and an assistant to the registrar, and may delegate to such
 5 deputy and assistant the performance of any duty imposed upon the
 6 registrar by any provision of this chapter. Said investigators and ex-
 7 aminers, with respect to the enforcement of the laws relating to motor
 8 vehicles, shall have and exercise throughout the commonwealth all the
 9 powers of constables, except the service of civil process, and of police
 10 officers, including the power to arrest any person who violates any pro-
 11 vision of this chapter, and they may serve all processes lawfully issued by
 12 the courts, the department in the exercise of its functions under this
 13 chapter or the registrar. The registrar may investigate the cause of any
 14 accident in which any motor vehicle is involved, and for this purpose may
 15 send his investigators into other states. The selectmen of any town and
 16 the mayor of any city of less than one hundred thousand inhabitants where
 17 there is no police commission or police commissioner, and the police com-
 18 mission or police commissioner, when such exist, of any such city, may
 19 appoint special constables, who shall serve without cost to such city or
 20 town and who shall have all the powers of police officers and constables in
 21 relation to the enforcement of all laws and regulations concerning motor
 22 vehicles. The chief officer of the police department of every city and
 23 town and the chairman of the selectmen of such towns as have no regular
 24 police department shall notify the registrar forthwith, upon blanks fur-
 25 nished by him, of the particulars of every accident referred to in section
 26 twenty-six which happens within the limits of his city or town in which
 27 a motor vehicle is involved, together with such further information rela-
 28 tive to such accident as the registrar may require, and shall also, if
 29 possible, ascertain the name of the person operating such vehicle and
 30 notify the registrar of the same. Every such officer, upon the request of

Investigations
 of causes of
 accidents
 Deputy regis-
 trar, investi-
 gators, etc.
 1908, 648, § 2.
 1909, 534,
 §§ 26, 31,
 1912, 123.
 1923, 464, § 7.
 1924, 364, 498.
 1929, 230.
 1931, 426, § 204.
 250 Mass. 445.
 270 Mass. 7.

the registrar, shall demand forthwith the license of any operator and the certificate of registration and number plates of any motor vehicle situated within the city or town where such officer resides when said license or certificate has been suspended or revoked by the registrar, and shall forward the same to the registrar. Whenever the death of any person results from any such accident, the registrar shall suspend forthwith the license of the person operating the motor vehicle involved in said accident, and shall order the said license to be delivered to him; and the registrar shall revoke the same unless, upon investigation and after a hearing, he determines that the accident occurred without serious fault upon the part of the operator or chauffeur of such motor vehicle. No operator whose license is revoked under this section shall be licensed again within six months after the date of the suspension, nor thereafter except in the discretion of the registrar.

Records of registrar
Destruction of records, etc.
1909, § 54.
§§ 26, 31.
1911, § 8.
1917, § 4
1923, 464, § 8.

SECTION 30. A proper record of all applications and of all certificates and licenses issued shall be kept by the registrar at his main office, and such records shall be open to the inspection of any person during reasonable business hours. The registrar may issue a certified copy, attested by him or his authorized agent, of any certificate of registration or of any license to operate motor vehicles which may have been lost or mutilated, upon the written request of the person entitled thereto; and such certified copies shall have the same force and effect as the originals. Certified copies of such records of the registrar, attested by the registrar or his authorized agent, shall be admissible as evidence in any court of the commonwealth to prove the facts contained therein. The registrar may destroy applications under this chapter and copies of the licenses and certificates of registration issued by him, and all letters reporting accidents or papers relating thereto, excepting those of the then current year and the year next preceding. He may destroy or dispose of any obsolete number plates and forms which, in his opinion, are no longer of any value to the commonwealth, and may destroy examination papers or the answers given by the applicants for licenses when the same have become of no value or when the licenses applied for have been granted. He may also destroy all records of convictions of persons charged with violation of the laws relating to motor vehicles unless such convictions are final convictions under section twenty-four, excepting those of the then current year and the two years next preceding.

Rules and regulations.
1906, 353.
§§ 1, 2, 4.
1909, § 54
§§ 27, 31.
1919, 350,
§ 116.
257 Mass. 530.
[Penalty, § 20.]

SECTION 31. The registrar may prepare rules and regulations governing the use and operation of motor vehicles and the conduct of operators and chauffeurs, and may alter, rescind or add to any rules and regulations previously made by him. The rules and regulations of the registrar and any changes therein shall be subject to approval, and shall take effect, in the manner provided by section six of chapter sixteen. A copy of such rules and regulations attested by the registrar shall be prima facie evidence that they have been made and approved as provided by law. This section shall not be construed as giving the registrar power to regulate the speed at which motor vehicles may be operated on the public ways.

Transportation of personal property by motor vehicles regulated

SECTION 31A. The department after a public hearing may make, and may alter, rescind or add to, rules and regulations for the reasonable and proper control and regulation of the transportation by motor

4 vehicle of personal property over the ways of this commonwealth,
 5 except ways under the control of the metropolitan district commission.
 6 Said rules and regulations shall cover, among other matters which the
 7 department may deem necessary or desirable, the fixing of routes with
 8 respect to the physical capacity of such ways to carry traffic; the estab-
 9 lishment of the maximum weight of loads per commercial motor vehicle
 10 and per inch of tire in contact with the surface of such ways; the maxi-
 11 mum dimensions of loads; and the regulation of the rate of speed of
 12 such vehicles over such ways. Said rules and regulations and any changes
 13 therein shall be subject to approval, and shall take effect, in the manner
 14 provided by section six of chapter sixteen. Any person convicted of a
 15 violation of any rule or regulation made under this section shall be pun-
 16 ished by a fine of not more than twenty-five dollars, and in case of a
 17 second or subsequent offense the registration of the vehicle or vehicles
 18 involved shall be suspended for such length of time as the department
 19 may determine.

1924, 457
 1931, 394, § 48.
 273 Mass. 557.

1 SECTION 32. Every manufacturer of and dealer in motor vehicles, and
 2 every owner, proprietor, person in control or keeper of a garage, and
 3 in the city of Boston, every owner, proprietor, person in control or keeper
 4 of an open air parking space kept open with attendants day and night
 5 for the storage or keeping for hire of motor vehicles, shall keep or cause
 6 to be kept in a book a proper record of every motor vehicle which enters
 7 and which leaves his garage, stable, shop or place of business. Said book
 8 shall have columns and headings substantially as follows:

Records of
 garages, etc.,
 and of certain
 open air park-
 ing spaces.
 1924, 379.
 255 Mass. 327.
 257 Mass. 181.

DATE.	Register Number and Letter, if Any.	TIME OF ENTERING GARAGE OR OTHER PLACE.		TIME OF LEAVING GARAGE OR OTHER PLACE.		Operator's or Chauffeur's Name.
		A. M.	P. M.	A. M.	P. M.	

9 All entries in said book shall be made legibly in ink or with an indel-
 10 ible pencil. The said book shall be kept in some convenient place and
 11 shall be open at all times to the inspection of the registrar and his agents
 12 and of any police officer or constable.

1 SECTION 32A. When the serial number of a motor vehicle or of the
 2 engine of a motor vehicle has been removed, defaced, altered, changed,
 3 destroyed, obliterated or mutilated, the registrar may issue to any person
 4 applying therefor a certificate authorizing the restoration upon such
 5 motor vehicle or upon the engine of such motor vehicle of its original
 6 serial number, or the substitution therefor of a number designated by
 7 the registrar which shall thereafter be regarded as the number properly
 8 to be used for purposes of registration and identification of said motor
 9 vehicle. In this section, the phrase "serial number" shall mean, when
 10 used with reference to a motor vehicle, the number affixed by the maker
 11 thereof and, when used with reference to the engine of a motor vehicle,
 12 the engine number, both as required to be contained in an application
 13 for registration of a motor vehicle by section two.

Serial numbers
 of motor
 vehicles or
 engines,
 authority
 to restore or
 substitute.
 1925, 237, § 1.

Records of motor vehicles leased upon a mileage basis. 1928, 25.

SECTION 32B. Every owner, proprietor, person in control or keeper of an establishment leasing motor vehicles for compensation computed upon a mileage basis shall keep or cause to be kept in a book a proper record of every motor vehicle so leased by him. Said record shall contain the registration number and the name of the maker of the motor vehicle so leased, the time the motor vehicle left the establishment and the time of its return, and the signature in full of the lessee in his own handwriting, his residence and the number of his operator's license. Said record shall be open at all times to the inspection of the police.

Fees.
1903, 473, §§ 1, 2, 4.
1905, 311, §§ 2-4.
1906, 412, § 8.
1907, 580, § 1.
1908, 648, §§ 3, 5, 8.
1909, 534, §§ 25, 29-31.
1914, 695.
1915, 10, § 2;
16, § 8.
1916, 42; 52;
140.
1919, 294, § 2.
1920, 262; 419;
426.
1921, 463, § 2.
1923, 464, § 9.
1925, 342, § 1.
1926, 244;
277; 349, § 1.
1927, 154.
1928, 316, § 5.
1930, 332, § 5;
391.
1931, 47, § 5;
142, § 6;
428, § 295.
250 Mass. 88,
591.
273 Mass. 557.
3 Op. A. G. 318.

SECTION 33. The registrar or his authorized agents shall collect fees as follows:

For the registration of every motor cycle, one dollar and fifty cents.
For the registration of every motor truck, motor bus, trailer and semi-trailer unit owned by a city or town in the commonwealth, and used solely for municipal business, and for the registration of every motor bus not so owned but used exclusively under contract for the transportation of school children, two dollars; provided, that any such motor bus not municipally owned may also be used for the transportation of persons to and from church and Sunday school services without the payment of additional registration fee; and this paragraph shall apply to the registration of such vehicles regardless of whether they are designed to be propelled otherwise than by fuel as defined in section one of chapter sixty-four A, in this section referred to as "non-gasoline driven", or designed to be propelled by fuel as so defined, in this section referred to as "gasoline driven".

For the registration of every ambulance, fire engine or apparatus, police patrol wagon or other vehicle used by the police department of any city or town or park board solely for the official business of such department or board, no fee shall be collected hereunder.

For the registration of every trailer and non-gasoline driven automobile used for the transportation of goods, wares or merchandise except an electric motor truck or an electric commercial automobile, fifty cents, or, in the case of an electric motor truck or an electric commercial automobile so used, twenty-five cents, and of every gasoline driven automobile so used, fifteen cents, for every hundred pounds of the weight of such vehicle and of its maximum carrying capacity, but in no event less than twenty dollars in the case of a non-gasoline driven automobile so used or six dollars in the case of a gasoline driven automobile so used; provided, that for the registration of every automobile of the convertible passenger type with box or slip-on body of a carrying capacity not exceeding one thousand pounds used for the transportation of tools, utensils, goods, wares or merchandise, the fee shall be fifteen dollars when non-gasoline driven and four dollars and fifty cents when gasoline driven, and provided further that the provisions of this paragraph shall not apply to any vehicle the fee for the registration of which is provided for in the preceding paragraph. The aforesaid weight shall mean the weight of such vehicle when fully equipped for the road. The commissioner of public works may establish rules for determining the weight of such vehicle and its maximum carrying capacity, and he may in his discretion use the maker's weight with due allowance for extras.

For the registration of every automobile known as a taxi-cab, fifteen dollars when non-gasoline driven and four dollars and fifty cents when gasoline driven.

45 For the registration of every motor bus or other motor vehicle, the
46 fee for the registration of which is not hereinbefore provided for, used
47 for carrying passengers for hire and having a seating capacity of seven
48 persons or less, four dollars for each seat when non-gasoline driven and
49 one dollar and twenty cents for each seat when gasoline driven, and
50 for the registration of every such motor bus or other vehicle having a
51 seating capacity in excess of seven persons, five dollars for each seat
52 when non-gasoline driven and one dollar and fifty cents for each seat
53 when gasoline driven, but in no event less than twenty dollars when
54 non-gasoline driven or six dollars when gasoline driven. In determining
55 seating capacity aforesaid the driver's seat shall not be included. The
56 word "seat" as used in this paragraph shall mean the space ordinarily
57 occupied by one person.

58 For the registration of every automobile, the fee for which is not
59 herein otherwise provided for, according to the following schedule:—

60 Less than thirty horse power, ten dollars when non-gasoline driven
61 and three dollars when gasoline driven.

62 Thirty or more, but less than forty horse power, fifteen dollars when
63 non-gasoline driven and four dollars and fifty cents when gasoline
64 driven.

65 Forty or more, but less than fifty horse power, twenty dollars when
66 non-gasoline driven and six dollars when gasoline driven.

67 Fifty horse power and above, twenty-five dollars when non-gasoline
68 driven and seven dollars and fifty cents when gasoline driven.

69 For the registration of motor vehicles or trailers owned by or under
70 the control of a manufacturer of or dealer in motor vehicles or trailers
71 or motor vehicle bodies or tops or a person engaged in the business of
72 repairing motor vehicles or trailers, including one or more pairs of num-
73 ber plates as requested in writing by the applicant for registration, three
74 dollars for the registration and three dollars for each pair of number
75 plates furnished by the registrar.

76 For the registration of every motor vehicle or trailer by an owner
77 who applies therefor under section two during the period beginning
78 with the first day of October and ending with the thirty-first day of
79 December in any year, one half of the fee for a full year's registration
80 of said vehicle.

81 For the substitution of the registration of an automobile for that of a
82 vehicle previously registered, in accordance with section two, one dollar.

83 For the substitution of the registration of a motor cycle for that of a
84 vehicle previously registered, in accordance with section two, fifty cents.

85 For every license to operate motor vehicles or any renewal thereof,
86 two dollars, but no fee shall be collected for the renewal of a special
87 license to operate motor-propelled fire apparatus.

88 For the first examination given to an applicant for a license or for a
89 renewal of a license to operate motor vehicles, two dollars; and for each
90 subsequent examination, one dollar.

91 For every additional copy of a certificate of registration or license,
92 one dollar.

93 For every certified copy of any application or notice filed with the
94 registrar and for every certified copy of a certificate of registration or
95 license, one dollar.

96 For every additional number plate furnished to replace such plates
97 as have been lost or mutilated or are illegible, one dollar.

98 The registrar or his authorized agent may, however, furnish without

charge copies of certificates of registration and licenses to operate, and copies of other documents relating thereto, to officers of the commonwealth or of any court thereof or of a city or town therein; and the registrar may issue certificates of registration for motor vehicles and licenses to operate the same to any member of the foreign diplomatic corps without the payment of the fees therefor.

Disposition of fees and fines. Highway Fund. 1903, 473, § 12. 1907, 580, § 3. 1908, 642, § 1. 1909, 534, §§ 30, 31. 1910, 525, 1917, 276; 277, § 2. 1921, 112, § 1. 1925, 288, § 1. 1928, 316, § 6. 1929, 343, § 4. 250 Mass. 591. 268 Mass. 185.

SECTION 34. The fees and fines received under the preceding sections, together with all other fees received by the registrar or any other person under the laws of the commonwealth relating to the use and operation of motor vehicles and trailers, shall be paid by the registrar or by the person collecting the same into the treasury of the commonwealth, and said fees and fines, together with all contributions and assessments paid into the state treasury by cities, towns or counties for maintaining, repairing, improving and constructing ways, whether before or after the work is completed, and all refunds and rebates made on account of expenditures on ways by the department of public works, and all receipts paid into the treasury of the commonwealth under the provisions of chapter sixty-four A, shall be credited on the books of the commonwealth to a fund to be known as the Highway Fund. Said Highway Fund, subject to appropriation, shall be used as follows:

(1) Such portion as is authorized shall be expended to carry out the provisions of law relative to the use and operation of motor vehicles and trailers and for expenses authorized to administer the law relative to the taxation of the sales of gasoline and certain other motor vehicle fuel;

(2) The balance then remaining shall be used —

(a) For expenditure, under the direction of said department, for maintaining, repairing, improving and constructing town and county highways together with any money which any town or county may appropriate for said purpose to be used on the same highways. The said ways shall remain town or county ways. In this subdivision the word "town" shall include city;

(b) For expenditure, under the direction of said department, for maintaining, repairing and improving state highways and bridges;

(c) For expenditure, under the direction of said department, in addition to federal aid payments received under section thirty of chapter eighty-one, for construction of state highways;

(d) For expenditure, under the direction of said department, for engineering services and expenses, for care, repair, storage, replacement and purchase of road building machinery and tools, for snow removal, for the erection and maintenance of direction signs and warning signs and for the care of shrubs and trees on state highways, and for expenses incidental to the foregoing or incidental to the purposes specified in subdivisions (a), (b) or (c) of this clause;

(e) To meet interest, sinking fund and serial payments on state highway and western Massachusetts highway and abolition of grade crossing bonds;

(f) To meet the commonwealth's share of the interest, sinking fund and serial payments on metropolitan parks loans, series two, and to pay such sums as the commonwealth may be required to pay out of receipts from motor vehicle fees for particular traffic routes now or hereafter authorized;

(g) For expenditure, under the direction of the metropolitan district commission, to meet the commonwealth's share of the cost of maintenance of boulevards in the metropolitan parks district under section fifty-six

48 of chapter ninety-two, and the commonwealth's share of the cost of
 49 construction of boulevards within said district now or hereafter au-
 50 thorized;

51 (h) For expenditure, under the direction of the department of public
 52 safety, for the maintenance, in part, of the division of state police.

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE.

1 SECTION 34A. The following words, as used in sections thirty-four A
 2 to thirty-four J, inclusive, shall have the following meanings: —

3 "Certificate", the certificate of an insurance company authorized to
 4 transact in the commonwealth the business specified in subdivision (b)
 5 of the sixth clause of section forty-seven of chapter one hundred and
 6 seventy-five, stating that it has issued to the applicant for registration
 7 of a motor vehicle a motor vehicle liability policy which covers such motor
 8 vehicle, conforms to the provisions of section one hundred and thirteen
 9 A of said chapter one hundred and seventy-five and runs for a period at
 10 least coterminous with that of such registration or that it has executed
 11 a binder, as defined in said section one hundred and thirteen A, under and
 12 in conformity with said section covering such motor vehicle pending the
 13 issue of a motor vehicle liability policy; or the certificate of a surety com-
 14 pany authorized to transact business in the commonwealth under section
 15 one hundred and five of said chapter one hundred and seventy-five as
 16 surety, stating that a motor vehicle liability bond, payable to the com-
 17 monwealth, which covers such motor vehicle, conforms to the provisions
 18 of said section one hundred and thirteen A, and runs for a period at least
 19 coterminous with such registration, has been executed by such applicant
 20 as principal and by such surety company as surety; or the certificate of
 21 the department stating that cash or securities have been deposited with
 22 the department as provided in section thirty-four D.

23 "Motor vehicle", shall, in addition to the meaning prescribed by sec-
 24 tion one, include a trailer, as defined by said section one.

25 "Motor vehicle liability bond", a bond conditioned that the obligor
 26 shall within thirty days after the rendition thereof satisfy all judgments
 27 rendered against him or against any person responsible for the operation
 28 of the obligor's motor vehicle with his express or implied consent in actions
 29 to recover damages for bodily injuries, including death at any time result-
 30 ing therefrom and judgments rendered as aforesaid for consequential
 31 damages consisting of expenses incurred by a husband, wife, parent or
 32 guardian for medical, nursing, hospital or surgical services in connection
 33 with or on account of such bodily injuries or death, sustained during the
 34 term of said bond by any person other than employees of the obligor or
 35 of such other person responsible as aforesaid who are entitled to payments
 36 or benefits under the provisions of chapter one hundred and fifty-two,
 37 and arising out of the ownership, operation, maintenance, control or use
 38 upon the ways of the commonwealth of such motor vehicle, to the amount
 39 or limit of at least five thousand dollars on account of injury to or death
 40 of any one person, and, subject to such limits as respects injury to or death
 41 of one person, of at least ten thousand dollars on account of any one
 42 accident resulting in injury to or death of more than one person.

43 "Motor vehicle liability policy", a policy of liability insurance which
 44 provides indemnity for or protection to the insured and any person
 45 responsible for the operation of the insured's motor vehicle with his
 46 express or implied consent against loss by reason of the liability to pay

Definitions
 1925, 346, § 2.
 1926, 308, § 2.
 1928, 381, § 4.
 1930, 310, § 1.
 266 Mass. 446.
 271 Mass. 94.
 [For further
 definitions, see
 §§ 1, 5, 35.]

damages to others for bodily injuries, including death at any time resulting therefrom, or consequential damages consisting of expenses incurred by a husband, wife, parent or guardian for medical, nursing, hospital or surgical services in connection with or on account of such bodily injuries or death, sustained during the term of said policy by any person other than employees of the insured or of such other person responsible as aforesaid who are entitled to payments or benefits under the provisions of chapter one hundred and fifty-two, and arising out of the ownership, operation, maintenance, control or use upon the ways of the commonwealth of such motor vehicle, to the amount or limit of at least five thousand dollars on account of injury to or death of any one person, and, subject to such limits as respects injury to or death of one person, of at least ten thousand dollars on account of any one accident resulting in injury to or death of more than one person, or a binder as defined in section one hundred and thirteen A of said chapter one hundred and seventy-five providing indemnity or protection as aforesaid pending the issue of such a policy.

Certificates.
Acceptance,
form, copies.
Penalties.
1925, 346, § 2.
1927, 127, § 1.
1928, 381, § 4.
271 Mass. 94.

SECTION 34B. The registrar shall accept a certificate as defined in section thirty-four A from any person applying for registration of a motor vehicle.

Such certificate of an insurance or surety company shall be executed by a duly authorized officer or agent of the company, shall be in a form prescribed by the commissioner of insurance, shall contain the recitals required by said section thirty-four A, shall state the rate at which and the classification under which the motor vehicle liability policy or bond referred to therein was issued or executed and the amount of the premium thereon, shall contain a certification that the premium charged thereon is at the rate fixed and established by the commissioner of insurance and such other information as said commissioner may require. An insurance or surety company or any officer or agent thereof issuing a form of certificate other than that prescribed by the commissioner of insurance shall be punished by a fine of not less than fifty nor more than five hundred dollars; but any certificate issued contrary to the foregoing provisions of this section by a duly authorized officer or agent of such a company shall be valid and binding thereon.

The registrar shall, when preparing his record of each registration, furnish a copy of such record to the company appearing signatory to the certificate accompanying the application for such registration.

Any company issuing a certificate through a duly authorized officer or agent, which is filed with the registrar in connection with the registration of a motor vehicle, shall be estopped to deny the issue or execution of a motor vehicle liability policy or bond as set forth therein.

The certificate which the department shall issue upon receipt of cash or securities under section thirty-four D or thirty-four F shall be in such form and shall contain such information as the department may prescribe.

Whoever issues or alters without authority or forges any certificate as defined in said section thirty-four A or issues such certificate knowing that the policy or bond therein described has not in fact been issued or executed or is not in force or that the cash or securities have not been deposited, or whoever knowing that such certificate has been issued or altered without authority or forged or that the policy or bond described therein has not in fact been issued or executed or is not in force or that the cash or securities have not been deposited files such certificate with

37 the registrar, shall be punished by a fine of not more than one thousand
38 dollars or by imprisonment for not more than one year or both.

1 SECTION 34C. Any person applying for the registration of more than
2 one motor vehicle under section two, three or four, or any manufacturer
3 or dealer applying for registration of motor vehicles under section five,
4 may, in lieu of procuring a separate policy or bond covering each motor
5 vehicle, furnish a single motor vehicle liability policy or bond covering all
6 motor vehicles owned or controlled by him, in which the amounts or
7 limits of indemnity as provided in section thirty-four A for a motor
8 vehicle liability policy or bond shall apply to each motor vehicle covered
9 thereunder.

Policy or bond covering more than one motor vehicle or trailer. 1925, 346, § 2; 1928, 381, § 4; 271 Mass. 94.

1 SECTION 34D. The applicant for registration may, in lieu of procur-
2 ing a motor vehicle liability bond or policy, deposit with the depart-
3 ment cash in the amount of five thousand dollars or bonds, stocks or
4 other evidences of indebtedness satisfactory to the department of a
5 market value of not less than five thousand dollars as security for the
6 payment by such applicant or by any person responsible for the opera-
7 tion of such applicant's motor vehicle with his express or implied con-
8 sent of all judgments rendered against such applicant or against such
9 person in actions to recover damages for bodily injuries, including
10 death at any time resulting therefrom, and judgments rendered as afore-
11 said for consequential damages consisting of expenses incurred by a
12 husband, wife, parent or guardian for medical, nursing, hospital or surgi-
13 cal services in connection with or on account of such bodily injuries or
14 death, sustained during the term of registration by any person other
15 than employees of the applicant or such other person responsible as
16 aforesaid who are entitled to payments or benefits under the provisions
17 of chapter one hundred and fifty-two, and arising out of the ownership,
18 operation, maintenance, control or use upon the ways of the common-
19 wealth of such motor vehicle to the amount or limit of at least five thou-
20 sand dollars on account of any such judgment. The depositor shall be
21 entitled to the interest accruing on his deposit and to the income pay-
22 able on the securities deposited and may from time to time with the
23 consent of the department change such securities. Upon presentation
24 to the department by an officer qualified to serve civil process of an
25 execution issued on any such judgment against the registrant or other
26 person responsible as aforesaid, the department shall pay, out of the
27 cash deposited by the registrant as herein provided, the amount of the
28 execution, including costs and interest, up to but not in excess of five
29 thousand dollars. If the registrant has deposited bonds, stocks or
30 other evidences of indebtedness, the department shall, on presentation
31 of an execution as aforesaid, cause the said securities or such part thereof
32 as may be necessary to satisfy the judgment to be sold at public auction,
33 giving the registrant three days' notice in writing of the time and place
34 of said sale, and from the proceeds of said sale the department shall,
35 after paying the expenses thereof, satisfy the execution as hereinbefore
36 provided when a cash deposit has been made. Any payment upon an
37 execution by the department in accordance with the provisions of this
38 section shall discharge its members from all official and personal liability
39 whatever to the registrant to the extent of such payment. The depart-
40 ment shall, whenever the amount of such deposit from any cause falls
41 below the amount required by this section, require, at the option of the

Deposit of cash, etc., in lieu of bond or policy. 1925, 346, § 2 (subsect. 34E); 1928, 381, § 4; 1930, 340, § 2; 271 Mass. 94.

Interest

Payments upon executions.

Additional deposit.

registrant, the deposit of additional cash or securities up to the amount required by this section or a motor vehicle liability bond or policy as provided in this chapter. Money or securities deposited with the department under the provisions of this section shall not be subject to attachment or execution except as provided in this section. The department shall deposit any cash received under the provisions of this section in a savings bank or the savings department of a trust company or of a national bank within the commonwealth.

Receipt for and retention of cash, etc., so deposited
1925, 346, § 2 (subsect. 34G), 1928, 381, § 4.
271 Mass. 94.

SECTION 34E. The department shall give to the applicant for registration a receipt on a form prescribed by it of the amount of cash or securities deposited by him with the department under section thirty-four D or thirty-four F. The department shall retain such cash or securities deposited as aforesaid and shall not deliver the same or the balance thereof to the registrant or his order until the expiration of the time within which actions, the payment of judgments in which are secured by such deposit, may be brought against the registrant or the person responsible for the operation of the registrant's motor vehicle with his express or implied consent, nor in any case if a written notice is filed with the department stating that such an action has been brought against the registrant or other person responsible as aforesaid, until payment is made as provided in section thirty-four D or satisfactory evidence is presented to it that such action is finally disposed of.

Notice to registrar, etc., upon service of writ
1925, 346, § 2 (subsect. 34I), 1928, 381, § 4.
271 Mass. 94.

SECTION 34F. The registrant of a motor vehicle who deposits cash or securities as provided in this section or in section thirty-four D or the person responsible for the operation of the registrant's motor vehicle with his express or implied consent shall immediately upon the service of any writ or summons in any action the payment of the judgment in which is secured by such deposit, give written notice to the registrar and the department of the bringing of such action in such form as it may prescribe, and thereupon it may require the giving, at the option of the registrant, of a motor vehicle liability bond or policy or may require the deposit of further cash or securities as additional security for the payment of judgments in any other such actions. Whoever fails to give the notice required by this section shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment for not more than one year or both.

Penalty.

Notice of failure to maintain deposit.

The department shall forthwith give written notice to the registrar of the failure of a registrant to maintain a deposit as required by this section and section thirty-four D.

Proceedings if judgment against principal on bond is not satisfied
1925, 346, § 2 (subsect. 34F), 1928, 381, § 4.
271 Mass. 94.

SECTION 34G. If a judgment rendered against the principal on a motor vehicle liability bond or against any person responsible for the operation of the principal's motor vehicle with his express or implied consent is not satisfied within thirty days after its rendition, the judgment creditor may for his use and benefit and at his sole expense bring an action in the name of the commonwealth against the surety company executing the bond.

Revocation of registration upon cancellation of policy or bond, etc.
Exceptions
1925, 346, § 2 (subsect. 34II).

SECTION 34H. In the event that the registrar receives written notice, in conformity with section one hundred and thirteen A of chapter one hundred and seventy-five, from the owner of a motor vehicle cancelling the motor vehicle liability policy or bond covering the same, he shall

5 revoke the registration of such motor vehicle on the effective date of
 6 the cancellation as specified in such notice unless not later than two
 7 days prior to such effective date the registrar shall have received a new
 8 certificate covering the same motor vehicle. The registrar shall, forth-
 9 with upon receiving written notice in conformity with said section one
 10 hundred and thirteen A from an insurance or surety company purporting
 11 to cancel such a policy or bond issued or executed by it, give written
 12 notice to the owner of the motor vehicle covered by said policy or bond
 13 that the registration thereof will be revoked as of the final effective date
 14 of the cancellation as specified in the notice given by such company in
 15 case the owner does not file a complaint under section one hundred and
 16 thirteen D of said chapter one hundred and seventy-five, or as specified
 17 in an order of the board of appeal on motor vehicle liability policies and
 18 bonds affirming such cancellation under said section one hundred and
 19 thirteen D in case the owner does not claim an appeal thereunder, or
 20 as specified in a decree of the superior court or a justice thereof affirming
 21 such cancellation on such appeal, unless not later than two days prior
 22 to such effective date as finally specified the registrar shall have received
 23 a new certificate covering the same motor vehicle.

1926, 368, § 3.
 1928, 381, § 4.
 263 Mass. 579
 271 Mass. 94.

24 The registrar shall forthwith upon receipt of a notice under section
 25 thirty-four F of the failure of the owner of a motor vehicle to maintain
 26 a deposit, or of a notice under section one hundred and thirteen C of
 27 said chapter one hundred and seventy-five of the cessation of the au-
 28 thority of an insurance or surety company to issue or execute motor
 29 vehicle liability policies or bonds in the commonwealth, send written
 30 notice to the owner of the motor vehicle covered by such deposit or to
 31 every owner of a motor vehicle covered by a motor vehicle liability
 32 policy or bond issued or executed by such a company that the registration
 33 thereof will be revoked, unless within five days after the sending of said
 34 notice he shall file with the registrar a new certificate.

35 Upon failure of the owner of a motor vehicle to file a new certificate
 36 as required by this section, the registrar shall immediately revoke the
 37 registration thereof; provided, that if a new certificate as aforesaid is
 38 filed prior to the final effective date of the cancellation of the existing
 39 policy or bond, he may in his discretion rescind such revocation.

40 Any notice required by this section to be given by the registrar shall
 41 be deemed sufficient if mailed by the registrar, or any person authorized
 42 by him to send such notice, postage prepaid, to the address given on
 43 the application for registration, and an affidavit of the registrar or such
 44 person that such notice has been mailed as aforesaid shall be prima facie
 45 evidence thereof.

1 SECTION 34I. The registrar shall keep such records and books and
 2 publish and distribute such forms and information, subject to the ap-
 3 proval of the department, as will facilitate the operation of the provisions
 4 of the eight preceding sections, and shall, upon the request of any person,
 5 furnish the name of the insurance or surety company issuing the policy
 6 or executing as surety the bond covering any particular motor vehicle
 7 or of any particular person appearing on his records as registrant of the
 8 same.

Registrar to
 keep records
 and books
 1925, 346, § 2
 1928, 381, § 4.
 271 Mass. 94.

1 SECTION 34J. Whoever operates or permits to be operated a motor
 2 vehicle which is subject to the provisions of section one A during such
 3 time as the motor vehicle liability policy or bond or deposit required by

Penalty for
 operating,
 etc., motor
 vehicle know-
 ing that

policy, etc., has not been provided, etc. 4
 1925, 346, § 2 5
 (subsection 3411). 6
 1926, 368, § 3. 6
 1928, 381, § 4. 7

263 Mass. 579.

AIRCRAFT.

Definitions. 1
 1922, 534, § 1. 1
 1928, 388, § 1. 2
 [For further 3
 definitions 3
 see §§ 1, 5, 4
 34A.] 4

SECTION 35. The following words and phrases used in sections thirty-five to fifty-nine, inclusive, shall have the following meanings, unless a different meaning is clearly apparent from the language or context or unless such construction is inconsistent with the manifest intention of the general court: 5

"Aircraft", any contrivance now or hereafter used in, or designed for the purpose of, navigation of or flight in the air, except a parachute or other contrivance so designed but used primarily as safety equipment. 6

"Commercial flying", any flight or attempted flight in which passengers or merchandise are carried, or in which any other service is performed by the pilot or aircraft, for compensation or hire. 7

"Private flying", all flying other than commercial flying or flying conducted by a department or other agency of the United States or of this or another state thereof. 8

Licensing of pilots and registration of aircraft. 1
 1922, 534, § 1. 2
 1928, 388, § 2. 3

SECTION 36. Every application for a license or registration, or renewal thereof, under sections thirty-five to fifty-nine, inclusive, shall be under oath or verified by a written declaration that it is made under the penalties of perjury, shall be accompanied by the proper fee and shall be made to the registrar, who may license any competent person as an aircraft pilot and may register suitable aircraft, in accordance with said sections. Except as authorized under federal law and except as hereinafter provided, no person shall operate or attempt to operate any aircraft within the commonwealth unless licensed so to do by the registrar and unless such aircraft is properly registered by him. No pilot's license shall be issued until the registrar or his authorized agent is satisfied that the applicant is a proper person to receive it. 4

Licenses.

Advisory board of aeronautical experts. 1
 1922, 534, § 1. 2

SECTION 37. The registrar shall appoint an advisory board of aeronautical experts, which shall consist of at least three members, to hold office at his pleasure. Such board shall ascertain whether applicants are competent to receive the licenses for which they apply and whether aircraft are suitable for the purposes for which registration thereof is sought. 3

Test flights. Determination of competency. 1
 1922, 534, § 1. 2
 1928, 388, § 3. 3

SECTION 38. Any person applying for a pilot's license shall, if requested by the advisory board, make one or more flights in an aircraft furnished by the applicant at a time and place approved by the board. The board shall determine the competency of the applicant as a pilot. 4

Designation of licenses. 1
 1922, 534, § 1. 2
 1928, 388, § 4. 3

SECTION 39. Each pilot's license shall be designated as either private or commercial. A commercial license shall entitle the licensee to engage in commercial flying and in private flying. A private license shall entitle the licensee to engage in private flying only. In addition to the 4

5 above designation, each license shall contain a statement of any limita-
6 tion or restriction on the size or type or types of aircraft which may be
7 operated thereunder. A commercial license may also contain a state-
8 ment of any limitation or restriction as to the areas within which persons
9 may be carried for compensation or hire.

1 SECTION 40. A pilot's license shall expire one year from the date of
2 its issue. Applications for renewal may be made before the date of
3 expiration in such manner as the registrar directs. The fee for a license
4 or for a renewal thereof shall be five dollars, except that the fee for a
5 license limited to the operation of gliders shall be three dollars, and for
6 a renewal thereof, two dollars. Each initial application for a license,
7 except a license limited to the operation of gliders, shall also be accom-
8 panied by a fee of five dollars for examination. If the applicant is not
9 licensed the license fee, but not the examination fee, shall be refunded.
10 The fee for every subsequent examination shall be five dollars. The fee
11 for every additional copy of a certificate of registration, license or permit
12 to replace one that has been lost or mutilated shall be one dollar. The
13 fee for every certified copy of an application, certificate of registration,
14 license or permit shall be one dollar.

1 SECTION 41. No such license shall be required of any aviator while
2 flying in line of duty in the service of the United States or of this or
3 another state thereof or of a foreign country. A person holding any
4 class of pilot's license issued after proper examination by authority of
5 the United States or of another state thereof or of a foreign country
6 may, without further license, operate aircraft within the common-
7 wealth for not exceeding ten days in any one calendar year. No such
8 person shall engage in flying within the commonwealth for more than
9 ten days in any calendar year without having previously filed with the
10 registrar a statement in writing containing his name, his address in this
11 commonwealth, the authority as aforesaid issuing his license, the num-
12 ber thereof, if any, and an appointment of the registrar and his successor
13 in office to be his true and lawful attorney upon whom may be served
14 all lawful processes in any action or proceeding against him growing out
15 of any accident or collision in which he may be involved while operating
16 within the commonwealth, and also containing his agreement that any
17 lawful process against him which is served upon the registrar or his
18 successor in office as such attorney shall be of the same legal force and
19 validity as if served on him personally, and that the registrar and his
20 successor in office shall continue to be his said attorney so long as any
21 liability on account of such an accident or collision remains outstanding
22 against him. Sections three A to three E, inclusive, shall apply to such
23 service.

24 A person not licensed or authorized under any provision of this and
25 the six foregoing sections may operate an aircraft if accompanied by a
26 pilot licensed or authorized to operate such aircraft; but such licensed
27 or authorized pilot shall be liable for a violation of any provision of
28 sections forty-nine to fifty-nine, inclusive, or of any rule or regulation
29 made thereunder, committed by such unlicensed or otherwise unauthor-
30 ized person while so accompanied; provided, however, that nothing in
31 this section shall be construed to impose any liability upon a passenger
32 in a commercial aircraft who did not know that the pilot was unlicensed
33 or unauthorized.

Term of
licenses.
Fees.
1922, 534, § 1.
1931, 244, § 1;
303, § 1.

License, when
not required.
1922, 534, § 1.
1925, 189, § 1.
1928, 388, § 5.
1931, 303, § 2.

Statement,
when to be
filed with
registrar.

Operation by
unlicensed
person
accompanied
by licensed
pilot.

Operation by
unlicensed
pilot for
instruction
purposes.

For the purposes of instruction in flying, an unlicensed pilot may, with the consent of and under the observation of his instructor, operate a licensed aircraft over a field approved by the registrar or over open water. No unlicensed person shall accompany such unlicensed pilot in the same aircraft. The term aircraft, as used in this section, shall mean aircraft registered by the registrar or authorized to be operated without such registration in this commonwealth under section forty-seven.

Definition.

Applications
for registration.
1922, 534, § 1.

SECTION 42. Every application for the registration of an aircraft shall be made by the owner thereof. The application shall contain, in addition to such other particulars as are required by the registrar, a statement of the name, place of residence and local address, if any, of the applicant, together with a brief description of the aircraft sought to be registered.

Preliminary
exhibition and
operation of
aircraft.
1922, 534, § 1.

SECTION 43. Upon application for the registration of any aircraft, the applicant shall, at the request of the advisory board, have the aircraft operated by a pilot provided by the applicant. In addition, the aircraft shall be exhibited to the board, on the ground, in such manner and at such time and place as shall be required by the board in order to make possible a careful examination of its construction. The board shall thereupon determine whether such aircraft is suitable for registration.

Designation
for registration.
1922, 534, § 1.

SECTION 44. Each aircraft registered shall be designated as either private or commercial. A commercial registration shall entitle the aircraft to be used in commercial flying, and, unless specifically restricted therefrom, in private flying. A private registration shall entitle the aircraft to be used in private flying only.

Symbols;
form and
arrangement.
Exceptions.
1922, 534, § 1.
1928, 388, § 6.

SECTION 45. Except as hereinafter provided, each aircraft registered by the registrar shall be designated by a symbol consisting of a combination of letters or numbers, or both. The symbol of each aircraft shall be determined by the registrar at the time of registration. Before any registered aircraft is operated, the symbol of such aircraft shall be painted upon both vertical sides of the fuselage and upon the lower wing surface, in such color and shade as to be easily legible. On the lower wing surface the height of each letter shall be not less than three feet, except where the chord of the lower wing is less than three feet and nine inches, in which case the height shall be at least four fifths of the chord. On the fuselage, the height of the letters shall be not less than two feet and six inches. The exact form and arrangement of the letters and numbers shall be as specified by the registrar from time to time. If such designation is impracticable, the symbol shall be displayed in any other manner approved by the registrar. In the discretion of the registrar, no such designation shall be required of any aircraft already bearing a symbol designated by the federal government or by that of another state of the United States or of any foreign country.

Expiration of
registrations.
Renewals, fees.
1922, 534, § 1.
1931, 244, § 2.

SECTION 46. All registrations shall expire upon the last day of each calendar year unless previously revoked by the registrar. Applications for renewal may be made before the date of expiration in such manner as

4 the registrar directs. The fee for each registration or renewal shall be
5 fifteen dollars, except that the fee for the registration of a glider, or for
6 the renewal thereof, shall be three dollars.

1 SECTION 47. No such registration shall be required as to (1) aircraft
2 belonging to the United States or to this or another state thereof under
3 whose laws aircraft belonging to this commonwealth are exempt from
4 registration; (2) aircraft registered under federal law; or (3) aircraft,
5 used for private flying only, registered by authority of another state of the
6 United States or of a foreign country. No aircraft not registered by the
7 registrar shall, except as otherwise provided by federal law, engage in
8 flying in the commonwealth for more than ten days in any calendar year,
9 unless the owner or operator thereof has previously filed with the registrar
10 a statement in writing containing the make, model and year of manu-
11 facture of the aircraft, a replica of the symbol carried by it, the authority
12 as aforesaid whereby registered, the registration number and the name
13 and address in this commonwealth of said owner or operator.

Registration,
when not
required.
Limitations
upon flying of
unregistered
aircraft
1922, 534, § 1.
1928, 388, § 7.
1930, 33, § 1.

1 SECTION 48. Unregistered aircraft may be operated over approved
2 flying fields or large bodies of open water for the purpose of testing the
3 machines or for experimental purposes; provided such aircraft remain
4 at all times close enough to such flying field or open water to return thereto
5 by a glide having a mean slope of one foot descent for every five feet of
6 horizontal travel. No unregistered experimental aircraft shall be op-
7 erated at any altitude whatever over any thickly settled or business dis-
8 trict or over any assemblage of persons.

Experimental
operation of
unregistered
aircraft.
1922, 534, § 1.

1 SECTION 49. The registrar may suspend, or after due hearing, revoke,
2 a pilot's license or right to operate,

3 (a) If, in the opinion of the registrar, the pilot is not a proper person to
4 operate aircraft, or has operated any aircraft in a manner dangerous to
5 any person or has not used due care and caution while flying with pas-
6 sengers, even though not then engaged in commercial flying, or

7 (b) If the pilot exceeds his authority under his license, or

8 (c) Upon the use by the pilot of an unregistered aircraft, except as
9 provided in section forty-seven or forty-eight, or

10 (d) For violation of any provision of sections fifty-two to fifty-four,
11 inclusive, or

12 (e) For operating an aircraft after the damage or deterioration referred
13 to in section fifty has occurred and before full compliance with the pro-
14 visions of said section.

15 The registrar shall suspend for at least three months, and may after due
16 hearing revoke, the license or right to operate of a pilot who has been
17 found guilty of operating an aircraft while under the influence of liquor.

18 The registrar may suspend, or after due hearing, revoke, the registra-
19 tion or right of operation of an aircraft,

20 (a) If it is used for any purpose not authorized by its registration, or

21 (b) Upon violation of any provision of section fifty or fifty-three.

22 Action by the registrar under this section shall not relieve the licensee
23 from further liability or penalty.

Suspension or
revocation of
license or
registration.
1922, 534, § 1.
1928, 388, § 8.
1930, 33, § 2.

General Provisions.

Accident involving injury or death, or damage to aircraft. Notice to registrar. 1922, 534, § 1. 1930, 33, § 3.

SECTION 50. Every person operating any aircraft which is in any manner involved in an accident in which any person is killed or injured shall forthwith report in writing to the registrar. When any aircraft shall have been damaged in any structural part other than the engine or tires, such damage shall forthwith be reported in writing to the registrar by the person operating the same, and such aircraft shall not again be operated until the damaged part has been replaced in whole by a suitable new part, or, if it is not so replaced, until the aircraft has been approved by the advisory board.

Where such damage occurs while the aircraft is outside the commonwealth, it must be reported before the aircraft is again operated within the commonwealth.

When any registered aircraft shall, in the opinion of the advisory board, have become unfit for operation through deterioration or otherwise, notice thereof shall be given to the owner and such aircraft shall not again be operated until it has been repaired and has been approved by the advisory board.

Operation over open air assembly regulated. 1922, 534, § 1.

SECTION 51. No aircraft shall be operated over any open air assembly of persons, except by special permission of the registrar. No heavier-than-air aircraft shall be operated over such an assembly at an altitude of less than one thousand feet, or at an altitude which does not allow at least one thousand feet of vertical drop to every mile of horizontal distance required to reach a proper landing place in case of engine failure.

Acrobatic flying by certain aircraft regulated. 1922, 534, § 1.

SECTION 52. No aircraft engaged in commercial flying shall, while carrying passengers, be looped, deliberately spun, or otherwise caused to perform aerial acrobatics. This prohibition shall not apply to an aircraft while used for giving instruction in flying and shall not prevent an instructor from teaching acrobatic flying to a pupil, but in no case shall such flying be engaged in over thickly settled or business districts or where it might reasonably be expected to cause personal injury or fear thereof to persons below.

Use of aircraft for certain feats of daring prohibited. Dropping of missiles regulated. 1922, 534, § 1. 1925, 189, § 2. 1928, 388, § 9. 1931, 303, § 3.

SECTION 53. No aircraft shall be used in the commonwealth for the purpose of giving a public exhibition in which any person attempts a transfer from one aircraft to another while in flight or between any aircraft in flight and any other vehicle or the ground, or in which any person leaves the cockpit of an aircraft to perform any feat of daring, or uses any part of an aircraft in a manner other than that intended by its designer; nor shall any pilot licensed or authorized in the commonwealth take part in such an exhibition. No person shall throw or drop any missile or other article from any aircraft in flight except over grounds temporarily or permanently reserved for such purpose or over open water. Nothing in this section shall be construed to prohibit the use of parachutes as a means of safe descent or the release of fine sand or liquid without containers by a lighter-than-air craft over thinly settled areas.

Load regulated. 1922, 534, § 1.

SECTION 54. The load carried by a registered aircraft shall not exceed that recommended by the manufacturer, except by permission of the registrar.

1 SECTION 55. No pilot shall operate an aircraft over any thickly
2 settled or business district except at a height sufficient to permit of a
3 reasonably safe emergency landing. Such height in no case shall be
4 less than one thousand feet, except when necessary for the purpose of
5 embarking or landing.

Minimum
altitude for
flying.
1922, 534, § 1.
1928, 388, § 10.
279 Mass. 511.

1 SECTION 56. No person shall land any aircraft in a public way or
2 public park without permission from the authorities in charge thereof.
3 No person shall land any aircraft on any field in which there are ten or
4 more persons unless such field contains a space free from persons and
5 at least three hundred yards long in the direction of landing and at least
6 one hundred yards wide, and in such case the landing shall be so made
7 that the aircraft shall not at any time while on or within twenty feet of
8 the ground pass within fifty yards of any person; provided, however,
9 that this section shall not apply to fields regularly designated for use by
10 aircraft as specified in section fifty-seven nor to fields the proper policing
11 of which has been previously arranged.

Landing
regulated.
1922, 534, § 1.

1 SECTION 57. Landing places for aircraft may from time to time be
2 established and may be maintained by the department of public works
3 or by other public officials in charge of any land owned or controlled
4 by the commonwealth or by any city, town or district thereof. Rules
5 and regulations governing the use of such landing places may be made
6 by said department or officials establishing or having charge of the same,
7 but the department, of its own motion or upon petition of any interested
8 party, may at any time alter, amend or revoke any such rule or regulation
9 and establish other rules and regulations governing said use. The de-
10 partment may likewise make, and may alter, amend or revoke, rules
11 and regulations governing the use of any landing place established
12 otherwise than by public authority. The said department, after public
13 hearing, may issue an order permitting the use of any landing field
14 already in use or proposed to be established, or prohibit such use if in
15 its opinion it would be inconsistent with the public interest. The regis-
16 trar, with the approval of the commissioner of public works, may by
17 order prohibit aircraft flying from or landing on any place other than
18 an established landing field which the registrar deems unsafe for such
19 flying or landing.

Landing
fields; estab-
lishment,
maintenance
and regulation.
1922, 534, § 1.
1928, 388, § 11.
279 Mass. 511.

1 SECTION 58. The registrar may from time to time prepare rules and
2 regulations consistent with sections thirty-five to fifty-nine, inclusive,
3 governing the use, operation and registration of aircraft and the licensing
4 of pilots thereof. Such rules and regulations shall be subject to ap-
5 proval, and shall take effect, in the manner provided by section six of
6 chapter sixteen.
7 Any person aggrieved by any regulation, ruling or decision of the
8 registrar, relative to the use, operation and registration of aircraft or
9 the licensing of pilots thereof, or by any order of the registrar made under
10 section fifty-seven, may appeal as provided in section twenty-eight and
11 the provisions of said section shall apply to such appeal.

Rules and
regulations,
and appeals
therefrom.
1922, 534, § 1.
1928, 388, § 12.

1 SECTION 59. Whoever violates any provision of sections thirty-five
2 to fifty-eight, inclusive, or any rule or regulation made thereunder, or
3 any order of the registrar made under section fifty-seven, shall be pun-
4 ished by a fine of not less than ten nor more than five hundred dollars,

Penalties.
1922, 534, § 1.
1925, 180, § 5.
1928, 388, § 13.

or by imprisonment for not less than one month nor more than six months, or both. Whoever operates an aircraft while under the influence of intoxicating liquor shall be punished by imprisonment for not less than one month nor more than two years.

Court enforcement of provisions as to aircraft. 1928, 388, § 14.

SECTION 60. The superior court shall have jurisdiction in equity to enforce the provisions of sections thirty-five to fifty-nine, inclusive, and rules, regulations and orders made thereunder, and to restrain the violation thereof.

CHAPTER 91.

WATERWAYS.

SECT.	SECT.
1. Definitions.	22. Additional compensation when title to land is in the commonwealth.
2. Duties of department relative to commonwealth lands and certain islands.	23. Unauthorized erections, etc., in tide waters to be nuisances.
2A. Powers as to property in Plymouth acquired, etc., by Pilgrim tercentenary commission.	24. Certain moneys to be paid into general fund, etc.
3. Powers as to part of Boston harbor.	25. Powers and duties relative to province lands.
4. Development of Boston harbor. Access to piers, railroads, etc.	26. Portion of province lands exempt from certain provisions of law.
5. Power to take and hold real estate, etc., and build thereon.	27. Bounds, etc., of province lands.
6. Power to lease wharves, piers, etc. Port of Boston Fund.	28. Unlawful existing structures not legalized.
7. Equipment of piers, etc.	29. Cities and towns may appropriate money and assume liabilities for certain improvements, etc.
8. To acquire title, etc., to Apple island, etc.	30. Prohibition of removal of gravel, etc., from beaches. Penalty.
9. To make plans, etc., for the utilization of acquired property, etc.	31. Surveys, improvements, etc., of harbors.
10. Powers and duties relative to harbors, etc.	32. Connecticut river to be surveyed, etc.
11. Improvement and preservation of rivers, harbors, etc.	33. Improving the topographical survey of the commonwealth. Sale of maps.
12. May license certain structures in Connecticut, Westfield and Merrimack rivers.	34. Establishment of harbor lines.
13. Licenses in Connecticut river and great ponds as to booms, etc.	35. Great ponds defined.
14. License of erections, pipe lines, etc., in, over or under tide waters.	36. Applications to congress for appropriations for harbors.
15. Licenses to be revocable and to expire in five years, except so far as acted on.	37. Enforcement of stipulations in deeds from the commonwealth.
16. Certain authority heretofore granted in Boston harbor to cease, etc., when.	38. Removal of wrecks, etc., on shores, etc.
17. Licenses, how to be construed, etc.	39. Removal of wrecks, etc., in tide waters.
18. Licenses, form of; how granted, etc.	40. Notice to owner of vessel.
18A. Public access to great ponds.	41. Removal after notice.
19. Structures in great ponds restricted.	42. Liability for expense of removals.
20. Supervision of erections, etc., in tide waters, ponds, etc., under legislative grants.	43. Vessel may be sold, when.
21. Compensation for tide water displaced.	44. Insurer liable, when.
	45. Application to United States for reimbursement.
	46. Breaking up and disposal of certain floating structures, etc.
	47. Same subject. License, bond, etc.

<p>SECT. 48. Department may complete work, when. 49. Penalty for grounding scow, etc., failing to obtain license, etc. 50. Foreign corporations engaged in wrecking or salvaging business to be licensed, etc. Penalty. 51. Preceding section not to impair any right, etc., derived from federal government. 52. Transportation and dumping of dredged material in tide waters, etc. Payment of cost of supervision.</p>	<p>SECT. 53. Terms of license, etc. 54. Supervision of dumping. Collection of cost of supervision. 55. Penalty. 56. Four preceding sections not to apply to certain officials. 57. Jurisdiction of violations of this chapter. 58. Arrest without warrant. 59. Discharge of oils, etc., into or on certain waters and flats prohibited.</p>
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1 SECTION 1. In this chapter, unless the context otherwise requires, the Definitions
2 following words shall have the following meanings:
3 "Boston harbor", that part of Boston harbor lying westerly and in- 1911, 748, § 4.
4 side of a line drawn between Point Allerton on the south and the southerly
5 end of Point Shirley on the north.
6 "Department", the department of public works. 1919, 350,
7 1931, 394, § 49. § 113.
8 "Structure" or "structures", as used in sections ten, twelve to twenty- 1927, 106, § 1.
9 two, inclusive, twenty-eight and thirty-four, shall include pipe lines,
10 wires and cables, and all words used in connection with "structure" or
11 "structures" shall mean and include their appropriate equivalent as
12 applied to pipe lines, wires and cables.

1 SECTION 2. The department shall, except as otherwise provided, Duties of
2 have charge of the lands, rights in lands, flats, shores and rights in tide department
3 waters belonging to the commonwealth, and shall, as far as practicable, relative to
4 ascertain the location, extent and description of such lands; investi- commonwealth
5 gate the title of the commonwealth thereto; ascertain what parts thereof lands and
6 have been granted by the commonwealth; the conditions, if any, on certain islands.
7 which such grants were made, and whether said conditions have been 1859, 223;
8 complied with; what portions have been encroached or trespassed on, Res 103
9 and the rights and remedies of the commonwealth relative thereto; pre- G. S. 5, § 15;
10 vent further encroachments and trespasses; ascertain what portions of 15, § 24
11 such lands may be leased, sold or improved with benefit to the common- 1875, 239.
12 wealth and without injury to navigation or to the rights of riparian §§ 1, 2, 4, 8
13 owners; and may lease the same. It may sell and convey, or lease, any P. S. 19, § 3.
14 of the islands owned by the commonwealth in the great ponds. It may 1886, 144.
15 make contracts for the improvement, filling, sale, use or other disposi- 1897, 392.
16 tion of the lands at and near South Boston known as the Common- R. L. 96, § 3
17 wealth flats, may lease any portion thereof with or without improve- 1904, 379
18 ments thereon, may regulate the taking of material from the harbor and 1919, 350.
19 fix the lines thereon for filling said lands. All conveyances and con- §§ 111, 113
20 tracts, and all leases for more than five years, made under this section 1931, 394, § 50.
21 shall be subject to the approval of the governor and council. 202 Mass. 437.
205 Mass. 523.
224 Mass. 31.
249p. A. G.
507, 479
Op. A. G.
(1919) 71.

1 SECTION 2A. The department, having charge under section two of Powers as to
2 the lands, pier, structures and other property in the town of Plymouth property in
3 belonging to the commonwealth which were acquired, built or improved Plymouth
4 by the Pilgrim tercentenary commission under chapter one hundred and acquired, etc.,
5 eighty-seven of the Special Acts of nineteen hundred and nineteen, may by Pilgrim
6 tercentenary
7 commission.
8 1925, 264, § 1.
9 1931, 394, § 51.

repair, alter and maintain said pier and other structures, and if it deems 6
 it advisable remove said pier, or may equip, operate and administer 7
 the same for the benefit of the commonwealth, and may from time to 8
 time make such rules and regulations, and may charge such reasonable 9
 rates for the use of said pier and equipment, as shall be approved by the 10
 governor and council. All receipts hereunder shall be paid into the 11
 state treasury. The town of Plymouth shall have police jurisdiction 12
 over said lands, pier and other property. Subject to appropriation 13
 and with the approval of the governor and council, the department may 14
 arrange with said town or with any appropriate memorial or historical 15
 society for the care, maintenance and use of said lands, pier and other 16
 property or any part or parts thereof, and said town is hereby author- 17
 ized to appropriate money to pay the costs and expenses of such care 18
 and maintenance. With the approval of the governor and council, the 19
 department may sell and convey or lease said pier. 20

Powers as to
 part of Boston
 harbor.
 1897, 486, § 5.
 R. L. 96, § 12.
 1911, 748,
 §§ 2-4.
 1919, 325; 350,
 § 113.
 1931, 394, § 52.
 173 Mass. 495.

SECTION 3. The department shall have all the rights, powers and 1
 duties transferred to the directors of the port of Boston under section 2
 four of chapter seven hundred and forty-eight of the acts of nineteen 3
 hundred and eleven in respect to lands, rights in lands, flats, shores, 4
 waters and rights belonging to the commonwealth in tide waters and 5
 land under water in Boston harbor, or which adjoin the same or are 6
 connected therewith, and shall have the same powers and duties relative 7
 thereto as it has with respect to the Commonwealth flats under section 8
 two. It may, in accordance with such plans as it adopts, excavate and 9
 dredge in Boston harbor wherever public convenience and necessity 10
 require. It shall at all times have access to any maps, charts, plans and 11
 documents in the custody of any public board, commission or officer 12
 relating to waters and lands in charge of the department, shall have 13
 immediate charge of lands owned or acquired by the commonwealth 14
 upon or adjacent to the Boston harbor front, except lands under control 15
 of the metropolitan district commission, and shall have charge of the 16
 construction of piers and other public works in said harbor, shall ad- 17
 minister all terminal facilities under control of the department and 18
 shall secure and keep full information as to the present and probable 19
 future requirements of steamships and shipping and the best means which 20
 can be provided at the port of Boston for the accommodation of steam- 21
 ships, railroads, warehouses and industrial establishments. 22

Development
 of Boston
 harbor. Access
 to piers, rail-
 roads, etc.
 1910, 648, § 5.
 1911, 748,
 §§ 4, 10, 18.
 1913, 635, § 1.
 1919, 350,
 § 113.
 1931, 394, § 53.

SECTION 4. The department shall undertake such work for the 1
 improvement, development, maintenance and protection of Boston 2
 harbor as it deems reasonable and proper. It may, with the approval 3
 of the governor and council, grade and suitably surface any railroad 4
 locations or traffic ways which are or may be located on lands, flats or 5
 rights therein, owned or acquired by the commonwealth in Boston 6
 harbor, and may carry said ways or railroads over or under any railroad 7
 or railway location or public way in order to eliminate crossings at grade, 8
 and may provide suitable and convenient track connections between the 9
 rails serving any pier or piers and those of any existing or proposed rail- 10
 road that now reaches or hereafter may reach Boston. All piers con- 11
 trolled by the department shall be accessible and open to all teaming 12
 and lighterage traffic, subject to such regulations as the department 13
 may from time to time make. Upon application to the department, 14
 any railroad company that now reaches or hereafter may reach Boston, 15

16 either by its own rails or under trackage or traffic contract or agreement
17 with any other railroad company, shall be provided by the department
18 with a track connection with the tracks serving such pier or piers.

1 SECTION 5. With the consent of the governor and council, the depart-
2 ment may take by eminent domain under chapter seventy-nine or acquire
3 by purchase or otherwise, and hold, such real property and such rights
4 and easements therein as the department may from time to time consider
5 necessary for the purpose of constructing, or securing the constructing
6 or utilizing of, piers and, in connection therewith, highways, waterways,
7 railroad connections, storage yards and sites for warehouses and industrial
8 establishments, and may lay out and build thereon, and upon such other
9 lands within its jurisdiction under section three, such piers, with build-
10 ings and appurtenances, docks, highways, waterways, railroad connec-
11 tions, storage yards and public warehouses as the department deems
12 desirable; provided, that if general plans bearing the signed approval of
13 the department, given after due notice and a hearing, describing the
14 property and showing the location and character of any proposed docks,
15 piers, wharves, warehouses, factories, power plants, and industrial termi-
16 nals, of adequate and proper design and general suitability for the pur-
17 poses for which they are to be used, shall be filed with the department,
18 together with a notice signed by the owners or lessees or by others having
19 legal rights in the premises stating that they propose to construct upon
20 the property described the improvements shown by said plans and claim-
21 ing exemption from the taking by eminent domain as herein authorized
22 of any of such property, including the lands upon which said improve-
23 ments are to be constructed, then said land and said improvements shall
24 not be taken by the department by right of eminent domain without au-
25 thorization of the general court granted within forty years after the date
26 of filing of said plans, if substantial construction in general accordance
27 with such plans is actually begun in good faith within one year after the
28 date of approval by the department of the plans, and if said improvements
29 are finished substantially in accordance therewith within five years after
30 the beginning of construction of said improvements unless the department
31 shall extend the time within which said improvements shall be completed;
32 and provided, that after completion, said improvements during said
33 period of forty years are kept in suitable repair and are used for the pur-
34 poses to which said approval applied, and provided, that if general plans
35 bearing the signed approval of the department, given after due notice and
36 a hearing, and describing the property, and the location and character
37 of any existing docks, piers, wharves, warehouses, factories, power plants,
38 and industrial terminals, and certifying that they are of proper design
39 and adequate and suitable for the purposes for which they are to be used,
40 and that they are in proper condition and in thorough repair, shall be filed
41 with the department, together with a notice signed by the owners or
42 lessees, or others having legal rights in the premises and claiming exemp-
43 tion from the taking by eminent domain as authorized by this section of
44 any such property, including the lands upon which said improvements
45 have been constructed, then said land and said improvements shall not
46 be taken by the department by the right of eminent domain without
47 authorization of the general court granted within forty years after the
48 date of the approval by the department, if during that time such property
49 is kept in suitable repair and is used for the purposes to which said ap-
50 proval applied; and provided, that none of the exemptions from the right

Power to
take and
hold real
estate, etc.,
and build
thereon
1911, 748, § 5.
1919, 350,
§ 113.
1931, 394, § 54.

of eminent domain herein provided for shall apply to the taking by the department of any property necessary for providing suitable and convenient track connections between the rails serving any piers that may be built, or acquired or improved under sections four and five or may have been built or acquired or improved under corresponding provisions of earlier laws, and the rails of any existing or proposed railroad that reaches or may reach Boston.

Power to lease wharves, piers, etc. Port of Boston Fund. 1897, 486, § 5. R. L. 96, § 12. 1911, 748, § 9. 1912, 181; 663, § 1. 1916, 232. 1919, 350, § 113. 1931, 394, § 55.

SECTION 6. The department may lease for a period not exceeding twenty years, under such covenants and conditions as it prescribes, storage facilities, wharves, piers, bulkheads, docks, sheds, warehouses, foreshores and industrial locations in Boston harbor within its charge. It may lease sites for warehouses and industrial locations for a longer period, but every lease of such sites for a period exceeding twenty years shall provide for a readjustment of the rental at intervals of not more than twenty years. No lease for a term exceeding five years shall be valid until approved by the governor and council. The income from all wharfage and storage rates, use of cranes, lighterage, dockage and other charges, and from the leases of lands, storage structures, wharves, piers, docks, sheds, warehouses and industrial sites, all moneys received by the commonwealth under section twenty-one for tide water displacements in Boston harbor, and all moneys hereafter received which on May twenty-eighth, nineteen hundred and twelve, were required to be paid into the Commonwealth's Flats Improvement Fund, shall be collected by the department and paid to the commonwealth, to the credit of the Port of Boston Fund. Said fund may be invested by the state treasurer at his discretion from time to time as provided for the investment of the commonwealth's funds; and all income from such investments shall be added to the fund. The department may expend the Port of Boston Fund to operate, maintain, repair and preserve the property in Boston harbor in the control of the department, and such sums as the legislature may appropriate annually for salaries, office expenses, and general engineering expenses in connection with the work of the department in Boston harbor shall be paid so far as possible from said fund; any balance remaining from said fund after the aforementioned expenses have been paid shall be applied to the payment of interest and to the annual payments on account of principal of any securities which may have been or may be issued to raise money to be expended by the department for the development of the port of Boston.

Equipment of piers, etc. 1911, 748, § 8. 1919, 350, § 113. 1931, 394, § 56.

SECTION 7. All piers and other similar structures in Boston harbor built by the department or its predecessors shall be equipped, either by the department or by the lessees thereof, with fireproof sheds, railway tracks, cranes and other machinery and accommodations for the convenient, economical and speedy loading and discharge of freight; and the department may acquire, hold and operate such lighters and other vessels as it deems convenient and needed therefor. The department shall make such reasonable rules and regulations and charge such reasonable rates for the use of such structures and equipment as it may from time to time deem wise.

To acquire title, etc., to Apple island, etc. 1911, 748, § 11.

SECTION 8. The department shall take all proper measures to obtain from Boston, without expense to the commonwealth, a conveyance of all the present right, title and interest of said city in and to Apple island,

4 and the flats appurtenant thereto, and in and to any other flats and rights
 5 of said city on the easterly side of East Boston, which the department
 6 deems are required for the development contemplated by section four, and
 7 said Boston may make such conveyance, and in furtherance of the de-
 8 velopment of the port make conveyance to the department or others, but
 9 only for maritime or commercial improvement, of any shore lands owned
 10 by it elsewhere, acquired either by purchase or taking.

1919, 350,
 § 113
 1931, 394, § 57.

1 SECTION 9. The department shall make, and, so far as practicable,
 2 put into execution, comprehensive plans providing, on the lands now
 3 owned or hereafter acquired by the commonwealth in Boston harbor,
 4 adequate piers, capable of accommodating the largest vessels, and in
 5 connection with such piers suitable highways, waterways, railroad con-
 6 nections and storage yards, and sites for warehouses and industrial
 7 establishments.

To make plans,
 etc., for the
 utilization of
 acquired
 property, etc.
 1911, 718, § 12.
 1919, 350,
 § 113
 1931, 394, § 58.

1 SECTION 10. The department shall have general care and supervision
 2 of the harbors and tide waters within the commonwealth, of the flats
 3 and lands flowed thereby, of the waters and banks of the Connecticut
 4 river and the banks and waters of the non-tidal portion of the Merrimack
 5 river and of all structures therein, in order to prevent and remove unau-
 6 thorized encroachments and causes of every kind which may injure said
 7 Connecticut river or said part of Merrimack river or interfere with the
 8 navigation of such harbors, injure their channels or cause a reduction of
 9 their tide waters, and to protect and develop the rights and property of
 10 the commonwealth in such waters, flats and lands; and it may make such
 11 surveys, examinations and observations as it deems necessary therefor.

Powers and
 duties relative
 to harbors, etc.
 1866, 149, § 2.
 P. S. 19, § 6
 1885, 344, § 1.
 R. 1, 96, § 8.
 1914, 717, § 1.
 1919, 350,
 § 113.
 1931, 394, § 59.
 1 Op. A. G. 412.

1 SECTION 11. Outside of Boston harbor, the department shall under-
 2 take such work for the improvement, development, maintenance and
 3 protection of rivers, harbors, tide waters and foreshores as it deems
 4 reasonable and proper, and for this purpose shall have the same powers
 5 conferred upon it by section thirty-one. In selecting the places to do
 6 such work, the department shall consider the general public advantage
 7 of the proposed work, the local interest therein as manifested by munici-
 8 pal or other contributions therefor, the importance of the industrial or
 9 commercial and other interests to be especially served thereby, and any
 10 other material considerations affecting the feasibility, necessity or ad-
 11 vantage of the proposed work or the expenditure therefor. No work
 12 authorized by this section shall be begun until after a public hearing has
 13 been held and a survey and an estimate of the cost has been made.

Improvement
 and preservation
 of rivers,
 harbors, etc.
 1909, 481,
 §§ 1, 2
 1919, 350,
 § 113
 1931, 394, § 60.

1 SECTION 12. The department may license and prescribe the terms for
 2 the construction or extension of a dam, road, bridge, or other structure,
 3 or the filling of land, the driving of piles, or the making of excavations,
 4 in, over, or upon the waters below high water mark of the Connecticut
 5 river or of that part of the Westfield river, in the towns of West Spring-
 6 field and Agawam, lying between the confluence of said river with the
 7 Connecticut river and the bridge across said river at Suffield street in the
 8 said town of Agawam, and in, over and upon the waters of the non-tidal
 9 part of the Merrimack river below high water mark; and the provisions
 10 of this chapter shall apply to all such licenses. Every erection made, and
 11 all work done on or within the banks of the Connecticut river, of said part
 12 of the Westfield river or of said part of the Merrimack river, below high

May license
 certain struc-
 tures in Con-
 necticut,
 Westfield and
 Merrimack
 rivers
 1914, 717,
 §§ 3, 4
 1917, 178, 240.
 1919, 350,
 § 113
 1922, 262, § 1.
 1931, 394, § 61.

water mark, not authorized by the general court or by the department, 13
 or made or done in a manner not sanctioned by the department, without 14
 a license as hereinbefore provided, shall be considered a public nuisance. 15
 The attorney general and the district attorneys within their respective 16
 districts shall, at the request of the department, institute proceedings to 17
 enjoin or abate any such nuisance. This section and any such license shall 18
 not impair the legal rights or remedies of any person. 19

Licenses in
 Connecticut
 river and
 great ponds
 as to booms,
 etc.
 1885, 344, § 3.
 1888, 318, § 4.
 1898, 498.
 R. L. 96, § 18.
 1919, 350,
 § 114.
 1931, 394, § 62.
 190 Mass. 397.
 4 Op. A. G. 169.

SECTION 13. The department may license any person to construct 1
 and maintain booms in or across the Connecticut river, for periods of not 2
 more than five years, in such locations and upon such terms as it pre- 3
 scribes, or to build and extend a wharf, pier or shore wall below high water 4
 mark in said river, or to build or extend a wharf, pier, dam, wall, road, 5
 bridge or other structure, or to drive piles, fill land or excavate in or over 6
 the waters of any great pond below natural high water mark, or at or 7
 upon any outlet thereof, upon such terms as the department prescribes; 8
 but such license shall not validate acts beyond the line of riparian owner- 9
 ship or affecting the level of the waters in such pond, unless approved by 10
 the governor and council. 11

Licenses of
 erections,
 pipe lines, etc.,
 in, over or
 under tide
 waters
 1872, 236,
 §§ 1, 2.
 1874, 347, § 1.
 P. S. 19, § 9.
 R. L. 96, § 17.
 1919, 350,
 § 113.
 1930, 99, § 1.
 1931, 426, § 206.
 217 Mass. 381.
 224 Mass. 31.
 230 Mass. 139.
 1 Op. A. G.
 412, 480.
 2 Op. A. G.
 195, 249.
 4 Op. A. G.
 525.

SECTION 14. The department of public works may license and pre- 1
 scribe the terms for the construction or extension of a wharf, pier, dam, 2
 sea wall, road, bridge or other structure, or for the filling of land or 3
 flats, or the driving of piles in or over tide water below high water mark, 4
 but not, except as to a structure authorized by law, beyond any estab- 5
 lished harbor line, nor, unless with the approval of the governor and 6
 council, beyond the line of riparian ownership. A license shall not be 7
 granted for the construction of a bridge across a river, cove or inlet, 8
 except in a location above a bridge, dam or similar structure authorized 9
 by law over such tide water, in which no draw actually exists or is re- 10
 quired by law, and not then, if objection is made by the aldermen or 11
 selectmen of the town where the bridge is to be built. 12

The said department may license and prescribe the terms for the 13
 construction or extension of a pipe line, conduit or cable under tide 14
 water beyond any established harbor line; provided, that such pipe 15
 line or conduit is entirely imbedded in the soil and does not in any part 16
 occupy, or project into such tide water, and provided also that said 17
 department may at any time require any pipe line, conduit or cable to 18
 be moved or relocated if channel changes or alterations demand the same. 19

Licenses to be
 revocable and
 to expire in
 five years,
 except so far
 as acted on
 1869, 432, § 1.
 1874, 284, § 1.
 P. S. 19, § 12.
 1885, 344, § 3.
 1888, 318, § 5.
 R. L. 96, § 21.
 1914, 717, § 35.
 1917, 478, § 35.
 240, § 1.
 1927, 39, § 1.

SECTION 15. Every authority or license granted since eighteen 1
 hundred and sixty-eight or hereafter granted by the commonwealth to 2
 any person to build a structure or do other work in, over and under the 3
 Connecticut river or the non-tidal part of the Merrimack river or in, 4
 over or under the waters of any great pond or at any outlet thereof 5
 below high water mark, or upon ground over which the tide ebbs and 6
 flows, or to fill up or to enclose the same, whether such ground is above 7
 or below low water mark, or within or beyond one hundred rods from 8
 high water mark, or whether private property or property of the com- 9
 monwealth, shall be subject to the following conditions, whether 10
 expressed in the act, resolve or license granting the same or not: such 11
 authority or license shall be revocable at the discretion of the general 12
 court and shall expire in five years from its date, except as to valuable 13
 structures, fillings or enclosures actually and in good faith built or made 14

15 under the authority or license during the term thereof; but if compen-
 16 sation has been paid to the commonwealth under section twenty-two
 17 or under any similar provision of law, the rights and privileges for which
 18 it has been paid shall not so terminate or be revoked unless provision is
 19 made for repayment of such compensation.

1 SECTION 16. Every authority or license granted since eighteen
 2 hundred and sixty-eight by the general court or by the department or
 3 its predecessors to any person to build or extend a wharf or other struc-
 4 ture upon, or to drive piles in, or to fill or otherwise occupy, land in tide
 5 or navigable water, within Boston harbor, which is revocable at the
 6 discretion of the general court, and every other similar right or privilege
 7 within Boston harbor which is so revocable, whether or not compensation
 8 has been paid under any provision of law or otherwise, shall hereafter
 9 cease and determine, or be subject to forfeiture, in case of non-use of the
 10 same for an unreasonable time without reasonable cause, and it shall be
 11 prima facie evidence that the same is held unused in restraint of trade
 12 when the tendency of such non-use is to prevent competition in its
 13 broad and general sense, unless such person has, prior to July twenty-
 14 eighth, nineteen hundred and twelve, made reasonable and substantial
 15 use of structures, or has reasonably and substantially occupied land in
 16 tide or navigable waters, for the purposes for which the authority or
 17 license was granted; and thereupon, every such authority or license
 18 and every similar right and privilege shall cease and determine on repay-
 19 ment, or tender of repayment, by the commonwealth of compensation
 20 therefor to the amount which shall have been paid to the commonwealth
 21 in accordance with the terms of such authority or license; and the de-
 22 partment and the attorney general shall cause a proper certificate of the
 23 revocation of such authority or license to be recorded forthwith in the
 24 registry of deeds for the county where such structure was built or work
 25 done.

Certain
 authority
 heretofore
 granted in
 Boston harbor
 to cease, etc.,
 when
 1911, 748, § 15
 1919, 350,
 § 113
 1931, 394, § 63.

1 SECTION 17. No license or other authority to build structures upon
 2 or to fill up or enclose any ground mentioned in the two preceding sections
 3 shall be construed to interfere with or impair the right of any person
 4 affected thereby to equal proportional privileges of approaching low
 5 water mark or one hundred rods from high water mark, or harbor lines
 6 established by law, or to impair the right to obtain a license or authority
 7 so to approach of persons having interests in lands or flats which may be
 8 affected thereby, or to impair the legal rights of any person. All things
 9 done under such license or authority shall be subject to the approval
 10 of the department. If the general court establishes a harbor line within
 11 the outer line covered by such license or authority, the same shall be
 12 limited by and not extend beyond such harbor line. This section, so
 13 far as may be, shall apply to licenses granted under section fifteen to
 14 erect structures on great ponds.

Licenses, how
 to be con-
 strued, etc.
 1869, 432,
 §§ 1, 2.
 P. S. 19, § 13.
 1885, 344, § 4.
 1888, 318, § 5.
 R. L. 96, § 22.
 1919, 350,
 § 113.
 1931, 394, § 64.
 4 Op. A. G. 525.

1 SECTION 18. Every license granted under this chapter shall be
 2 signed by the department, shall state the terms on which it is granted
 3 and specify by metes, bounds and otherwise the location, dimensions
 4 and limits and the mode of performing the work authorized thereby.
 5 Before a license is granted, the department shall give notice to the
 6 aldermen or selectmen of the town where the work is to be performed

Licenses, form
 of; how
 granted, etc.
 1872, 236,
 §§ 3, 4.
 1874, 347,
 §§ 1, 2.
 P. S. 19,
 §§ 10, 11
 1885, 344, § 3.

1888, 318, § 5.
R. L. 96,
§§ 19, 20
1917, 178, § 1;
240, § 1
1919, 350,
§ 113
1931, 394, § 65.

that they may be heard. The recital in a license that a notice required by law has been given, or that the aldermen or selectmen have not objected, shall be conclusive evidence of such facts. The department shall keep a record of each license and a plan of the work or structure. Such license shall be void unless, within one year after its date, it and the accompanying plan are recorded in the registry of deeds for the county or district where the work is to be performed.

Public access
to great ponds.
1923, 453
1931, 394, § 66.

SECTION 18A. Upon petition of ten citizens of the commonwealth that in their opinion public necessity requires a right of way for public access to any great pond within the commonwealth, the department and the attorney general or a representative designated by him sitting jointly shall hold a public hearing and receive such evidence thereon as may be presented to them. The joint board may make such additional investigation as it deems desirable and if it appears to said board that such a right of way exists it shall present a petition to the land court for registration of the easement. If it appears that no right of way exists it shall submit a report, together with recommendations thereon, to the general court on or before January first of the following year. This section shall not apply to any body of water used as a source of water supply by the commonwealth or by any town or district, or water company, nor shall it affect the right of the commonwealth or any town or district or water company to the use and control of the waters of any such pond for the purposes of a water supply, nor shall it affect or diminish any existing right to the use of the water of any such pond for mercantile or manufacturing purposes.

Structures on
great ponds
restricted.
1888, 318, § 2.
R. L. 96, § 15.
2 Op. A G 232.

SECTION 19. Except as authorized by the general court and as provided in this chapter, no structure shall be built or extended, or piles driven or land filled, or other obstruction or encroachment made, in, over or upon the waters of any great pond below the natural high water mark; nor shall any erection or excavation be made at any outlet thereof whereby the water may be raised or lowered.

Supervision
of erections,
etc., in
tide waters,
ponds, etc.,
under legisla-
tive grants.
1866, 149, § 4.
P. S. 49, § 8.
1885, 344, § 2.
1888, 318, § 3.
R. L. 96, § 16.
1914, 717, § 2.
1919, 350,
§ 113
1931, 391, § 67.
119 Mass. 315
119 Mass. 518
182 Mass. 80
247 Mass. 483
1 Op. A G 480

SECTION 20. Whoever is authorized by the general court to build over tide waters a bridge, wharf, pier or dam, to fill flats or drive piles below high water mark, or to build any structures in the Connecticut river, or in the non-tidal part of the Merrimack river, or to build or extend any structure or to do any other work mentioned in the preceding section in, over or upon the waters of any great pond, shall not commence such work until he has given written notice thereof to the department and submitted plans of any proposed structure, the flats to be filled, and the manner in which the work is to be performed, and the same has been approved in writing by the department, which may alter such plans and prescribe any direction, limits and manner of doing the work consistent with the legislative grant. Such works shall be supervised by the department.

Compensation
for tide water
displaced.
1866, 149, § 4.
1872, 234
1878, 74, § 1.
P. S. 19,
§§ 14, 15
R. L. 96, § 23.

SECTION 21. The amount of tide water displaced by any structure below high water mark, or any filling of flats, shall be ascertained by the department, which shall require the persons who cause such displacement to make compensation therefor by excavating, under its direction, between high and low water mark in some part of the same harbor a

6 basin for a quantity of water equal to that displaced; or by paying to
 7 the commonwealth, in lieu of such excavation, an amount assessed by
 8 the department, not exceeding thirty-seven and one half cents per cubic
 9 yard of water displaced; or by improving the harbor in any other manner
 10 satisfactory to the department. An assessment for tide water which
 11 has been displaced may be recovered in contract in the name of the
 12 state treasurer.

1919, 350,
 § 113
 § 311, 394, § 68,
 1883 Mass. 205,
 247 Mass. 483,
 2 Op. A. G.
 217, 502
 Op. A. G.
 (1917) 59.

1 SECTION 22. If authority or a license is granted by the general court
 2 or by the department to a person to build a wharf or other structure
 3 upon, or to fill or otherwise occupy, land in tide water, or to build or
 4 extend any structure or drive piles, fill land or make any obstruction,
 5 encroachment or excavation in, over or upon the waters of any great
 6 pond, he shall, before the work is begun, pay to the commonwealth such
 7 compensation for the rights granted in any land the title to which is in
 8 the commonwealth as shall be determined by the governor and council.
 9 This section shall not apply to authority granted to a county, city or
 10 town for the construction, widening or maintenance of a bridge con-
 11 stituting a part of a highway.

Additional
 compensation
 when title to
 land is in the
 commonwealth.
 1874, 284,
 §§ 1, 2
 P. S. 19, § 16
 1888, 318, § 5
 R. L. 96, § 24
 1919, 350,
 § 113
 1931, 394, § 69

1 SECTION 23. Every erection made and all work done within tide
 2 water, or within the waters of a great pond or outlet thereof, or on or
 3 within the banks of the Connecticut river, or the Merrimaek river, be-
 4 low high water mark, not authorized by the general court or by the
 5 department, or made or done in a manner not sanctioned by the de-
 6 partment, if a license is required as hereinbefore provided, shall be con-
 7 sidered a public nuisance. The attorney general or the district at-
 8 torneys within their respective districts shall, at the request of the
 9 department, institute proceedings to enjoin or abate such nuisance, or
 10 to restrain the removal of material from any bar or breakwater of any
 11 harbor.

Unauthorized
 erections, etc.,
 within waters
 to be nuisances.
 1866, 149, § 5,
 P. S. 19, § 17,
 1888, 318, § 6,
 1891, 266, § 1,
 R. L. 96, § 25,
 1919, 350,
 § 113,
 1931, 394, § 70,
 108 Mass. 436,
 118 Mass. 345,
 119 Mass. 518,
 149 Mass. 582,
 198 Mass. 91,
 202 Mass. 437.

230 Mass. 139.

1 SECTION 24. Except as is provided in section six, all moneys received
 2 in payment for tide water displaced and for rights and privileges granted
 3 in tide water land of the commonwealth and in the commonwealth's
 4 land in great ponds, under licenses and permits granted under this chap-
 5 ter for structures and other work, shall be paid into the general fund or
 6 ordinary revenue.

Certain moneys
 to be paid
 into general
 fund, etc.
 1866, 149, § 4,
 1878, 74
 P. S. 19, § 14,
 R. L. 96, § 23,
 1912, 257, § 1.

1918, 21.

1925, 196, § 1.

1 SECTION 25. The department shall have general supervision of so
 2 much of the province lands at Provincetown as lies north and west of a
 3 line beginning at a point at or near the shore of Provincetown harbor,
 4 in latitude north forty-two degrees, two minutes, and longitude west
 5 seventy degrees, eleven minutes, forty-five seconds; thence northwesterly
 6 to a point in latitude north forty-two degrees, three minutes, eight
 7 seconds, and longitude west seventy degrees, twelve minutes, forty-
 8 eight seconds; thence northeasterly to a point in latitude north forty-
 9 two degrees, three minutes, twenty-eight seconds, and longitude west
 10 seventy degrees, eleven minutes, thirty-three seconds; thence due north
 11 to a point in latitude north forty-two degrees, three minutes, forty-eight
 12 seconds; thence due east to a point in the eastern boundary of the
 13 province lands.

Powers and
 duties relative
 to province
 land.
 1862, 470, § 1,
 R. L. 96, § 4,
 1919, 350,
 § 113
 1931, 394, § 71.

Portion of
province lands
exempt from
certain pro-
visions of law.
1893, 470, § 4.
R. L. 96, § 5.

SECTION 26. Section two of this chapter, chapter two hundred and
sixty-one of the acts of eighteen hundred and fifty-four, chapter one
hundred and forty-four of the acts of eighteen hundred and eighty-six,
so much of section one of chapter eleven of the province laws of seven-
teen hundred and twenty-seven as is contained in the following words
“saving always the right and title of this province to the said lands
which is to be in no wise prejudicial”, and all other acts or parts of acts
which refer to the province lands at Provincetown, except the act in-
corporating said town, shall not apply to that portion of said province
lands lying east and south of the line fixed in the preceding section.

Bounds, etc.,
of province
lands
1893, 470, § 2.
R. L. 96, § 6.

SECTION 27. The department shall fix and mark the bounds of the
province lands within its jurisdiction and establish regulations for the
care thereof.

1919, 350, § 113.

1931, 394, § 72.

Unlawful
existing
structures not
legalized.
1888, 318, § 7.
1891, 266, § 2.
R. L. 96, § 26.

SECTION 28. This chapter shall not legalize any structure, filling or
other occupation or encroachment, made or done without authority,
upon the waters in or the land under any great pond prior to May ninth,
eighteen hundred and eighty-eight, or in or upon the Connecticut river,
below high water mark, prior to April thirtieth, eighteen hundred and
ninety-one, or as waiving or impairing any rights or remedies of the com-
monwealth or of any person relative thereto.

Cities and
towns may
appropriate
money and
assume liabil-
ities for certain
improvements,
etc.
1909, 481, § 3.
1913, 435, § 3.
1919, 350,
§ 113.
1931, 394, § 73.

SECTION 29. A town may appropriate money for the improvement of
rivers, harbors, tide waters and foreshores within its jurisdiction, and the
money so appropriated shall be paid to the state treasurer and be expended
by the department for said purposes within the limits of such town; and
the town may also assume liability for all damages to property suffered
by any person by any taking of land, or of any right, interest or easement
therein, within the town made by said department for the purposes
hereinbefore authorized.

Prohibition of
removal of
gravel, etc.,
from beaches.
Penalty.
1884, 269, § 2.
1892, 206.
R. L. 96, § 11.
1931, 394, § 74.
182 Mass. 598.

SECTION 30. If it appears to the department that the digging or re-
moval of stones, gravel, sand or other material, upon or from any beach,
shore, bluff, headland, island or bar, in or bordering on tide waters, or the
destruction of any trees, shrubs, grass or other vegetation growing thereon,
is, or is likely to prove, injurious to any harbor or other navigable tide
waters, the department may, by written notice, prohibit such digging or
removal, or the doing of any acts injurious to such trees or other vegeta-
tion, upon or from any such beach or other place aforesaid specified in such
notice. Whoever, after receiving such notice, wilfully does any act or
thing prohibited therein, and which is authorized to be so prohibited by
this section, or, being the owner or having the control of any land specified
in such notice, wilfully suffers or permits such act or thing to be done
thereon, shall be punished by a fine of not less than twenty nor more than
two hundred dollars.

Surveys, im-
provements,
etc., of harbors.
1901, 398.
§§ 1, 2, 4.
R. L. 96,
§§ 9, 10
1919, 350, § 113.
1931, 394, § 75.
2 Op. A. G. 72.

SECTION 31. The department may make surveys and improvements
for the preservation of harbors and may repair damages occasioned by
storms or other destructive agencies along the coast line or river banks
of the commonwealth, and may take by eminent domain under chapter
seventy-nine, or acquire by purchase or otherwise, in the name and behalf
of the commonwealth, any land or materials necessary for making such

7 improvements or repairs. No contract made under the authority of this
8 section shall be valid until approved in writing by the governor and
9 council.

1 SECTION 32. The department shall, as funds are appropriated there-
2 for, cause that portion of the Connecticut river lying within the common-
3 wealth to be surveyed and plotted, and a copy of such survey within the
4 limits of Hampden, Hampshire and Franklin counties, respectively, to
5 be prepared, attested by them and deposited in the registry of deeds
6 for the county to which it relates, as a public record.

Connecticut
river to be
surveyed, etc.
1885, 344,
§§ 5, 6.
R. L. 96, § 13.
1919, 350,
§ 113.
1931, 394, § 76

1 SECTION 33. The department may make such surveys and do such
2 other work as may be required by any order of the land court, to re-
3 establish and permanently mark certain triangulation points and stations
4 previously established in connection with the topographical survey of the
5 commonwealth, and the town boundary survey, which have been lost or
6 destroyed, and to obtain the geographical position of such new points and
7 stations as may be required from time to time by the court. The depart-
8 ment may sell at such prices and on such conditions as it may prescribe
9 maps prepared by it from time to time in connection with its functions
10 under this chapter in respect to waterways and public lands.

Improving the
topographical
survey of the
commonwealth.
Sale of maps
1915, 223, § 1.
1919, 350,
§ 113.
1923, 57, § 2.
1931, 426,
§ 207.

1 SECTION 34. The department of public works may, after hearing the
2 parties interested, prescribe lines in any harbor of the commonwealth and
3 make report thereof to the general court, not later than the next session,
4 for its action thereon. If such lines are established by the general court
5 as the harbor lines of said harbor, no wharf, pier or other structure shall
6 thereafter be extended into said harbor beyond such lines, except as pro-
7 vided by section fourteen. Notice of the hearing shall be published three
8 weeks successively in a newspaper published in Boston and in one or more
9 published in the county or counties where such harbor lies, the first publi-
10 cation to be at least thirty days before the hearing.

Establishment
of harbor lines.
1866, 149, § 3.
P. S. 19, § 7.
R. L. 96, § 14.
1919, 350,
§ 113.
1930, 99, § 2.
202 Mass. 437.

1 SECTION 35. The provisions of this chapter relative to great ponds
2 shall apply only to ponds containing in their natural state more than ten
3 acres of land, and shall be subject to any rights in such ponds which have
4 been granted by the commonwealth.

Great ponds
defined.
1888, 318, § 1.
R. L. 96, § 27.
198 Mass. 91.

1 SECTION 36. The department may apply to congress for appropri-
2 ations for the protection and improvement of any harbor in the common-
3 wealth.

Applications
to congress for
appropriations
for harbors.

1866, 149, § 6.
P. S. 19, § 18.

R. L. 96, § 28.
1919, 350, § 113.

1931, 394, § 77.

1 SECTION 37. If the commonwealth has the right under stipulations
2 in a deed given in its name to enter upon premises and, at the expense
3 of the party at fault, to remove or alter a building, any of its grantees
4 under similar deeds, their heirs, legal representatives or assigns may in-
5 stitute proceedings in equity to compel the department to enforce such
6 stipulations.

Enforcement of
stipulations in
deeds from the
commonwealth.
1866, 264,
§§ 1-3.
P. S. 19, § 5.
R. L. 96, § 7.
1931, 394, § 78.

101 Mass. 512.

140 Mass. 329.

201 Mass. 214.

1 SECTION 38. The department shall take charge of any wrecked vessel
2 or other shipwrecked property, on any of the shores or waters of the
3 commonwealth, except the Charles river basin, and not in the custody

Removal of
wrecks, etc.,
on shores, etc.
1814, 169,
§§ 1, 2

R. S. 57,
 §§ 2-14,
 1839, 111.
 G. S. 81,
 §§ 2-14.
 P. S. 97,
 §§ 2-14.
 1883, 260, § 7.
 1885, 341,
 §§ 4-7.
 1887, 98,
 §§ 3-15.

of the owner or his agent or of any other person lawfully authorized to take possession of it, if the value thereof is one hundred dollars or more, and may take charge of any such vessel or property if it is of less than said value. The department may make rules and regulations necessary for taking charge of such vessel, or property, for restoring it to its owners upon payment of the expense incurred by the commonwealth in the taking and care thereof, or for otherwise disposing of such property.

R. L. 97, §§ 3-13, 21.
 1918, 257, §§ 334, 335.
 1919, 5; 350, § 113.

1920, 2.
 1931, 394, § 79.

106 Mass. 286.
 4 Op. A. G. 449.

Removal of
 wrecks, etc.,
 in tide waters.
 1883, 260, § 1.
 R. L. 97, § 15.
 1919, 355.
 1919, 350,
 § 113.
 1931, 394, § 80.

SECTION 39. If a wrecked, sunken or abandoned vessel, or any unlawful or unauthorized structure or thing, is deposited or suffered to remain in the tide waters of the commonwealth, except the Charles river basin, and if the department deems it is, or is liable to cause or become, an obstruction to the safe and convenient navigation or other lawful use of such waters, the department shall remove it or cause it to be removed.

Notice to
 owner of
 vessel.
 1883, 260, § 2.
 R. L. 97, § 16.
 1919, 350,
 § 113.
 1931, 394, § 81.

SECTION 40. If any person in the United States is known to the department as the owner of such vessel or of any interest therein, or as having or exercising any control over it as master, agent, insurer or otherwise, or as having alone or with others built, deposited or caused any other unlawful obstruction, or as owning, maintaining or using the same in whole or in part, the department shall give him written notice to remove such vessel or other obstruction within a time therein specified. Such notice shall be deemed a sufficient notice to all such owners and other persons if served on one or more of them by the department, or by its order, by delivering the same in hand, by leaving it at the usual place of business or abode or duly mailing it to the post office address of the owner or other person upon whom it is to be served.

Removal after
 notice.
 1883, 260, § 3.
 R. L. 97, § 17.
 1919, 350,
 § 113.
 1931, 394, § 82.

SECTION 41. If such vessel or other obstruction is not removed within the time specified in such notice, and in a manner and to a place satisfactory to the department, or if no such owner or other person upon whom notice can be served is known to the department, it may remove such vessel or other obstruction, or complete the removal thereof, or cause the removal to be made in such manner and to such place as it deems best; and the necessary cost and expenses of such removal, if not paid by some owner or other person liable therefor, shall, when certified by the department and approved by the governor and council, be paid by the commonwealth.

Liability for
 expense of
 removals.
 1883, 260, § 4.
 R. L. 97, § 18.
 1919, 350,
 § 113.
 1931, 394, § 83.

SECTION 42. Whoever owns a vessel or an interest in a vessel willfully or maliciously wrecked, sunk or abandoned as aforesaid and removed as provided in the preceding section, either when such vessel became an obstruction or at any time before such removal is completed, and whoever has or exercises any control over such vessel or any part thereof, and the persons originally building, depositing or causing any other obstruction so removed, or owning, maintaining or using the same in whole or in part at the time of such removal or at any time prior thereto, shall be liable for the cost and expenses of such removal, or to repay the same when paid by the commonwealth; and such costs and expenses may be recovered in an action of contract brought by the department in the name of the commonwealth against such owners or other persons,

13 or any of them. The attorney general and the district attorneys within
 14 their respective districts shall commence and conduct such actions.
 15 All money so repaid or recovered shall be paid to the commonwealth.
 16 Whoever, on a judgment or otherwise, pays more than his proportion
 17 of the costs and expenses aforesaid, shall have a claim for contribution
 18 against other parties liable therefor according to their respective interests.

1 SECTION 43. If the cost and expenses of removing a vessel or other
 2 obstruction as aforesaid are not paid or repaid by some owner or other
 3 person liable therefor within ten days after such removal has been com-
 4 pleted, the department may sell such vessel or other obstruction, or the
 5 materials and appurtenances thereof, at public or private sale, and the
 6 net proceeds of such sale shall be paid to the commonwealth and deducted
 7 from the amount to be repaid or recovered as provided for in the pre-
 8 ceding section.

Vessel may be
 sold, when
 1883, 260, § 5
 R. L. 97, § 19.
 1919, 350,
 § 113
 1931, 394, § 84.

1 SECTION 44. An insurer of a vessel who has paid the loss thereon
 2 shall not, by reason of such insurance, be held liable to remove such
 3 vessel, or to pay the cost and expenses of such removal, unless he has
 4 exercised some act of ownership or control over such vessel or some
 5 part or appurtenance thereof or received the proceeds of the sale thereof.

Insurer liable,
 when.
 1883, 260, § 6.
 R. L. 97, § 20.

1 SECTION 45. The department shall make application to the govern-
 2 ment of the United States for reimbursement of any amounts expended
 3 under any provision of the seven preceding sections, which, in the opin-
 4 ion of the department, might properly be paid by the United States.

Application to
 United States
 for reim-
 bursement.
 1883, 260, § 10.
 R. L. 97, § 23.

1919, 350, § 113.

1931, 394, § 85.

1 SECTION 46. The owners of any vessel, scow, lighter or similar
 2 floating structure lying within the limits of any harbor of the common-
 3 wealth shall not, without first obtaining a license therefor from the
 4 department, cause or permit the same to be broken up or altered to
 5 such an extent that it will not keep afloat with ordinary care, nor shall
 6 they ground any such craft within any such harbor or permit other
 7 persons so to do, or to remove any part thereof.

Breaking up
 and disposal
 of certain
 floating struc-
 tures, etc.
 1908, 595, § 1.
 1919, 350,
 § 113.
 1931, 394, § 86.
 [Penalty, § 49.]

1 SECTION 47. Upon the application of the owner of any vessel, scow,
 2 lighter or similar floating structure, the department may issue a license
 3 authorizing him to break up such vessel or other floating structure upon
 4 the following conditions: first, that the written consent of the owner of
 5 the premises where the work is to be done shall first be obtained and
 6 filed with the department; second, that all the material composing the
 7 vessel or other structure shall be removed wholly from tide water, to
 8 the satisfaction of the department; third, that the work shall be com-
 9 pleted within a certain fixed time, which may be extended by the depart-
 10 ment; fourth, if the work is not completed at the time fixed in the
 11 license or as so extended, the department may cause the work to be
 12 completed at the expense of the licensee; and fifth, such other conditions
 13 as the department deems proper in any case. Before receiving the
 14 license, the licensee shall file a bond with the department in a sum fixed
 15 by it, with satisfactory sureties, in which the commonwealth is obligee,
 16 conditioned to perform the provisions of the license and to pay to the
 17 commonwealth such sums as it may expend in connection with the
 18 work licensed.

Same subject.
 License, bond,
 etc.
 1908, 595,
 §§ 2, 3.
 1919, 350,
 § 113.
 1931, 394, § 87.
 [Penalty, § 49.]

Department
may complete
work, when
1908, 595, § 4.
1919, 350,
§ 113.
1931, 394, § 88.

SECTION 48. Whenever a licensee under either of the two preceding sections fails to comply with the terms of his license, the department may proceed to complete the work and remove from tide water all materials composing the vessel or other structure, and the cost thereof shall, in the first instance, be paid from the appropriation made therefor. If not repaid to the commonwealth by the licensee, upon demand, it may be recovered by the state treasurer in contract, brought by him in behalf of the commonwealth in the superior court against the licensee or the sureties on his bond.

Penalty for
grounding
scow, etc.,
failing to
obtain li-
cense, etc.
1908, 595, § 5.
1910, 255,
1928, 122.

SECTION 49. Whoever intentionally grounds any vessel, scow, lighter or similar floating structure within the limits of any harbor of the commonwealth or permits other persons so to do shall be punished by a fine of not less than fifty nor more than five hundred dollars. Whoever fails to obtain the license required by section forty-seven, before beginning the work of breaking up or altering any vessel, scow, lighter or similar floating structure, as described in section forty-six, shall be subject to a penalty of not less than five dollars nor more than five hundred dollars to the use of the commonwealth, to be recovered by an information in equity brought by the attorney general, at the relation of the state treasurer, in the supreme judicial court.

Foreign cor-
porations en-
gaged in wreck-
ing or salvaging
business to be
licensed, etc.
Penalty.
1917, 305,
§§ 1, 2.
1919, 350,
§ 113.
1931, 394, § 89.

SECTION 50. No foreign corporation shall engage in the business of wrecking or salvaging in the navigable waters of the commonwealth without first obtaining a license therefor from and filing a bond with the department. The license, effective for one year from the date of its issue, shall be granted upon payment of a fee, not exceeding twenty-five dollars, to be fixed by the department. The bond shall run to the state treasurer in a sum and with security satisfactory to the department, and shall be conditioned upon payment by the licensee of such amounts as shall lawfully be due to any person for damage to person or property caused by any act of the corporation, its agents or servants, in the commonwealth. Whoever violates this section shall be punished by a fine of not less than fifty nor more than three hundred dollars.

Preceding
section not
to impair any
right, etc.,
derived from
federal gov-
ernment.

SECTION 51. The preceding section shall not impair any right or authority derived from, or exercised under, any law of the United States, or any right, license or privilege lawfully granted by any department thereof.

1917, 305, § 3.

Transportation
and dumping
of dredged
material in
tide waters,
etc. Payment
of cost of
supervision.
1907, 229, § 1.
1912, 257, § 2;
663, § 1.
1918, 21.
1919, 350,
§ 113.
1925, 196, § 2.
1931, 394, § 90.

SECTION 52. The department shall supervise the transportation and dumping of all material dredged in the tide waters of the commonwealth, or of any other material which may be placed in scows or boats to be transported and dumped in tide water, and may employ necessary inspectors therefor, who shall accompany the material while in transit, either upon the scows containing the material or upon the boat towing them, upon which they shall be provided with proper and suitable quarters and board by the owner of the boat. The cost of such supervision and also of the supervision under licenses and permits authorizing such transportation or dumping granted by the department, shall in the first instance be paid from such appropriation as may be available, if the material is taken outside of Boston harbor, and from the Port of

13 Boston Fund if taken in said harbor, and shall be repaid to the common-
 14 wealth monthly by the owners of the dredges or other machines doing
 15 the excavating when the material is dredged in tide water and credited
 16 respectively to the general fund or ordinary revenue or to said Port of
 17 Boston Fund, and, in the case of other material, by the owners of the
 18 scows in which it is transported, the monthly amount due from each
 19 owner to be determined and certified to the state treasurer by the de-
 20 partment.

1 SECTION 53. Every license or permit issued to any person to dredge
 2 in the tide waters of the commonwealth shall contain a provision that
 3 the transportation and dumping of the dredged material shall be done
 4 under the supervision of the department as provided in the preceding
 5 section, and that the licensee shall be held liable to pay the cost of said
 6 supervision whenever the owner of the dredge or excavating machine
 7 fails to pay for the same within ten days after written notification from
 8 the state treasurer that the same is due.

Terms of
 license, etc.
 1907, 229, § 2.
 1919, 350,
 § 113.
 1931, 394, § 91.

1 SECTION 54. Every contractor or other person shall, at least three
 2 days before commencing any piece of dredging in tide water, give written
 3 notice to the department of the location and amount of the proposed
 4 work, and the time at which it is expected work will begin and, except
 5 with the written assent of the department, no dredged or other material
 6 which it is proposed to dump in tide water, shall be transported or
 7 dumped within the tide waters of the commonwealth, unless there is
 8 present on board the scows containing the material, or on the boat tow-
 9 ing the same, an inspector employed for that purpose by the department;
 10 and no such material shall, in any event, be dumped within the limits of
 11 any channel which has been deepened by dredging, nor in any other part
 12 of the tide waters of the commonwealth, unless the same is duly author-
 13 ized. The state treasurer may recover in contract from such contractor
 14 or person the cost of supervision determined as provided in the two
 15 preceding sections.

Supervision of
 dumping.
 Collection of
 cost of
 supervision.
 1907, 229,
 §§ 3, 4.
 1919, 350,
 § 113.
 1931, 394, § 92.

1 SECTION 55. Whoever violates any provision of the three preceding
 2 sections or of any license or permit granted under said sections shall, upon
 3 complaint by the department or its agent to the superior court, be sub-
 4 ject to a fine of not more than five hundred dollars, to be paid to the
 5 commonwealth, upon the judgment or order of the court.

Penalty.
 1907, 229, § 5.
 1919, 350,
 § 113.
 1931, 394, § 93.

1 SECTION 56. The four preceding sections shall not apply to the
 2 dredging, transporting and dumping of material by the United States,
 3 its officers or other duly authorized agents.

Four preceding
 sections not
 to apply to
 certain officials.

1907, 229, § 6.

1 SECTION 57. The supreme judicial court shall have jurisdiction in
 2 equity, upon information filed by the attorney general, of violations of
 3 this chapter.

Jurisdiction of
 violations of
 this chapter.

1911, 748, § 16.

1 SECTION 58. Any officer qualified to serve criminal process may,
 2 within his jurisdiction, arrest without a warrant any person found in the
 3 act of committing a misdemeanor in or upon any of the rivers, harbors,
 4 bays or sounds within the commonwealth.

Arrest without
 warrant
 1912, 372.

Discharge of oils, etc., into or on certain waters and flats prohibited, 1929, 1st.

SECTION 59. Whoever pumps, discharges or deposits, or causes to be pumped, discharged or deposited, into or on the waters of any lake or river or into or on tidal waters and flats, any crude petroleum or any of its products or any other oils or any bilge water or water from any receptacle containing any of the said substances, in such manner and to such extent as to be a pollution or contamination of said waters or flats or a nuisance or be injurious to the public health, shall be punished by a fine of not more than five hundred dollars; but this section shall not be construed to prohibit the use of oil for the extermination of mosquitoes or other insects. The provisions of this section shall be enforced by the department of public safety and by all other officers authorized to make arrests.

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CHAPTER 92.

METROPOLITAN SEWERS, WATER AND PARKS.

SECT.	SECT.
METROPOLITAN SEWER DISTRICTS.	
1. Construction and maintenance of sewer works.	17. Public health department to protect metropolitan water by rules, etc. Posting, etc. Proof of rules, etc.
2. Cities and towns to connect local with main sewers.	18. Diversion, pollution, waste, etc., of water and injury to property prohibited.
3. Malicious injury to sewers, etc., penalized.	19. Application of preceding section limited.
4. Disposition of money forfeited on bids and contracts for work on the metropolitan sewers.	20. Commission and its employees to enforce laws and rules relating to water works.
5. Basis of payments from cities and towns of cost of system.	21. Enforcement of laws, rules, etc., by court proceedings.
6. Basis of payments from cities and towns of cost of maintenance.	22. Penalties.
7. Annual determination of proportions.	23. Laws as to municipal water supplies, etc., to apply.
8. Annual determination of required payments for maintenance, etc.	24. Contractors on water works to indemnify cities and towns.
9. Plumbling of estates. Intercepting sewers.	25. Disposition of proceeds of sales of property or bonds.
METROPOLITAN WATER DISTRICT.	
10. Construction and maintenance of water works. Cities and towns in district. Furnishing water in and beyond district, etc.	26. Apportionment of expenses. Arlington and Quincy not to pay for certain water.
11. Agreements with cities and towns or water companies for distributing water, etc.	27. Local water boards, commissioners or superintendents to have control of water sources, works, etc.
12. Sale of power or electricity.	28. Cities and towns to equip water service with meters.
13. May license maintenance of poles and wires for transmission of electricity.	29. Penalty for non-compliance with preceding section.
14. To furnish water for Lancaster mills.	30. Regulation and care of meters.
15. Miscellaneous duties of the commission. Liability of the commonwealth.	31. Limit of application of three preceding sections.
16. Use of water for domestic purposes restricted. Exception. Charges in Hingham and Hull.	32. Commission may maintain works, change watercourses, ways etc. Indemnity to cities and towns. Conduits, etc., in tide waters, etc.

SECT.	PARKS.
33.	Metropolitan parks district. Reservations, etc. Local water supplies not to be affected.
34.	Metropolitan Parks Trust Fund.
35.	Commission may acquire and maintain roadways or boulevards.
36.	Liability for defects in boulevards, etc.
37.	Rules and regulations, etc. Posting and publishing; certificate thereof. Penalty for violation.
38.	Same subject. Charles river basin. Proof of rules under this and preceding section.
39.	Same subject. Pollution of Charles river. Penalty.
40.	Maintaining parts of reservations outside but contiguous to district.
41.	Maintaining accommodations for boating and bathing.
42.	Granting cities and towns locations for sewers.
43.	Granting locations to street railways, electric railroads, gas and electric companies.
44.	Hearings, notices, locations and regulation thereof.
45.	Alteration, etc., of location.
46.	Record of order.
47.	Powers and duties of companies operating under four preceding sections.
48.	Metropolitan Parks Expense Fund. Revenue from concessions, etc., at Bunker Hill monument.
49.	Location of boulevards across railroads.
50.	Railroads to have notice of proposed action.
51.	Department of public utilities may fix place and manner of crossing.
52.	Payment of cost of such crossings.
53.	Band concerts.
54.	Apportionment of interest, sinking fund and serial or other bond requirements.
55.	Apportionment of maintenance of reservations, except Nantasket beach and Charles river basin.
56.	Apportionment of maintenance of boulevards, Nantasket beach reservation and Charles river basin.
57.	Commission to make apportionments.
58.	Assessments; payment.
59.	Definitions.
	MISCELLANEOUS PROVISIONS.
60.	Payment of cost of maintenance of sewerage, water and parks systems.
61.	Authority of police officers.

SECT.	
62.	Days off for police.
63.	Call officers.
63A.	Police officers injured while on duty, hospital, etc., expenses.
64.	Wages of temporary laborers.
65.	Saturday half holidays.
66.	Pay of women attendants in bath houses.
67.	Agreements for lighting reservations and boulevards.
68.	Quality and price of light, how fixed.
69.	Charles river bridges.
70.	Injury to Charles river dam.
71.	Penalty for colliding with gates of lock of Charles river dam.
72.	Charles river basin. Powers as to shipwrecked vessels and property and removal of wrecks.
73.	Same subject. Disposal of old vessels.
74.	Same subject. Licensing of encroachments.
74A.	Same subject. Licensing of recreational facilities.
75.	Same subject. Appointment of harbor master and assistants.
76.	Same subject. Prevention of pollution.
76A.	Same subject. Taking of water.
76B.	Same subject. Permits.
76C.	Same subject. Conditions for supplying manufactories.
76D.	Same subject. Maintenance of water level.
76E.	Same subject. City or town may borrow money.
77.	Taking or acquisition of lands by commission. For metropolitan sewerage systems.
78.	Same subject. For metropolitan water system.
79.	Same subject. For reservations.
80.	Same subject. For boulevards.
81.	Commission may sell land not needed for maintenance of sewerage systems.
82.	Commission may sell land not needed for maintenance of water system.
83.	Commission may grant or accept title to interests in land and sell personal property of park system.
84.	Authority to abandon certain interests in land.
85.	Commission may sell land or interests therein acquired for park or boulevard purposes.
86.	Reservations and exceptions in takings.
87.	Transfer of care and control of certain property.
88.	Agreements and contributions for improvement of ways, sewers, water pipes, etc.

SECT.	SECT.
89. Disposition of lost property.	97. Assessments upon cities and towns in the metropolitan districts.
90. Sale of lost property.	98. Appropriations for maintenance of reservations, etc.
91. Notice of sale.	99. Advances of money for payrolls, etc.
92. Sale of perishable lost property.	100. Accounts and annual report.
93. Proceeds of sale of lost property.	101. Destruction of insect pests on lands near reservations. Collection of payment therefor.
94. True owner to be paid proceeds of sale, etc.	102. General authority of commission.
95. Eneurolements on land, permits for.	
96. Rights by prescription or adverse possession not to be acquired.	

METROPOLITAN SEWER DISTRICTS.

Construction and maintenance of sewer works.
 1889, 439, § 3.
 1895, 406, § 1.
 1896, 414, § 1.
 1897, 520, § 1.
 1899, 424, § 1.
 § 1, 2.
 1900, 172, § 1.
 1901, 168, § 1.
 § 1, 5.
 1903, 242, § 1.
 1914, 343, § 1.
 1916, 159, § 1.
 1919, 350, § 123.
 1924, 59.
 1928, 384.
 1930, 398, 419.
 1931, 426, § 298.
 153 Mass. 506.

SECTION 1. The metropolitan district commission, in this chapter called the commission, shall construct, maintain and operate such main sewers and other works as shall be required for a system of sewage disposal for Arlington, Belmont, Boston, Cambridge, Chelsea, Everett, Lexington, Malden, Medford, Melrose, Reading, Revere, Somerville, Stoneham, Wakefield, Winchester, Winthrop and Woburn, known as the north metropolitan sewerage system, and for Boston, Braintree, Brookline, Canton, Dedham, Milton, Needham, Newton, Norwood, Quincy, Stoughton, Walpole, Waltham, Watertown, Wellesley and Weymouth, known as the south metropolitan sewerage system. The commission may contract with any other town for the extension thereto of either of said systems of sewage disposal, and for the reception and disposal of sewage therefrom.

166 Mass. 480.

Cities and towns to connect local with main sewers.
 1889, 439, § 9.
 1895, 406, § 9.
 1897, 80.
 520, § 5.
 1899, 424, § S.
 1901, 168, § 1.
 § 1, 5.
 1915, 147, § 150.
 1919, 350, § 123.
 Op. A G (1920) 148.

SECTION 2. Any town, within the limits of which any main sewer under the control of the commission is situated, shall connect its local sewers with such main sewer except as hereinafter provided, subject to the direction, control and regulation of the commission, and any person may, subject thereto and subject to such terms, conditions and regulations as each town may prescribe, connect private drains with such main sewer; provided, that the commission shall, without expense to Quincy, make all connections and take and construct intercepting sewers necessary to enable Quincy to drain by gravity its territory into the metropolitan sewer. The sewerage systems of all drainage areas not now drained by the south metropolitan system shall be constructed in accordance with the so-called separate system of sewage.

Malicious injury to sewers, etc., penalized.
 1889, 439, § 10.
 1895, 406, § 10.
 1896, 424, § 9.
 1901, 168, § 1.
 § 1, 5.
 1919, 350, § 123.

SECTION 3. Whoever wantonly or maliciously destroys or injures any sewer or other property, held or used by the commission for the purpose of constructing, operating or maintaining said systems of sewage disposal, shall forfeit and pay to the commonwealth three times the amount of the damages assessed therefor, to be recovered by any proper action, and on conviction thereof shall be punished by fine not exceeding one thousand dollars and by imprisonment not exceeding one year.

Disposition of money forfeited on bids and contracts for work on the metropolitan sewers.
 1891, 192.
 1895, 406, § 14.
 1899, 424, § 13.

SECTION 4. Any money collected or received by the state treasurer from checks deposited with the commission by bidders for work on the systems of sewage disposal and by it declared forfeited, and for breach of any condition of any contract made with it in relation to the construction, maintenance or operation of the systems of sewage disposal, shall be applied to the payment of interest upon the loan issued for the construc-

7 tion, maintenance or operation of said systems known as the Metropolitan Sewerage Loan.

1919, 350, § 123.

1 SECTION 5. The proportions in which each of the towns belonging in
2 whole or in part to the north metropolitan and south metropolitan sewer-
3 age districts, respectively, shall annually pay money to the commonwealth
4 to meet interest and sinking fund requirements for each year, as esti-
5 mated by the state treasurer, and to meet any deficiency in the amount
6 previously paid in, as found by him, shall be based upon the respective
7 taxable valuations of the property of said towns, as last established by
8 the general court as a basis of apportionment for state and county taxes.

Basis of
payments
from cities
and towns of
cost of system.
1889, 439,
§§ 13, 14,
1894, 307,
§§ 3, 4,
1895, 294,
§§ 3, 4, 406,
§§ 16, 17,
1899, 241, § 4.
1901, 168, § 1, 5.
1919, 350, § 123.
§§ 2, 3.

1898, 180, §§ 3, 4; 1899, 241, §§ 3, 4; 1901, 168, §§ 1, 5. 1919, 350, § 123.
424, §§ 3, 4. 424, § 17. 1906, 369, § 1. 1 Op A G. 447.

1 SECTION 6. The proportions in which each of the towns belonging
2 in whole or in part to either sewerage district shall annually pay money
3 into the treasury of the commonwealth to meet the cost of maintenance
4 and operation of the respective sewerage systems, as estimated by the
5 commission and certified by the state treasurer, and to meet any defi-
6 ciency in the amount previously paid in, as found by him, shall be
7 based upon the respective populations of said towns as ascertained by
8 the last preceding state or national census. If less than the whole area
9 of any town is included in either of said metropolitan sewerage systems,
10 the valuation and population only of that part of the town included
11 in either of said systems, as determined by the commission, shall be
12 used as a basis in determining the proportion and amount which it
13 shall pay as its share of interest and sinking fund requirements and
14 of the cost of maintenance and operation of works as required by this
15 and the preceding section.

Basis of
payments from
cities and
towns of cost
of main-
tenance
1889, 439,
§§ 13, 14,
1894, 307,
§§ 3, 4,
1895, 294,
§§ 3, 4, 406,
§§ 16, 17,
1899, 241, § 4.
1901, 168,
§§ 1, 5,
1906, 369,
§§ 2, 3,
1919, 350,
§ 123.

1 SECTION 7. The commission shall annually, in accordance with the
2 two preceding sections, determine for each system the proportion in
3 which each of the towns belonging in whole or in part to such system,
4 shall annually pay money to the commonwealth to meet interest and
5 sinking fund requirements and the cost of maintenance and operation of
6 such system, and shall transmit its determinations to the state treasurer.

Annual deter-
mination of
proportions.
1889, 439,
§§ 13, 14,
1894, 307,
§§ 3, 4,
1895, 294,
§§ 3, 4, 406,
§§ 16, 17.

1897, 83, §§ 2, 3. 1899, 241, § 5; 1906, 369, § 4.
1898, 180, §§ 3, 4; 424, §§ 16, 17. 1919, 350, § 123.
424, §§ 3, 4. 1901, 168, §§ 1, 5.

1 SECTION 8. The amount of money required each year from every
2 such town to meet the interest and sinking fund requirements and
3 cost aforesaid for that system in which it is included, and the deficiency,
4 if any, shall be estimated by the state treasurer in accordance with the
5 proportions as determined aforesaid by the commission, and shall be
6 included and made a part of the sum charged to such town, and shall
7 be paid by the town to the commonwealth at the time required for
8 payment of its proportion of the state tax.

Annual deter-
mination of
required
payments for
main-
tenance, etc.
1889, 439, § 15.
1894, 307, § 5
1895, 294, § 5;
406, § 18
1897, 83, § 4.
1898, 180, § 5;
424, § 5.

1899, 424, § 18. 1906, 369, § 5.
1901, 168, §§ 1, 5. 1919, 350, § 123.

1 SECTION 9. In this section surface or storm water and such other
2 waters as shall be specified by the department of public health shall be
3 designated as waters and all other waters and sewage shall be desig-
4 nated as sewage. The owner of every estate whose sewage is to be taken
5 into any metropolitan sewer shall, in plumbing his estate, so arrange

Plumbing of
estates
intercepting
sewers
1903, 383,
1907, 464,
1919, 350,
§ 123.

the plumbing as to keep the waters separate from the sewage, and shall, as directed by the officer having charge of the maintenance of sewers in the town, make connections for, and conduct, the waters into the drain and the sewage into the sewer; but where only one conduit shall have been provided in the street by the town, such owner shall, as directed by said officer, construct said connections into the street and connect them with the conduit so provided, and the town shall provide the other conduit and all necessary connections with either conduit.

Any town, except Boston, using any metropolitan sewer may, in any year, and shall, in any year specified by the officer or board having charge of sewers, expend one twentieth of one per cent of its taxable valuation, to be met by loan outside the debt limit, in the construction, in connection with said sewers, of branch intercepting sewers, connections of existing sewers with intercepting sewers, branch drains, sewers or drains in any street where one thereof only shall have been built, and the necessary connections aforesaid.

The supreme judicial and superior courts may enforce this section.

METROPOLITAN WATER DISTRICT.

Construction and maintenance of water works. Cities and towns in district. Furnish water in and beyond district, etc.
 1865, 488, § 3.
 1867, 473, § 1.
 1868, 293, § 2;
 295, §§ 1, 2, 3, 4.
 1890, 349.
 1901, 168, § 1, 5.
 1902, 189, 307, § 14.
 1904, 457, § 1.
 1906, 404.
 1907, 238; 349.
 1908, 560.
 1909, 258.
 1917, 314.
 1919, 350, § 123.
 1928, 189, 1931, 421.
 201 Mass. 453.
 211 Mass. 468.
 219 Mass. 694.

SECTION 10. The commission shall construct, maintain and operate a system of metropolitan water works and shall provide thereby a sufficient supply of pure water for the following named towns and the inhabitants thereof: Arlington, Belmont, Boston, Brookline, Chelsea, Everett, Lexington, Malden, Milton, Medford, Melrose, Nahant, Newton, Quincy, Revere, Somerville, Stoneham, Swampscott, Watertown and Winthrop, which shall be the metropolitan water district; shall secure and protect the purity of said water; shall on application furnish water to any town aforesaid that at the time of application owns its water pipe system; shall on application admit any other town, any part of which is within ten miles of the state house, into said water district, and furnish water to the same on the terms prescribed by this chapter for the towns aforesaid, and on payment of such sum or sums upon such terms as the commission may determine; shall on application furnish water to any water company owning the water pipe system in any town within said ten miles, on such water company assuming the assessments of the town, if any, and making such payment as the commission may determine; and in case of fire or other emergency may furnish water to any town or water company, on such payment as the commission may determine; provided, that any such town last referred to shall first have acquired the works of any water company therein situated, constructed for the purpose of supplying said town or its inhabitants with water. The commission shall furnish water to the town or company, by delivering it into a main water pipe, reservoir or tank of the town or company, under sufficient pressure for use without local pumping, unless delivered in some other manner by mutual agreement between the parties interested; and shall have the direction and control of the connections between the metropolitan and local systems.

The commission may furnish water to any town or water company owning the water pipe system in a section of a town, for the supply of such section, although the town, or a part thereof, is within ten miles of the state house, and the town has not been admitted into the metropolitan water district, on payment by the town or water company of such sum as the commission may determine; provided, that the sum so determined in any case shall, in the opinion of the commission, exceed the proper

35 proportion of the entire assessment which would be imposed upon the
36 town were it a part of said district.

37 The commission may, subject to all the provisions relating to the con-
38 struction, operation and maintenance by said commission of a water
39 supply system set forth in this chapter, sell and deliver water from any of
40 the reservoirs or aqueducts of the metropolitan water system to any con-
41 centration camp established in the commonwealth by the United States,
42 and lay and maintain such pipe lines and other works necessary therefor,
43 upon terms and conditions to be agreed upon by the duly authorized
44 officer or representative of the United States government and said com-
45 mission.

46 All payments made as aforesaid for admission of towns and for fur-
47 nishing water to water companies and to towns or water companies for
48 the supply of sections of a town, and for selling and delivering water to
49 any concentration camp shall be appropriated to the payment of the cost
50 incurred by the district in connecting such town or section of a town,
51 water company or concentration camp with the metropolitan water
52 system, and the balance after such cost is paid, as well as all other pay-
53 ments for furnishing water to a town or water company in case of fire or
54 other emergency, or as otherwise authorized, except payments as annual
55 assessments by towns or water companies, shall be applied by the state
56 treasurer to the sinking fund established for the payment of bonds, or
57 to the payment of serial bonds, issued on account of the metropolitan
58 water district. All payments made as annual assessments either by towns
59 or water companies shall be applied as provided in section twenty-five.

1 SECTION 11. The commission and any town or water company in-
2 cluded in section ten may agree with each other for the storing or pumping
3 of water, or the furnishing of the same as provided in said section, by
4 either party to any town or company; and any such town or company
5 may sell to the commission and the commission may purchase any prop-
6 erty of such town or company, whether taken by eminent domain or
7 otherwise, that the commission may deem desirable for use in furnishing,
8 as aforesaid, water to any town or water company.

Agreements
with cities
and towns
or water com-
panies for
distributing
water, etc
1895, 488, § 11.
1901, 168,
§ § 1, 5
1909, 473,
1919, 350,
§ 123

1 SECTION 12. The commission may utilize the fall of water at any
2 dam under its charge, and may thereby produce power or electricity,
3 and may transmit such power or electricity by pipes, wires or other suit-
4 able means, and sell the same, or the right to use such water, by written
5 or other contract, to run for a term not exceeding fifteen years. Any
6 person authorized by the commission shall have all the powers relating to
7 the production, sale and transmission of power and electricity given by
8 this chapter to said commission. In the sale or disposal of electricity
9 generated in Clinton or Southborough for power or manufacturing pur-
10 poses, preference shall be given to persons proposing to use all of such
11 electricity in the town where generated; provided, that there are re-
12 sponsible persons so proposing to use all the electricity in the town who
13 shall offer to purchase the same on terms as advantageous as shall be
14 offered by others not so proposing to use the same; and the commission
15 shall, at least ten days before making a contract for the sale of such
16 electricity, cause to be printed in some newspaper published in the town
17 where the electricity is to be generated a request for proposals for the
18 purchase of electricity to be sold by the commission.

Sale of power
or electricity
1895, 488, § 3
1898, 392,
1899, 349
1901, 168,
§ § 1, 5
1907, 349
1910, 515, § 2
1914, 767, § 2
1919, 350,
§ 123

May license maintenance of poles and wires for transmission of electricity. 1909, 473, 1919, 350, § 123.

SECTION 13. The commission may, by lease, license or other agreement, permit the construction and maintenance, on any land under its control for water supply and water works purposes, of towers, poles, wires and other structures for the purpose of transmitting electric power over lands and waters of the commonwealth held for water supply purposes; provided, that, in the opinion of the commission, such lease, license or agreement will not affect or interfere with the metropolitan water supply, and provided, further, that no lease, license or agreement shall be given or made for a period of more than fifteen years.

To furnish water for Lancaster mills. 1895, 488, § 4. 1901, 168, §§ 1, 5. 1919, 350, § 123.

SECTION 14. The commission shall allow not less than twelve million gallons of water to flow from the reservoir above the dam of the Lancaster mills in Clinton in each week, and such further quantity, not exceeding twelve million gallons a week, as the owner of said mills shall from time to time certify to be necessary for use therein and in other buildings now or hereafter owned by him, for domestic or manufacturing purposes, other than the production of water power, and said commission, in regulating the flow of said quantities, shall, as far as practicable, conform to any reasonable written request of the owner of said mills.

Miscellaneous duties of the commission. Liability of the commonwealth. 1895, 488, § 10. 1901, 168, §§ 1, 5. 1902, 391, § 1. 1919, 350, § 123.

SECTION 15. The commission shall keep all water works constructed or maintained by it and all bridges built by it across the reservoir upon the Nashua river safe, and shall have charge of, use, maintain and operate the same, and the commonwealth shall be exclusively responsible for all damages caused thereby or by any defect or want of repair therein. The commission shall have the exclusive right and control over all ponds and reservoirs used by it in supplying water, and may order all persons to keep from entering in, upon or over the waters thereof and the lands of the commonwealth or towns surrounding the same; may inspect the water works and fixtures in any town supplied wholly or in part from the works under the charge of the commission, and may take all proper measures to determine the amount of water used and wasted and to prevent the improper use or waste of water. The commission may construct and maintain such works and provide such other means as it may deem necessary for measuring the water supplied to each of the towns in the metropolitan water district, and the expenses thereof shall be considered as a part of the expenditure required for the construction and maintenance, respectively, of the metropolitan water works.

Use of water for domestic purposes restricted. Exception. Charges in Hingham and Hull. 1895, 488, § 23. 1897, 336. 1909, 74.

SECTION 16. No town, except Hingham and Hull, any part of which is within ten miles of the state house, or water company owning a water pipe system in any such town shall, except in case of emergency, use for domestic purposes water from any source not now used by it except as provided in this chapter. If any town or towns in the metropolitan water district shall take the franchise, works and property in such town or towns of any water company, the compensation to be allowed and paid therefor shall not be increased or decreased by reason of this chapter. No town in said water district now supplied with water by a water company owning the water pipe system in such town shall introduce water from the metropolitan water works until it shall first have acquired the works of such company. No water company owning a water pipe system in the towns of Hingham or Hull shall charge more for water than a reasonable sum measured by the price ordinarily

15 charged for a similar service in other towns in the metropolitan dis-
 16 trict. The selectmen of either of said towns or any persons deeming
 17 themselves aggrieved by the price charged for water by any such com-
 18 pany in either of said towns may, in nineteen hundred and twenty-
 19 three and every fifth year thereafter, apply by petition to the supreme
 20 judicial court, asking to have the rate fixed at a reasonable sum measured
 21 by the standard above specified; and two or more judges of said court,
 22 after hearing the parties, shall establish such maximum rates as they
 23 shall deem proper; and said maximum rates shall be binding upon said
 24 water company until the same shall be revised or altered by said court
 25 pursuant to this section.

1 SECTION 17. The department of public health shall make rules and
 2 regulations for the sanitary protection of such waters used by the com-
 3 mission for the water supply of any town or water company aforesaid.
 4 The commission shall cause such rules and regulations to be posted at
 5 or near the waters to which they respectively apply, and shall also cause
 6 the same to be published at least once in a newspaper published in the
 7 county where said waters are in whole or in part situated, and such
 8 posting and publication shall be sufficient notice to all persons. The
 9 sworn certificate of any member of the commission or of its secretary of
 10 such posting and publication, or of the posting or publication of an order
 11 made by the commission, shall be prima facie evidence thereof. A copy
 12 of any such rule, regulation or order, attested by any member of the
 13 commission or by its secretary, shall be prima facie evidence that said
 14 rule, regulation or order was made by the department of public health
 15 or by the commission, as the case may be.

Public health
 department to
 protect metropo-
 litan water
 by rules, etc.
 Posting, etc.
 Proof of
 rules, etc.
 1895, 488, § 24
 1899, 308,
 1901, 168,
 §§ 1, 5
 1919, 350,
 § 123
 1926, 316, § 1.

1 SECTION 18. No person shall take or divert any water of a water
 2 supply of any town in said metropolitan water district from any water
 3 source, reservoir, conduit or pipe used for supplying such water to or
 4 in any such town, or occupy, injure or interfere with any such water,
 5 or any land, building, aqueduct, pipe, drain, conduit, hydrant, ma-
 6 chinery or other work or property so used, and no person shall cor-
 7 rupt, render impure, waste or improperly use any such water.

Diversion,
 pollution,
 waste, etc., of
 water and
 injury to
 property
 prohibited.
 1895, 488, § 25.
 1919, 350,
 § 123
 4 Op. A G 510.

1 SECTION 19. The preceding section shall not apply to any person in
 2 taking or diverting any such water or interfering with or occupying
 3 any water, land or works therein described, by permission of the com-
 4 mission, or the water board, water commissioners or superintendent
 5 of any town having charge of the land, water or works; nor to the in-
 6 dividual inhabitants of any town within the watershed of any water
 7 supply used by the commission, or by any town aforesaid, in taking
 8 from the part of the supply or from the tributaries of the supply within
 9 their respective town limits so much of the water thereof as they shall
 10 need for their ordinary domestic household purposes, for extinguishing
 11 fires or for generating steam.

Application
 of preceding
 section limited.
 1895, 488, § 26
 1901, 168,
 §§ 1, 5
 1919, 350,
 § 123
 4 Op. A G 510.

1 SECTION 20. The commission, and its employees designated for the
 2 purpose, shall enforce sections ten to nineteen, inclusive, and the rules,
 3 regulations and orders made thereunder, and may enter into any build-
 4 ing, and upon any land for the purpose of ascertaining whether sources
 5 of pollution there exist, and whether said sections and the rules, regu-

Commission
 and its em-
 ployees to
 enforce laws
 and rules
 relating to
 water works.
 1895, 488, § 27.

1901, 168,
§§ 1, 5,
1919, 350,
§ 123.

lations and orders made as aforesaid are complied with; and, where the enforcement of any such laws, rules, regulations or orders will require public works for the removal or purification of sewage, the commission shall not enforce the same until it has provided such works, and the amount paid therefor shall be considered as part of the expenses of construction of the metropolitan water works, and such works shall be maintained and operated as a part of said water works.

Enforcement
of laws, rules,
etc., by court
proceedings.
1895, 488, § 28.
1901, 168,
§§ 1, 5,
1919, 350,
§ 123.
1931, 426, § 10.

SECTION 21. The supreme judicial or superior court or any justice of either court shall, on petition of the commission or of any town or person interested, have jurisdiction in equity or otherwise to enforce sections ten to nineteen, inclusive, and any rule, regulation or order made thereunder, and to prevent any violation of said sections, rules, regulations or orders.

Penalties.
1895, 488, § 29.
1901, 168,
§§ 1, 5
1919, 350,
§ 123.

SECTION 22. Whoever violates any provision of sections ten to nineteen, inclusive, or violates or refuses to comply with any rule, regulation or order made thereunder, shall be punished by a fine of not more than five hundred dollars or by imprisonment not exceeding one year in the house of correction, or both. Any such fine shall be to the use of the commonwealth.

Laws as to
municipal
water supplies,
etc., to apply.
1895, 488, § 30.
1901, 168,
§§ 1, 5,
1919, 350,
§ 123.

SECTION 23. All general laws relating to the water supplies of towns or the lands and other property used for such supplies shall, so far as consistent with the provisions of this chapter relating to the metropolitan water system, apply to and be observed in carrying out said provisions.

1 Op. A. G. 402.

Contractors
on water
works to
indemnify
cities and
towns.
1897, 339,
1901, 168,
§§ 1, 5; 412.
1919, 350,
§ 123.
1931, 426,
§ 209.

SECTION 24. The commission in making contracts for the construction of metropolitan water works shall require every employer of labor engaged therein to give to each town where such labor may be employed a bond in the penal sum of three thousand dollars, conditioned to save harmless and indemnify such town against any loss, expense or charges that said town may legally incur because of indigent employees brought to said town and having no settlement therein. This section shall not deprive any town of any other rights or remedies.

Disposition
of proceeds
of sales of
property or
bonds.
1895, 488, § 15.
1898, 461,
1901, 168,
§§ 1, 5,
1919, 350,
§ 123.

SECTION 25. The state treasurer shall apply the proceeds from the sale or exchange of property of the metropolitan water system and the proceeds from the sale of bonds of the Metropolitan Water Loan, exclusive of the amounts received from premiums, to the payments for waters or other property taken or purchased for said system, damages sustained by any person in the construction, maintenance and operation of said system of metropolitan water works, and payments for the expenses of construction thereof; and shall apply any assessments provided for in section twenty-six paid by towns of the metropolitan water district, and the proceeds from the operation by the commission of said system, exclusive of said proceeds from sales or exchanges of property, to the payment of the interest, sinking fund requirements, and expenses of maintenance and operation of said system.

1 SECTION 26. The state treasurer, for the purpose of making the
 2 apportionment to the towns in the metropolitan water district of the
 3 amount required in each year to pay the interest, sinking fund require-
 4 ments and expenses of maintenance and operation of the metropolitan
 5 water system, shall, in each year, apportion such amount to the towns
 6 in said district, one third in proportion to their valuations for the pre-
 7 ceding year and the remaining two thirds in proportion to their con-
 8 sumption, in said year, of water received from all sources of supply as
 9 determined by the commission and certified to said treasurer; provided,
 10 that there shall be included in reckoning such proportion only one fifth
 11 of the total valuation, and nothing for consumption of water, for any
 12 town which has not reached the safe capacity of its present sources of
 13 supply or of the sources of supply of the water company by which it is
 14 supplied, determined as aforesaid, or which has not made application to
 15 said commission for water; and provided, further, that any town as-
 16 sessed upon its full valuation which obtains a part of its water supply
 17 from its own works or receives a supply from a water company shall be
 18 allowed and credited in its apportionment with a sum equal to twelve
 19 dollars for each million gallons of water furnished as aforesaid, as deter-
 20 mined by said commission and certified to said treasurer. The state
 21 treasurer shall annually notify each town of the amount of its assess-
 22 ment, and the same shall be paid by the town to the commonwealth at
 23 the time required for the payment of and as part of its state tax.

24 Any town belonging to the metropolitan water district which is
 25 assessed upon its total valuation, or which shall be admitted to the
 26 district, and which shall agree with the commission to furnish from its
 27 own works a constant and fixed quantity of water of proper quality for
 28 a term of five or more years, as a part of its own water supply, such
 29 quantity to be not greater than the safe capacity of its sources in a dry
 30 year as determined by said commission, shall be allowed and credited
 31 in its apportionment with such sum for every million gallons furnished
 32 in accordance with the agreement so made, as shall be determined in
 33 accordance with the terms thereof in each year by the said commission
 34 and certified by it to the state treasurer; provided, that the said sum
 35 shall not be less than twenty-four dollars per million gallons and shall
 36 not exceed the average cost to the metropolitan water district of water
 37 furnished from the metropolitan water system during the year preceding
 38 that in which the assessment is made.

39 Arlington and Quincy shall not be required to pay to the common-
 40 wealth any money toward the interest, sinking fund requirements, and
 41 expenses of maintenance and operation of the metropolitan water system,
 42 or on any account whatsoever, for any water from their respective reser-
 43 voirs in Arlington, Braintree and Lexington which Arlington may sell or
 44 distribute in any year exclusively for mechanical, manufacturing or
 45 agricultural purposes, or Quincy may sell or distribute in any year ex-
 46 clusively for mechanical or manufacturing uses and purposes, and the
 47 water so sold shall not be considered by the commission in determining,
 48 under this section, the amount of water consumed by either of them
 49 during said year, and Arlington and Quincy shall be exempt from any
 50 provision of this section which authorizes the state treasurer to assess a
 51 town on account of water from its own supply which it may so sell or
 52 distribute; provided, that the commission certifies to the treasurer that
 53 the water so sold and distributed has been used in the case of Arlington

Apportionment
 of expenses.
 Arlington and
 Quincy not
 to pay for
 certain water.
 1805, 188, § 19.
 1901, 168.
 §§ 1, 5, 489.
 1901, 126.
 1906, 157.
 1913, 171, § 1;
 192, 347, § 1.
 1919, 350,
 § 123.
 1925, 308.

for mechanical, manufacturing or agricultural purposes only and in the case of Quincy for mechanical or manufacturing purposes only.

Local water boards, commissioners or superintendents to have control of water sources, works, etc. 1885, 388, §§ 20, 21, 1901, 168, §§ 1, 5, 1919, 350, § 123.

SECTION 27. The water board, water commissioners or superintendent of any town in the metropolitan water district shall for their town have the charge and control of the water sources, water and water works owned and used by said town and not taken or used by the commission. Said board, commissioners or superintendent shall distribute and control the use of the water so furnished, and apply meters and extend the pipes and other work as they may deem expedient; shall keep the pipes, fixtures and other works under their charge in good condition and repair, but shall not expend in any year more than the amount appropriated by the town therefor. Said board, commissioners or superintendent, with the approval of the mayor or selectmen, shall determine the rate to be paid for water by the owner of the premises to which the water is furnished, or by the persons using the water; provided, that the minimum rates to be paid for water, and the premises to which the high service supply shall be furnished, shall be subject to the approval of the commission. Any such board, commission or superintendent shall for the water works under their charge do all the acts and things relating to buildings, machinery, roads, conduits, aqueducts, pipes and drains, which the commission is authorized to do for the water works under its charge, and may take lands therefor on behalf of the town by eminent domain under chapter seventy-nine, in fee or otherwise, and shall do all such acts and things in the manner in which the commission is authorized to do similar things. The income received in each town from the water works under the charge of its water board, water commissioners or superintendent, shall be applied to the payment of the expenses of maintenance and operation incurred by said board, commissioners or superintendent; the interest and sinking fund requirements of all bonds, notes or script of the town issued on account of the water works of such town; the assessment of the town to be paid to the state treasurer as provided in section twenty-six; the expenses of the extension of the works; and the balance, if any, as the town may determine. If such income in any year shall not be sufficient for said payments the balance required therefor shall be raised by taxation or by loan, as the town may determine; and the town may assess such taxes and make such loans without further authority from the general court.

Cities and towns to equip water service with meters. 1907, 524, § 1, 1919, 350, § 123, 211 Mass. 468, 219 Mass. 604.

SECTION 28. All towns, districts or corporations which derive all or any part of their water supply from the metropolitan system or from sources used by or under the control of the commission shall equip with water meters all water services installed for them, and shall also annually equip with water meters five per cent of the water services which were unnumbered on December thirty-first, nineteen hundred and seven, until all are metered; and shall charge each consumer having a meter service in proportion to the amount of water used; provided, that no town or district shall, in any one year, contract for more than the number of meters to be installed by it during that year under this section; and provided, also, that a minimum rate may be fixed for which the consumer shall be entitled to a stated quantity of water.

Penalty for non-compliance with

SECTION 29. If a town, district or water company in any year neglects or refuses to comply with any provision of the preceding section,

3 it shall forfeit to the commonwealth for the use of the metropolitan water
4 district not less than twenty nor more than one hundred dollars for each
5 day after the expiration of said year during which such violation or neglect
6 continues, to be recovered in an action of contract brought in the county
7 of Suffolk in the name of the commonwealth, or by an information in
8 equity in the name of the attorney general at the relation of the commis-
9 sion, brought in the supreme judicial court for said county.

Preceding
section.
1909, 177, § 2.
1919, 350,
§ 123.

1 SECTION 30. Meters shall receive the necessary care and maintenance
2 to secure proper efficiency and shall be tested or replaced by the town,
3 district or water company whenever there is reason to believe that the
4 records furnished by them are inaccurate, or whenever the service fur-
5 nished is in other respects inefficient. Towns, districts and water com-
6 panies may make rules and regulations relative to the care, maintenance
7 and protection of meters, and for properly ascertaining and recording the
8 amount of water actually used during specified periods by each water
9 consumer. The commission shall supervise and promote the enforcement
10 of this and the two preceding sections; and if any town, district or water
11 company violates or neglects in any respect to comply with a provision
12 of said sections, the commission shall forthwith give written notice of
13 such violation or neglect, together with the facts relative thereto, to the
14 attorney general. The supreme judicial court may have jurisdiction,
15 upon an information in equity filed by the attorney general, to enforce
16 all the terms and provisions of said sections.

Regulation
and care of
meters.
1907, 524, § 3.
1909, 177, § 1.
1919, 350,
§ 123.

1 SECTION 31. The three preceding sections shall not apply to the
2 water service for fire purposes only of any town, fire district or person,
3 nor shall such service be taken into consideration in computing metered
4 water service. All water used for the supply of public buildings or other
5 premises under the control of a town or district, and all water used from
6 the public works for the flushing of sewers, watering of streets and all
7 other purposes, except for the extinguishment of fires, may be paid for
8 by the town or district.

Limit of applica-
tion of three
preceding
sections.
1907, 524, § 2.

1 SECTION 32. The commission, in constructing, maintaining and oper-
2 ating the water and sewerage systems, water supply and sewage dis-
3 posal, may construct and maintain buildings, machinery, roads, con-
4 duits and aqueducts; may lay and maintain pipes, drains, sewers and
5 wires; may alter or change grades or directions of watercourses; may
6 carry and conduct any aqueduct, conduit, pipe, drain, sewer or wire under
7 or over any watercourse, or any railroad, or way, in such manner as not
8 unnecessarily to obstruct or impede travel thereon; may dig up any such
9 way, and lay, maintain and repair aqueducts, conduits, pipes, wires,
10 sewers and other works beneath the surface thereof, conforming to any
11 reasonable regulations made by the aldermen or the selectmen of the town
12 where such works are performed, and restoring, so far as practicable, any
13 such way to as good order and condition as the same was in when such
14 digging was commenced. The commission may enter upon and use the
15 lands of others; may take down dams to such an extent as it may deem
16 necessary for prosecuting its works, and shall rebuild such dams whenever
17 the necessity for keeping them down ceases; shall use such lands and do
18 all work relating to such dams, in a reasonable manner with regard to the
19 interests of the owners thereof, and, so far as practicable, shall heed all
20 reasonable requests made by such owners; and in general may do any

Commission
may maintain
works, change
watercourses,
ways, etc.
Indemnity to
cities and
towns.
Conduits, etc.,
in tide waters,
etc.
1889, 439,
§§ 5-7
1895, 406,
§§ 2-4,
488, § 9, 12.
1899, 424,
§§ 4-6.
1901, 168,
§§ 1, 5.
1904, 273,
1919, 350,
§ 123.
164 Mass. 350,
2 Op. A. G. 175,
332, 335, 399.

other act or thing necessary or proper for carrying out the powers and duties conferred upon it. Any person injured in his property by the entry upon or use of his land by the commission under this section may recover his damages under chapter seventy-nine.

The commonwealth shall indemnify and save harmless the several towns where such ways may be against all damages recovered against them, and shall reimburse them for all expenses incurred by reason of any defect or want of repair in any way caused by the construction, maintenance or repair of any of said works; provided, that the commission shall have due and reasonable notice of all claims for such damages or injury and opportunity to make a legal defence thereto.

The commission may, with the consent of the aldermen or selectmen, alter or change the location or grade of any way crossed by any sewer, water pipe, aqueduct or conduit constructed by it or in which the works may be located.

The commission, and the water board, water commissioners or superintendent of any town in the metropolitan water district, in exercising the powers or discharging the duties conferred or imposed by this chapter, may carry and conduct any aqueduct, conduit, pipe, drain or wire under or over tide waters or the waters of Boston harbor by such methods and in such manner as the department of public works shall approve.

PARKS.

Metropolitan parks district. Reservations, etc. Local water supplies not to be affected. 1893, 407, §§ 3, 4. 1895, 272. 1897, 226, § 1. 1898, 463, § 1. 1911, 469, 583. 1919, 350, § 123. 262 Mass. 70. 1 Op. A. G. 286, 360, 588. 2 Op. A. G. 82, 292. 3 Op. A. G. 14, 96, 165, 429.

SECTION 33. The commission may acquire, maintain and make available to the inhabitants of Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull, Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester, Winthrop and Woburn, which shall constitute the metropolitan parks district, open spaces for exercise and recreation, in this chapter called reservations; and, for the purposes set forth in this section, the jurisdiction and powers of the commission shall extend to, and be exercised in, said district.

The commission may preserve and care for such public reservations, and also, in its discretion and upon such terms as it may approve, such other open spaces within said district as may be intrusted, given or devised to the commonwealth for the general purposes of this section or for any one or more of such purposes as the donor may designate.

The commission may, for the purpose of making the rivers and ponds within said district more available as open spaces for recreation and exercise, regulate the use of certain spaces along or near said rivers and ponds, and care for and maintain spaces so regulated, and plant, care for, maintain or remove trees, shrubs and growth of any kind within said regulated spaces.

This section shall not limit existing rights of any town in relation to water supply purposes or in any way obstruct its taking advantage of such rights.

Metropolitan Parks Trust Fund 1893, 407, §§ 4, 5. 1895, 272. 1919, 350, § 123.

SECTION 34. The state treasurer may, with the approval of the governor and council, receive and hold in trust for the commonwealth, exempt from taxation, any grant or devise of lands or rights in land, and any gift or bequest of money or other personal property, made for the purposes of

5 the preceding section, and shall preserve and invest the proceeds thereof
 6 in notes or bonds secured by good and sufficient mortgage or other se-
 7 curities. Said trust property shall be known as the Metropolitan Parks
 8 Trust Fund, and shall be used and expended under the direction of the
 9 commission and subject to its orders. Subject to the terms of any such
 10 grant, gift, devise or bequest, the commission may expend such funds,
 11 whether principal or income.

1 SECTION 35. The commission may connect any way, park or other
 2 public open space with any part of the towns of the metropolitan parks
 3 district under its jurisdiction by suitable roadways or boulevards, in
 4 this chapter called boulevards, and for this purpose exercise any of the
 5 rights and powers granted the commission in respect to reservations, and
 6 may construct and maintain along, across, upon or over lands acquired
 7 for such boulevards or for reservations, a suitable roadway or boulevard.
 8 The commission shall have the same rights and powers over and in regard
 9 to said boulevards as are or may be vested in it in regard to reservations
 10 and shall also have such rights and powers in regard to the same as, in
 11 general, counties, cities and towns have over public ways under their
 12 control.

Commission may acquire and maintain roadways or boulevards. 1894, 288, § 1, 3. 1919, 350, § 123. 185 Mass. 371 257 Mass. 32, 55. 269 Mass. 573 270 Mass. 377 1 Op. A. G. 588 2 Op. A. G. 567 4 Op. A. G. 323

1 SECTION 36. The commonwealth shall be liable for injuries sustained
 2 by persons while traveling on any boulevard maintained by the com-
 3 mission under authority of the preceding section, if the same are caused
 4 by defects within the limits of the constructed traveled roadway, in the
 5 manner and subject to the limitations, conditions and restrictions speci-
 6 fied in sections fifteen, eighteen and nineteen of chapter eighty-four,
 7 except that the commonwealth shall not be liable for injury sustained
 8 because of the want of a railing in or upon any boulevard, or for injury
 9 sustained upon the sidewalk of a boulevard or during the construction,
 10 reconstruction or repair of such boulevard. Actions seeking to enforce
 11 such rights and remedies shall be brought against the commission as
 12 such, but there shall never be any personal liability on the part of them
 13 or any of them to any person injured as aforesaid by reason of such
 14 defect. Notices required to be served upon the defendant in proceed-
 15 ings hereunder shall be served upon the commissioner or the secretary.
 16 All sums recovered against said commission under the foregoing pro-
 17 visions, together with any costs of suit and counsel fees, expenses and
 18 interest, shall be deemed expenses of care and maintenance of boulevards.

Liability for defects in boulevards, etc. 1894, 288, § 3. 1919, 350, § 123. 1923, 230 252 Mass. 389.

1 SECTION 37. Except as provided in the two following sections, the
 2 commission may make rules and regulations for the government and use
 3 of the reservations or boulevards under its care and to govern the public
 4 use of the Charles river, the Neponset river and the Mystic river, within
 5 the metropolitan parks district, and of the ponds and other waters along
 6 which it holds abutting lands for reservations in said district; provided,
 7 that no rule or regulation affecting waters used for water supply purposes
 8 shall take effect as to such waters until approved in writing by the
 9 water board or other officers having control of the same, nor shall any
 10 rule or regulation affect the water rights of any person, whether a mill
 11 owner or otherwise.
 12 The commission shall cause such rules and regulations to be posted
 13 in the reservation or boulevard to which they apply, and shall also cause
 14 the same to be published at least once in a newspaper published in the

Rules and regulations, etc. Posting and publication; certificate thereof. Penalty for violation. 1893, 407, § 4. 1894, 288, § 7. 1895, 272. 450, §§ 7, 8. 1900, 340. 1901, 93. 1919, 350, § 123. 1926, 316, § 2. 156 Mass. 57. 182 Mass. 598. 187 Mass. 221. 188 Mass. 318. 199 Mass. 490. 257 Mass. 32. 258 Mass. 389. 269 Mass. 573.

270 Mass. 377.
1 Op. A. G.
259, 595.
2 Op. A. G. 85,
376, 454.
3 Op. A. G. 14.

county where said reservation or boulevard is in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of any member of the commission or of its secretary of such posting and publishing shall be prima facie evidence thereof.

Whoever violates any rule or regulation made hereunder shall be punished by fine not exceeding twenty dollars.

Same subject.
Charles river
basin. Proof
of rules under
this and pre-
ceding section.
1895, 450, § 7.
1901, 93.
1903, 465, § 7.
1906, 368, § 2.
1909, 524, § 5.
1910, 382, § 1.
1919, 350,
§ 123.
1926, 316, § 3.
3 Op. A. G. 14,
429.

SECTION 38. The commission may make reasonable rules and regulations, not impairing freight traffic, for the care, maintenance, protection and policing of the Charles river basin as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine and amendments thereof, breaches of which rules and regulations shall be breaches of the peace punishable by fine not exceeding fifty dollars for each offence. The commission shall cause such rules and regulations to be published once in a newspaper published in Boston, and such publication shall be sufficient notice to all persons. The sworn certificate of any member of the commission or of its secretary of such publication shall be prima facie evidence thereof. A copy of any such rule or regulation, or of a rule or regulation made under the preceding section, attested by any member of the commission or its secretary, shall be prima facie evidence that said rule or regulation was made by the commission.

Same subject.
Pollution of
Charles river.
Penalty.
1914, 531.
1919, 350,
§ 123.

SECTION 39. The commission may make rules and regulations prohibiting the pollution of the Charles river within the metropolitan parks district. Any person violating any rule or regulation made hereunder shall be punished by fine not exceeding one thousand dollars.

Maintaining
parts of reser-
vations outside
but contiguous
to district.
1895, 450, § 3.
1919, 350,
§ 123.

SECTION 40. The commission may accept and maintain as a portion of the reservations under section thirty-three any lands or rights in land which may be given to the commonwealth, provided such lands lie within the limits of the metropolitan parks district, or without such limits but immediately contiguous thereto.

Maintaining
accommoda-
tions for
boating and
bathing.
1897, 121, § 1.
1904, 326, § 1.

SECTION 41. The commission may provide and maintain upon reservations and boulevards under its care, suitable accommodations for bathing and boating, and for the use of the same may establish rules and regulations and make reasonable charges.

1919, 350, § 123.

Granting cities
and towns
locations
for sewers.
1900, 242.
1919, 350,
§ 123.

SECTION 42. The commission may grant to towns locations for common sewers and drains in and across reservations or boulevards under its care and control. Whenever a drain or sewer is laid in locations so granted, the board of town officers respectively authorized to levy and collect assessments for the laying of drains and sewers in such town shall have the same power to levy and collect assessments for drains and sewers laid in said reservations or boulevards as is given to them by law in the case of drains and sewers laid in the public ways of such town; provided, that no such assessment shall be levied upon any lands belonging to the commonwealth.

Granting loca-
tions to street
railways, elec-

SECTION 43. The commission may grant locations to street railways or electric railroads within the boulevards and reservations in its care

3 and control, and may also grant upon, under, along or across such
 4 boulevards and reservations such locations as shall be found by order
 5 of the department of public utilities after public hearing to be required
 6 by public convenience and necessity for poles, wires, cables or pipes for
 7 the transmission of electricity for light, heat or power or for the distribu-
 8 tion of gas. No grant of a location to a gas or electric company under
 9 the provisions of this and the following section shall affect the rights of
 10 parties under sections eighty-six, eighty-seven and eighty-eight of
 11 chapter one hundred and sixty-four in cases involving locations in
 12 public ways of a town other than locations upon, under, along or across
 13 such boulevards or reservations, but such rights shall be determined
 14 without reference to the provisions of this and the four following sections
 15 or to the grant of any location thereunder.

tric railroads,
 gas and elec-
 tric companies.
 1900, 413, § 1.
 1908, 301, § 1.
 1919, 350, § 123.
 1924, 390, § 1.
 1925, 83, § 1.

1 SECTION 44. Subject to the provisions of section forty-three, the
 2 commission, upon petition of a duly authorized official or representative
 3 of a street railway, electric railroad, gas or electric company for such
 4 location, shall give notice to all parties interested of the time and place
 5 at which the commission will give a hearing upon such petition, at least
 6 fourteen days before the hearing, by publication in one or more news-
 7 papers published in each town where the location petitioned for would
 8 lie, and if none such is published, then by publication in one or more
 9 newspapers published in each county where the location petitioned for
 10 would lie; and after hearing, if in the opinion of the commission public
 11 convenience and necessity so require, it may grant such location, or
 12 any part thereof, upon such terms, conditions and obligations, and for
 13 such compensation, as the public interest and a due regard for the rights
 14 of the commonwealth may require. Any such location shall be void
 15 unless written acceptance by a duly authorized official or representative
 16 of the company is filed with the commission within sixty days after such
 17 company receives notice of the granting of the same. No order of the
 18 department of public utilities or of the commission shall be required for,
 19 but the commission may make rules and regulations governing, the
 20 renewing, repairing or replacing of poles, wires, cables or pipes for the
 21 transmission of electricity for light, heat or power or for the distribution
 22 of gas, once erected or constructed in accordance with law, or the making
 23 of house connections or connections between duly located pipes, conduits
 24 and distributing poles.

Hearings,
 notices, loca-
 tions and
 regulation
 thereof.
 1900, 413, § 2.
 1908, 301, § 2.
 1919, 350,
 § 123.
 1924, 390, § 2.
 1925, 83, § 2.
 1926, 33.
 2 Op. A. G. 426.

1 SECTION 45. The commission may by order alter, extend or revoke
 2 any such location whenever in its opinion the public interest or the
 3 rights of the commonwealth so require; provided, that before so doing
 4 notice and hearing shall be given to the company and all persons inter-
 5 ested, as provided in the preceding section; and provided, further, that
 6 any such company or any persons interested in any such order may
 7 appeal therefrom to the governor and council, within fourteen days
 8 after the filing of a copy of such order, as provided in the following
 9 section.

Alteration, etc.,
 of location.
 1900, 413, § 3.
 1908, 301, § 3.
 1919, 350,
 § 123.

1 SECTION 46. The commission, within fourteen days after making
 2 any order granting a location, or an extension, alteration or revocation
 3 of a location, referred to in sections forty-three and forty-four, shall
 4 deposit a copy of such order in the office of the clerk of the town where

Record of
 order.
 1900, 413, § 4.
 1908, 301, § 4.
 1919, 350, § 123.
 1924, 390, § 3.

the location is granted, altered, extended or revoked, and the clerk of that town shall receive and record the same.

Powers and duties of companies operating under four preceding sections
1900, 413, § 6.
1908, 301, § 5.
1924, 390, § 4.

SECTION 47. All companies operating under the four preceding sections shall remain subject to the duties and liabilities imposed by other provisions of law consistent with said sections, and shall have the powers, duties and rights therein authorized, all of which shall be in addition to and in amendment of any charter or special provision of law or of the general laws under which they are organized.

Metropolitan Parks Expense Fund Revenue from concessions, etc., at Bunker Hill monument.
1885, 450, § 5.
1897, 121, § 2.
1898, 473, § 2.
1901, 464.
1904, 526, § 1.
1919, 350, § 123.
1922, 14.

SECTION 48. All sums of money collected or received by the commission in the exercise of its functions in relation to reservations or boulevards, including current receipts from the bath houses and sums received in the exercise of said functions for rentals, sales or use of property under its charge, and all fines recovered for violation of rules and regulations made by the commission, or for violation of the laws of the commonwealth within the limits of said reservations or boulevards, shall be accounted for and paid to the state treasurer, who shall receive the same and hold and invest the same, together with money collected or received by him in payment of betterments assessed by the commission in its exercise of said functions, as a fund known as the Metropolitan Parks Expense Fund. The commission may expend said fund and any proceeds therefrom for the maintenance and improvement of the reservations and boulevards under its care, in addition to any loans or appropriations authorized for such purposes. This section shall not apply to any moneys received by the commission from admissions, souvenir privileges or from any other source, in connection with the Bunker Hill monument; but all moneys so received shall be paid into the general revenue of the commonwealth.

Location of boulevards across railroads.
1905, 456, § 1.
1919, 350, § 123.

SECTION 49. The commission may make such agreements with any railroad corporation as may be necessary to secure or facilitate the laying out, extension, construction and maintenance of a boulevard under the care or control of the commission across railroad lands or locations, and to indemnify such railroad corporation against any claims for damages to persons or property, arising out of such laying out, extension, construction and maintenance.

Railroads to have notice of proposed action.
1905, 456, § 2.
1913, 784, § 1.
1919, 350, § 117, 123.

SECTION 50. The commission shall give the railroad corporation thirty days' written notice of the proposed work, accompanied by a plan thereof; and if the commission is unable to agree with the railroad corporation across whose land or location it desires to lay out, extend and construct a boulevard, it may have its right to cross and the manner of crossing determined by the department of public utilities; provided, that no crossing of such boulevard shall be at a level with the railroad tracks and that no such boulevard shall be laid out, extended and constructed across a railroad in such manner as to injure or obstruct the railroad.

Department of public utilities may fix place and manner of crossing.
1905, 456, § 3.
1913, 784, § 1.
1919, 350, § 117, 123.

SECTION 51. The department of public utilities, upon petition of the commission and after due notice to the railroad corporation, shall hear the parties, and, if of the opinion that said petition should be granted, shall make a decree describing the place, time and manner of constructing such crossing, and how much, if any, of the work made necessary by such crossing shall be done by the corporation; and thereafter the commission

7 may lay out, construct and maintain such boulevard across the railroad
8 in accordance with the terms of said decree.

1 SECTION 52. All expenses of, and incident to, constructing and
2 maintaining any roadway or parkway crossing a railroad, as provided in
3 the three preceding sections, shall be borne by the commonwealth, and
4 shall be paid out of the funds available for use by the commission for
5 boulevard or reservation purposes, unless otherwise determined by an
6 agreement between the commission and any such railroad corporation.

Payment
of cost of such
crossings.
1905, 456, § 4
1919, 456,
§ 123.

1 SECTION 53. The commission may provide band concerts in such
2 parks, parkways or other places under its control for boulevard or
3 reservation purposes, and at such times, as it may select. Said com-
4 mission shall include in its annual estimate of the expense of maintenance
5 of the metropolitan parks system for each year such sum as it may recom-
6 mend should be appropriated for the purposes of this section.

Band concerts.
1906, 375
1907, 453
1908, 424
1909, 145, § 1.
1919, 350,
§ 123

1 SECTION 54. The proportions in which each of the towns of the metro-
2 politan parks district, including Cohasset with respect to Nantasket
3 beach reservation only, shall annually pay money into the treasury of
4 the commonwealth to meet the interest, sinking fund and serial or other
5 bond requirements for each year and any deficiency in the amounts pre-
6 viously paid in, as estimated by the state treasurer, shall be as follows:
7 Boston shall pay as a special assessment sixteen and two thirds per cent
8 of the money so required on account of the amount expended for con-
9 struction of the marginal conduit on the Boston side of the Charles river
10 basin as heretofore determined by the apportionment commission ap-
11 pointed by the supreme judicial court in the year nineteen hundred and
12 ten; Cambridge shall pay as a special assessment sixteen and two thirds
13 per cent of the money so required on account of the amount expended
14 for construction of the marginal conduit on the Cambridge side of the
15 Charles river basin as heretofore determined by the said apportionment
16 commission; and the payment of the balance shall be based upon the
17 respective taxable valuations of the property of said towns of the metro-
18 politan parks district.

Apportionment
of interest,
sinking fund
and serial or
other bond re-
quirement. § 10
1894, 288, § 8.
1896, 590,
§§ 2, 4
1899, 419,
464, §§ 1, 3, 4
1901, 456, § 2
1903, 467, § 9
1906, 402, § 2
1909, 524, § 11.
1920, 443, § 1
165 Mass. 497.
178 Mass. 213.
180 Mass. 471.
209 Mass. 381.
227 Mass. 183.

1 SECTION 55. The proportion in which each town of said district shall
2 annually pay money into the treasury of the commonwealth to meet the
3 cost of maintenance of reservations, exclusive of Nantasket beach reser-
4 vation and the Charles river basin, and any deficiency in the amounts
5 previously paid in, as found by said treasurer, shall be apportioned ac-
6 cording to the average percentage of valuation and population, deter-
7 mined as to any town by adding together the percentage which the
8 valuation of the same bears to the total valuation of the towns of the
9 district and the percentage which the population of the same bears to
10 the total population of the towns of the district, and dividing this sum
11 by two.

Apportionment
of maintenance
of reservations,
except Nantasket
beach and Charles
river basin.
1893, 407, § 10.
1894, 288, § 8.
1896, 590,
§§ 2, 4
1899, 419,
§ 1, 3
1901, 456, § 2.
1920, 443, § 2
165 Mass. 497.
178 Mass. 213.
180 Mass. 471.

209 Mass. 381.

227 Mass. 183.

1 SECTION 56. The proportion in which each town of the metropolitan
2 parks district, including Cohasset with respect to the maintenance of
3 Nantasket beach reservation only, shall annually pay money into the
4 treasury of the commonwealth to meet the cost of maintenance of said
5 reservation and the Charles river basin and one half the cost of mainte-

Apportionment
of maintenance
of boulevards,
Nantasket
beach reservation
and
Charles river
basin.
1893, 407, § 10.

1894, 288, § 8.
1896, 550,
§§ 2, 4.
1899, 419,
§§ 1, 3;
464, § 4.
1901, 456, § 2.
1903, 465, § 9.
1906, 402, § 2.

nance of boulevards and any deficiency in the amounts previously paid in, 6
as found by said treasurer, shall be based upon the respective taxable 7
valuations of the property of said towns. The remaining half of the cost 8
of maintenance of boulevards shall be annually appropriated by the gen- 9
eral court from the Highway Fund. 10

1909, 524, § 11.
1920, 443, § 3.
1921, 142, § 3.
1925, 288, § 3.

1931, 122, § 5.
165 Mass. 497.
178 Mass. 213.

180 Mass. 471.
209 Mass. 381.
227 Mass. 183.

Commission to
make appor-
tionments

1893, 407, § 10.
1894, 288, § 8.
1896, 550,
§§ 2, 4.
1899, 419,
§§ 1, 3;
464, § 4.
1901, 456, § 2.
1903, 465, § 9.

SECTION 57. The commission shall annually, in accordance with the 1
provisions of the three preceding sections, determine the proportion in 2
which each of the towns of said district shall annually pay money into 3
the treasury of the commonwealth to meet the interest, sinking fund 4
and serial or other bond requirements and the cost of maintenance of 5
reservations and boulevards, and shall transmit the determination of 6
the commission to the state treasurer. 7

1906, 402, § 2.
1909, 524, § 11.

1920, 443, § 4.
1931, 122, § 5.

Assessments;
payment.

1893, 407,
§§ 11, 12.
1894, 288,
§§ 9, 10.
1896, 550,
§§ 3, 4.
1899, 419,
§§ 2, 3;
464, § 4.
1901, 456, § 2.
1903, 465, § 9.
1920, 443, § 5.

SECTION 58. The amount of money required each year from every 1
such town to meet the interest, sinking fund and serial or other bond 2
requirements and the cost of maintenance aforesaid, and the deficiency, 3
if any, shall be estimated by the state treasurer, in accordance with the 4
proportions determined as aforesaid by said commission, together with 5
any amounts required by law to be specially assessed upon any particular 6
town, and shall be included and made a part of the sum charged to such 7
town, and shall be paid by such town into the state treasury at the time 8
required for the payment of its proportion of the state tax. 9

1931, 122, § 5.

Definitions.
1920, 443, § 6.
1931, 122, § 5.

SECTION 59. For the purposes of the five preceding sections, the 1
words "taxable valuations of the property of towns" shall mean taxable 2
valuations of property last established next prior to such apportionment 3
by the general court as a basis of apportionment for state and county 4
taxes. The words "population of the towns" shall mean the population 5
as determined by the latest census, state or national, next prior to such 6
apportionment. 7

MISCELLANEOUS PROVISIONS.

Payment of
cost of main-
tenance of
sewerage,
water and
parks systems.
1919, 350,
§ 129.

SECTION 60. The expense of the salaries of the metropolitan district 1
commissioners, and such expense of maintenance of the general office and 2
otherwise as the commission shall determine are not clearly or wholly 3
incurred in the maintenance work of any one of the metropolitan parks, 4
boulevards, water or sewerage systems or districts, shall be paid: one 5
fourth as maintenance of reservations by the metropolitan parks district; 6
one fourth as maintenance of boulevards by said district and the com- 7
monwealth in equal parts; one fourth by the metropolitan water district; 8
and one fourth in equal parts each by the north and south metropolitan 9
sewerage districts. The state treasurer shall include the amounts required 10
of each town of said districts and of the commonwealth to meet said 11
expenses in the sums assessed upon said towns in the annual state tax. 12

Authority of
police officers.
1895, 450, § 9.
1897, 121,
§§ 3, 4.

SECTION 61. The police appointed or employed by the commission, 1
except special women police officers, shall have within the metropolitan 2
parks district, and within the towns outside said district wherein any of 3

4 the property of the metropolitan water and sewerage districts is situated,
 5 all the powers of police officers and constables of towns of this common-
 6 wealth, except the power of serving and executing civil process, and when
 7 on duty may carry such weapons as the said commission shall authorize.
 8 Such special women police officers shall have all said powers, except in
 9 relation to the service of civil process and to the carrying of weapons, but
 10 only within said parks district.

1919, 350,
 § 128,
 1920, 567,
 1 Op. A. G. 259,
 2 Op. A. G. 85,
 454.

1 SECTION 62. Members of the police force of the commission shall be
 2 excused from duty without loss of pay for a number of days in each year
 3 equal to one day in every thirty days, such days off to be assigned by the
 4 commission or by the chief of said force acting under its direction.

Days off
 for police,
 1908, 476, § 1.

1 SECTION 63. The commission may appoint and employ as a call officer
 2 for temporary police duty any member of the reserve police force of any
 3 town within the metropolitan parks district, or any person on the list of
 4 the department of civil service and registration of eligibles for appoint-
 5 ment to any such reserve police force or to the permanent police force of
 6 any such town; provided, that the assent of the chief of police of the
 7 town shall first be obtained for the employment of any member of its
 8 reserve police force of such town as herein provided. Employment by
 9 the commission of any such reserve police officer shall not prevent his
 10 employment by the town where he resides whenever his services may be
 11 required by its chief of police. Any such call officer shall, while on duty,
 12 have all the powers and authority conferred upon police officers of the
 13 commission by section sixty-one.

Call officers,
 1916, 56,
 §§ 1, 2,
 1918, 82,
 1919, 350,
 §§ 63, 128.

1 SECTION 63A. The commission may authorize the payment, out of
 2 the metropolitan parks or boulevard maintenance funds, of the reason-
 3 able hospital, medical and surgical expenses of any permanent member
 4 of its police department or of any call officer thereof disabled, either
 5 mentally or physically, by injuries sustained through no fault of his own
 6 in the actual performance of his duty, for useful service in the depart-
 7 ment either temporarily or permanently.

Police officers
 injured while
 on duty,
 hospital, etc.,
 expenses,
 1923, 221.

1 SECTION 64. The wages paid by the commission to laborers tem-
 2 porarily employed shall be not less than the wages paid to laborers
 3 permanently employed.

Wages of
 temporary
 laborers.

1911, 541.

1913, 655.

1919, 350, § 123.

1923, 350.

1 SECTION 65. Laborers and mechanics in the service of the commis-
 2 sion, except those employed at the bath houses under the control of the
 3 commission, shall be given a half holiday each week without loss of
 4 pay, and, if practicable, the half holiday shall be on Saturday. If,
 5 however, the public service so requires, the commission may at any time
 6 during the year give to the laborers and mechanics in its service, in lieu
 7 of the said half holidays, days off duty, without loss of pay, equivalent
 8 in time to the half holidays which would otherwise be given under this
 9 section.

Saturday
 half holidays,
 1912, 528,
 1914, 455,
 1916, 258,
 1919, 350,
 § 123,
 1930, 421, § 1.

1 SECTION 66. In the state bath houses under the care of the commis-
 2 sion the women attendants shall receive the same scale of wages as the
 3 men attendants, when performing similar work.

Pay of women
 attendants
 in bath houses.

1912, 683.

1919, 350, § 123.

Agreements
for lighting
reservations
and boulevards,
1914, 515, § 1.
1916, 107,
1919, 350,
§ 123.

SECTION 67. The commission may enter into an agreement with any electric light, power or gas company within the metropolitan park district, for a period not exceeding ten years, for the lighting of any part of the boulevards or reservations under the control of the commission, upon such terms as said commission deems most advantageous to the commonwealth.

Quality and
price of light,
how fixed,
1914, 515,
§§ 2, 3
1919, 350,
§ 123.

SECTION 68. The commission and a gas or electric light company, parties to any such contract, shall, upon complaint of the commission or application of the company to the department of public utilities, have the right to have any question of the quality or price of gas or electric light sold and delivered or of the service rendered determined by said department, and the provisions of sections ninety-three and ninety-four of chapter one hundred and sixty-four shall, as far as applicable, apply to the determination of such questions.

Charles river
bridges,
1910, 628,
§§ 1, 2
1911, 439,
§§ 1, 2
1919, 350,
§ 123
223 Mass. 119.

SECTION 69. The commission may replace or rebuild any bridge over the Charles river within the metropolitan parks district whenever funds for the purpose shall become available by gift under the provisions of this section; provided, that no such bridge shall be replaced or rebuilt unless the consent of the city council and of the selectmen of any town in which any part of the bridge is situated shall first be obtained. Any such bridge may be replaced or rebuilt without a draw for the passage of vessels, and may be of no greater height above the water than, in the judgment of the commission, the architectural appearance of the bridge would require, except that every such bridge over the Charles river basin shall be so constructed as to leave a clear height of at least twelve feet above the ordinary level of the water in the basin over the main ship channel, and the piers and other obstructions to the flow of the river shall be constructed in such form and in such places as the secretary of war of the United States shall approve. When the work of replacing or rebuilding any such bridge is completed, the bridge shall be maintained and policed under and in accordance with the laws governing such maintenance and policing at the time when the work was begun. The state treasurer may receive, hold, manage and invest any funds given or bequeathed to him in trust by any person, upon such terms, conditions and limitations as the donor may impose, for the purpose of enabling the commission to carry out the provisions of this section, and the commission, whenever it shall deem that the public interests so require, may expend, under authority of this section and of any other provision relating to the acquirement and maintenance of reservations or boulevards by the commission, any such funds in accordance with the terms, conditions or limitations aforesaid. Any owner or lessee of property abutting on the Charles river above any drawless bridge built under the authority of this section and under authority of the act of congress entitled "An Act to authorize the construction of drawless bridges across a certain portion of the Charles river in the State of Massachusetts", approved February twenty-seven, nineteen hundred and eleven, shall be entitled to adequate compensation for damages, if any, caused to said property or leasehold interests therein, by reason of the interference with access by water to said property due to the construction of any such drawless bridge, in accordance with provisos contained in said act of congress. Upon petition of any such owner or lessee entitled to such damages, filed in the supreme judicial court within one year after any

39 such bridge without a draw is opened for public travel, said court shall
 40 appoint three commissioners to hear the parties in interest, and to assess
 41 the damages to said property; and the decision of said commissioners
 42 as to the amount of said damages and as to questions of fact involved
 43 shall be final.

1 SECTION 70. No person shall deface or injure any part of the Charles
 2 river dam, or any wharf, wall or other structure or any mechanism con-
 3 nected therewith, or unnecessarily open any drawbridge connected
 4 therewith or obstruct the passage thereof; nor shall any person, without
 5 the consent of the person in charge of the drawbridge, make fast to the
 6 dam, bridge, draw, guard, pier or any appurtenance thereof any vessel,
 7 scow, raft or float, or remain inside of the draw gates or on any pier,
 8 wharf, fender or appurtenance of the draw while the gates are closed;
 9 nor shall any person having charge of a vessel passing through the draw
 10 of such bridge refuse or neglect to comply with the directions of the
 11 person in charge relating to such passing. Whoever violates any provi-
 12 sion of this section shall be punished by a fine of not more than twenty
 13 dollars.

Injury to
 Charles river
 dam
 1909, 286,
 §§ 1, 2.

1 SECTION 71. No person shall permit or suffer any vessel, scow, raft
 2 or float to come in contact with either of the gates of the lock of the
 3 Charles river dam. Whoever violates this section shall be punished by
 4 a fine of not more than fifty dollars.

Penalty for
 colliding with
 gates of lock of
 Charles river
 dam.

1909, 286, §§ 3, 4.

1 SECTION 72. The commission shall have the same authority relative
 2 to wrecked vessels or other shipwrecked property on the shores or
 3 waters of the Charles river basin as is given the department of public
 4 works by section thirty-eight of chapter ninety-one relative to such
 5 vessels or property on other shores or waters of the commonwealth;
 6 and the commission shall have the same authority relative to the removal
 7 from said basin of wrecked, sunken or abandoned vessels, or of any
 8 unlawful or unauthorized structure or thing deposited or suffered to
 9 remain in the waters of said basin and obstructing safe and convenient
 10 navigation therein, as is given said department by sections thirty-nine
 11 to forty-five, inclusive, of chapter ninety-one, relative to such removal
 12 from the tide waters of the commonwealth, and said sections, so far as
 13 applicable, shall apply to such removals by the commission.

Charles river
 basin.
 Powers as to
 shipwrecked
 vessels and
 property and
 removal of
 wrecks.
 1910, 585, § 1.
 1918, 257,
 § 335.
 1919, 5; 350,
 §§ 111, 123.
 1920, 2
 1931, 394, § 94.

1 SECTION 73. The commission shall have the same authority relative
 2 to the breaking up and disposing of old vessels and other floating struc-
 3 tures in said Charles river basin that is given to the department of
 4 public works by sections forty-six to forty-nine, inclusive, of chapter
 5 ninety-one in relation to the harbors of the commonwealth.

Same subject.
 Disposal of
 old vessels.
 1910, 585, § 2.
 1919, 350,
 §§ 111, 123.
 1920, 2
 1931, 394, § 95.

1 SECTION 74. The commission may license the maintenance of those
 2 parts of buildings and of the foundations of buildings which on July
 3 first, nineteen hundred and ten, projected into, upon or over the en-
 4 bankment of the Charles river basin. Said licenses shall be granted
 5 upon such terms, conditions, restrictions and agreements, and for such
 6 period of years, not exceeding twenty-five, as the commission may
 7 deem best; provided, that licenses shall be revocable at any time by
 8 the commission. The granting of such a license shall in no event be

Same subject.
 Licensing of
 overhanch-
 ings.
 1909, 324, § 3.
 1911, 198,
 1919, 350,
 § 123.

construed to create in the licensee any title to the land into, upon or over which any licensed encroachment shall project, and no person shall by the maintenance of parts of buildings or foundations of buildings herein described, with or without such license, acquire any rights by prescription or adverse possession in any part of the Charles river embankment.

Same subject.
Licensing of recreational facilities.
1929, 371, § 11.

SECTION 74A. The commission may from time to time grant licenses to cities and towns, educational institutions, clubs and responsible persons for the construction and maintenance of boat landings, boat houses and landings, floats, wharves, breakwaters and other structures in connection therewith, playgrounds, swimming pools and other recreational facilities at such locations along the Charles river basin for such rental, if any, and upon such terms and conditions as it may deem advisable. For the foregoing purposes the commission may grant suitable locations by lease or otherwise with the right to erect buildings and to project landings and floats upon the waters of the said basin upon such terms, conditions, restrictions and agreements and for such period of years not exceeding twenty-five as the commission may deem expedient. In carrying out the provisions of this section the commission shall encourage rowing and boating on the basin in every reasonable way and, in that connection, shall give consideration to the fact, if it appears to be a fact, that any club or educational institution has for many years owned or occupied a boat house on the basin, the point on the bank at which such boat house was formerly situated and the length of time during which it had been owned or maintained there.

Same subject.
Appointment of harbor master and assistants.
1913, 417.
1919, 350,
§ 123.

SECTION 75. The commission may appoint from its police force a harbor master and assistant harbor masters who shall respectively have and exercise within the Charles river basin all the powers and authority which now appertain by law to the offices of harbor master and assistant harbor masters for the port of Boston appointed by the police commissioner of Boston. The commission may require such further duties of these officers, including the duties of officers and members of the police force appointed by the commission, consistent with the provisions of law, as the commission may deem expedient. The harbor master and assistant harbor masters appointed hereunder shall receive the pay which may be established for the grade or rank which they respectively hold in the police force of the commission.

Same subject.
Prevention of pollution.
1903, 465, § 7.
1906, 368, § 2.
1909, 524, § 7.
1919, 350,
§ 123.

SECTION 76. The commission may order the removal of all sewage and other polluting matter or factory waste as a common nuisance from the Charles river and its tributaries below Waltham and from the Charles river basin; and no sewer, drain or overflow or other outlet for factory or house drainage or for any other drainage shall hereafter be connected with said basin or the river below Waltham without the approval of the commission.

Same subject.
Taking of water.
1928, 238.

SECTION 76A. The metropolitan district commission, after a public hearing notice of which shall be sent to the state department of public health and to all cities and towns bordering on the Charles river basin, as defined by section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine and acts in amendment thereof and in addition thereto, and subject to the approval of said department of

7 public health as hereinafter provided, may grant to any such city or town
8 which accepts sections seventy-six A to seventy-six E, inclusive, by vote
9 of the city council or selectmen a permit to take water from said basin
10 for purposes of fire protection and of sale, at such price as the municipality
11 may determine, to manufacturing establishments within its limits for
12 cooling and condensing purposes. A city or town receiving such a permit
13 may construct and maintain on lands owned by it all necessary works
14 and pumping stations and may lay and maintain in such lands and in its
15 streets all necessary mains and pipes, and, to such extent and on such
16 terms and conditions as may be authorized in such permit, may lay said
17 mains and pipes on or in lands under the control of the commission. Any
18 permit granted hereunder shall prescribe the maximum amount of water
19 which may be drawn from said basin thereunder, and the place and man-
20 ner of taking said water and of the return of said water except such as is
21 used for fire protection, and shall provide for the metering of said water
22 both at the place of taking and of return, and for reimbursing the com-
23 mission for all expenses of supervision and inspection. Such permit shall
24 also prescribe the location, and the mode of construction and of laying, of
25 all works, mains and pipes within lands under the commission's control,
26 and such other terms and conditions as in the commission's opinion the
27 public interest may require. No such permit shall be granted except in
28 such form as shall be approved by said department of public health, and
29 no construction shall be commenced or carried on thereunder until all
30 plans and specifications have been submitted to and approved by said
31 department.

1 SECTION 76B. Any such permit shall be upon the condition that water
2 taken thereunder for purposes other than fire protection shall be supplied
3 only to such manufacturers as can use it in a system of closed pipes with-
4 out opening at any point within their premises; that it is to be discharged
5 through a special system of outlet pipes into the basin or the canals
6 thereof in a manner approved by the commission; and that no oil, refuse,
7 or other substance which would be harmful to the water in the basin shall
8 be added to the water before its return to the basin. Upon violation of
9 any condition in the permit, or if in the opinion of the commission the use
10 of water under the permit impairs the quality or, except for water used
11 for fire protection, reduces the quantity of the water of the basin, the
12 commission shall revoke the permit; and no new permit shall be granted
13 unless the commission finds that there is no danger of future breach of
14 condition of a permit when granted, or that the quality of the water of the
15 basin will not be impaired.

Same subject.
Permits.
1928, 238.

1 SECTION 76C. No manufacturing establishment shall be supplied with
2 water taken from the basin under a permit granted under the two preced-
3 ing sections until proper and suitable connections have been made for
4 use of city or town water, so that, in case of revocation of the permit, the
5 manufacturing establishments affected may be supplied with water for
6 cooling and condensing purposes from the water system of the city or
7 town, but in such case the water after use shall not be discharged into the
8 basin.

Same subject.
Conditions for
supplying
manufactories.
1928, 238.

1 SECTION 76D. No permit granted under sections seventy-six A and
2 seventy-six B shall authorize the taking of water from said basin to such
3 an extent as substantially to affect the maintenance of the water level in

Same subject.
Maintenance of
water level.
1928, 238.

said basin at the height required by chapter four hundred and sixty-five of the acts of nineteen hundred and three and acts in amendment thereof or in addition thereto, or in quantities, or in a manner, inconsistent with the purposes and provisions of the laws establishing and governing the maintenance of said basin.

Same subject.
City or town
may borrow
money.
1928, 238,
1931, 426,
§ 210.

SECTION 76E. For the purpose of meeting the expenses of constructing such works and of laying such mains and pipes, a city or town receiving a permit as aforesaid may borrow money, subject to the provisions of section eight of chapter forty-four.

Taking or
acquisition of
lands by
commission.
For metro-
politan sewer-
age systems
1889, 439, § 4.
1890, 270.
1895, 406, § 5.
1899, 424, § 3.
1901, 168,
§§ 1, 5.
1919, 350,
§ 123.

SECTION 77. The commission, on behalf of the commonwealth, may take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, any lands, watercourses, rights of way or easements, and may take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, or enter and use, any existing sewers or parts of sewers necessary for carrying out the provisions of this chapter relative to the construction, maintenance and operation of systems of sewage disposal authorized by section one.

272 Mass. 457.

Same subject
For metro-
politan water
system
1895, 488, § 4.
1901, 168,
§§ 1, 5
1919, 350,
§ 123.
272 Mass. 457

SECTION 78. The commission, on behalf of the commonwealth, may take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, lands in fee, easements, rights and other property that it deems necessary or desirable for carrying out the powers and duties conferred upon it by the provisions of this chapter relative to the construction, maintenance and operation of a system of metropolitan water works.

Same subject
For reser-
vations.
1893, 407, § 4.
1895, 272
1898, 463, § 1.
1901, 168,
§§ 1, 5
1919, 350,
§ 123
272 Mass. 457.

SECTION 79. For the purposes set forth in section thirty-three, the commission, acting so far as may be in consultation with the proper local boards, on behalf of the commonwealth, may take in fee or otherwise, by purchase, gift, devise, or eminent domain under chapter seventy-nine, lands and rights in land for reservations within the metropolitan parks district, or take bonds for the conveyance thereof; and may take by eminent domain under said chapter, or acquire by agreement or otherwise, the right forever, or for such period of time as the commission deems expedient, to plant, care for, maintain or remove trees, shrubs and growth of any kind within certain spaces regulated by the commission along or near rivers and ponds within said district; and may take or impose by eminent domain under said chapter, or acquire the benefit of, by agreement or otherwise, such restrictions upon such regulated spaces as it deems expedient; provided, that no private property shall be taken or restrictions imposed by eminent domain hereunder without the concurrence of a majority of the commission and of the board of park commissioners, if any, of the town where said property is situated.

Same subject.
For boule-
vards.
1894, 288, § 1.
1919, 350,
§ 123
272 Mass. 457
4 Op. A. G. 323.

SECTION 80. For the purpose of carrying out section thirty-five, the commission may take or acquire, in fee or otherwise, on behalf of the commonwealth, by purchase, gift, devise, or eminent domain under chapter seventy-nine, any land or easements or interests in land within the metropolitan parks district, although the land so taken, or any part thereof, be already a public way; provided, that the concurrence of the city council in Boston for Suffolk county or the concurrence of each other county or city or town outside of Suffolk county, wherein any

9 portion of any public way, land or rights in land is taken by eminent
10 domain, be obtained to the taking of said portion by vote of its county
11 commissioners, city council or selectmen, respectively.

1 SECTION 81. The commission may, at public or private sale, dispose
2 of any property, real or personal, no longer needed for the construction,
3 maintenance or operation of sewers, under section one, provided that
4 such sale shall not impair the maintenance and operation of said sewerage
5 systems. Real estate so sold may be conveyed, subject to such easements,
6 reservations and restrictions as the commission deems necessary to secure
7 the maintenance, renewal and operation of said sewers, by deed duly
8 executed by the commission on behalf of the commonwealth, with or with-
9 out warranty. The net proceeds of any such sales, after deducting all
10 necessary expenses incurred thereby, shall be paid to the commonwealth
11 and shall be credited to and form a part of the fund to be used in the
12 construction or maintenance of said sewers.

Commission
may sell land
not needed
for maintenance
of sewerage
systems.
1892, 271,
1895, 196,
§§ 11, 13
1899, 424,
§§ 10, 12
1901, 198,
§§ 1, 7
1919, 350,
§ 123

1 SECTION 82. The commission may sell, at public or private sale, any
2 property, real or personal, whether taken by eminent domain or otherwise,
3 no longer needed for the water works under its charge, or may from time
4 to time lease any property not so needed. In any case where the com-
5 mission may sell such real estate, it may convey it and receive therefor
6 in exchange other real estate, the title of the same to be taken in the
7 name of the commonwealth, and may cause money to be paid or received
8 to make the exchange equal. And the commission may make grants or
9 conveyances of easements and receive therefor in exchange other ease-
10 ments, money or such considerations as may be deemed suitable by it,
11 the title of such easements to be taken in the name of the common-
12 wealth. All money received under this section shall be paid to the
13 commonwealth and applied to the payments for the property taken
14 by the commission for water works purposes, the payment of damages
15 caused by such takings, and of expenses of construction of said water
16 works.

Commission
may sell land
not needed for
maintenance
of water system.
1895, 488,
§§ 11, 18,
1898, 464,
1909, 473,
1919, 350,
§ 123.

1 SECTION 83. The commission may, for all purposes consistent with
2 the purposes specified in sections thirty-three and thirty-five, erect,
3 maintain and care for buildings, and grant easements, rights of way or
4 other interests in land, including leases, in any portion of the lands taken
5 or acquired by it for the purposes of said sections, and may accept and
6 assent to any deed containing reservations of such easements or other
7 interests in land, all for such considerations or rentals, and upon such
8 terms, restrictions, provisions or agreements, as the commission may
9 deem best. The commission may sell at public or private sale surplus
10 earth, rock, ice, wood, hay, standing grass, old buildings, and mate-
11 rials no longer needed for the maintenance of boulevards or reservations
12 under its charge and may collect the money due from such sales and
13 sue to recover or enforce the collection thereof in the courts of the
14 commonwealth.

Commission
may grant or
accept title to
interests in
land and sell
personal
property of
park system
1895, 450, § 1
1919, 350,
§ 123.

1 SECTION 84. The commission may, with the concurrence of the park
2 commissioners, if any, of the town where the property is situated, by deed
3 recorded in the county where the land lies, accompanied by plan or sur-
4 vey, abandon any easement or other right in land less than the fee taken
5 by the commission by right of eminent domain for reservation or boule-

Authority to
abandon
certain interests
in land
1895, 450, § 2.
1919, 350,
§ 123.

ward purposes, and said abandonment shall revert title thereof, as if never taken, in the persons, their heirs and assigns, in whom vested at the time of the taking.

Commission may sell land or interests therein acquired for park or boulevard purposes. 1895, 450, § 2. 1919, 350, § 123.

SECTION 85. The commission, with the concurrence of the park commissioners, if any, in the town where the property is situated, may sell at public or private sale any portion of the lands or rights in land the title to which has been taken or received or acquired and paid for by it for the purposes set forth in sections thirty-three and thirty-five, and may, with the concurrence of such park commissioners, execute a deed thereof, with or without covenants of title and warranty, all in the name and behalf of the commonwealth, to the purchaser, his heirs and assigns, and deposit said deed with the state treasurer, together with a certificate of the terms of sale and price paid or agreed to be paid at said sale, and, upon receipt of said price and upon the terms agreed in said deed, he shall deliver the deed to said purchaser. The state treasurer may, by the attorney general, sue for and collect the price and enforce the terms of any such sale.

If the commission votes, under this or the preceding section, to abandon or sell any portion of the lands or rights in land so taken or acquired by it, and the park commissioners in any town where said property or right in property is situated refuse or fail to concur with the commission within fourteen days from the giving of written notice of such vote to said park commissioners, the commission, upon written notice of not less than seven days to said park commissioners, may appear before the governor and council and ask their concurrence in such sale or abandonment; and if the governor and council, after hearing, concur in such sale or abandonment, it shall have full force and effect.

Reservations and exceptions in takings. 1896, 465, § 1. 1919, 350, § 123.

SECTION 86. Whenever, by reason of a taking by the commonwealth through the commission for reservation or boulevard purposes, a public way is so affected that the public rights therein might otherwise be abridged, either by being wholly or partly included within the taking, any and all exceptions and reservations made in said taking in favor of any municipality within which said way or part thereof lies, and of the public, and of persons, shall be valid, effectual and binding; and in order to insure to the parties concerned the full and perfect enjoyment of the uses thereby reserved the commission may make grants of or convey easements, enter into agreements, issue licenses, and generally conclude arrangements to that end; but no such grant, agreement, license or arrangement shall be taken or held to abrogate or abridge the control of the commission over the land included in said taking except as in said exceptions and reservations provided, or the right of the commission to make rules and regulations for the government and use of any boulevard or crossway which may be laid out and maintained over said land or over any portion thereof, not inconsistent with such exceptions and reservations.

Transfer of care and control of certain property. 1893, 407, § 6. 1896, 465, § 2. 1898, 455. 1919, 350, § 123. 1931, 426, § 211. Op A. G. 96.

SECTION 87. The commission may transfer, for care and control, including police protection, any lands or rights or easements or interest in land held by it under sections thirty-three and thirty-five to any city, town, county, or local board of a city or town within the metropolitan parks district, with the consent of such city, town, county or board, and upon such terms and for such period as may mutually be

7 agreed upon, and enter into an agreement with any such city, town,
 8 county or board for the joint care and control or police protection of
 9 such lands or rights therein, and also for laying out, constructing and
 10 maintaining ways into or across any such lands; and any city, town, or
 11 county, or any local board within the metropolitan parks district, may
 12 transfer, for care and control, including police protection, any land,
 13 rights, easements or interest in land in its control, although the same be
 14 already a part of a public way owned or controlled by it, to the commis-
 15 sion for such period and upon such terms as may mutually be agreed
 16 upon, and may enter into an agreement with the commission for the
 17 joint care and control, including police protection, of such land or public
 18 way. All the provisions of section thirty-six shall apply in the case of
 19 any public way within the limits of such land as may be transferred, for
 20 care and control under this section, to the commission, to the same
 21 extent as though such way were a boulevard maintained by the com-
 22 mission under section thirty-five.

1 SECTION 88. The commission may join with any city, town or county
 2 in the laying out, improvement, relocation, widening, repairing, main-
 3 taining and caring for any public way, bridge or stream which lies along
 4 or connects any reservation or boulevard, or any sewer, water pipe or
 5 other conduit in such public way or bridge, or in or across any park,
 6 boulevard or reservation owned or controlled by the commission, and
 7 in the expense of such work, and for such purposes or any of them, may
 8 make contribution to such city, town or county by a grant of land or
 9 rights in land, although the same be already a boulevard, or by payment
 10 of money for its portion of such expense.

Agreements and contribu-
 tions for
 improvement of ways,
 sewers, water
 pipes, etc.
 1896, 465, § 3.
 1919, 350,
 § 123.

1 SECTION 89. If money, goods or other property which has been
 2 stolen, lost, abandoned or taken from a person under arrest comes into
 3 the possession of a police officer or other employee of the commission
 4 by virtue of his office or employment, he shall deliver the same to the
 5 person designated by the commission to receive the same, and he shall
 6 thereupon be relieved from further responsibility therefor.

Disposition of
 lost property.
 1904, 170, § 1.
 1919, 350,
 § 123.

1 SECTION 90. If no person proves ownership of such money, goods
 2 or other property within six months, the commission may cause the
 3 same, excepting money unclaimed, to be sold at public auction at such
 4 place and time and by such person as the commission may designate.

Sale of lost
 property.
 1904, 170, § 2.
 1919, 350,
 § 123.

1 SECTION 91. Notice of the time and place of such sale, with a descrip-
 2 tion of the property, shall be given by publishing the same once in a
 3 newspaper published in Boston.

Notice of sale
 1904, 170, § 3

1 SECTION 92. Such property, if perishable or liable to deteriorate
 2 greatly in value by keeping, or the value of which will probably be less
 3 than the expense of keeping, may be sold at public auction at such
 4 place and at such time within six months and by such person as the
 5 commission may designate, such notice of the time and place of sale
 6 as the commission may deem reasonable and proper first being given.

Sale of perish-
 able lost
 property.
 1904, 170, § 4.
 1919, 350,
 § 123.

1 SECTION 93. The proceeds of such sales, together with such unclaimed
 2 money, after deducting all reasonable charges and expenses incurred on
 3 account of such property, shall be accounted for and paid to the com-

Proceeds of
 sale of lost
 property.
 1904, 170, § 5.

monwealth and shall be credited and added to the Metropolitan Parks Expense Fund. 4 5

True owner to be paid proceeds of sale, etc.
1904, 170, § 6.

SECTION 94. If within two years after any such sale the owner claims such property and proves ownership to the satisfaction of the commission, the amount of such unclaimed money or the proceeds of the sale of such property, after deducting reasonable expenses, shall be paid to him by the state treasurer out of said Metropolitan Parks Expense Fund. 1 2 3 4 5 6

Encroachments on land, permits for.
1908, 158, § 1.
1919, 350, § 123.

SECTION 95. The commission may grant permits, upon such terms and conditions as it deems proper, for the projection of eaves, cornices or ornaments of buildings, beyond the line of restriction or setback established for the benefit of the commonwealth, upon the land of a private owner which abuts on lands under the control of the commission, and also for the projection of eaves, cornices or ornaments of buildings over land under the control of the commission; provided, that no grant hereunder shall be made for any projection of more than three feet, nor for a projection over land of the commonwealth held or in the opinion of the commission likely to be required for a boulevard or driveway, at a height less than thirty feet above the grade which the commission may determine as that established or likely to be established as the grade of such boulevard or driveway adjacent to said private land. 1 2 3 4 5 6 7 8 9 10 11 12 13

Rights by prescription or adverse possession not to be acquired.

SECTION 96. No person shall acquire any rights by prescription or adverse possession in any lands or rights in lands of the commonwealth under the control of the commission for reservation or boulevard purposes. 1 2 3

1908, 158, § 2.

1919, 350, § 123.

Assessments upon cities and towns in the metropolitan districts.
1905, 457.
1919, 350, § 123.

SECTION 97. If any apportionment for assessment upon the towns of either the metropolitan water, sewerage or park districts shall not have been finally determined by July first of any year, the last apportionment thereof shall remain in force for the purpose of assessment during such current year. Any difference between such apportionment when finally made by the commission for such year, and the pre-existing apportionment above referred to, shall be adjusted with such town by the state treasurer in the assessment of the succeeding year by a deduction therefrom or an addition thereto, as may be required to give effect to the said apportionment when made as aforesaid. 1 2 3 4 5 6 7 8 9 10

Appropriations for maintenance of reservations, etc.
1907, 165.
1919, 350, § 123.

SECTION 98. Annual appropriations shall be made for the maintenance of reservations and boulevards, of the north and south metropolitan systems of sewerage, and of the metropolitan water system under the control of the commission, and such appropriations shall be apportioned and assessed by the state treasurer as provided in this chapter. Of the amount so assessed and collected, any balance remaining on November thirtieth in any year shall be carried forward to the next year, and shall be taken into account in making the assessments for that year. 1 2 3 4 5 6 7 8

Advances of money for pay rolls, etc.
1885, 406.
§§ 19, 20, 450,
§ 6, 488, § 18
1889, 121, §§ 19, 20.

SECTION 99. There may be advanced by the commonwealth to such person as the commission shall designate such sums of money, not exceeding thirty thousand dollars at any one time, as the comptroller may certify to the state treasurer as necessary to enable the commission to 1 2 3 4

5 make direct payments upon its pay rolls and other accounts. The person
 6 so designated shall give a bond, with sufficient sureties to be approved
 7 by the state treasurer, in the sum of thirty thousand dollars. Said sums
 8 may be advanced from any loan or appropriation under the control of the
 9 commission. The person to whom this money is advanced shall within
 10 thirty days from the receipt of any sum file with the comptroller a de-
 11 tailed statement of the moneys expended, approved by the commission,
 12 and, where it is practicable to obtain them, receipts or other like vouchers
 13 of the persons to whom the payments have been made.

1901, 168, §§ 1,
 5; 380, 513.
 1904, 131
 1908, 597, § 1.
 1919, 350,
 § 123.
 1923, 362, § 66.

1 SECTION 100. The commission shall keep full, accurate and separate
 2 accounts of its receipts, expenditures, disbursements, assets and liabilities,
 3 and shall, on or before the third Wednesday in January in each
 4 year, report to the general court an abstract of the same for the pre-
 5 ceding fiscal year, together with all recommendations for legislation
 6 which it deems desirable, and shall, in the month of February, present
 7 a more detailed statement of its doings for the calendar year next pre-
 8 ceding, the same to be printed as its annual report for the year. Section
 9 thirty-three of chapter thirty shall apply to such recommendations
 10 whether the same are contained in such abstract or in such detailed
 11 statement.

Accounts and
 annual report.
 1889, 439, § 8.
 1893, 407, § 2.
 1895, 406, § 8;
 488, § 2.
 1899, 424, § 7.
 1901, 168,
 §§ 1, 5.
 1906, 235.
 1919, 350,
 § 123.
 1 Op. A. G. 101.

1 SECTION 101. The commission may, whenever it deems advisable,
 2 destroy brown tail moths, gypsy moths and other insect pests on lands
 3 near or adjoining lands under its control and to a distance of one thou-
 4 sand feet therefrom; provided, that the commission shall first have been
 5 requested in writing by the owner of any such land to do said work, and
 6 that such owner shall either have advanced to the commonwealth for the
 7 purpose the cost of such work as estimated by the commission, or, if the
 8 commission shall so require, shall have given a bond to the commonwealth
 9 to an amount, and with surety or sureties satisfactory to the commission,
 10 to reimburse the commonwealth for the cost of such work. The state
 11 treasurer may maintain an action of contract in his own name against
 12 any owner of land upon which work has been done by the commission as
 13 herein authorized, or against the surety or sureties on any bond given as
 14 aforesaid, for the expenses incurred by the commission in doing such work.

Destruction of
 insect pests on
 lands near
 reservations.
 Collection of
 payment
 therefor.
 1914, 340.
 1919, 350,
 § 123.

1 SECTION 102. The commission shall have over the property of the
 2 metropolitan water and sewerage systems all the general power and
 3 authority which it has over reservations so far as the same may be
 4 exercised consistently with the purposes for which the metropolitan
 5 water and sewerage systems are maintained.

General
 authority of
 commission.
 1919, 350,
 §§ 123, 127.

TITLE XV.

REGULATION OF TRADE.

- CHAPTER 93. Regulation of Trade and Certain Enterprises.
 CHAPTER 94. Inspection and Sale of Food, Drugs and Various Articles.
 CHAPTER 95. Measuring of Leather.
 CHAPTER 96. Measurement of Lumber.
 CHAPTER 97. Surveying of Land.
 CHAPTER 98. Weights and Measures.
 CHAPTER 99. The Metric System of Weights and Measures.
 CHAPTER 100. Auctioneers.
 CHAPTER 101. Transient Vendors, Hawkers and Pedlers.
 CHAPTER 102. Shipping and Seamen, Harbors and Harbor Masters.
 CHAPTER 103. Pilots.
 CHAPTER 104. Agents, Consignees and Factors.
 CHAPTER 105. Public Warehouses.
 CHAPTER 106. Sales of Personal Property.
 CHAPTER 107. Money and Negotiable Instruments.
 CHAPTER 108. Bills of Lading.
 CHAPTER 108A. Partnerships.
 CHAPTER 109. Limited Partnerships.
 CHAPTER 109A. Fraudulent Transfers of Real and Personal Property.
 CHAPTER 110. Labels, Trade Marks, Names and Registration thereof.
 CHAPTER 110A. Promotion and Sale of Securities.

CHAPTER 93.

REGULATION OF TRADE AND CERTAIN ENTERPRISES.

SECT.

RESTRAINT OF TRADE.

1. Sales on condition that buyer deal only in seller's goods penalized.
2. Monopolies and discriminations in the sale of articles, etc., in common use prohibited.
3. Action by attorney general, etc.
4. Proceedings on complaint of other persons; hearing; master; report.
5. Findings, recommendations, etc. Report sent to attorney general, when. Further proceedings.
6. Powers of masters, fees, places for hearing, etc.
7. Witnesses required to answer questions, etc. Immunity, when granted. Examination of documents regulated.

SECT.

8. Discrimination in sale of commodities prohibited.
9. Certain combinations unlawful. Penalty.
10. Evasion of §§ 8 and 9 by individual penalized.
11. Forfeiture of privileges, rights, etc., of corporation upon conviction.
12. Duties of attorney general and district attorneys.
13. Agreements to maintain or increase unreasonably the price of any necessary of life penalized.
14. Conditions for sale or lease of machinery regulated. Penalty.

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 20. [Repealed.]
 21. Remedy of pupil defrauded by misrepresentation.
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 23. Violation of rules penalized.
- COLLECTION AGENCIES.
24. Persons conducting collection agencies to give bond.
 25. Amount and provisions of bond.
 26. Sureties; approval. Filing. Cancellation.
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 28. Penalties.

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 30. Certain billboards, etc., forbidden.
 - 30A. Abatement and removal.
 31. Jurisdiction of supreme judicial and superior courts.
 32. Certain signs, etc., exempted.
 33. Penalties.
- SAVINGS AND LOAN ASSOCIATIONS.
34. Powers and duties of commissioner of banks as to savings and loan associations.
- REGISTRATION OF PUBLIC ACCOUNTANTS.
35. [Repealed.]
 36. [Repealed.]
 37. [Repealed.]
 38. [Repealed.]
 39. [Repealed.]
- MISCELLANEOUS PROVISIONS.
40. Solicitation of business on public sidewalks penalized. Exceptions.
 41. [Repealed.]

RESTRAINT OF TRADE.

1 SECTION 1. No person, firm, association or corporation doing business
 2 in the commonwealth, shall make it a condition of the sale of goods,
 3 wares or merchandise that the purchaser shall not sell or deal in the
 4 goods, wares or merchandise of any other person, firm, association or
 5 corporation; but this section shall not prohibit the appointment of agents
 6 or sole agents for the sale of, nor the making of contracts for the exclusive
 7 sale of, goods, wares or merchandise. Whoever, as principal or agent,
 8 violates this section shall be punished for the first offence by a fine of
 9 not less than fifty nor more than one hundred dollars, and for a subse-
 10 quent offence by a fine of not less than one hundred nor more than five
 11 hundred dollars or by imprisonment for not more than one year, or both.

Sales on condition that buyer deal only in seller's goods penalized.
 1901, 478.
 R. L. 56, § 1.
 188 Mass. 229.
 191 Mass. 545.
 203 Mass. 122.
 3 Op. A. G. 425.

1 SECTION 2. Every contract, agreement, arrangement, combination
 2 or practice in violation of the common law whereby a monopoly in the
 3 manufacture, production, transportation or sale in the commonwealth
 4 of any article or commodity in common use is or may be created, estab-
 5 lished or maintained, or whereby competition in the commonwealth
 6 in the supply or price of any such article or commodity is or may be
 7 restrained or prevented, or whereby for the purpose of creating, establish-
 8 ing or maintaining a monopoly within the commonwealth of the manu-
 9 facture, production, transportation or sale of any such article or com-
 10 modity, the free pursuit in the commonwealth of any lawful business,
 11 trade or occupation is or may be restrained or prevented; or whereby
 12 the price of any article or commodity in common use is or may be un-
 13 duly enhanced within the commonwealth, is hereby declared to be against
 14 public policy, illegal and void.

Monopolies and discriminations in the sale of articles, etc., in common use prohibited.
 1908, 454, § 1.
 1911, 503, § 1.
 229 Mass. 55,
 281, 389.
 227 Mass. 466.
 231 Mass. 113.
 243 Mass. 472.
 245 Mass. 577.
 253 Mass. 185.
 260 Mass. 45.

Action by attorney general, etc. 1908, 454, § 2. 253 Mass. 185.

SECTION 3. The attorney general, or, by his direction, a district attorney, may bring an action in the name of the commonwealth against any person, trustee, director, manager or other officer or agent of a corporation, or against a corporation, to restrain the doing in the commonwealth of any act forbidden or declared to be illegal by the preceding section, or any act in, toward or for the making or consummation of any contract, agreement, arrangement, combination or practice prohibited by said section, wherever the same may have been made. The superior court shall have jurisdiction to restrain and enjoin any act forbidden or declared to be illegal by said section.

Proceedings on complaint of other persons; hearing; master; report. 1911, 503, § 1. 217 Mass. 166. 226 Mass. 21, 25. 232 Mass. 99.

SECTION 4. Upon written complaint on oath of the complainant filed in the supreme judicial or superior court, alleging that any person, co-partnership or corporation has, in the county where such complaint is filed, entered into any contract, agreement, arrangement, combination or practice declared illegal and void under section two, the court shall hear on oath the complainant and any witnesses produced by him. If it appears to the court that such contract, agreement, arrangement, combination or practice exists, the court shall issue an order of notice to the respondents to appear and show cause why the court should not appoint a master to hear and make report on said complaint; and thereafter, if such cause be not shown, the court shall appoint a master who shall, in accordance with the established practice and rules in equity, hear the complainant and the respondents and their evidence upon the allegations of said complaint; and upon motion of the complainant, other persons, co-partnership or corporations within the jurisdiction of the court and appearing to the court to be necessary parties to the full examination of the allegations of said complaint, may upon proper notice be cited to appear as parties respondent. After such hearing the master shall make and file his report, and said parties may present their objections and exceptions thereto and prosecute the same in accordance with the rules of procedure in equity. Said report of the master shall be filed by him within thirty days after the close of the hearings, unless further time is allowed by order of the court.

Findings, recommendations, etc. Report sent to attorney general, when. Further proceedings. 1911, 503, § 2.

SECTION 5. A master may append to such report such recommendations to the parties as may be pertinent to, and warranted by, his findings of fact or rulings of law, and as may tend to remove restraint or to prevent any ground of complaint alleged in said complaint and found by him to be proved; but such recommendations may, upon motion of any party, and upon order of the court, be disaffirmed and expunged from the records of the case. The report, if affirmed by the court, shall be transmitted by the clerk to the attorney general, who shall forthwith cause such further proceedings, either civil or criminal, to be instituted as such report may warrant.

Powers of masters, fees, places for hearing, etc. 1911, 503, § 3.

SECTION 6. Masters appointed under section four shall have all the powers conferred upon masters in equity procedure. Their fees shall be fixed by the court and paid by the commonwealth. Upon request of such master rooms for hearings shall be provided in the state house, if the cause is pending in Suffolk, Middlesex or Norfolk county; if elsewhere, in some county court house within the county where the cause is pending. Upon approval by the court, such masters may employ suit-

8 able clerical or stenographic assistants to report the evidence taken and
9 the findings. Such assistants shall be paid by the commonwealth.

1 SECTION 7. In any action under section three or at any hearing under
2 section four, no person shall be excused from answering any questions
3 put to him in such action or material to the proof of the allegations of
4 the complaint at such hearing, or from producing any books, papers or
5 documents which are material to such proof, on the ground that the tes-
6 timony or evidence, documentary or otherwise, so required of him, tends
7 to incriminate him; but no person shall be prosecuted in any criminal
8 proceeding, or subjected to any penalty or forfeiture for or on account
9 of any transaction, matter or thing concerning which he may testify or
10 produce evidence, documentary or otherwise, in any such action or hear-
11 ing. Upon objection of a party at such hearing, no book, paper or docu-
12 ment, or part thereof, produced by him at the request of any other party,
13 shall be examined by the party making the request or his attorney, or
14 offered in evidence, unless it is so ordered by the master, after examina-
15 tion thereof and a hearing thereon, and a ruling by the master that such
16 evidence is material and competent.

Witnesses
required to
answer ques-
tions, etc.
Immunity,
when granted.
Examination
of documents
regulated.
1908, 454, § 3.
1911, 503, § 4

1 SECTION 8. No person, firm, association or corporation doing business
2 in the commonwealth and engaged in the production, manufacture or
3 distribution of any commodity in general use, shall maliciously, or for the
4 purpose of destroying the business of a competitor and of creating a
5 monopoly in any locality, discriminate between different sections, com-
6 munities, towns or cities of the commonwealth or between purchasers by
7 selling such commodity at a lower rate for such purpose in one section,
8 community, town or city than is charged for such commodity by the
9 vendor in another section, community, town or city in the commonwealth,
10 after making due allowance for the difference, if any, in the grade or
11 quality and in the cost of transportation, and such acts are hereby de-
12 clared to be unfair discrimination, and all contracts or agreements made
13 in violation of any provision of this or either of the two following sections
14 shall be void.

Discrimination
in sale of
commodities
prohibited.
1912, 651,
§ 1, 5.
243 Mass. 472.
3 Op. A. G.
425.

1 SECTION 9. No person, firm, association or corporation shall com-
2 bine with any other person, firm, association or corporation for the pur-
3 pose of destroying the trade or business of any person, firm, association
4 or corporation engaged in selling goods or commodities and of creating
5 a monopoly within the commonwealth. Violation of any provision of
6 this or the preceding section shall, if the offender is an individual, be
7 punished by a fine of not less than five hundred nor more than five thou-
8 sand dollars or by imprisonment for not less than one month nor more
9 than one year, or both; or, if the offender is a corporation, by a fine as
10 aforesaid.

Certain
combinations
unlawful.
Penalty.
1912, 651,
§ 2, 3.
243 Mass. 472.

1 SECTION 10. Whoever, in his individual capacity, or acting in behalf
2 of any firm, association or corporation for the purpose of evading any
3 provision of sections eight and nine, shall appoint agents, secure or hold
4 the control of corporate stock, or by agreement with any other person,
5 firm, association or corporation, cause any of the commodities mentioned
6 in section eight to be sold for the purpose of such evasion or attempt to
7 evade, shall be punished by imprisonment in the state prison for not more
8 than five years, or in a jail or house of correction for not less than six

Evasion of §§ 8
and 9 by indi-
vidual
penalized.
1912, 651, § 4.
1921, 486, § 21.
243 Mass. 472.

months nor more than two and one half years; and if any of the acts specified in this section are done by a corporation, the directors, stockholders or agents authorizing such evasion or discrimination shall each be punished as provided herein.

Forfeiture of privileges, rights, etc., of corporation upon conviction 1912, 651, §§ 8, 9. 243 Mass. 472.

SECTION 11. If any corporation, foreign or domestic, authorized to do business in this commonwealth is convicted of violation of any provision of section eight, nine or ten, such conviction shall cause a forfeiture of all the privileges and rights conferred upon the corporation by general or special law of this commonwealth and shall bar its right to do business in this commonwealth, and if it shall continue or attempt to do business in this commonwealth, the attorney general shall by a proper action in the name of the commonwealth oust such corporation from all business of every kind and character in this commonwealth.

Duties of attorney general and district attorneys. 1912, 451, § 6. 243 Mass. 472.

SECTION 12. The attorney general and district attorneys, in their districts, shall enforce sections eight to ten, inclusive, by appropriate actions in courts of competent jurisdiction, but nothing herein shall limit the right of any court to issue warrants and make commitments to await the action of the grand jury under said sections in the case of crimes under the common law, and such power is hereby given to the courts of the commonwealth.

Agreements to maintain or increase unreasonably the price of any necessary of life penalized. 1919, 298.

SECTION 13. Maintaining or increasing unreasonably the price of any necessary of life is hereby declared to be unlawful. Whoever, in combination or association with another or others, enters into any agreement or understanding to maintain or increase or cause to be maintained or increased unreasonably the price of any necessary of life shall be deemed guilty of criminal conspiracy, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the house of correction for not more than two years, or both. Prosecutions hereunder shall be under the control of the attorney general and shall be conducted by him or an assistant designated by him.

Conditions for sale or lease of machinery regulated. Penalty 1907, 469. 193 Mass. 608. 3 Op. A. G. 425.

SECTION 14. No person, firm, association or corporation shall insert in or make it a condition or provision of any sale or lease of any tool, implement, appliance or machinery that the purchaser or lessee thereof shall not buy, lease or use machinery, tools, implements or appliances or material or merchandise of any person, firm, association or corporation other than such vendor, or lessor; but this provision shall not impair the right, if any, of the vendor or lessor of any tool, implement, appliance or machinery protected by a lawful patent right vested in such vendor or lessor to require by virtue of such patent right the vendee or lessee to purchase or lease from such vendor or lessor such component and constituent parts of said tool, implement, appliance or machinery as the vendee or lessee may thereafter require during the continuance of such patent right; and all leases, sales or agreements therefor made after July first, nineteen hundred and seven, shall be void as to any and all of the terms or conditions thereof in violation of this section; provided, that nothing in this section shall be construed to prohibit the appointment of agents or sole agents to sell or lease machinery, tools, implements or appliances. Whoever, himself or by his agent, violates this section shall be punished by a fine of not more than five thousand dollars.

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SALE OF MINING STOCKS.

1 SECTION 15. No officer, agent, clerk or servant of a mining corpora-
 2 tion, and no person dealing in the shares of such corporation, shall cause
 3 to be published any advertisement of the shares of such corporation in
 4 which any statement is made of the value of the property of the corpora-
 5 tion, or of its present or prospective earnings, or of a prospective increase
 6 in the price of the shares, unless the president and a majority of the
 7 directors of such corporation, within sixty days prior to the date of the
 8 publication of such advertisement, shall have filed with the commissioner
 9 of corporations and taxation in such form as he shall prescribe, a state-
 10 ment on oath of the financial condition of the corporation, a full descrip-
 11 tion of its property, and a statement of the earnings, if any, from the
 12 operation of the same for the fiscal year next preceding the date of the
 13 filing of the said statement. Whoever violates this section shall be pun-
 14 ished by a fine of not more than two hundred dollars or by imprisonment
 15 for not more than one year.

Publication of
 statement of
 financial
 condition of
 mining com-
 pany regu-
 lated.
 Penalty
 1911, 192,
 §§ 2, 4.

1 SECTION 16. An officer or director of a mining corporation who signs
 2 any false statement filed with the commissioner of corporations and
 3 taxation under the preceding section, knowing such statement to be false,
 4 shall be punished by a fine of not more than one thousand dollars or by
 5 imprisonment for not more than two years.

Penalty for
 signing false
 statement
 filed with
 commissioner
 1911, 192, § 4.

1 SECTION 17. Whoever, having caused the publication of an advertise-
 2 ment described in section fifteen, or being a promoter, officer, clerk or
 3 servant of a mining corporation, or a broker or agent for such corporation
 4 or for such a promoter, or for the person or corporation causing the publi-
 5 cation of such advertisement, sells or offers for sale any shares of stock
 6 in such corporation knowing that any statement in such advertisement is
 7 false or is inconsistent with a statement filed under said section shall be
 8 punished by a fine of not more than five hundred dollars or by imprison-
 9 ment for not more than two years.

Penalty for
 selling stock
 with knowl-
 edge of false
 advertisement,
 etc.
 1911, 192, § 3.

1 SECTION 18. An officer of a mining corporation who makes a false
 2 statement, knowing the same to be false, in an application to any stock
 3 exchange to list the shares of such corporation shall be punished by a
 4 fine of not more than five hundred dollars or by imprisonment for not
 5 more than two years.

Penalty for
 making false
 statements to
 stock ex-
 changes.
 1911, 192, § 1.

CORRESPONDENCE SCHOOLS.

1 SECTION 19. [REPEALED, 1931, 426, § 212.]

1 SECTION 20. [REPEALED, 1931, 426, § 212.]

1 SECTION 21. Any pupil of a correspondence school who is defrauded
 2 by a misrepresentation made by an officer or agent of such school, or by
 3 any advertisement or circular issued by it, or by any person, firm, asso-
 4 ciation or corporation, who sells textbooks to the said school or to the
 5 pupils thereof, may recover in contract from such school or person, firm,
 6 association or corporation three times the amount paid by him to such
 7 school or person, firm, association or corporation.

Remedy of
 pupil de-
 frauded by
 misrepre-
 sentation.
 1914, 658, § 3.
 1931, 426,
 § 213.

Department
of education
to make rules.

SECTION 22. The department of education may establish rules and regulations governing correspondence schools.

1914, 658, § 4.

1919, 350, § 56.

Violation
of rules
penalized.
1914, 658, § 5.
1931, 426,
§ 214.

SECTION 23. Whoever violates any provision of any rule or regulation established under section twenty-two shall be punished by a fine of not more than five hundred dollars.

COLLECTION AGENCIES.

Persons con-
ducting col-
lection
agencies to
give bond.
1910, 656,
§§ 1, 8.

SECTION 24. No person, partnership, association or corporation, not being an attorney at law duly authorized to practice in the commonwealth, a national bank or a bank or trust company incorporated in the commonwealth, shall conduct a collection agency, collection bureau or collection office, or engage in the commonwealth solely in the business of collecting or receiving payment for others of any account, bill or other indebtedness, or engage in the commonwealth solely in soliciting the right to collect or receive payment for another of any account, bill or other indebtedness, or advertise for or solicit in print the right to collect or receive payment for another of any account, bill or other indebtedness, unless such person, partnership, association or corporation or the person, partnership, association or corporation for whom he or it may be acting as agent has on file with the state treasurer a good and sufficient bond.

Amount and
provisions
of bond.
1910, 656,
§§ 2, 3.
1919, 101, § 1.
1930, 302, § 1.

SECTION 25. Said bond shall run to the state treasurer and shall cover an indeterminate period but it may be cancelled at any time as provided in section twenty-six. It shall be in the sum of five thousand dollars and shall provide that the person, partnership, association or corporation, giving the same shall, upon written demand, pay and turn over to or for the person, partnership, association or corporation, from whom any account, bill or other indebtedness is taken for collection the proceeds of such collection in accordance with the terms of the agreement upon which it was received for collection. Said bond shall be in such form and shall contain such further provisions and conditions as the state treasurer with the advice and consent of the governor and council deems necessary or proper.

Sureties;
approval.
Filing.
Cancellation.
1910, 656,
§§ 4, 6.
1919, 350, § 45.
1930, 302, § 2.

SECTION 26. Said bond shall be executed by said person, partnership, association or corporation as principal, with a surety company as surety; or cash may be accepted in lieu of a surety company. The bond shall not be accepted unless it is approved by the state treasurer after having been examined and approved by the commissioner of banks. Upon its approval by the treasurer, it shall be filed in his office. Said bond may be cancelled at any time by the principal, by the surety company or by the state treasurer upon written notice by registered mail given by the principal, the surety company or the state treasurer to each of the others, said notice to state the effective date of the cancellation which shall not be sooner than thirty days from the date of the mailing of such notice.

Record of
bonds to be
kept
1910, 656, § 5.

SECTION 27. The state treasurer shall keep a record open to public inspection of the bonds filed with him under the preceding section, with the names, places of residence and places of business of the principals

4 and sureties, and the name of the officer before whom the bond was
5 executed or acknowledged.

1 SECTION 28. Any person doing any business for which a bond is
2 required by section twenty-four or any member of a partnership or
3 officer of an association or corporation doing such business, who fails
4 on written demand to render a true and complete account to the person,
5 partnership, association or corporation from whom any account, bill or
6 indebtedness was taken for collection or to turn over to or for such
7 person, partnership, association or corporation the proceeds of such
8 collection within thirty days after such written demand, or who fails to
9 comply with any provision of sections twenty-four to twenty-seven,
10 inclusive, shall be punished by a fine of not more than five hundred
11 dollars or by imprisonment for not more than three months, or both.

Penalties,
1910, 656, § 7.
1919, 101, § 2.

ADVERTISING SIGNS AND DEVICES WITHIN PUBLIC VIEW.

1 SECTION 29. The department of public works, hereinafter called the
2 department, shall make and may amend or repeal rules and regulations
3 for the proper control and restriction of billboards, signs and other
4 advertising devices, except as provided in section thirty-two, on public
5 ways or on private property within public view of any highway, public
6 park or reservation. Said rules and regulations may require that said
7 billboards, signs or other devices be licensed in accordance therewith
8 and with this section, may prescribe license fees, to be fixed with regard
9 to the cost of administering this section, and need not be uniform through-
10 out the commonwealth. Before establishing or amending rules or regu-
11 lations under this section, the department shall hold duly advertised
12 public hearings in Boston and elsewhere within the commonwealth as
13 it deems necessary or expedient. Cities and towns may further regulate
14 and restrict said billboards or other devices within their respective
15 limits by ordinance or by-law not inconsistent with sections twenty-
16 nine to thirty-three, inclusive, or with said rules and regulations.

Billboards, etc.,
within public
view regulated.
Hearings.
1920, 545,
§§ 1-3.
1924, 327.
1931, 394, § 96.
264 Mass. 85.

1 SECTION 30. No person, firm, association or corporation shall post,
2 erect, display or maintain on any public way or on private property
3 within public view from any highway, public park or reservation any
4 billboard or other advertising device, whether erected before August
5 twenty-fifth, nineteen hundred and twenty, or not, which advertises or
6 calls attention to any business, article, substance or any other thing,
7 unless such billboard or device conforms to the rules and regulations
8 and ordinances or by-laws established under the preceding section;
9 provided, that this section shall not apply to signs or other devices
10 erected and maintained in conformity with law and which advertise or
11 indicate either the person occupying the premises in question or the
12 business transacted thereon, or advertise the property itself or any part
13 thereof as for sale or to let and which contain no other advertising matter.

Certain bill-
boards, etc.,
forbidden
1920, 545, § 4.
1924, 354, § 1.
264 Mass. 85.

1 SECTION 30A. Any billboard, sign or other device erected after
2 August twentieth, nineteen hundred and twenty, without the authoriza-
3 tion or permit of the department in cases where such authorization or
4 permit is required or maintained after said date in violation of any rule
5 or regulation of the department shall be deemed a nuisance. Said depart-
6 ment shall have the same power to abate and remove any such nuisance

Abatement
and removal.
1924, 490
1931, 394, § 97.

as is given to the board of health of a town under sections one hundred and twenty-three to one hundred and twenty-five, inclusive, of chapter one hundred and eleven, and the provisions of said sections shall, so far as applicable, apply in the case of a nuisance as herein defined. The remedy herein provided shall be in addition to any other remedy provided by law.

Jurisdiction of supreme judicial and superior courts. 1920, 545, § 6.

SECTION 31. The supreme judicial and superior courts shall have jurisdiction in equity upon petition of the attorney general, of any town or any officer thereof, or of any interested party, to restrain the erection or maintenance of any billboard, sign or other device erected or maintained in violation of any rule, regulation, ordinance or by-law established or adopted under section twenty-nine, and to order the removal or abatement of such billboard, sign or device as a nuisance.

Certain signs, etc., exempted. 1920, 545, § 5. 1924, 85.

SECTION 32. Sections twenty-nine to thirty-one, inclusive, and thirty-three shall not apply to signs or other devices on or in the rolling stock, stations, subways or structures of or used by common carriers, except advertising signs or other advertising devices on bridges or viaducts, or abutments thereof.

Penalties. 1920, 545, § 7.

SECTION 33. Whoever violates any rule, regulation, ordinance or by-law established or adopted under section twenty-nine shall be punished by a fine of not more than one hundred dollars, and whoever after conviction of such violation unlawfully maintains such a billboard, sign or other device for twenty days thereafter shall be punished by a fine of not more than five hundred dollars.

SAVINGS AND LOAN ASSOCIATIONS.

Powers and duties of commissioner of banks as to savings and loan associations. 1916, 26. 1919, 350, § 45.

SECTION 34. The commissioner of banks shall have the same powers and duties in respect to savings and loan associations which he now has or may hereafter have in respect to savings banks. In the examination of such savings and loan associations inquiry shall be made as to the nature and resources of the association in general, its methods of conducting business, the actions of its officers, the investment of its funds, and as to whether the administration of its affairs is in compliance with its by-laws and the statutes. At each visitation, a thorough examination and audit shall be made of the books, securities, cash, assets, liabilities, income and expenditures, including a trial balance of the shareholders' ledgers, for the period elapsed since the preceding examination. The expense of such examination and audit shall be paid by the savings and loan association. The person in charge of the examination shall render to the commissioner a report of his findings, in such form as the commissioner may prescribe, and a copy thereof shall be rendered to the board of directors within ten days after the original has been submitted to the commissioner, together with a notice of the amount of the expense aforesaid which shall be due and payable within thirty days after the date of the notice. Upon the failure of any such savings and loan association to pay the said expense within the time prescribed herein, the commissioner shall report the facts to the attorney general, who shall immediately bring an action for the recovery of the sum due. The commissioner shall annually make a report to the general court of such facts and statements relative to the said associations and in such form as he may con-

25 sider that the public interest requires. The officers of every such associa-
 26 tion shall answer truly all inquiries made, and shall make all returns
 27 required by the commissioner.

REGISTRATION OF PUBLIC ACCOUNTANTS.

1 SECTION 35. [REPEALED, 1923, 470, § 3.]

1 SECTION 36. [REPEALED, 1923, 470, § 3.]

1 SECTION 37. [REPEALED, 1923, 470, § 3.]

1 SECTION 38. [REPEALED, 1923, 470, § 3.]

1 SECTION 39. [REPEALED, 1923, 470, § 3.]

MISCELLANEOUS PROVISIONS.

1 SECTION 40. Whoever makes a practice of accosting persons, other
 2 than acquaintances, upon any public sidewalk and induces or tries to
 3 induce such persons to purchase merchandise shall be punished by a fine
 4 of not more than one hundred dollars. This section shall not apply to
 5 licensed peddlers, or to persons holding permits or licenses to expose for
 6 sale or sell merchandise upon public streets or sidewalks, acting within
 7 the scope of their permits or licenses, or to persons when seeking to sell
 8 newspapers.

Solicitation of
 business on
 public side-
 walks penal-
 ized. Ex-
 ceptions.
 1916, 289,
 1931, 103.

1 SECTION 41. [REPEALED, 1921, 486, § 22.]

CHAPTER 94.

INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES.

SECT.

DEFINITIONS.

1. Definitions.

BAKERIES AND BAKERY PRODUCTS.

2. Floors, etc., to be kept clean, etc.
 Use of shipping baskets, etc.,
 regulated.
3. Storage, etc., of bakery products,
 etc., regulated.
4. Preparation of bakery products, etc.,
 regulated.
5. Return, etc., of bakery products regu-
 lated. Certain exemptions.
6. Establishment and enforcement of
 rules, etc., relative to exemptions,
 standards, etc.
7. Weight of loaves.
8. Special provisions as to rolls, etc.,
 and certain bread. Certain in-
 formation to be furnished upon
 request.

SECT.

9. Rules and regulations, making and
 enforcement. Seizures, proceed-
 ings prior to prosecution, appeals.

10. Penalty.

NON-ALCOHOLIC BEVERAGES.

- 10A. Manufacture or bottling, permits,
 fees. Exceptions.
- 10B. Examination of premises. Revo-
 cation of permits.
- 10C. Ingredients regulated.
- 10D. Rules and regulations.
- 10E. Penalties.

BAKING POWDER.

11. Labelling of baking powder regu-
 lated. Penalty.

MILK AND CREAM.

12. Standard for cream, milk and
 skimmed milk.

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| <p>SECT.</p> <p>13. "Grade A. Massachusetts Milk". Standard.</p> <p>14. Same subject. Permits for sale. Test.</p> <p>14A. "Grade A Milk". Standard, rules and regulations. Penalties.</p> <p>15. Permits for sale of other graded milk.</p> <p>16. Conditions of production of milk subject to inspection.</p> <p>17. Formula for extending evaporated, etc., milk to be placed on container.</p> <p>17A. Combination of certain fats and oils with milk, cream or skimmed milk penalized.</p> <p>18. Penalty for selling, etc., certain milk.</p> <p>19. Sale, etc., of adulterated, etc., milk. Penalty.</p> <p>20. Sale, etc., of milk below standard. Penalty.</p> <p>21. Labelling of cream regulated. Sale, etc., of cream below standard. Penalties.</p> <p>22. Sale, etc., of pasteurized milk below standard. Penalty.</p> <p>23. Sale, etc., of condensed milk regulated. Penalty.</p> <p>24. Sale of condensed, etc., milk not labelled. Penalty.</p> <p>25. Testing of utensils for determining value of milk, etc.</p> <p>26. Inspection and condemnation of testing machines.</p> <p>27. Certificate for use of Babcock, etc., machine required. Fee, etc.</p> <p>28. Certificates; issue, revocation and effect.</p> <p>29. Testing and inspection of measuring devices.</p> <p>29A. Milk-fat content of milk or cream; rules and regulations governing tests for determining.</p> <p>30. Director to enforce certain sections. Certain persons not subject to prosecution, when.</p> <p>31. Penalty for interfering with director, etc., and for violation of §§ 25-30, etc.</p> <p>32. Milk stations.</p> <p>33. Inspectors of milk and collectors of samples of milk.</p> <p>34. Boards may designate one of their members, etc.</p> <p>35. Certain powers, etc., of inspectors and collectors.</p> <p>36. Officer, inspector, etc., to send results of analysis to owner.</p> <p>37. Liability of producer of milk regulated.</p> <p>38. Penalty for connivance by or interference with inspector, etc.</p> <p>39. Penalty for using counterfeit seal, etc.</p> <p>40. License to sell milk, etc.</p> | <p>SECT.</p> <p>41. License; granting, fee, term, revocation; appeal, notice of revocation, etc. Lists of certain dealers.</p> <p>42. Penalty for selling milk, etc., without a license.</p> <p>42A. Financial reports of certain dealers. Penalty for failure to make, etc.</p> <p>43. Permits for sale, etc., of milk. Penalty.</p> <p>44. Charges for inspection, etc., of dairies, etc., prohibited. Penalty.</p> <p>45. Use of certain containers prohibited. Penalty.</p> <p>46. Containers, etc., to be clean, etc.</p> <p>47. Penalty for use of unclean utensils, etc.</p> <p>48. Placing of offal, etc., in milk cans, etc., prohibited. Penalty.</p> <p>48A. Licensing of establishments for pasteurization of milk. Penalties.</p> <p style="text-align: center;">BUTTER, CHEESE AND LARD.</p> <p>49. Oleomargarine to be marked.</p> <p>50. Imitation cheese to be marked.</p> <p>51. Unlawful sale, advertising, etc., of imitation butter and cheese penalized.</p> <p>52. Conveyance of oleomargarine for sale regulated. Penalty.</p> <p>53. Registration of sellers of oleomargarine. Penalty.</p> <p>54. Manufacture, etc., of certain imitations of butter prohibited. Penalty.</p> <p>55. Fraud in sale of oleomargarine. Penalty.</p> <p>56. Sale of oleomargarine regulated. Placard required in store. Penalty.</p> <p>57. Same subject. Placard required on vehicles. Penalty.</p> <p>58. Serving oleomargarine at hotels, etc., regulated. Penalty.</p> <p>59. Sale of process butter or renovated butter regulated. Penalty.</p> <p>60. Complaints for violation of sections relative to oleomargarine, butter, cheese, etc.</p> <p>61. Wrappers of certain lard to be marked. Penalty.</p> <p>62. Penalty for interfering with inspector, etc.</p> <p>63. Disposition of fines.</p> <p style="text-align: center;">ICE CREAM AND SHERBET.</p> <p>64. Standard of ice cream. Contents.</p> <p>64A. Sherbet defined.</p> <p>65. Ice cream, when deemed adulterated.</p> <p>65A. Manufacture and sale of ice cream regulated.</p> <p>65B. Licenses to manufacture ice cream. Applications, fees, term, revocation.</p> |
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SECT.

- 65C. [Repealed.]
- 65D. [Repealed.]
- 65E. Rules and regulations. Enforcement of §§ 64-65F.
- 65F. Penalty.

COLD STORAGE.

- 66. Licensing of cold storage warehouses. Report of articles in cold storage.
- 67. Department and local boards of health to inspect. Rules, etc.
- 68. Department, etc., to have access to certain places.
- 69. Regulation of cold storage.
- 70. Limit of time food may be kept in cold storage.
- 71. Marking date of receipt of food in cold storage.
- 72. Marking of goods formerly in cold storage regulated.
- 73. Penalty.

FISH.

- 74. Fish to be graded. Grades established.
- 75. "Number two fish" to be so designated, etc.
- 76. Sale of "number three fish".
- 77. "Number one fish" and "number two fish" may be placed in cold storage.
- 78. Notice to purchasers of cold storage fish.
- 79. Restrictions on sale of cold storage fish.
- 80. Restrictions on sale of cold storage fish previously in cold storage.
- 81. Certain duties of state inspector of fish. Rules, etc.
- 82. General penalty.
- 83. Sale of fresh fish at wholesale regulated. Penalty.
- 84. Quintal weight of fish.
- 85. Clam bait; contents of barrel, etc.
- 86. Fish to be weighed on request or demand.
- 87. Record of weight, etc., to be kept.
- 88. Fees for weighing.
- 88A. Scallops. Marking of containers, etc., regulated. Penalty.

EGGS.

- 89. License to can, etc., eggs.
- 90. Penalty for canning, etc., eggs without a license.
- 91. Sale of eggs taken from cold storage regulated. Penalty.
- 92. Broken eggs in cold storage, denaturing and marking.
- 92A. Decayed eggs; sale, etc., regulated. Penalty.

SECT.

CHOCOLATE.

- 93. [Repealed.]
- 94. [Repealed.]
- 95. [Repealed.]

FRUITS, VEGETABLES AND NUTS.

- 96. Fruits, etc., to be sold by dry measure. "Original standard container" defined. Exceptions. Penalty.
- 97. [Repealed.]
- 98. Sale of certain berries regulated. Penalty.
- 99. Same subject.
- 99A. Massachusetts standard box and half box for farm produce sold at wholesale regulated. Penalty.

APPLES.

- 100. Standard barrel and box for apples.
- 101. Establishment, etc., of official grades.
- 102. Marking, etc., of closed packages regulated.
- 103. Same subject.
- 104. Marking, etc., of open packages regulated.
- 105. Apples packed in closed or open packages deemed misbranded, when.
- 106. Commissioner may make rules and regulations, enter certain places, etc.
- 107. Enforcement of §§ 100-105 and 108. Prosecutions. Hearings.
- 108. Penalties for misbranding, etc., apples, and for obstructing, etc., commissioner, etc.
- 109. Certain exemptions from penalties for misbranding, etc., apples. Liability for acts of distributor in certain cases.
- 110. [Repealed.]
- 111. [Repealed.]
- 112. [Repealed.]
- 113. [Repealed.]
- 114. [Repealed.]

CRANBERRIES.

- 115. Standard barrel and crate for cranberries.
- 116. Provisions as to barrels and crates. Penalty.
- 117. Sale of cranberries in packages.

FARM PRODUCTS.

- 117A. Grades and standards for certain farm products, establishment, etc. Brands or labels, use regulated.
- 117B. Notice of establishment, etc., of grades, brands, etc.

SECT.

117C. Unlawful use of brands or labels penalized.

117D. Inspection of farm products, etc. Certificates regulated; to be prima facie evidence, etc.

117E. Rules and regulations.

117F. Powers of commissioner of agriculture, etc.

SLAUGHTER HOUSES.

118. Slaughter houses to be licensed.

119. Issue of licenses. Record. Fee.

120. License fee for small towns.

120A. Additional fees in certain towns regulated.

121. General powers and duties of district health officers, etc.

122. Certain powers and duties of certain inspectors, etc.

123. Inspectors, etc., to visit certain places.

124. Control of department of public health over slaughter houses.

125. Slaughtering of cattle.

126. Inspection of carcasses.

127. Certain carcasses to be stamped or branded.

128. Appointment, compensation, etc., of certain inspectors.

129. Carcasses of certain animals deemed unfit for food.

130. Penalty for sale, etc., of unstamped or falsely stamped carcasses.

131. Branding, etc., of carcasses of neat cattle, etc., slaughtered without the commonwealth. "Official inspector" defined.

132. Penalty for sale, etc., of certain unbranded carcasses.

133. Private slaughter houses.

134. General penalty.

135. Penalty for slaughtering, etc., without license.

136. Possession of certain carcasses prohibited. Penalty.

137. Conviction renders license void.

138. Sale, etc., of certain carcasses prohibited. Penalty.

139. Certain provisions of law not affected.

WEIGHERS OF BEEF.

140. Appointment.

141. Fees.

SAUSAGES.

142. Adulteration of sausages, etc.

143. Sale, etc., of sausages regulated. Penalty.

143A. Sale, etc., of vegetable sausages authorized.

144. License to manufacture sausages.

145. Penalty for making sausages, etc., without a license.

SECT.

INSPECTION AND SALE OF MEAT, ETC.

146. Inspection of meat, etc. Regulations as to exposure of food for sale.

147. Regulations for inspection of meat.

147A. Regulations for inspection, etc., of game, etc. Penalty.

148. Penalties.

149. Interference with certain officers penalized.

150. Sale, etc., of unwholesome food penalized.

150A. Exposing for sale, etc., of unwholesome food penalized. Exceptions.

151. Sale, etc., of certain veal penalized.

152. Boards of health may cause publication of certain facts.

153. Sale, etc., of poultry regulated. Penalty.

CANNED GOODS AND MOLASSES.

154. Canned goods to be labelled.

155. Marking of canned soaked goods and molasses.

156. False stamping, etc., of cans, etc., and wrongful use of word "kosher", etc., penalized. Enforcement of section regulated.

ICE.

157. Sale of ice at retail regulated. Penalty.

158. Failure to provide scales, furnish price lists, etc., penalized.

159. Failure to post prices on vehicles, etc., penalized.

160. Impure ice.

161. Enforcement of orders of department of public health.

162. Appeal from such order.

VINEGAR.

163. Definition of vinegar. When deemed adulterated.

164. Methods of examination regulated.

165. Cider vinegar, compound vinegar, etc. Containers to be marked. Penalty. Exception.

166. Collection of samples of vinegar, etc., for analysis.

167. Examination of samples, etc.

168. Penalty for possession of imitation, etc., seal.

169. Enforcement of penalties.

170. Penalty for manufacturing, selling, etc., deleterious vinegar.

171. Penalty for selling, etc., adulterated vinegar.

CERTAIN STANDARDS.

172. Barrel and hoghead.

173. [Repealed.]

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174. Cental.
175. Barrel of flour.

SALES BY WEIGHT.

176. Definition of "weight". Penalty.
177. Penalty for giving false weight or measure.
178. Rules for weighing. Who are public weighers.
179. [Repealed.]
180. Certain courts to have jurisdiction over prosecutions concerning false weights and measures.

MARKING OF PACKAGES CONTAINING FOOD.

181. Net quantity contained in food packages to be marked thereon.
182. Tolerances and exemptions.
183. Penalty.
184. Hearing before prosecution. Prosecution of guarantor.
184A. Marking of packages, etc., of food or medicine containing certain drugs. Penalty. Exceptions.

ADULTERATION AND MISBRANDING OF FOOD AND DRUGS.

185. [Repealed.]
185A. Certain sections not applicable to ice cream.
186. Adulteration of drugs and food defined.
187. "Misbranded". Term defined when applied to drugs and food. When not to be deemed adulterated, etc.
188. Collection of samples of food, etc.
189. Examination of samples, by whom made, etc. Complaints.
190. Penalty on manufacturer, etc.
191. Penalty for delivery, etc., of adulterated, etc., food or drugs.
192. Rules and regulations to be adopted, etc.
193. Prosecutions in certain cases forbidden. Guaranty for protection. Rules and regulations.
194. Dealer establishing guaranty may be prosecuted, when.
194A. Certain facts as defenses to prosecutions for sale, etc., of adulterated shellfish.
195. Construction of §§ 186-195.
196. Prosecutions as to drugs limited.

SALE AND DISTRIBUTION OF NARCOTIC DRUGS.

197. Definitions.
198. Sale and distribution of certain narcotic drugs regulated.
199. Veterinarians, etc., to prescribe only in certain cases.
200. Physician may personally administer narcotic drug, when.

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201. Sales to certain persons and institutions regulated.
202. Duplicate orders to be preserved, etc.
203. False representations deemed violations.
204. Possession of federal certificate to be evidence of intent.
205. Common carriers and certain officials, etc., exempt.
206. Cannabis indica and cannabis sativa.
207. Liability of manufacturer, etc., limited.
208. Physicians, dentists, etc., prohibited from certain advertising.
209. Possession of certain instruments regulated. Record of sales to be kept. Penalty.
209A. Permits by physicians for possession of such instruments.
210. Buildings, etc., illegally used deemed common nuisances. Penalty.
211. Penalty for unlawful possession of narcotic drugs.
212. Penalty for illegal sale, etc., of narcotic drugs.
213. General penalty.
214. Issue of search warrants. Penalty for being present, etc.
215. Articles seized to be forfeited.
216. Manufacture of certain preparations forbidden.
217. Prosecution for certain violations regulated.

GRAIN AND MEAL.

218. [Repealed.]
219. Weighers of grain.
220. [Repealed.]
221. Fees of weighers.
222. Certificate of sale by cental. Penalty.
223. [Repealed.]
224. Penalty for false weights or collusion.

COMMERCIAL FEEDING STUFF.

225. Tag or label affixed to commercial feeding stuff. Form and contents.
226. Tag, etc., to be affixed to package, etc.
227. Copy of tag, etc., to be filed with the director.
228. Certified copy of tag, etc., to be filed.
229. Tag, etc., to be registered. Disposition of fees.
230. Misleading name, brand, tag, etc., prohibited.
231. Analysis, etc.
232. Results of analysis, publication of. Free analysis, when.
233. Samples for analysis, how taken, etc.

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234. Penalty for certain sales, etc., and for hindering, etc., director, etc.
235. Enforcement of rules and regulations.
- HAY.
236. Weighers of hay.
- TIMOTHY OR HERDSGRASS SEED.
237. Sale of timothy, etc., seed regulated. Penalty.
- COAL, COKE, CHARCOAL AND KINDLING WOOD.
238. Weighers of coal.
239. [Repealed.]
- 239A. Standard sizes for anthracite coal, establishment, etc.
240. Coal, charcoal and coke sold by weight, when.
241. Sale of coal, coke and charcoal in bags, sacks and baskets regulated.
242. Baskets, etc., used in selling coke, etc., regulated.
243. Paper bags, etc., used in sale of coke, etc., regulated. Penalty.
244. Certificate of weight, etc.
245. Scales may direct goods to be weighed.
246. Record of weights and measures to be kept.
247. Edgings and kindling wood, sale of.
248. Penalty for certain offences.
249. Penalty for having illegal coal, etc., measures.
- 249A. Inspection of coal regulated. Analysis. Condemnation, etc.
- 249B. Hindrance of or interference with officials penalized.
- 249C. Sale, etc., of condemned coal penalized.
- 249D. Sale, etc., of unfit coal penalized.
- 249E. Placing, etc., foreign substances with coal in receptacles penalized.
- 249F. Enforcement of five preceding sections regulated.
- COMMERCIAL FERTILIZERS.
250. Sale of commercial fertilizers regulated. Label, form and contents.
251. Label to be affixed, when.
252. Certain provisions of label recognized as guaranteed analysis.
253. Sale of certain commercial fertilizers forbidden.
254. Sale of commercial fertilizers regulated. Fees, etc.
255. Same subject. Statement, permit, fee.
256. Certificate of filing of label, etc. Issue, revocation, etc. Penalty for sale, etc., if certificate not issued, etc.

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257. Annual analysis. Publication of reports, etc. Free analysis.
258. Taking of samples for analysis regulated.
259. Disposition of fees, etc.
260. Rules and regulations. Complaints.
261. Penalty for hindering, etc., director, etc.

AGRICULTURAL SEEDS.

- 261A. Tag or label affixed to container. Contents, if lot ten pounds or over.
- 261B. Same subject. Contents, if certain mixtures.
- 261C. Same subject. Contents, if other mixtures.
- 261D. Same subject. Contents, if vegetable seeds.
- 261E. Same subject. Contents, if seeds "not tested".
- 261F. Seeds, when exempt from §§ 261A-261L.
- 261G. Enforcement of said sections and prosecution of violations thereof regulated.
- 261H. Access to stores, etc. Taking of samples for analysis, etc.
- 261I. Analyses and tests. Publication of results.
- 261J. Definition of "approximate" by commissioner of agriculture authorized.
- 261K. Submission of seeds for test and analysis. Fee, disposition.
- 261L. Penalty.

LIME AND LIME CASKS.

262. Inspectors of lime.
263. Casks of lime, how branded.
264. Fees of inspectors.
265. Quality of lime and casks.
266. Penalty for sale, etc., of certain lime.
267. Penalty for shifting contents of casks.
268. Forfeiture of casks.

MARBLE, SOAPSTONE AND FREESTONE.

269. [Repealed.]

MATTRESSES, ETC.

270. Manufacture, sale, etc., of articles of bedding or upholstered furniture, and remaking, etc., of mattresses, regulated. Tags, quality, form and contents.
271. Use of certain material prohibited.
272. Sale, etc., of second hand hair, etc., regulated. Penalty.
273. Investigation, etc., by department of public health. Certain articles to be marked "unclean". Penalty for interference.

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 274. Posting of notices, etc. Penalty for removal.
 275. Police, etc., to notify department, etc., when.
 276. Penalty for removal, etc., of marking or tag, etc.
 277. Penalty for violation of §§ 270 and 271.

NAILS.

278. Nails and brads, how to be made and packed.
 279. Casks, how to be branded.
 280. Penalty for selling, etc., casks, etc., of nails, etc., not branded.
 281. Penalty for counterfeiting brand, etc.
 282. Disposition of forfeitures.

SLOT MACHINES, ETC.

283. Slot machines and other automatic devices, use regulated.
 284. Penalty.

THREAD.

285. Sewing thread to be labelled.
 286. Penalty for neglect to affix label.
 287. Penalty for selling thread falsely labelled.
 288. Certain bobbins exempted.

TURPENTINE, PAINTS AND LINSEED OIL.

289. Manufacture and sale of turpentine regulated. Penalty.
 290. Enforcement of preceding section.
 291. Sale of paint and linseed oil regulated.

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 292. Possession of incorrectly labelled, etc., paint, etc.
 293. Certain duties of police. Inspectors, etc.
 294. Penalty for interference, etc., with inspector, etc.
 295. Penalty for unlawful sale, etc., of paint, etc.

WOOD AND BARK.

296. Measurers of wood and bark.
 297. Measurers may act in adjoining town.
 298. Cord wood, dimensions. Standard unit defined.
 299. Certificate or memorandum. Contents. Penalty.
 300. Fees of measurers.
 301. Measurement of water borne wood.
 302. Tickets showing quantity in load. Certain sections not to apply.
 303. Inspection and sale of bark, slabs, etc.

GENERAL PROVISIONS AND PENALTIES.

304. Vendor to furnish sample for analysis, when. Penalty.
 305. Penalty for fraud in packing certain commodities.
 305A. General penalty for improper manufacture, etc., of food. Exceptions. "Food" defined.
 305B. Medical examination of persons engaged in handling food. Employment of certain persons penalized. "Food" defined.
 306. General penalty relative to branding or marking articles.

DEFINITIONS.

1 SECTION 1. The following words as used in this chapter, unless the 2 context otherwise requires, shall have the following meanings:

Definitions, 270 Mass. 238.

[NOTE:—The following definitions are not entirely in alphabetical order.]

3 "Agricultural lime", in sections two hundred and fifty to two hundred 4 and fifty-four, inclusive, and two hundred and fifty-six to two hundred 5 and sixty-one, inclusive, includes all the various forms of lime intended 6 or sold for fertilizing purposes.

1911, 388, § 11.

7 "Article of food", in sections sixty-six to seventy-three, inclusive, 8 includes fresh meat, fresh meat products except in process of manufacture, 9 fresh food fish, poultry, eggs and butter.

1912, 652, § 1, 1917, 119, § 1.

10 "Available phosphoric acid", in sections two hundred and fifty to two 11 hundred and fifty-four, inclusive, and two hundred and fifty-six to two 12 hundred and sixty-one, inclusive, the sum of the soluble and reverted 13 phosphoric acid; except that, as applied to basic phosphatic slag, it shall 14 mean that part of the phosphoric acid made soluble by the Wagner 15 method, so called, until such time as the Association of Official Agricul- 16 tural Chemists of North America adopts a method of analysis for basic

1911, 388, §§ 3, 11.

- phosphatic slag, after which it shall mean that part of the phosphoric acid 17
made soluble by the method of said association. 18
- 1920, 418, § 1. "Bakery", in sections two to eight, inclusive, a building or part of a 19
building wherein is carried on the production, preparation, packing, stor- 20
ing, display or sale of bread, cake, pies or other bakery products, includ- 21
ing any separate room used for the convenience or accommodation of 22
workers. 23
- 1911, 388, § 11. "Brand", in sections two hundred and twenty-five to two hundred and 24
1912, 527, § 1. thirty-five, inclusive, two hundred and fifty to two hundred and fifty- 25
four, inclusive, and two hundred and fifty-six to two hundred and sixty- 26
one, inclusive, any commercial feeding stuff or cattle feed, and any 27
commercial fertilizer, respectively, distinctive by reason of name, trade 28
mark or guaranteed analysis, or by any method of marking. 29
- 1881, 292, § 5. "Butter" and "cheese", products usually known by these names 30
P. S. 50, § 21. which are manufactured exclusively from milk or cream with salt and 31
R. L. 56, § 35. rennet and with or without coloring matter. Butter shall contain not 32
1925, 117. less than eighty per cent by weight of milk fat. Butter containing less 33
than eighty per cent by weight of milk fat shall be deemed to be adulter- 34
ated within the meaning of sections one hundred and eighty-six to one 35
hundred and ninety-five, inclusive. 36
- 1912, 527, § 1. "Cattle feed", in sections two hundred and twenty-five to two hun- 37
dred and thirty-five, inclusive, includes all materials used for feeding 38
live stock and poultry. 39
- "Cheese", see "butter". 40
- 1915, 261, § 16. "Closed package", in sections one hundred to one hundred and seven, 41
inclusive, one hundred and nine, one hundred and ten, one hundred 42
and twelve and one hundred and thirteen, a barrel, box or other con- 43
tainer, the contents whereof cannot be sufficiently inspected without 44
opening it. 45
- 1912, 652, § 1. "Cold storage", in sections sixty-six to seventy-three, inclusive, and 46
1917, 149, § 1. ninety-two, the storage of articles of food at or below a temperature of 47
forty-five degrees Fahrenheit for a period of thirty days or more. 48
- 1912, 652, § 1. "Cold storage or refrigerating warehouse", in sections sixty-six to 49
1917, 149, § 1. seventy-three, inclusive, and ninety-two, an establishment employing 50
refrigerating machinery or ice for the purpose of refrigeration, or a place 51
otherwise artificially cooled, where articles of food are stored for thirty 52
days or more at or below a temperature of forty-five degrees Fahrenheit. 53
- 1903, 122, "Commercial feeding stuff", in sections two hundred and twenty-five 54
§§ 2, 3. to two hundred and thirty-five, inclusive, includes all feeding stuff used 55
1912, 527, for feeding live stock and poultry and containing not more than sixty 56
§§ 1, 15. per cent of water, except whole seeds or grains, and also unmixed meals 57
made directly from the entire grains of corn, wheat, rye, barley, oats, 58
buckwheat, flaxseed, kafir, and milo, whole hays, whole straws, unground 59
cotton seed hulls and unground corn stover when unmixed with other 60
materials. 61
- 1911, 388, § 11. "Commercial fertilizer", in sections two hundred and fifty to two 62
hundred and fifty-four, inclusive, and two hundred and fifty-six to two 63
hundred and sixty-one, inclusive, dried or partly dried manure, pul- 64
verized or ground, and each natural or artificial manure containing nitro- 65
gen, phosphoric acid, potash or lime, except the excrements and litter 66
from domestic animals when sold in its natural state. 67
- 1911, 388, § 11. "Copy", in sections two hundred and twenty-five to two hundred and 68
1912, 527, § 1. thirty-five, inclusive, and sections two hundred and fifty to two hundred 69

- 70 and fifty-four, inclusive, and two hundred and fifty-six to two hundred
 71 and sixty-one, inclusive, any certified copy.
- 72 "Crude protein", in sections two hundred and twenty-five to two
 73 hundred and thirty-five, inclusive, the percentage of nitrogen multiplied
 74 by the factor six and twenty-five one hundredths.
- 75 "Director", in sections twenty-five to thirty-one, inclusive, two hun-
 76 dred and twenty-seven to two hundred and thirty-five, inclusive, and
 77 two hundred and fifty-four to two hundred and sixty-one, inclusive,
 78 director of the Massachusetts agricultural experiment station.
- 79 "Drug", in sections one hundred and eighty-six to one hundred and
 80 ninety-six, inclusive, includes all medicines and preparations recognized
 81 in the United States pharmacopœia or national formulary for internal
 82 or external use, and any substance or mixture of substances intended to
 83 be used for the cure, mitigation or prevention of disease of man or animal.
 84 "Feeding stuff", in sections two hundred and twenty-five to two hun-
 85 dred and thirty-five, inclusive, commercial feeding stuff.
- 86 "Fertilizer", in sections two hundred and fifty to two hundred and
 87 fifty-four, inclusive, and two hundred and fifty-six to two hundred and
 88 sixty-one, inclusive, commercial fertilizer.
- 89 "Food", in sections one hundred and fifty-four to one hundred and
 90 fifty-six, inclusive, one hundred and eighty-one, and one hundred and
 91 eighty-six to one hundred and ninety-six, inclusive, includes all articles,
 92 whether simple, mixed or compound, used for food or drink, confectionery
 93 or condiment, by man or animal.
- 94 "Heated milk", milk which has been subjected to artificial heat greater
 95 than one hundred and sixty-seven degrees Fahrenheit.
- 96 "Importer", in sections two hundred and twenty-five to two hundred
 97 and thirty-five, inclusive, and in sections two hundred and fifty to two
 98 hundred and fifty-four, inclusive, and two hundred and fifty-six to two
 99 hundred and sixty-one, inclusive, a person procuring for sale or distribu-
 100 tion in the commonwealth commercial feeding stuff or cattle feed, and
 101 commercial fertilizers, respectively, from another state or country.
- 102 "Label", in sections two hundred and twenty-five to two hundred
 103 and thirty-five, inclusive, a printed label required by section two hun-
 104 dred and twenty-five, and in sections two hundred and fifty to two hun-
 105 dred and fifty-four, inclusive, and two hundred and fifty-six to two
 106 hundred and sixty-one, inclusive, a printed label required by section two
 107 hundred and fifty.
- 108 "Lime", in sections two hundred and fifty to two hundred and fifty-
 109 four, inclusive, and two hundred and fifty-six to two hundred and sixty-
 110 one, inclusive, calcium oxide (CaO).
- 111 "Magnesia", in sections two hundred and fifty to two hundred and
 112 fifty-four, inclusive, and two hundred and fifty-six to two hundred and
 113 sixty-one, inclusive, magnesium oxide (MgO).
- 114 "Oleomargarine" includes butterine, imitation butter and any article,
 115 substance or compound made in imitation or semblance of or as a sub-
 116 stitute for butter and not made exclusively and wholly of milk or cream,
 117 or containing any fats, oils or grease not produced from milk or cream.
- 118 "Package", in sections two hundred and twenty-five to two hundred
 119 and thirty-five, inclusive, two hundred and fifty to two hundred and
 120 fifty-four, inclusive, and two hundred and fifty-six to two hundred and
 121 sixty-one, inclusive, includes sack, bag, tin, box, jar, and any similar
 122 receptacle.

1882, 263, § 2.
 1886, 171.
 R. L. 75, § 17.
 1917, 208, §§ 6,
 12.

1903, 122, §§ 2, 3
 1912, 527, §§ 1,
 15

1911, 388, § 11.

1882, 263, § 2.
 1886, 171.
 1897, 344, § 2.
 R. L. 75, § 17.
 1914, 653, § 3.
 1917, 208, §§ 6,
 12.

1908, 570, § 1.

1903, 122, § 9.
 1911, 388, § 11.
 1912, 527, §§ 1,
 15.

1911, 388, § 11.
 1912, 527, § 1.

1911, 388, § 11.

1911, 388, § 11.

R. L. 56, § 35.

1911, 388, § 11.
 1912, 527, § 1.

1908, 531, § 2.	"Paint", in sections two hundred and ninety-one to two hundred and ninety-five, inclusive, includes white lead, oxide of zinc, and red lead dry or in any kind of oil, and any compound intended for the same use, colors ground in oil, paste or semi-paste paint, and liquid or mixed paint ready for use.	123 124 125 126 127
1917, 259, § 1.	"Pasteurized milk", natural cow's milk not more than seventy-two hours old, when pasteurized, subjected for a period of not less than thirty minutes to a temperature of not less than one hundred and forty, nor more than one hundred and forty-five, degrees Fahrenheit, and immediately thereafter cooled to a temperature of fifty degrees Fahrenheit or lower.	128 129 130 131 132
1911, 388, § 11.	"Phosphoric acid", in sections two hundred and fifty to two hundred and fifty-four, inclusive, and two hundred and fifty-six to two hundred and sixty-one, inclusive, phosphoric anhydrid (P_2O_5).	133 134 135
1911, 388, § 11.	"Potash", in sections two hundred and fifty to two hundred and fifty-four, inclusive, and two hundred and fifty-six to two hundred and sixty-one, inclusive, potassium oxide (K_2O).	136 137 138
1914, 634, § 1.	"Sausage" or "sausage meat", in sections one hundred and forty-two to one hundred and forty-five, inclusive, a comminuted meat from neat cattle, swine or veal, or a mixture of such meats, either fresh, salted, pickled or smoked, with or without added salt, spices, cereal and the like, and with or without the addition of edible animal fats, blood and sugar, or subsequent smoking.	139 140 141 142 143 144
1912, 527, § 1.	"Tag", in sections two hundred and twenty-five to two hundred and thirty-five, inclusive, a printed tag required by section two hundred and twenty-five.	145 146 147
1927, 274, § 1.	"Agricultural seeds" or "agricultural seed", in sections two hundred and sixty-one A to two hundred and sixty-one L, inclusive, the seeds of Canada Blue grass, Kentucky Blue grass, Brome grass, fescues, millets, tall meadow oat grass, orchard grass, red top, Bent grasses, Italian rye-grass, perennial rye-grass, sorghum, Sudan grass, timothy, alfalfa, alsike clover, red clover, white clover, Canada field peas, cowpeas, soy-beans, vetches, and other grasses and forage plants, buckwheat, flax, rape, barley, field corn, oats, rye, wheat, and other cereals, mangels, onions and vegetables which are sold, offered or exposed for sale within this commonwealth for use for seeding purposes therein.	148 149 150 151 152 153 154 155 156 157
1927, 274, § 1.	"Noxious weed seeds", in sections two hundred and sixty-one A to two hundred and sixty-one L, inclusive, the seeds of quack grass (<i>Agropyron Repens</i>), Canada thistle (<i>Cirsium Arvense</i>), dodder species (<i>Cuscuta</i> Spp.) and wild mustard (<i>Brassica Arvensis</i>).	158 159 160 161
1927, 274, § 1.	"Weed seeds", in sections two hundred and sixty-one A to two hundred and sixty-one L, inclusive, all seeds other than agricultural seeds as defined in this section.	162 163 164
1927, 274, § 1.	"Inert matter", in sections two hundred and sixty-one A to two hundred and sixty-one L, inclusive, all foreign matter other than seeds.	165 166
1927, 274, § 1.	"Lot", in sections two hundred and sixty-one A to two hundred and sixty-one L, inclusive, contents of any container, open or sealed, from which or in which agricultural seeds are sold, offered or exposed for sale.	167 168 169
1928, 307, § 1.	"Article of bedding", in sections two hundred and seventy to two hundred and seventy-three, inclusive, any mattress, upholstered spring, pillow, comforter, cushion, muff bed, quilt, or similar article designed for use of persons when sleeping.	170 171 172 173
1928, 307, § 1.	"New", in sections two hundred and seventy and two hundred and seventy-two, any material which has not been used as a part or portion of another manufactured article or used for any other purpose.	174 175 176

177 "Previously used", "previously been used" or "been used before", 1928, 307, § 1.
 178 when used with respect to material in sections two hundred and seventy
 179 and two hundred and seventy-two, any material which has been used as
 180 a part or portion of another manufactured article or used for any other
 181 purpose.
 182 "Article of upholstered furniture", in sections two hundred and 1928, 307, § 1.
 183 seventy to two hundred and seventy-three, inclusive, chairs, sofas, and
 184 all furniture in which upholstery or so-called filling or stuffing is used
 185 whether attached or not.

[For additional definitions see §§ 64, 64A, 74, 96, 131, 163, 176, 186, 187, 197, 261J, 305A, 305B.]

BAKERIES AND BAKERY PRODUCTS.

1 SECTION 2. The floors, walls and ceilings of each bakery, the equip- Floors, etc., to
 2 ment used in the handling or preparation of bakery products or the in- be kept clean,
 3 gredients thereof, and the wagons, boxes, baskets and other receptacles etc. Use of
 4 in which such products are transported, shall at all times be kept by the shipping
 5 owner or operator of the bakery or by the distributor of such products baskets, etc.,
 6 in a clean and sanitary condition and free from dirt and dust, flies, insects regulated
 7 and other contaminating matter. All show cases, shelves and other 1920, 418,
 8 places where bakery products are sold shall at all times be kept by the §§ 9, 10.
 9 dealer well covered, properly ventilated, adequately protected from dirt [Penalty, § 10.]
 10 and dust, flies, insects and other contaminating matter, and in a sweet,
 11 clean and sanitary condition. Shipping baskets and other containers for
 12 transporting bakery products shall be kept clean and, whenever the
 13 property of a distributor or dealer, shall not be used for the shipment of
 14 other products to any person or concern.

1 SECTION 3. All bakery products and ingredients thereof shall be Storage, etc.,
 2 stored, handled, transported and kept so as to protect them from spoilage, of bakery
 3 contamination, disease and unwholesomeness. Boxes and other perma- products, etc.,
 4 nent receptacles or containers for the storing, receiving or handling of regulated
 5 bakery products shall be so placed and constructed as to be beyond 1920, 418,
 6 reach of contamination from streets, alleys and sidewalks and from §§ 11, 12.
 7 animals, and shall be kept clean and sanitary by the dealer. No other [Penalty, § 10.]
 8 articles shall be placed therein in addition to said products. No person
 9 shall tamper with, injure or contaminate said boxes, receptacles or con-
 10 tainers, nor shall any person other than the baker or dealer or his em-
 11 ployees remove anything therefrom or place anything therein.

1 SECTION 4. There shall not be used in bakery products or in the in- Preparation
 2 gredients thereof any ingredient or material, including water, which is of bakery
 3 spoiled or contaminated or which may render the product unwholesome, products, etc.,
 4 unfit for food or injurious to health, nor shall there be used in any bakery regulated,
 5 product any ingredient likely to deceive the consumer or which lessens 1915, 258, § 1,
 6 the nutritive value of such product unless the product is plainly so 1920, 418,
 7 labelled, branded or tagged, or has thereon a sign making plain to the §§ 12, 13, 23
 8 purchaser or consumer the actual ingredients thereof; provided, that in 240 Mass. 434
 9 the case of unwrapped bread to be sold by the loaf such labelling, brand- [Penalty, § 10.]
 10 ing or tagging shall be placed upon the label required under section eight,
 11 showing the name of the manufacturer and the net weight of the loaf.
 12 Said ingredients and the sale and offering for sale of said products shall
 13 otherwise comply with sections one hundred and eighty-six to one hun-
 14 dred and ninety-five, inclusive.

Return, etc.,
of bakery
products regu-
lated. Certain
exemptions.
1920, 418, § 14.
[Penalty, § 10.]

SECTION 5. Except as provided in section six, no bakery products shall be returned from any consumer or other purchaser to the dealer or baker, nor from any dealer to the baker, nor shall any dealer or baker directly or indirectly accept any returns from or make any exchange of bakery products with any person. All such products shall be kept moving to the consumer without unreasonable delay and without any practice whatsoever which may disseminate contagion or disease among or inflict fraud upon consumers, or disseminate "rope", so called, or other infection in bakeries, or cause waste in the food supply; provided, that this section, except in so far as may be necessary to prevent such waste, shall not apply to crackers or other bakery products which are packed at the place of production in cartons, cans, boxes or similar permanent containers, except paper or parchment wrappers used in wrapping loaves of bread, and which are so packed and sealed at such place as fully to insure the freshness and wholesomeness of such products and to protect them from contamination, adulteration and deterioration in the course of trade, and which remain in the original unbroken package as packed.

Establishment
and enforce-
ment of rules,
etc., relative
to exemptions,
standards, etc.
1920, 418,
§§ 2, 15.
[Penalty, § 10.]

SECTION 6. The department of public health may, by rule, establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bakery products, and in other cases consistent with sections two to six, inclusive, and section forty-two of chapter one hundred and eleven. The standards and requirements prescribed by sections two to six, inclusive, shall conform to rules and regulations adopted by the department of public health, and said sections and rules and regulations shall be enforced by said department and by local boards of health acting under the supervision of said department.

Weight of
loaves.
C. L. S.
1696, 9.
1720-21, 2.
1800, 76, § 1.
1859, 174,
§§ 3, 4.
G. S. 49, § 5.
P. S. 60,
§§ 3, 5.
R. L. 57,
§§ 3, 5.
1920, 418,
§§ 16, 23.
1922, 186, § 1.
152 Mass. 522.
262 Mass. 516.
[Penalty, § 10.]

SECTION 7. Except as provided in the following section, bread shall not be manufactured for sale, sold, or offered or exposed for sale otherwise than by weight, and shall be manufactured for sale, sold, or offered or exposed for sale only in units of one pound, one and one half pounds, or multiples of one pound. When multiple loaves are baked, each unit of the loaf shall conform to the weight required by this section. The weights herein specified shall mean net weights not more than twelve hours after baking, or not more than twelve hours after the sale and delivery of such loaves by the manufacturer or by his servant or agent. Such weights shall be determined by the average weight of not less than six loaves; provided, that such average weights shall be determined by the weight of at least twelve loaves whenever such number of loaves is available at the time and place of such weighing; and provided further, that bread found upon any premises occupied for the manufacture of bread for sale, or any bread found in the wagons, trucks, baskets, boxes, or other delivery vehicles or receptacles owned or controlled by the manufacturer of such bread, and being transported or delivered for sale, shall for the purposes of this section be deemed to have been baked within twelve hours unless such bread is marked, designated or segregated as stale bread, under regulations prescribed by the director of standards.

Special provisions
as to
rolls, etc., and
certain bread.
Certain in-
formation to
be furnished
upon request.

SECTION 8. Unit weights, as defined in the preceding section, shall not apply to rolls or to fancy bread weighing less than four ounces, nor to loaves bearing in plain position a plain statement of the weight of the loaf and the name of the manufacturer thereof. Such information shall be

Examination of premises. Revocation of permits 1921, 303.

SECTION 10B. The board of health shall, from time to time, examine the premises of any person granted a permit under the preceding section, and if such premises or the equipment used therein in connection with the business of such person is found to be in an unsanitary condition, the board may revoke such permit after a hearing, ten days' notice of which shall be given such person.

Ingredients regulated. 1921, 303.

SECTION 10C. All materials used in the manufacture of beverages specified in section ten A shall be stored, handled, transported and kept in such a manner as to protect them from spoilage, contamination and unwholesomeness. No ingredient or material, including water, shall be used in the manufacture or bottling of any such beverage which is spoiled or contaminated, or which may render the product unwholesome, unfit for food, or injurious to health. Persons granted permits under section ten A, shall comply with sections one hundred and eighty-six to one hundred and ninety-six, inclusive.

Rules and regulations 1921, 303.

SECTION 10D. The department of public health and local boards of health may make rules and regulations to carry out the three preceding sections.

Penalties 1921, 303.

SECTION 10E. Any person who engages in the business of the manufacture or bottling of carbonated non-alcoholic beverages, soda waters, mineral or spring waters without the permit provided for in section ten A or who violates any provision of sections ten A to ten D, inclusive, or of any rule or regulation made thereunder, shall be punished for a first offence by a fine of not more than one hundred dollars and for a subsequent offence by a fine of not more than five hundred dollars.

BAKING POWDER.

Labelling of baking powder regulated. Penalty 1902, 540.

SECTION 11. Whoever manufactures for sale or offers or exposes for sale or sells any baking powder or mixture or compound intended for use as a baking powder under any name or title whatsoever shall securely affix or cause to be securely affixed to the outside of each box, can or package containing such baking powder or like mixture or compound, a label, distinctly printed in brierly gothic capital letters in the English language, containing the name and residence of the manufacturer and the ingredients of the baking powder, mixture or compound. Whoever violates any provision of this section shall be punished by a fine of not less than ten dollars nor more than one hundred dollars.

MILK AND CREAM.

Standard for cream, milk and skimmed milk. 1880, 209, § 7
P. S. 57, § 9
1885, 352,
33 G. S.
1886, 318, § 2
1896, 398, § 2.
1899, 223.
R. L. 56,
§ 55, 56
1907, 216
1908, 443
1917, 189
1920, 267, § 1.
132 Mass. 11
139 Mass. 193.

SECTION 12. The Massachusetts legal standard for milk shall be milk which upon analysis is shown to contain not less than twelve per cent of milk solids and not less than three and thirty-five hundredths per cent of milk fat. The Massachusetts legal standard for skimmed milk shall be skimmed milk containing not less than nine and three tenths per cent of milk solids exclusive of milk fat. The Massachusetts legal standard for cream or ungraded cream shall be cream which upon analysis is shown to contain not less than sixteen per cent of milk fat. The Massachusetts legal standard for the grades to be known as light cream, medium cream, heavy cream and extra heavy cream shall be cream

11 which upon analysis is shown to contain not less than sixteen, twenty- 143 Mass. 418.
 12 five, thirty-four and thirty-eight per cent, respectively, of milk fat. 184 Mass. 297.
 189 Mass. 342.
 205 Mass. 384. Op. A. G. (1920) 112.

1 SECTION 13. "Grade A, Massachusetts Milk" shall consist exclu- "Grade A,
 2 sively of milk produced within the commonwealth from healthy cows Massachusetts
 3 under cleanly and sanitary conditions, and so cooled and cared for that Milk."
 4 in its raw state the bacteria count shall not average more than one hun- Standard.
 5 dred thousand per cubic centimeter, upon examination of five samples 1917, 256,
 6 taken one each day, and each from a different lot of milk, on five consec- §§ 1, 2.
 7 tive days. When sold, kept or offered for sale or exchange, such milk [Penalty, § 18.]
 8 shall be designated and marked by a label, cap or tag bearing the words
 9 "Grade A, Massachusetts Milk" in plain, legible, bold-faced type. The
 10 percentage of milk fat may also be stated upon said label, cap or tag,
 11 but the amount of milk fat shall never be less than the standard fixed for
 12 milk by the preceding section.

1 SECTION 14. The board of health of a town, upon application of a Same subject.
 2 person desiring to sell or exchange milk therein as "Grade A, Massachu- Permits
 3 setts Milk", shall test, as provided in the preceding section, the milk for sale. Test.
 4 produced or to be sold or exchanged by such applicant, and if upon such 1917, 256, § 3.
 5 test the milk so produced or to be sold or exchanged by the applicant is 1918, 170.
 6 found to comply with the requirements of "Grade A, Massachusetts
 7 Milk", such board shall issue without charge to the applicant a written
 8 permit to keep for sale, exchange or delivery, or to sell, exchange or de-
 9 liver in such town, milk graded, designated and labelled under the pre-
 10 ceeding section as "Grade A, Massachusetts Milk".
 11 A permit so issued may be revoked at any time upon written notice to
 12 the holder by the board issuing it, if milk offered by the holder for sale or
 13 exchange as so graded does not comply with said section.

1 SECTION 14A. The department of public health, subject to the ap- "Grade A
 2 proval of the governor and council, shall make rules and regulations Milk".
 3 and establish standards for the production, processing and sale of "Grade Standard,
 4 A Milk", including fat standards, bacterial standards and sanitary rules and
 5 standards, and may from time to time amend such rules, regulations regulations.
 6 and standards; provided, that such standards shall not fall below the Penalties
 7 standard for milk now or hereafter prescribed by law. Said department 1924, 310, § 1.
 8 shall, before submitting such rules, regulations and standards to the
 9 governor and council for approval, hold a public hearing thereon and
 10 shall give notice of the time and place of such hearing by publication for
 11 two successive weeks in a newspaper published in each county, the first
 12 publication to be at least fourteen days prior to the date of the hearing.
 13 Said department shall also publish its proposed rules, regulations and
 14 standards in a newspaper published in each county, at least fourteen
 15 days before submitting the same for the approval of the governor and
 16 council. Any person objecting to said rules, regulations and standards
 17 may, within seven days after such publication, petition the governor
 18 and council for a hearing before approval of the same, and the governor
 19 and council shall hear the petitioner, after giving due notice to said
 20 department of public health and to all parties appearing at the hearing
 21 before the department whose attendance appears of record. Whoever
 22 himself or by his servant or agent sells, exchanges or delivers or has in
 23 his custody or possession with intent to sell, exchange or deliver any

milk designated as "Grade A Milk" and not conforming to the rules, 24
 regulations and standards made and established hereunder shall be 25
 punished for the first offence by a fine of not more than fifty dollars and 26
 for a subsequent offence within one year by a fine of not less than one 27
 hundred dollars. 28

Permits for
 sale of other
 graded milk.
 1917, 256, § 4.
 1924, 310, § 2.
 [Penalty, § 18.]

SECTION 15. If any grade or classification of milk other than "Grade 1
 A, Massachusetts Milk" or "Grade A Milk" is established, permits for 2
 the sale of such other milk shall be granted and may be revoked in ac- 3
 cordance with section fourteen with respect to "Grade A, Massachusetts 4
 Milk", but such permits shall not be granted until the milk to be sold 5
 thereunder has been tested in such manner as the local board of health to 6
 whom application for the permit is made shall determine. Milk sold or 7
 exchanged or kept or offered for sale or exchange under such a permit 8
 shall be marked with a label, cap or tag, bearing in the English language 9
 in plain, legible, bold-faced type, the name of the grade as it is determined 10
 by such board. 11

Conditions of
 production of
 milk subject to
 inspection.
 1910, 633, § 3.

SECTION 16. No milk shall be sold in the commonwealth unless the 1
 conditions under which it is produced are subject to the inspection pro- 2
 vided by law. 3

Formula for
 extending
 evaporated,
 etc., milk to be
 placed on
 container.
 1911, 610, § 1.
 1912, 474, § 1.

SECTION 17. Each container of evaporated, concentrated or con- 1
 densed milk, and of evaporated, concentrated or condensed skimmed 2
 milk, sold or offered for sale or had by any person in possession or custody 3
 with intent to sell shall have plainly printed thereon or attached thereto 4
 on some firmly affixed tag or label, a formula in the English language for 5
 extending such milk or skimmed milk with water. The formula for the 6
 extension of said evaporated, concentrated or condensed milk shall be 7
 such that the resulting milk product shall not be below the Massachu- 8
 setts standard of milk solids or fat for milk, and shall be in the following 9
 form: "By adding parts of water to one part of the con- 10
 tents of this can a resulting milk product will be obtained which will not 11
 be below the legal standard for milk". The formula for the extension of 12
 said evaporated, concentrated or condensed skimmed milk shall be such 13
 that the resulting milk product shall not be below the Massachusetts 14
 standard of milk solids for skimmed milk, and shall be in the following 15
 form: "By adding parts of water to one part of the con- 16
 tents of this can a resulting milk product will be obtained which will not 17
 be below the legal standard for skimmed milk". 18

Combination
 of certain fats
 and oils with
 milk, cream
 or skimmed
 milk penalized.
 1923, 170.
 1925, 120.

SECTION 17A. No person himself or by his servant or agent shall, 1
 for the purposes of sale or exchange, add any fat or oil other than milk 2
 fat to, or blend or compound the same with, any milk, cream or skimmed 3
 milk, whether or not condensed, evaporated, concentrated, powdered, 4
 dried or desiccated, so that the resulting product is in imitation or sem- 5
 blance of milk, cream or skimmed milk whether or not condensed, evapo- 6
 rated, concentrated, powdered, dried or desiccated, nor shall any person 7
 himself or by his servant or agent sell, exchange or deliver, or have in 8
 possession with intent to sell, exchange or deliver, or expose or offer for 9
 sale or exchange, any milk, cream or skimmed milk in any of the aforesaid 10
 forms to which has been so added or with which has been so blended or 11
 compounded any fat or oil other than milk fat. Whoever violates any 12

13 provision of this section shall be punished by the penalties prescribed by
14 section twenty-four.

1 SECTION 18. Whoever himself or by his agent sells, exposes for sale,
2 or has in his custody or possession with intent to sell, milk purporting to
3 be of a grade established under section thirteen or provided for by sec-
4 tion fifteen without having a permit so to do, or milk labelled as to its
5 fat content which upon analysis of three samples taken one each day, and
6 each from a different lot of milk, on three consecutive days, is found to
7 contain less milk fat than is stated upon the label, cap or tag, and who-
8 ever sells, exposes for sale or exchange, or delivers milk not wholly
9 produced in the commonwealth in containers bearing upon a label, cap,
10 tag, or otherwise, the words "Grade A, Massachusetts Milk", or other
11 words indicating that such milk was produced in the commonwealth,
12 and whoever in any manner represents that milk not wholly produced
13 therein was wholly produced therein, or is of the grade designated as
14 "Grade A, Massachusetts Milk", shall be punished for the first offence
15 by a fine of not more than fifty dollars, for the second offence by a fine
16 of not less than fifty nor more than one hundred dollars, and for a sub-
17 sequent offence by a fine of not less than one hundred nor more than
18 two hundred dollars.

Penalty for
selling, etc.,
certain milk.
1917, 236,
§§ 5, 6.

1 SECTION 19. No person himself or by his servant or agent shall sell,
2 exchange or deliver or have in his custody or possession with intent so
3 to do, or expose or offer for sale or exchange, any adulterated milk or
4 milk to which water or any foreign substance has been added, or milk
5 produced from cows which have been fed on the refuse of distilleries, or
6 from sick or diseased cows, or, as pure milk, milk from which the cream
7 or a part thereof has been removed, and no person shall sell, exchange or
8 deliver or have in his custody or possession with intent so to do any
9 skimmed milk not conforming to the Massachusetts standard, or any
10 heated milk or skimmed milk not having the words "heated milk" or
11 "skimmed milk", as the case may be, distinctly marked upon a light
12 ground in plain black uncondensed gothic letters at least one inch in
13 length in a conspicuous place upon each vessel, can or package from or
14 in which such milk is or is intended to be sold, exchanged or delivered.
15 If such vessel, can or package is of the capacity of not more than two
16 quarts, said words may be placed upon a detachable label or tag attached
17 thereto and said letters may be less than one inch in length, but not
18 smaller than brevier gothic capital letters. Whoever violates any pro-
19 vision of this section shall be punished for the first offence by a fine of not
20 less than fifty nor more than two hundred dollars, for the second offence
21 by a fine of not less than one hundred nor more than three hundred dol-
22 lars, and for a subsequent offence by a fine of fifty dollars and by imprison-
23 ment for not less than two nor more than three months.
24 Nothing in this section referring to heated milk shall be construed as
25 applying to condensed milk or to milk which has been concentrated to
26 one half its volume or less.

Sale, etc., of
adulterated,
etc., milk.
Penalty,
1856, 222,
1859, 206,
§§ 4, 5,
G. S. 49, § 151.
1860, 165, § 1.
1863, 140, § 2.
1864, 122, § 4.
1868, 263, § 1.
1869, 150,
§§ 1, 2.
1870, 311,
1872, 319,
§§ 1-3,
1880, 209,
§§ 3-5,
P. S. 57, §§ 5-7.
1885, 352,
§§ 7, 8.
1886, 318, § 2.
1896, 398, § 1.
1900, 300, § 1.
R. L. 56,
§§ 55, 58,
1908, 570,
§§ 1, 2,
9 Allen, 489,
10 Allen, 199,
11 Allen, 264,
103 Mass. 444,
107 Mass. 194,
130 Mass. 42,
132 Mass. 11,
139 Mass. 193,
140 Mass. 483
141 Mass. 129,
143 Mass. 169,
172, 418,
144 Mass. 357,
146 Mass. 38,
128, 512,
149 Mass. 9,
153 Mass. 159.

155 Mass. 442.
159 Mass. 8.
160 Mass. 533.

165 Mass. 38.
205 Mass. 3-4.
209 Mass. 30, 38.

218 Mass. 24.
221 Mass. 68.
Op. A. G. (1920) 112.

[Additional penalty, § 38.]

1 SECTION 20. Whoever himself or by his servant or agent sells, ex-
2 changes or delivers, or has in his custody or possession with intent so to

Sale, etc., of
milk below
standard.
Penalty.

1880, 209, § 4.
P. S. 57, § 6.
1889, 318, § 2.
1906, 303, § 2.
R. L. 56, § 57.
1910, 641, § 2.
184 Mass. 207.
189 Mass. 342.

do, milk not conforming to the Massachusetts standard shall be punished for the first offence by a fine of not more than fifty dollars, for the second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of not more than two hundred dollars or by imprisonment for not more than three months.

205 Mass. 384.

210 Mass. 109.

218 Mass. 24.

229 Mass. 14.

[Additional penalty, § 38.]

Labeling of
cream
regulated.
Sale, etc., of
cream below
standard.
Penalties.
1907, 216.
1929, 267, § 2.

SECTION 21. No person, himself or by his agent, shall sell, expose for sale, or have in his custody or possession with intent to sell, cream not bearing, upon a label, cap or tag in legible bold-faced letters of not less than twelve point plain gothic type, a statement of one of the following designations conforming to the legal standard for the particular grade or kind as set forth in section twelve: "Light Cream", "Medium Cream", "Heavy Cream", "Extra Heavy Cream", "Ungraded Cream", or "Cream" together with the percentage of milk fat contained therein which shall be not less than sixteen per cent. Whoever, himself or by his agent, sells, exposes for sale, or has in his custody or possession with intent to sell, cream not bearing a designation as hereinbefore required, or cream bearing such a designation and not conforming to the legal standard set forth in said section twelve for the grade or kind so designated, shall for the first offence be punished by a fine of not more than fifty dollars, for the second offence by a fine of not less than fifty nor more than one hundred dollars, and for a subsequent offence by a fine of not less than one hundred nor more than two hundred dollars.

Sale, etc., of
pasteurized
milk below
standard.
Penalty.
1917, 259.
§§ 2, 3.

SECTION 22. Whoever sells, exchanges, delivers, advertises, represents or describes, or offers or exposes for sale or has in his possession with intent to sell as pasteurized milk, milk not pasteurized as defined in section one, shall for the first offence be punished by a fine of not less than ten dollars, and for a subsequent offence by a fine of not more than one hundred dollars.

Sale, etc., of
condensed milk
regulated.
Penalty.
1896, 264.
R. L. 56, § 59.
209 Mass. 32.
[Additional
penalty, § 38.]

SECTION 23. Whoever sells, or offers for sale or exchange, condensed milk or condensed skimmed milk in hermetically sealed cans without having such cans distinctly labelled with the name of the manufacturer of such milk, the brand under which it is made and the contents of the can, and whoever sells condensed milk from cans or packages not hermetically sealed without having such cans or packages branded or labelled with the name of the manufacturer, shall be punished as provided in section nineteen.

Sale of con-
densed, etc.,
milk not
labelled.
Penalty.
1911, 610, § 2.

SECTION 24. Whoever himself or by his servant or agent sells, exchanges or delivers, or has in his custody or possession with intent so to do, any container of evaporated, concentrated or condensed milk or skimmed milk not marked or labelled in compliance with section seventeen, shall for the first offence be punished by a fine of not more than one hundred dollars, for the second offence by a fine of not less than one hundred nor more than two hundred dollars, and for a subsequent offence by a fine of five hundred dollars or by imprisonment for not less than three nor more than six months.

Testing of
utensils for
determining
value of milk,
etc.

SECTION 25. No bottle, pipette or other measuring glass or utensil shall be used by any inspector of milk, or by any person in any milk inspection laboratory, in determining, by the Babcock or other centrif-

4 ugal machine, the composition of milk or cream for the purposes of in-
 5 spection, or by any person in any place in determining, by the Babcock
 6 or other centrifugal machine, the composition or milk-fat content of
 7 milk or cream as a basis for payment in buying or selling, until such
 8 measuring glass or utensil has been tested for accuracy and verified by
 9 the director, or by his duly designated deputy. Each such bottle, pipette
 10 or other measuring glass or utensil shall be submitted to the said di-
 11 rector by the owner or user thereof, to be tested for accuracy, before the
 12 same is used for such purposes. As a fee for making the test, the owner
 13 or user shall pay to the said director a sum not exceeding five cents for
 14 each bottle, pipette or other measuring glass or utensil tested. Each
 15 measuring glass or utensil so tested and verified or found inaccurate shall
 16 be marked accordingly by the director or by his said deputy. No such
 17 measuring glass or utensil so marked inaccurate shall be used in deter-
 18 mining the composition or milk-fat content of milk or cream.

1901, 202,
 §§ 1, 2
 R. L. 56, § 65.
 1912, 218,
 §§ 1, 10
 1918, 257,
 § 222
 1919, 5
 1920, 2
 1929, 279, § 1.
 [Penalty, § 31.]

1 SECTION 26. Each Babcock or other centrifugal machine used by an
 2 inspector of milk or by a person in a milk inspection laboratory for de-
 3 termining the composition of milk or cream for purposes of inspection, or
 4 by a person in any place for determining the composition or milk-fat
 5 content of milk or cream as a basis for payment in buying or selling, shall
 6 be inspected at least once in each year by the director or by his inspector
 7 or deputy. The owner or user of any such centrifugal machine shall
 8 pay to the director as a fee for making each such annual inspection the
 9 actual cost thereof.

Inspection and
 condemnation
 of testing
 machines.
 1901, 202, § 3.
 R. L. 56, § 66.
 1912, 218, §§ 2,
 10.
 1929, 279, § 2.
 [Penalty, § 31.]

10 Each Babcock or other centrifugal machine used as aforesaid which,
 11 in the opinion of the director, his inspector or deputy is not in condition
 12 to give accurate results, may be condemned by him. No Babcock or
 13 other centrifugal machine so condemned shall be used for determining
 14 the composition or milk-fat content of milk or cream as aforesaid, unless
 15 such machine is corrected to the satisfaction of the director, his inspector
 16 or deputy, and approved by him.

1 SECTION 27. No inspector of milk and no person in a milk inspection
 2 laboratory shall manipulate the Babcock or other centrifugal machine
 3 to determine the composition of milk or cream for purposes of inspection,
 4 and no person in any place shall manipulate such a centrifugal machine
 5 to determine the composition or milk-fat content of milk or cream as
 6 a basis for payment in buying or selling, without first obtaining a cer-
 7 tificate from the director or his duly designated deputy that he is compe-
 8 tent to do such work. The fee therefor shall be two dollars, and shall
 9 be paid to the director. If a holder of a certificate is notified by the
 10 director, or by his duly designated deputy, to correct his use of such a
 11 centrifugal machine, the actual cost of an inspection to ascertain if such
 12 person has corrected his use of the said machine shall be paid by him or
 13 by his employer to the director.

Certificate for
 use of Bab-
 cock, etc.,
 machine
 required.
 Fee, etc
 1901, 202, § 4.
 R. L. 56, § 67.
 1909, 425.
 1912, 218,
 §§ 3, 10.
 1919, 301, § 9.
 1929, 279, § 3.
 [Penalty, § 31.]

1 SECTION 28. The director or his duly designated deputy may issue
 2 certificates of competency to persons desiring to manipulate the Babcock
 3 or other centrifugal machine who in his opinion are competent. The
 4 director or his deputy may make and enforce rules governing applications
 5 for such certificates and the granting thereof and may revoke the author-
 6 ity of any holder of a certificate who, in the opinion of the director, his
 7 deputy or inspector, is not correctly manipulating a machine as aforesaid,

Certificates:
 issue, revoca-
 tion and
 effect
 1901, 202, § 4.
 R. L. 56, § 67.
 1909, 425.
 1912, 218,
 §§ 3, 4, 10.
 1919, 301, § 9.
 [Penalty, § 31.]

or is using dirty or otherwise unsatisfactory glassware or utensils in connection therewith. No holder of such certificate whose authority has been so revoked shall thereafter manipulate any such machine for the purposes mentioned in the preceding section.

Testing and inspection of measuring devices
1901, 202, § 5.
R. L. 56, § 68.
1912, 218, §§ 5, 10.
1929, 279, § 4.
[Penalty, § 31.]

SECTION 29. The director shall test or cause to be tested all bottles, pipettes and other measuring glasses or utensils submitted to him under section twenty-five, and shall inspect or cause to be inspected at least once each year each Babcock or other centrifugal machine used by an inspector of milk, or by a person in any milk inspection laboratory, for purposes of inspection, or by any person in any place to determine the composition or milk-fat content of milk or cream as a basis for payment in buying or selling, and shall collect the fees or actual cost of tests and inspections under this and the four preceding sections. The director, his inspectors and deputies, may enter upon premises where tests of milk or cream are made in order to inspect any apparatus used in making such tests and to ascertain whether this and the four preceding sections are complied with.

Milk-fat content of milk or cream; rules and regulations governing tests for determining
1929, 279, § 5.
[Penalty, § 31.]

SECTION 29A. The director shall, after reasonable notice and a hearing, and with the approval of the governor and council, prescribe, and may from time to time in like manner modify or amend, rules and regulations to govern the methods and frequency of making tests for determining the composition or milk-fat content of milk or cream as a basis for payment in buying or selling. The director, his inspectors and deputies, may enter upon premises where tests of milk or cream are made to determine whether rules and regulations made hereunder are being observed.

Director to enforce certain sections. Certain persons not subject to prosecution, when.
1912, 218, § 7.
1929, 279, § 6.
[Penalty, § 31.]

SECTION 30. The director shall enforce sections twenty-five to thirty-one, inclusive, and the rules and regulations made thereunder, and may prosecute or cause to be prosecuted any person violating any provision of said sections or of said rules and regulations. Sections twenty-five to thirty-one, inclusive, and the rules and regulations made thereunder, shall not affect any person using any centrifugal or other machine or test to determine the composition or milk-fat content of milk or cream if such use or test is made for the information of such person only, and not for purposes of inspection or as a basis for payment in buying or selling.

Penalty for interfering with director, etc., and for violation of
§§ 25-30, etc.
1901, 202, § 6.
R. L. 56, § 69.
1912, 218, §§ 6, 10.
1929, 279, § 7.

SECTION 31. Whoever hinders or obstructs the director, his inspector or deputy, in the discharge of any authority or duty imposed upon him by any provision of sections twenty-five to thirty, inclusive, whoever violates any provision of said sections, and whoever knowingly violates any provision of the rules and regulations made thereunder shall be punished by a fine of not less than fifteen nor more than fifty dollars.

Milk stations.
1911, 278.

SECTION 32. The board of health of a city, and of a town of ten thousand or more inhabitants, when it deems it advisable for the public health, may establish one or more stations for the distribution of milk, either free of charge in cases of necessity, or at such charge and under such conditions, rules and regulations as it establishes; but this section shall not permit any such board to engage in a general milk business.

1 SECTION 33. The board of health of a city shall, and the board of
 2 health or the selectmen acting as such board of a town may, appoint one
 3 or more inspectors of milk and one or more collectors of samples of milk,
 4 who shall have the powers, and perform the duties, conferred and im-
 5 posed by law upon such inspectors and collectors, who shall be under the
 6 control of, and whose compensation shall be fixed by, the board appoint-
 7 ing him or them; but no person whose business, in whole or in part, is the
 8 buying or selling of milk, or who is an officer, agent or employee of any
 9 person engaged in the sale thereof, shall be appointed as such inspector.
 10 Each person so appointed shall be sworn before entering upon his official
 11 duties and each such inspector shall publish a notice of his appointment
 12 for two successive weeks in a newspaper published in his town, if any;
 13 otherwise he shall post such notice in two or more public places therein.
 14 Such inspectors may be removed in cities in the manner provided in sec-
 15 tions forty-three and forty-five of chapter thirty-one, and in towns at any
 16 time, by the appointing board.

Inspectors of
 milk and col-
 lectors of sam-
 ples of milk.
 1859, 206,
 § 1, 3.
 G. S. 49, § 148.
 1864, 122,
 § 1, 2.
 P. S. 57, §§ 1, 2.
 1884, 319, § 3.
 1885, 352, § 4.
 1886, 318, § 1.
 R. L. 56,
 §§ 51, 52.
 1909, 405,
 § 1, 2, 4.
 1910, 114, § 457.

1 SECTION 34. Any board mentioned in the preceding section may
 2 designate and employ any member of the board or any agent or employee
 3 thereof as a collector of samples of milk.

1909, 405, § 2.

Boards may
 designate one
 of their
 members, etc.

1 SECTION 35. Each inspector of milk shall enforce in his town the laws
 2 as to the milk supply, and shall make complaint for a violation of any
 3 provision of sections nineteen to twenty-eight, inclusive, thirty-three,
 4 thirty-eight to forty, inclusive, and forty-three, upon the information of
 5 any person laying before him satisfactory evidence whereby to sustain
 6 such complaint. He shall keep an office and shall record, in books kept
 7 for the purpose, the name and place of business of each person engaged
 8 in the sale of milk within such town. Each inspector of milk or collector
 9 of samples of milk may enter each place where milk is produced, stored
 10 or kept for sale and each vehicle used for its conveyance, and take there-
 11 from samples for analysis. Upon request made when any sample is
 12 taken, he shall seal and deliver to the owner or person from whose pos-
 13 session the milk is taken a portion of each sample, and a receipt therefor
 14 shall be given to him. Each inspector of milk shall cause each sample
 15 to be analyzed or otherwise satisfactorily tested, and shall record and
 16 preserve as evidence the results thereof; but no evidence of the result
 17 of such analysis or test shall be received if such inspector or collector
 18 refuses or neglects to seal and deliver, upon request as above provided, a
 19 portion of such sample to the owner or person from whose possession it
 20 is taken. This section shall not apply to milk in the course of interstate
 21 commerce.

Certain
 powers, etc.,
 of inspectors
 and collectors.
 1859, 206,
 § 1, 2.
 G. S. 49, § 149.
 1860, 165, § 2.
 1864, 122, § 2.
 1868, 203, § 3.
 1869, 150, § 3.
 P. S. 57, §§ 2,
 4.
 1884, 310,
 § 3, 4.
 1885, 352, § 4.
 1886, 318,
 § 1, 3.
 R. L. 56,
 §§ 52, 64.
 1914, 744, § 6.
 1916, 134.
 11 Allen, 264.
 132 Mass. 12.
 141 Mass. 129,
 135.
 143 Mass. 172,
 418.
 144 Mass. 132.
 146 Mass. 38.
 157 Mass. 460.
 216 Mass. 126.
 [Penalty, § 39.]

1 SECTION 36. An officer of the department of public health or of the
 2 division of dairying and animal husbandry of the department of agri-
 3 culture, an inspector of milk or collector of samples of milk, or other
 4 officer of the commonwealth or of a city or town who obtains a sample
 5 of milk for analysis shall, within ten days after obtaining the result of
 6 the analysis, send it to the person from whom the sample was taken or
 7 to the person responsible for the condition of such milk.

176 Mass. 292.

2 Op. A. G. 50.

Officer, in-
 spector, etc.,
 to send results
 of analysis to
 owner.
 1899, 169.
 R. L. 56, § 63.
 1914, 792, § 1.
 1918, 268, § 1.
 1919, 350,
 §§ 34, 37, 96.

Liability of
producer of
milk regulated.
1894, 425.
R. L. 56, § 62.
1910, 641, § 1.
1914, 792, § 1.
1918, 268, § 1.
1919, 350,
§§ 34, 37, 96.
165 Mass. 38.
229 Mass. 14.

SECTION 37. No producer of milk shall be liable to prosecution for the reason that the milk produced by him is not of good standard quality unless such milk was taken upon his premises or while in his possession or under his control by an inspector of milk, collector of samples of milk or agent of the division of dairying and animal husbandry of the department of agriculture or of the department of public health, and a sealed sample thereof was given to such producer upon demand, nor unless he shall fail to bring the milk produced by him to the legal standard for milk solids and milk fat within twenty days after written notice that it is below said standard has been sent to him by the officer taking said sample. At any time after such period of twenty days has elapsed, any such officer may take a second sample, and if it is found to be below the legal standard for milk solids and milk fat prosecution may follow.

Penalty for
connivance by
or interference
with inspector,
etc.
1880, 209, § 6.
P. S. 57, § 8.
1884, 310, § 5.
R. L. 56, § 61.
141 Mass. 135.

SECTION 38. An inspector of milk or a collector of samples of milk who wilfully connives at or assists in a violation of sections nineteen, twenty, twenty-three, thirty-nine, forty and one hundred and forty-six, or any person who hinders, obstructs or interferes with such an inspector or collector in the performance of his duty, shall, except as provided in section sixty, be punished by a fine of not less than one hundred nor more than three hundred dollars or by imprisonment for not less than one nor more than two months.

Penalty for
using counter-
feit seal, etc.
1886, 318, § 4.
1896, 398, § 3.
R. L. 56, § 60.
[Penalty, § 38.]

SECTION 39. Whoever makes, causes to be made, uses or has in his possession, an imitation or counterfeit of a seal used by an inspector of milk, collector of samples of milk or other officer engaged in the inspection of milk, and whoever changes or tampers with a sample taken or sealed as provided in section thirty-five, shall be punished by a fine of one hundred dollars and by imprisonment for not less than three nor more than six months.

License to sell
milk, etc.
1859, 206, § 2.
C. S. 49, § 151.
1864, 122, § 4.
1880, 209,
§§ 1, 2.
P. S. 57,
§§ 3, 4.
R. L. 56,
§§ 53, 54,
1909, 443,
§§ 1, 5.
1 Allen, 593.
2 Allen, 157.
[Penalty, §§ 38,
42.]

SECTION 40. No person, except a producer selling milk to other than consumers, or selling not more than twenty quarts per day to consumers, shall deliver, exchange, expose for sale or sell or have in his custody or possession with intent so to do any milk, skimmed milk or cream in any town where an inspector of milk is appointed, without obtaining from such inspector a license which shall contain the number thereof, the name, place of business, residence, number of vehicles used by the licensee and the name of each driver or other person employed by him in carrying or selling milk. A license issued to a partnership or corporation shall be issued in the business name of said partnership or corporation and shall contain the names in full of the partners and managers of said partnership or officers of said corporation. The license shall, for the purposes of sections forty to forty-two, inclusive, be conclusive evidence of ownership and shall not be sold, assigned or transferred. Whoever in such a town, engages in the business of selling milk, skimmed milk or cream from any vehicle shall display conspicuously on the outer side of each vehicle so used, his license number in figures not less than one and one half inches in height, and the name and place of business of the licensee in gothic letters not less than one and one half inches in height. Whoever in such town engages in the business of selling milk, skimmed milk or cream in a store, booth, stand or market place shall have his license conspicuously posted therein.

1 SECTION 41. An inspector of milk in any town, for the purposes
 2 mentioned in the preceding section and subject to the regulations estab-
 3 lished by the board of health of such town, may grant licenses to suit-
 4 able persons, and shall receive for each license so granted a fee of fifty
 5 cents for the use of such town, and all license fees collected by him shall
 6 be paid over monthly to the town treasurer. Such licenses shall remain
 7 in force until June first following, unless previously suspended or re-
 8 voked. An inspector of milk may declare any license granted by him
 9 suspended or forfeited upon a conviction of the licensee in any court of
 10 the commonwealth for violation of his license. If the applicant for a
 11 license fails to comply with any regulation of the board of health of the
 12 town where the application is made, a license may be refused until he
 13 has complied with such regulation; and a license granted under this
 14 section may be revoked at any time for failure to comply with any such
 15 regulation. If a license is so refused or revoked, an appeal may be
 16 taken to the department of public health, whose decision shall be final.
 17 Every inspector of milk shall annually during the month of June, and
 18 at any other time upon special request of the commissioner of agricul-
 19 ture, furnish to him a list of dealers holding licenses for the sale of
 20 milk, skimmed milk or cream who purchase the same directly from
 21 producers in the commonwealth. If any inspector revokes such a license
 22 or reinstates such a license previously revoked, he shall, within ten days
 23 after the effective date of such revocation or reinstatement, notify said
 24 commissioner in writing to that effect.

License; grant-
 ing, fee, term,
 revocation;
 appeal, notice
 of revocation,
 etc.
 Lists of reg-
 ular dealers.
 1880, 209,
 §§ 1, 2
 P. S. 57, §§ 3, 4
 R. L. 56,
 §§ 53, 54
 1909, 105, § 3;
 443, §§ 3-5,
 1914, 792, § 1.
 1919, 350, § 96,
 1929, 171, § 1.

1 SECTION 42. Whoever violates any provision of section forty shall
 2 be punished for the first offence by a fine of not less than ten nor more
 3 than one hundred dollars, for the second offence by a fine of not less
 4 than fifty nor more than three hundred dollars, and for a subsequent
 5 offence by a fine of fifty dollars and by imprisonment for not less than
 6 one nor more than two months.

Penalty for
 selling milk,
 etc., without
 a license.
 1859, 206, § 2
 G. S. 49, § 151.
 1864, 122, § 1.
 1880, 209, § 1.
 P. S. 57, §§ 3, 4

R. L. 56, §§ 53, 54.

1909, 443, §§ 2, 5.

1 SECTION 42A. Every person licensed under section forty-one who
 2 purchases milk, skimmed milk or cream directly from the producer in
 3 the commonwealth shall, annually during the month of September and
 4 at such other times as the commissioner of agriculture shall request,
 5 prepare and submit to him upon a form provided therefor by the depart-
 6 ment of agriculture a complete financial report signed by the licensee,
 7 and verified by his oath or his written declaration that it is made under
 8 the penalties of perjury. Any licensee neglecting to make such report
 9 or, if defective or erroneous, to amend it within fifteen days after a re-
 10 quest so to do, shall be punished by a fine of twenty-five dollars for each
 11 consecutive period of twenty-four hours during which such neglect
 12 continues.

Financial
 reports of
 certain dealers.
 Penalty for
 failure to
 make, etc.
 1929, 171, § 2.

1 SECTION 43. No producer of or dealer in milk shall sell or deliver for
 2 sale in any town any milk produced or dealt in by him without first
 3 obtaining from the board of health of such town a permit authorizing
 4 such sale or delivery. Said board of health may issue such permit after
 5 an inspection of the milk, and of the place where and the circumstances
 6 under which it is produced and handled, has been made by it or its
 7 authorized agent. Any permit so granted may contain such reasonable
 8 conditions as said board deems suitable for protecting the public health

Permits
 for sale, etc.,
 of milk.
 Penalty
 1914, 744,
 §§ 1-5, 792, § 1
 1915, 109, § 1
 1916, 228,
 1919, 350, § 96,
 1924, 122.

and may be revoked for failure to comply with any of such conditions. 9
 No charge shall be made to the producer for such permit. After a per- 10
 mit has been revoked, it may be reissued in the same manner in which 11
 the original permit was issued. The board revoking or reissuing said 12
 permit shall immediately send notice thereof to the department of public 13
 health, which may enforce this provision. The department shall at 14
 once inform the board of health of any other town where, in its judg- 15
 ment, milk produced by the person to whom the permit relates would 16
 be likely to be sold or delivered for sale, and it shall also give notice of 17
 such revocation or reissue to any dealer in milk who in its judgment 18
 would be likely to purchase milk from such person; and after receipt of 19
 notice of revocation no dealer so notified shall sell or offer for sale such 20
 milk. If the board of health of any town refuses to issue a permit under 21
 this section or a permit previously issued is revoked by it, an appeal 22
 may be taken to the said department, whose decision shall be final. 23
 Violation of any provision of this section shall be punished by a fine of 24
 not more than one hundred dollars. 25

Charges for
 inspection,
 etc., of dairies,
 etc., prohibited.
 Penalty
 1914, 744, § 1.
 1915, 109.
 1916, 228.
 1917, 112.

SECTION 44. No fee for making any inspection or test of live stock, 1
 or any inspection of any dairy, barn or stable, under authority of law, 2
 for the purpose of protecting the milk supply of any town, shall be 3
 requested or accepted by any official or other person making or assisting 4
 to make such test or inspection. Whoever violates this section shall be 5
 punished by a fine of not more than fifty dollars. 6

Use of certain
 containers
 prohibited.
 Penalty
 1906, 116,
 §§ 3, 4
 1908, 435,
 §§ 1, 2.

SECTION 45. No licensed milk dealer shall sell, or have in his possession 1
 with intent to sell, milk not contained in clean vessels bearing his 2
 own name, or the name under which his business is conducted, and bear- 3
 ing no other name; but this section shall not apply to a person using 4
 clean vessels bearing the name of another person whose written permis- 5
 sion for such use has been obtained previously and registered in the 6
 office of the inspector of milk, in towns having such officer, and in other 7
 towns registered in the office of the town clerk. Whoever violates this 8
 section shall be punished by a fine of ten dollars. 9

Containers,
 etc., to be
 clean, etc.
 1913, 761,
 §§ 1, 2.

SECTION 46. Each vessel used as a container in the holding, handling 1
 or sale of milk intended for sale, and each appliance, implement, utensil, 2
 strainer or material used in milking and in the treatment or mixing of 3
 such milk, shall be clean and free from foreign deposits. 4

Penalty for
 use of unclean
 utensils, etc.
 1913, 761,
 §§ 1, 2.

SECTION 47. Whoever himself or by his servant or agent sells, ex- 1
 changes or delivers or has in his custody or possession with intent to 2
 sell, exchange or deliver, milk in vessels used as containers which are 3
 unclean upon the inside, or have foreign deposits therein, or milk ob- 4
 tained, treated or mixed by the use of appliances, implements, utensils, 5
 strainers or materials unclean or not free from foreign deposits, shall be 6
 punished by a fine of not more than fifty dollars. 7

Placing of
 offal, etc., in
 milk cans, etc.,
 prohibited.
 Penalty
 1906, 116,
 §§ 1, 2.

SECTION 48. Whoever himself or by his servant or agent having cus- 1
 tody of any vessel used as a container for milk intended for sale, places 2
 or causes or permits to be placed therein offal, swill, kerosene, vegetable 3
 matter or any article other than milk, skimmed milk, buttermilk, cream, 4
 or water or other agent used for cleansing said vessel, or sends, ships, 5

6 returns, or delivers, or causes or permits to be sent, shipped, returned or
 7 delivered to any producer of milk any vessel used as a container for milk
 8 and containing any offal, swill, kerosene, vegetable matter or other
 9 offensive material, shall be punished by a fine of not more than ten dol-
 10 lars for each such vessel.

1 SECTION 48A. No person shall maintain an establishment for the
 2 pasteurization of milk without a license from the board of health of the
 3 town where the establishment is to be located. Any person desiring
 4 such a license may make written application to such board, stating the
 5 location of the establishment and such other information as may be
 6 required by rules and regulations for the enforcement of this section,
 7 which the department of public health is hereby authorized to make.
 8 Upon receipt of the application the said board shall cause an examina-
 9 tion of the sanitary condition of the establishment to be made, and if it
 10 is found to be in a sanitary condition, and in accordance with the require-
 11 ments of said rules and regulations, and otherwise properly equipped for
 12 the business of pasteurizing milk, said board, upon receipt of a license
 13 fee of ten dollars, shall issue a license authorizing the applicant to carry
 14 on such establishment for the pasteurization of milk for one year. If
 15 any such establishment licensed hereunder is deemed by the board issuing
 16 such license or by the department of public health to be operated or
 17 maintained in an unsanitary manner, or in violation of any of said rules
 18 and regulations, or not properly equipped for the business of pasteurizing
 19 milk, the board or the department shall close such establishment until
 20 such time as it has been put in a condition to conform with the require-
 21 ments of this section, and said board or department may also suspend
 22 the license if the required changes are not made within a reasonable time.
 23 Whoever, himself or by his servant or agent, violates any provision
 24 of this section, or of the rules and regulations made hereunder, shall be
 25 punished for the first offence by a fine of not more than one hundred
 26 dollars, and for a subsequent offence by a fine of not less than fifty nor
 27 more than three hundred dollars.
 28 This section shall not be construed to interfere with the powers and
 29 duties conferred or imposed upon boards of health of cities and towns
 30 by sections forty-one and forty-three.

Licensing of
 establish-
 ments for
 pasteurization
 of milk.
 Penalties.
 1927, 259.

BUTTER, CHEESE AND LARD.

1 SECTION 49. Whoever himself or by his agent sells, exposes for sale
 2 or has in his possession with intent to sell oleomargarine shall have the
 3 word "oleomargarine" or "butterine" so stamped, labelled or marked
 4 that said word cannot be easily defaced, upon the top, side and bottom
 5 of each tub, firkin, box or package containing any of said oleomargarine.
 6 Whoever, himself or by his agent, exposes or offers for sale oleomargarine
 7 not in the original package shall attach thereto in a conspicuous place a
 8 label bearing the words "imitation butter", or the word "oleomargarine"
 9 or "butterine". In retail sales of oleomargarine not in the original
 10 package the seller shall attach to each package so sold, and shall deliver
 11 therewith to the purchaser, a label or wrapper bearing in a conspicuous
 12 place upon the outside of the package the words "imitation butter",
 13 or the word "oleomargarine" or "butterine". Each such stamp, label
 14 or mark shall be in printed letters in a straight line of not less than
 15 twenty point plain gothic type.

Oleomargarine
 to be marked.
 1878, 106, § 1.
 1881, 292, § 1.
 P. S., 56, § 17.
 1884, 310, § 1.
 1885, 352, § 1.
 1886, 317, § 1.
 R. L., 56, § 36.
 1928, 130, § 1.
 148 Mass. 172.
 150 Mass. 327.
 157 Mass. 405,
 407.

[Penalty, § 51.]

Imitation
cheese to be
marked.
1881, 292, § 2.
P. S. 56, § 18.
1885, 352, § 2.
R. L. 56, § 37.

[Penalty, § 51.]

SECTION 50. Whoever himself or by his agent sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound, made in imitation or semblance of cheese or as a substitute therefor, and either not made exclusively and wholly of milk or cream, or containing any fats, oils or grease not produced therefrom, shall have the words "imitation cheese" stamped, labelled or marked in printed letters of plain, uncondensed gothic type, not less than one inch in length, so that said words cannot be easily defaced, upon the side of each cheese-cloth or band around the same, and upon the top and side of each tub, firkin, box or package containing any of said article, substance or compound. In retail sales of said article, substance or compound not in the original packages, the seller shall attach to each package so sold, and shall deliver therewith to the purchaser, a label or wrapper bearing in a conspicuous place upon the outside of the package the words "imitation cheese", in printed letters of plain uncondensed gothic type, not less than one half inch in length.

Unlawful sale,
advertising,
etc., of imi-
tation butter
and cheese
penalized.
1878, 106, § 2.
1880, 199.
1881, 292, § 3.
P. S. 56, § 19.
1880, 317,
§§ 2, 3.
1894, 280, § 1.
R. L. 56, § 38.
1923, 84
2 Op. A. G. 332.

SECTION 51. Whoever sells, exposes for sale or has in his possession with intent to sell, any article, substance or compound made in imitation or semblance of butter or cheese or as a substitute therefor, except as provided in the two preceding sections, and whoever with intent to deceive defaces, erases, cancels or removes any mark, stamp, brand, label or wrapper provided for in said sections, or in any manner falsely labels, stamps or marks any box, tub, article or package marked, stamped or labelled as provided in said sections, or whoever himself or by his agent sells, exposes for sale, or has in his possession with intent to sell, oleomargarine, contained in any box, tub, article or package, marked or labelled with the word "dairy", or the word "creamery", or the name of any breed of dairy cattle, or whoever uses in any way in connection or association with an advertisement of margarine, oleomargarine or of any substance designed to be used as a substitute for butter, the name or representation of any dairy animal or breed of dairy cattle, or, with intent to deceive, uses in any way in such connection or association the word "butter", "creamery" or "dairy", or any other words or symbols commonly used only in advertisements of butter, shall for the first offence forfeit one hundred dollars, and for each subsequent offence two hundred dollars, to the use of the town where the offence was committed.

Conveyance of
oleomargarine
for sale
regulated.
Penalty
1886, 317, § 4.
R. L. 56, § 39.

SECTION 52. Each person who conveys oleomargarine in a vehicle or otherwise, for the purpose of selling the same in any town, shall annually in May be licensed by an inspector of milk of such town to sell the same within the limits thereof, and shall pay therefor to such inspector fifty cents to the use of the town. The inspector shall pay monthly to the town treasurer all such moneys collected by him. In towns where there is no inspector of milk, such license shall be issued by the town clerk. Any such license shall be issued only in the name of the owner of the vehicle, and for the purposes of sections forty-nine to sixty, inclusive, shall be conclusive evidence of ownership. No such license shall be sold, assigned or transferred. Each license shall be numbered and shall state the name, residence, place of business, number of vehicles used, and the name and residence of each driver or other person engaging in carrying oleomargarine. Each licensee before engaging in the sale of oleomargarine shall cause his name, the number of his license and his place of busi-

ness to be legibly placed, in gothic letters not less than one inch in length, in the English language, on each outer side of each vehicle used by him in the conveyance and sale thereof, and shall report to the said inspector or town clerk any change of driver or other person engaged in carrying oleomargarine occurring during the term of his license. Whoever without being licensed sells oleomargarine, or exposes or offers it for sale from vehicles or has it in his custody or possession with intent so to sell, and whoever violates any of the provisions of this section, shall for the first offence be punished by a fine of not less than thirty nor more than one hundred dollars, and for a subsequent offence by a fine of not less than fifty nor more than three hundred dollars.

SECTION 53. Each person before selling or offering for sale oleomargarine in a store, booth, stand or market place, shall register his name and proposed place of sale in the books of the inspector of milk of the town, or, if there is no such inspector, in the books of the town clerk, and annually in May thereafter shall so register, and shall pay fifty cents for each registering to the use of such town. Whoever neglects so to register shall be punished by a fine of not more than twenty dollars.

Registration of sellers of oleomargarine. Penalty. 1886, 317, § 5. R. L. 56, § 40.

SECTION 54. Whoever himself or by his agent or servant renders, manufactures, sells, offers for sale, exposes for sale, takes orders for the future delivery of, has in his possession, keeps in storage, distributes, delivers, transfers or conveys with intent to sell within the Commonwealth any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which is in imitation of yellow butter produced from unadulterated milk or cream from the same, shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for not more than one year; but this section shall not prohibit the manufacture or sale of oleomargarine in a separate and distinct form, free from any coloration or ingredient which causes it to look like butter, and in such manner as will inform the consumer of its real character.

Manufacture, etc., of certain imitations of butter prohibited. Penalty. 1891, 58, §§ 1, 2. 1894, 280, § 6. 1896, 377, § 1. R. L. 56, § 41. 156 Mass. 236. 158 Mass. 172. 162 Mass. 520. 163 Mass. 169. 176 Mass. 132. 155 U. S. 461.

SECTION 55. Whoever exposes for sale oleomargarine which is not marked and distinguished by all the marks, words and stamps required by section forty-nine, or whoever does not have upon the exposed contents of each opened tub, package or parcel of oleomargarine a conspicuous placard with the word "oleomargarine" printed thereon in plain, condensed gothic letters, not less than one inch long, or whoever himself or by his agent sells or offers for sale any oleomargarine to any person who asks or sends for butter, shall be punished by a fine of one hundred dollars.

Fraud in sale of oleomargarine. Penalty. 1891, 412, §§ 1, 2. 1894, 280, §§ 2, 3. R. L. 56, §§ 43, 44. 1928, 130, § 2. 156 Mass. 236. 155 U. S. 461.

[Disposition of fine, § 63.]

SECTION 56. Whoever sells oleomargarine from any dwelling, store, office or public mart which does not have conspicuously posted thereon a placard or sign approved by the division of dairying and animal husbandry of the department of agriculture, bearing in letters not less than four inches in length "oleomargarine sold here" or "butterine sold here", shall be punished by a fine of one hundred dollars for the first offence and one hundred dollars for each day's neglect after conviction for the first offence.

Sale of oleomargarine regulated. Placard required in store. Penalty. 1891, 412, § 3. R. L. 56, § 45. 1918, 268, § 1. 1919, 350, §§ 34, 37.

[Disposition of fine, § 63.]

Same subject.
Placard re-
quired on
vehicles.
Penalty.
1891, 412, § 4.
1894, 280, § 4.
R. L. 56, § 46.
158 Mass. 218.
162 Mass. 506.

SECTION 57. Whoever himself or by his agent peddles, sells, solicits 1
orders for the future delivery of or delivers oleomargarine from any 2
vehicle not having on both sides of said vehicle a placard bearing the 3
words "licensed to sell oleomargarine" in uncondensed gothic letters not 4
less than three inches in length, shall be punished by a fine of one hundred 5
dollars or by imprisonment for one month. 6

[Disposition of fine, § 63.]

Serving oleo-
margarine at
hotels, etc.,
regulated.
Penalty.
1891, 412, § 5.
1896, 377, § 2.
R. L. 56, § 47.
159 Mass. 113.

SECTION 58. Whoever furnishes oleomargarine or causes it to be fur- 1
nished, instead of butter, in any hotel, restaurant or boarding house or 2
at any lunch counter, to a guest or patron thereof, without notifying said 3
guest or patron that the substance so furnished is not butter shall be 4
punished by a fine of not less than ten nor more than fifty dollars. 5

[Disposition of fine, § 63.]

Sale of process
butter or reno-
vated butter
regulated.
Penalty.
1899, 340.
R. L. 56, § 48.
1903, 361.
2 Op. A. G.
332.

SECTION 59. Whoever himself or by his agent sells, exposes for sale 1
or has in his custody or possession with intent to sell, an article or com- 2
pound commonly known as process butter, and produced by taking 3
original packing stock or other butter, or both, melting the same, so that 4
the butter fat can be drawn off, mixing the fat with skimmed milk, or 5
milk, cream or other milk product, and reurning the mixture, or by any 6
similar process, shall have "renovated butter" conspicuously stamped, 7
labelled or marked so that the words cannot easily be defaced, in a straight 8
line in printed letters not less than one half inch in length, of plain, un- 9
condensed gothic type, upon the top, side and bottom of each tub, firkin, 10
box or package containing said article or compound. The seller at retail 11
of said article or compound which is not in the original package shall him- 12
self or by his agent attach to each package so sold and deliver therewith 13
to the purchaser a label or wrapper bearing conspicuously upon the out- 14
side thereof the words "renovated butter" in printed letters not less than 15
one half inch in length, in a straight line of plain, uncondensed gothic 16
type. Whoever violates any provision of this section shall for the first 17
offence be punished by a fine of not less than twenty-five nor more than 18
one hundred dollars, for the second offence by a fine of not less than one 19
hundred nor more than three hundred dollars, and for a subsequent 20
offence by a fine of five hundred dollars or by imprisonment for not less 21
than two nor more than three months. 22

Complaints for
violation of sec-
tions relative to
oleomargarine,
butter, cheese,
etc.
1881, 292, § 4.
P. S. 56, § 20.
1884, 310,
§§ 2, 4.
1891, 58, § 3.
R. L. 56, § 42.
1910, 394.
1913, 743, § 3.
132 Mass. 12.
176 Mass. 132.
177 Mass. 67.

SECTION 60. Each inspector of milk shall institute complaints for 1
the violation of any provision of sections forty-nine to fifty-eight, inclu- 2
sive, sixty-two and sixty-four on the information of any person who lays 3
before him satisfactory evidence to sustain such complaint, if he has 4
reasonable cause to believe that said provision has been violated. He 5
may enter each place where butter, cheese or imitations thereof, or ice 6
cream are stored or kept for sale, and shall take samples of suspected 7
butter, cheese or imitations thereof, or ice cream, and cause them to be 8
analyzed or otherwise satisfactorily tested, and shall record and preserve 9
as evidence the result of such analysis or test. Before commencing the 10
analysis of any sample in any proceeding for violation of any provision of 11
sections forty-nine to fifty-one, inclusive, and sixty-four, the analyst shall 12
reserve and seal a portion of the sample, and, upon complaint made 13
against the person from whom such sample was taken, such reserved 14
portion of the sample alleged to be adulterated shall, upon application, 15

16 be delivered to such person or to his attorney. The expense of such
17 analysis or test, not exceeding twenty dollars in any one case, may be
18 included in the expense of such prosecution.

1 SECTION 61. No person shall sell, deliver, prepare, put up, expose or
2 offer for sale any lard, or any article intended for use as lard, which con-
3 tains any ingredient except the pure fat of swine, in any tierce, bucket,
4 pail or other vessel or wrapper, or under any label bearing the words
5 "pure", "refined", "family", or either of them, alone or in combination
6 with other words; but each vessel, wrapper or label in or under which
7 such article is prepared, put up or exposed for sale, sold or delivered by him
8 shall bear on the top or outer side thereof, in letters not less than one
9 half inch in length and plainly exposed to view, the words "compound
10 lard". Whoever violates any provision of this section shall for the first
11 offence be punished by a fine of not more than fifty dollars and for a
12 subsequent offence by a fine of not more than one hundred dollars.

Wrappers of
certain lard to
be marked.
Penalty.
1887, 119
R. L. 56, § 49.

1 SECTION 62. Whoever hinders, obstructs or in any way interferes
2 with an inspector of milk or collector of samples of milk in the perform-
3 ance of his duties under section sixty, shall for the first offence be pun-
4 ished by a fine of fifty dollars and for a subsequent offence by a fine of
5 one hundred dollars.

Penalty for
interfering
with inspector,
etc.
1884, 310, § 2.
1891, 58, § 3.
R. L. 56, § 42.

1910, 394.

1913, 743, § 3.

1 SECTION 63. All fines recovered under sections fifty-five to fifty-
2 eight, inclusive, shall be paid to the commonwealth.

Disposition
of fines.

1891, 412, § 12.

R. L. 56, § 50.

ICE CREAM AND SHERBET.

1 SECTION 64. For the purposes of sections sixty-four to sixty-five F,
2 inclusive, ice cream is hereby defined to be the frozen product of cream,
3 milk or skimmed milk, or any combination thereof, or of milk products,
4 with sugar, and with or without the addition of pure gelatine or vege-
5 table gums. Such product shall contain not less than ten per cent of
6 milk fat and not less than eighteen and five tenths per cent of total
7 milk solids; provided, that if eggs, fruit, fruit juices, cocoa, chocolate
8 or nuts are added thereto, such product shall contain not less than eight
9 per cent of milk fat and not less than sixteen and five tenths per cent of
10 total milk solids.

Standard of
ice cream.
Contents.
1913, 743, § 1.
1914, 67, § 1.
1927, 278, § 1.

1 SECTION 64A. For the purposes of sections sixty-five A to sixty-five F,
2 inclusive, sherbet is hereby defined to be all frozen water, milk or cus-
3 tard ices, with or without sugar or flavoring, which do not come within
4 the definition of ice cream contained in the preceding section.

Sherbet
defined.
1931, 93, § 2.

1 SECTION 65. Ice cream shall be deemed to be adulterated:—
2 First, If it contains saccharin or any preservative, mineral or other
3 substance or compound deleterious to health; provided, that this
4 clause shall not be construed to prohibit the use of harmless coloring
5 matter when not used for fraudulent purposes;
6 Second, If it contains any fats, other than milk fat or egg fat, or any
7 oils or paraffin added to, blended with or compounded with it; pro-

Ice cream,
when deemed
adulterated.
1927, 278, § 1.

vided, that chocolate ice cream and the coating of coated ice cream may contain cocoa butter; 8

Third, If it is made in whole or in part from, or contains, ice cream which for any reason is unfit for food. 9
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11

Manufacture and sale of ice cream regulated. 1927, 278, § 1. 1931, 93, § 3.

SECTION 65A. No person, himself or by his servant or agent, shall 1

(a) Manufacture, sell or offer or expose for sale, or have in possession with intent to sell or offer or expose for sale, under the name of "ice cream" any substance not conforming to the provisions of section sixty-four or adulterated within the meaning of section sixty-five; 2
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(b) Sell or offer or expose for sale, or have in possession with intent to sell or offer or expose for sale, ice cream in a container which is falsely labelled or branded as to the name or address of the manufacturer of such ice cream, or an imitation of or substitute for ice cream under a coined or trade name which does not identify its true character; 6
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(c) Sell ice cream from a container or a compartment of a cabinet or fountain, which contains any article of food, other than ice cream or an imitation or substitute for ice cream offered for sale under a coined or trade name which plainly identifies its true character; 11
12
13
14

(d) Handle ice cream or coated ice cream or sherbet in unclean, unsanitary or unhealthful premises or in an unclean, unsanitary or unhealthful manner; 15
16
17

(e) Use or lend, borrow, hire or lease for use any ice cream can, tub, jacket or other container for any other purpose than the handling, storing or shipping therein of ice cream; 18
19
20

(f) Engage in the business of manufacturing ice cream or sherbet without a license so to do from the board of health of the town where such business is or is to be located. 21
22
23

Licenses to manufacture ice cream. Applications, fees, terms, revocation. 1927, 278, § 1. 1931, 93, § 4.

SECTION 65B. Local boards of health may grant to suitable applicants therefor licenses to manufacture ice cream and sherbet or either of them. Applications for such licenses shall be made upon forms prescribed by the department of public health. No license shall be granted hereunder until after inspection and approval by such local board of the premises wherein the business so licensed is to be carried on. Each license so granted shall, unless sooner revoked, expire on April thirtieth following its issue, and the fee therefor shall be one dollar. Any such license may be revoked at any time, for cause and after a hearing, by the local board which granted it. 1
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SECTION 65C. [INSERTED, 1927, 278, § 1; REPEALED, 1928, 229, § 2.] 1

SECTION 65D. [INSERTED, 1927, 278, § 1; REPEALED, 1928, 229, § 2.] 1

Rules and regulations. Enforcement of §§ 64-65F. 1913, 743, § 3. 1927, 278, § 1.

SECTION 65E. The department of public health, and local boards of health within their respective jurisdictions, shall enforce the provisions of sections sixty-four to sixty-five F, inclusive, and may make rules and regulations consistent with said provisions. 1
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Penalty. 1913, 743, § 2. 1914, 67, § 2. 1927, 278, § 1.

SECTION 65F. Whoever violates any provision of sections sixty-four to sixty-five E, inclusive, or of any rule or regulation made thereunder, shall be punished by a fine of not less than fifteen nor more than five hundred dollars, or by imprisonment for not more than six months. 1
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COLD STORAGE.

1 SECTION 66. No person shall maintain a cold storage or refrigerating
 2 warehouse without a license issued by the department of public health.
 3 Any person desiring such a license may make written application to
 4 such department, stating the situation of his plant. Upon receipt of the
 5 application the said department shall cause an examination of the sani-
 6 tary condition of the plant to be made, and if it is found to be in a sani-
 7 tary condition and otherwise properly equipped for the business of cold
 8 storage, said department upon receipt of a license fee of ten dollars shall
 9 cause a license to be issued authorizing the applicant to maintain therein
 10 a cold storage or refrigerating warehouse for one year. If any ware-
 11 house or any part thereof, licensed under this section, is deemed by said
 12 department to be conducted in an unsanitary manner, it shall close such
 13 warehouse or part thereof, until it has been put in sanitary condition,
 14 and said department may also suspend the license if the required changes
 15 are not made within a reasonable time. Each such licensee shall sub-
 16 mit to the department of public health on or before the fifteenth day of
 17 each month, a report on a printed form to be provided by said depart-
 18 ment, stating the quantities of articles of food placed in cold storage
 19 during the month preceding, and also the quantities of articles of food
 20 held on the first day of the month in which the report is filed or such
 21 other day as the commissioner of public health may from time to time
 22 fix.

Licensing of cold storage warehouses. Report of articles in cold storage. 1912, 652, § 2. 1914, 792, § 1. 1917, 149, § 2. 1919, 350, § 96. 1920, 297, § 4. [Penalty, § 73.]

1 SECTION 67. Boards of health of towns within their towns shall
 2 inspect, and the department of public health shall inspect and supervise
 3 all cold storage or refrigerating warehouses and shall make such inspec-
 4 tion of the entry of articles of food therein as they deem necessary to
 5 secure proper enforcement of the laws relative to cold storage. The
 6 department may make rules and regulations to secure a proper enforce-
 7 ment of sections sixty-six to seventy-two, inclusive, and ninety-two.

Department and local boards of health to inspect. Rules, etc. 1910, 640. 1912, 652, § 3, § 5, 9. 1914, 792, § 1. 1919, 28; 350, § 96. Op A G. (1920) 172.

[Penalty, § 73.]

1 SECTION 68. The department of public health and local boards of
 2 health, their agents, inspectors or employees shall be permitted access
 3 to each establishment mentioned in the preceding section, and to all
 4 parts thereof at all reasonable times for the purpose of inspection and
 5 enforcement of any provision of law relative to food products.

Department, etc., to have access to certain places. 1910, 640. 1912, 652, § 3. 1914, 792, § 1. 1919, 28; 350, § 96.

[Penalty, § 73.]

1 SECTION 69. No article of food intended for human consumption
 2 shall be placed or retained in cold storage if deemed by the department of
 3 public health to be diseased, tainted or otherwise unwholesome, and no
 4 person shall return to cold storage any article of food that has once been
 5 released from such storage for the purpose of placing it on the market for
 6 sale, but this section shall not apply to the transfer of goods from one
 7 cold storage or refrigerating warehouse to another, provided that such
 8 transfer is not made for the purpose of evading any provision of sections
 9 sixty-six to seventy-two, inclusive, and ninety-two. No person shall
 10 alter, deface or remove any marking on cold storage food which shows
 11 the date of its receipt in cold storage until after the food is finally with-
 12 drawn for the purpose of immediate sale for consumption, nor shall any

Regulation of cold storage. 1912, 652, § 3, § 5, 7. 1914, 792, § 1. 1917, 149, § 5. 1919, 28; 350, § 96; 351, § 7, 8. 1920, 297, § 3, 4. [Penalty, § 73.]

person transfer the ownership of food in cold storage without previously making known to the purchaser the date on which it was originally placed in cold storage.

Limit of time food may be kept in cold storage.
1912, 652, § 5.
1914, 792, § 1.
1917, 149, § 3.
1919, 350, § 96.
243 Mass. 472.
4 Op. A. G. 1.
Op. A. G.
(1920) 172.

Penalty, § 73.]

SECTION 70. No person shall hold any article of food in cold storage which has been in cold storage longer than twelve calendar months, except with the consent of the department of public health. The said department, upon application, may extend the period of storage beyond twelve months for a particular consignment of goods, if the goods in question are found upon examination to be in proper condition for further storage at the end of such time. The length of time for which further storage is allowed shall be specified by the department. A report on each case in which such extension of storage is permitted, including information relating to the reason for the action of said department, the kind and amount of goods for which the storage period was extended, and the period of extension, shall be included in the annual report of the commissioner of public health.

Marking date of receipt of food in cold storage.
1912, 652, § 4.
1920, 297, § 2.
[Penalty, § 73.]

SECTION 71. The date of receipt into cold storage shall be plainly marked either upon the containers in which any articles of food deposited in such storage are packed, or, if not packed in containers, on or in connection with all such articles, except fish. When deposited in cold storage, all articles of food which have been previously stored in any other state or country shall be plainly marked, as above provided, with the date of their original deposit in cold storage.

Marking of goods formerly in cold storage regulated.
1912, 652, § 6.
1917, 149, § 4.
1919, 351, § 10.
[Penalty, § 73.]

SECTION 72. Except as provided in sections seventy-eight and ninety-one, no person shall sell or offer or expose for sale articles of food which have been held in cold storage without notifying each person purchasing or intending to purchase the same that they have been so held by displaying in a conspicuous place a sign marked "Cold Storage Goods Sold Here". No person shall represent or advertise as fresh goods articles of food which have been held in cold storage.

Penalty
1912, 652, § 10.

SECTION 73. Whoever violates any provision of sections sixty-six to seventy-two, inclusive, and ninety-two, shall for the first offence be punished by a fine of not more than one hundred dollars, and for a subsequent offence by a fine of not more than five hundred dollars or by imprisonment for not more than one month, or both.

FISH.

Fish to be graded.
Grades established.
1919, 351, § 1.
1922, 17, § 1.

SECTION 74. All fresh food fish before being offered for sale or placed in cold storage shall be graded as follows:—

First grade fish. Only fish known in the trade as "new fish".

Second grade fish. All other fish in suitable condition to be offered for sale as fresh fish.

Third grade fish. Fish suitable only for splitting and salting or otherwise preserving, but not suitable for sale as fresh fish.

First grade fish shall be sold as "number one fish", "shore fish", or under any other truthful designation. Second grade fish shall be sold as "number two fish" or "off shore fish". Third grade fish shall be sold as "number three fish".

12 No person shall represent, sell, offer for sale or advertise fresh or frozen
 13 fish of any grade under any but the truthful and correct name and grade
 14 or corresponding term for such fish.

1 SECTION 75. No person shall sell or offer or expose for sale fish "Number two
 2 graded as "number two fish", unless at the time of such sale, offering fish" to be so
 3 or exposing for sale, it is clearly stated or made to appear by suitable designated,
 4 designation that they are "number two" or "off shore" fish. etc.
 1919, 351, § 2.

1 SECTION 76. No person shall sell or offer or expose for sale at retail, Sale of "num-
 2 for food, "number three fish". "Number three fish" shall be offered, ber three fish".
 3 exposed for sale or sold only at wholesale and then only for splitting 1919, 351, § 3.
 4 and salting or otherwise preserving. 1922, 17, § 2.

1 SECTION 77. No person shall place in cold storage any fresh fish not "Number one
 2 previously graded as "number one fish" or "number two fish". Food fish" and
 3 fish, unless deposited in bulk, when deposited in cold storage except in "number two
 4 private freezing plants, shall be plainly marked with the date of receipt fish" may be
 5 on the containers in which they are packed; and if deposited in bulk, placed in cold
 6 shall at the time of removal from cold storage be plainly marked on such storage.
 7 containers with the month and year of receipt. 1919, 351, § 4.

1 SECTION 78. No person shall sell, offer or expose for sale fish which Notice to pur-
 2 have been held in cold storage, without notice to purchasers that such chasers of cold
 3 fish have been so held, nor without the conspicuous display of a sign storage fish.
 4 marked "Cold Storage Fish"; nor shall any person represent or adver- 1919, 351, § 5.
 5 tise or sell cold storage fish as fresh fish.

1 SECTION 79. No person shall sell, offer or expose for sale cold storage Restrictions on
 2 fish at retail more than forty-eight hours after their receipt from cold sale of cold
 3 storage by the retailer, unless received by him in the frozen state and storage fish.
 4 sold frozen to the consumer; except that from November first in each 1919, 351, § 6.
 5 year, to March thirty-first in the year following, halibut, salmon, sword-
 6 fish, steak cod and pollock may be sold and offered or exposed for sale
 7 at retail during a period of one week after the receipt from cold storage
 8 by the retailer, provided that they remain in the frozen state until within
 9 forty-eight hours of the time of sale.

1 SECTION 80. No person shall deposit or cause to be deposited in Restrictions on
 2 cold storage for a period exceeding six months fish received from any sale of cold
 3 other state or country which have been previously in cold storage either storage fish
 4 within or without this commonwealth, unless at the time of deposit such previously in
 5 fish are plainly marked with the date of their original deposit in cold cold storage
 6 storage, whether within or without this commonwealth. 1919, 351, § 9.

1 SECTION 81. The state inspector of fish shall enforce sections seventy- Certain duties
 2 four to eighty, inclusive, and may inspect all fish offered or exposed for of state in-
 3 sale or kept with intent to sell and for such purpose may enter any place spector of fish.
 4 where fish is stored, kept, offered or exposed for sale. If on inspection it Rules, etc.
 5 is found that such fish is tainted, diseased, corrupted, decayed, unwhole- 1919, 350, § 43;
 6 some or unfit for food from any cause, the inspector or his deputy shall 351, § 11.
 7 seize and cause the same to be destroyed forthwith or disposed of other- 1922, 358, § 1.
 8 wise than for food. All money received by the inspector or his deputy for
 9 fish disposed of as aforesaid, after deducting the expense of said seizure

and disposal, shall be paid to the owner of such fish. The director of the division of fisheries and game of the department of conservation shall from time to time make rules and regulations necessary for the enforcement of sections seventy-four to eighty, inclusive.

General penalty.
1919, 351, § 12.
1922, 338, § 2.
1928, 40, § 1.

SECTION 82. Whoever, himself or by his agent, sells, or offers or exposes for sale, or keeps with intent to sell or offer or expose for sale, for food purposes fish which is tainted, diseased, corrupted, decayed, unwholesome or unfit for food from any cause, or whoever violates any provision of sections seventy-four to eighty, inclusive, or of any rule or regulation made under section eighty-one, or prevents, obstructs or interferes with the state inspector of fish or his deputy in the performance of his duties under said sections, or hinders, obstructs or interferes with any inspection or examination by him, or secretes or removes any fish for the purpose of preventing the inspection or examination of the same under the preceding section, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

Sale of fresh fish at wholesale regulated.
Penalty.
1914, 367.

SECTION 83. All fresh food fish sold at wholesale shall be sold by weight at the time of delivery. Whoever violates this section shall be punished by a fine of not less than twenty-five nor more than one hundred dollars.

Quintal weight of fish.
1837, 166.
G. S. 49, § 59.
P. S. 56, § 47.

SECTION 84. If fish are sold by the quintal, it shall mean a quintal of one hundred pounds avoirdupois, and all contracts relative to fish thus sold shall be so construed.

R. L. 56, § 27.

Clam bait; contents of barrel, etc.
1803, 155, § 7.
1848, 124.
1840, 63.
1844, 51.
1849, 48.
§§ 1, 2.
G. S. 49, § 60.
1867, 347, § 1.
P. S. 56, § 48.
R. L. 56, § 28.
1918, 218.
1919, 350, § 77.

SECTION 85. If clam bait is sold by the barrel, "barrel" shall mean a fish barrel of not less than twenty-eight nor more than twenty-nine gallons, and containing twenty-six gallons of clams and not more than three gallons of pickle. If the purchaser and seller disagree as to the quantity in a barrel, either party may have it measured by the director of standards or a sealer of weights and measures. If such barrel does not contain the said number of gallons of clams, the seller shall receive payment for the number of gallons of clams it does contain, but shall pay the expense of measuring and coopering; otherwise the purchaser shall pay such expense.

Fish to be weighed on request or demand.
1888, 163, § 3.
R. L. 56, § 31.

SECTION 86. All fish when landed from a vessel or boat shall be weighed by a public weigher of fish or his deputy, when so requested or demanded by the buyer or seller of such fish or by the master, agent or a majority of the crew of such vessel or boat; and said weigher shall issue a certificate of weight to the seller and a duplicate to the buyer.

Record of weight, etc., to be kept.
1888, 163, § 4.
R. L. 56, § 32.

SECTION 87. Each deputy shall report to such weigher the weight of fish weighed by him, and the weigher shall keep a complete record of such weight with the date of weighing, the name of the vessel from which the fish were taken and the person for whom they were weighed.

Fees for weighing.
1888, 163, § 5.
R. L. 56, § 33.

SECTION 88. The fees for weighing fish shall be twenty cents per one thousand pounds, but in no case less than one dollar, and shall be paid by the person applying to have the fish weighed. Each deputy shall pay

4 to the weigher two cents per one thousand pounds for all fish weighed
5 by him.

1 SECTION 88A. No person shall sell, exchange or deliver, or offer or
2 expose for sale, exchange or delivery, or have in his custody or possession
3 with intent to sell, exchange or deliver, any scallops unless the box, carton
4 or other container thereof is plainly and conspicuously stamped, labelled
5 or marked, in such a manner as not to be easily obliterated or defaced,
6 with (a) the word "Massachusetts", followed by the name of the town
7 or of the locality where taken, if taken from waters or flats within the
8 commonwealth; or (b) the name of the state, country or province where
9 taken, if taken from waters or flats outside the commonwealth but within
10 three miles from the shore; or (c) the words "SEA SCALLOPS", if taken
11 more than three miles from the shore.

12 Whoever, except a common carrier, fails to comply with any provision
13 of this section, or whoever falsely stamps, labels or marks such a box,
14 carton or other container, shall be punished by a fine of not less than ten
15 nor more than fifty dollars.

16 No person shall be prosecuted hereunder, in case such a box, carton or
17 other container of scallops is stamped, labelled or marked in apparent
18 conformity herewith, whether it is the original container in which such
19 scallops were shipped or delivered to him bearing the same stamp, label
20 or mark as when so shipped or delivered or is a different container
21 stamped, labelled or marked by him or under his direction substantially
22 the same, in respect to the source of such scallops, as such original con-
23 tainer, if he establishes a guaranty signed by the person from whom he
24 purchased the same that the container in which the scallops were shipped
25 or delivered as aforesaid was, at the time of shipping or delivery, cor-
26 rectly stamped, labelled or marked under this section, provided that no
27 person shall be entitled to avail himself of such a guaranty if it shall
28 appear that he knew or had good cause to believe that such original
29 container was not stamped, labelled or marked as required hereby.

Scallops
Marking of
containers,
etc., regulated.
Penalty.
1929, 210.

No prosecution
if certain guar-
anty is estab-
lished.

EGGS.

1 SECTION 89. Application for the carrying on of an establishment
2 for the breaking and canning of eggs shall be made by the proprietor
3 thereof to, and may be granted by, the aldermen or selectmen, or, in
4 a town having a population of more than five thousand, the board of
5 health. The application shall be written, signed and sworn to by one or
6 more of the owners or persons carrying on the business, or if a corpora-
7 tion by some authorized officer thereof, and shall state the name and
8 address of all such owners or persons, the location of the establishment
9 and the nature of the products thereof which are to be sold or used for
10 food. The board of health of a town may make and enforce such rules
11 and regulations as it deems necessary for the conduct of such establish-
12 ments, and any license therefor may be revoked for any violation of such
13 rules and regulations, after notice to the licensee and a hearing before said
14 board. This section shall also apply to licenses for establishments men-
15 tioned in section one hundred and forty-four.

License to
can, etc., eggs.
1914, 325, § 1.

1 SECTION 90. Whoever carries on an establishment for the breaking or
2 canning of eggs without a license as provided in the preceding section
3 shall be punished by a fine of not less than ten nor more than one hun-
4 dred dollars or by imprisonment for not more than three months, or both.

Penalty for
canning, etc.,
eggs without
a license.
1914, 325, § 2.
1917, 11.

Sale of eggs taken from cold storage regulated.

Penalty
1913, 538, §§ 1, 2.
1914, 545; 792, § 1.
1915, 55.
1919, 350, § 96.
4 Op. A. G. 8, 318.

SECTION 91. Whenever eggs which have been in cold storage are sold at wholesale or retail, or offered or exposed for sale, the basket, box or other container in which the eggs are placed shall be marked plainly and conspicuously with the words "cold storage eggs", or there shall be attached to such container a placard or sign having on it the said words. If eggs which have been in cold storage are sold at retail or offered or exposed for sale without a container, or placed upon a counter or elsewhere, a sign or placard, having the words "cold storage eggs" plainly and conspicuously marked upon it, shall be displayed among, upon or immediately above the said eggs. The display of the words "cold storage eggs" shall be in letters not less than one inch in height, except that the container in which eggs sold at retail are delivered to the customer may be marked in letters less than one inch in height if uncondensed gothic type is used, but such letters shall in no case be less than one half inch in height. All markings required by this section shall be done in a manner approved by the commissioner of public health. Whoever violates this section shall be punished by a fine of not less than ten nor more than five hundred dollars.

Broken eggs in cold storage, denaturing and marking.
1912, 652, § 8.
1914, 792, § 1.
1917, 749, § 6.
1919, 350, § 96.

SECTION 92. Broken eggs packed in cans, if not intended for food, shall be denatured when deposited in cold storage, and shall be marked by the owner, in accordance with forms prescribed by the department of public health, so as plainly to indicate that they are not to be sold for food.

[Penalty, § 73.]

Decayed eggs; sale, etc., regulated.
Penalty.
1921, 486, § 23.

SECTION 92A. No person shall sell or offer or expose for sale for food purposes, or have in possession with intent to sell for such purposes, eggs which, either before or after removal from the shell, are wholly or partly decayed or decomposed, eggs in the fluid state, any part of which is wholly or partly decayed or decomposed, eggs, in the fluid state or otherwise, which are mixed with parts of eggs derived from eggs which are wholly or partly decayed or decomposed, or frozen masses of broken eggs, if the mass contains eggs wholly or partly decayed or decomposed, or which are mixed with parts of eggs taken from eggs which were wholly or partly decayed or decomposed; nor shall any person use in the preparation of food products eggs which are wholly or partly decayed or decomposed, or deliver or sell such eggs in or at any establishment where food products are prepared or manufactured, or purchase or accept the same in or at any such establishment for use in the preparation of food products; but nothing in this section shall prohibit the purchase, sale or possession for other than food purposes of such eggs. The department of public health shall enforce this section. Violation of any provision of this section shall be punished by a fine of not less than ten nor more than one thousand dollars, or by imprisonment for not less than three months, or both.

CHOCOLATE.

SECTION 93. [REPEALED, 1928, 362.] 1

SECTION 94. [REPEALED, 1928, 362.] 1

SECTION 95. [REPEALED, 1928, 362.] 1

FRUITS, VEGETABLES AND NUTS.

1 SECTION 96. Except as otherwise provided in sections ninety-eight
 2 and ninety-nine and in chapter ninety-nine, or except when sold in the
 3 original standard container, all fruits, nuts, vegetables and grain shall be
 4 sold at retail by avoirdupois weight or numerical count. The words
 5 "original standard container", as used in this section shall mean and
 6 include only barrels, boxes, baskets, hampers or similar containers, the
 7 dimensions or capacity of which is established by law of this common-
 8 wealth or by act of congress, the contents of which have not been re-
 9 moved or repacked by the retailer, and upon which is plainly and con-
 10 spicuously marked the net quantity of the contents thereof in terms of
 11 weight, measure or numerical count. This section shall not apply to
 12 the sale of apples repacked under the provisions of section one hundred
 13 and four nor to the sale, by the bunch, of fresh beets, onions, turnips,
 14 rhubarb and other similar vegetables usually and customarily sold by
 15 the bunch. Whoever violates any of the provisions of this section shall
 16 be punished by a fine of not more than ten dollars.

Fruits, etc., to
 be sold by dry
 measure. "Original
 standard
 container"
 defined.
 Exceptions.
 Penalty.
 1695-6, 9, § 9.
 1700-1, 10.
 1858, 68, § 1.
 G. S. 49, § 61.
 P. S. 60, § 18.
 R. L. 57, § 21.
 1912, 246.
 1913, 713.
 1922, 355, § 1.
 4 Op. A. G. 27.

1 SECTION 97. [REPEALED, 1922, 355, § 8.]

1 SECTION 98. Baskets or other receptacles holding one quart or less
 2 which are used or intended to be used in the sale of strawberries, black-
 3 berries, cherries, currants, blueberries, raspberries or gooseberries shall
 4 be of the capacity of one quart, one pint or one half pint. Massachusetts
 5 standard dry measure. Said baskets or other receptacles shall not be
 6 required to be tested and sealed as provided by chapter ninety-eight,
 7 but the sealer or deputy sealer of weights and measures of any town or
 8 the director of standards may, if he so desires, and shall, upon complaint,
 9 test the capacity of any basket or other receptacle in which any of the
 10 aforesaid fruit is sold or intended to be sold; and if the same is found to
 11 contain less than the standard measure he shall seize the same and make
 12 complaint against the vendor.

Sale of certain
 berries requir-
 ed. Penalty.
 1900, 339.
 1901, 327.
 R. L. 57, § 22.
 1909, 350.
 1918, 218.
 257, § 224.
 1919, 5; 359,
 § 77.
 1920, 2.

13 Whoever sells or offers for sale a basket or other receptacle holding one
 14 quart or less to be used in the sale of any of the aforesaid fruit which does
 15 not conform to said standard, and whoever sells or offers for sale any of
 16 the aforesaid fruit in any basket or other receptacle holding one quart
 17 or less which does not conform to said standard, shall be punished by a
 18 fine of not less than five nor more than ten dollars.

1 SECTION 99. Berries, except cranberries, when sold shall, subject to
 2 the preceding section, be measured by the strike or level measure.

G. S. 49, § 62.	1918, 257, § 225.	1920, 2.
P. S. 60, § 19.	1919, 5.	1922, 355, § 2.
R. L. 57, § 23.		

Same subject.
 1850, 261, § 1.
 1851, 238, § 1.

1 SECTION 99A. The Massachusetts standard box for farm produce
 2 sold at wholesale, except as otherwise provided, shall contain two thou-
 3 sand one hundred fifty and forty-two one hundredths cubic inches and
 4 shall be of the following dimensions by inside measurements: seventeen
 5 and one half inches in length by seventeen and one half inches in width
 6 and seven and one sixteenth inches in depth. The Massachusetts
 7 standard half box for farm produce sold at wholesale shall contain one
 8 thousand seventy-five and twenty-one one hundredths cubic inches and

Massachusetts
 standard box
 and half box
 for farm
 produce sold
 at wholesale
 regulated.
 Penalty.
 1921, 248.

shall be of the following dimensions by inside measurements: twelve and 9
 three eighths inches in length by twelve and three eighths inches in width 10
 and seven and one sixteenth inches in depth. When the above specified 11
 boxes are made of wood the ends shall be not less than five eighths 12
 inches in thickness and the sides and bottom not less than three eighths 13
 inches in thickness. All such boxes and half boxes of the dimensions 14
 specified herein shall be marked on at least one outer side in bold, un- 15
 condensed capital letters, not less than one inch in height:—Standard 16
 Box Farm Produce, — and, — Standard Half Box Farm Produce, — 17
 respectively. Whoever marks or otherwise represents any box or half 18
 box to be a standard box or half box for the sale of farm produce at whole- 19
 sale shall, unless such box or half box complies with every specification 20
 and requirement of this section, be punished by a fine of not more than 21
 fifty dollars. The director of standards in the department of labor and 22
 industries, his inspectors and the sealers and deputy sealers of weights 23
 and measures in cities and towns shall enforce the provisions of this 24
 section. 25

APPLES.

Standard
 barrel and box
 for apples.
 1915, 261, § 1.

SECTION 100. The standard barrel for apples shall be of the following 1
 dimensions when measured without distention of its parts: length of 2
 stave, twenty-eight and one half inches; diameter of heads, seventeen 3
 and one eighth inches; distance between heads, twenty-six inches; cir- 4
 cumference of bulge, sixty-four inches, outside measurement; and the 5
 thickness of staves not greater than four tenths of an inch; provided, 6
 that any barrel of a different form having a capacity of seven thousand 7
 and fifty-six cubic inches shall be a standard barrel. 8

The standard box for apples shall be of the following dimensions by 9
 inside measurement: eighteen inches by eleven and one half inches by 10
 ten and one half inches, without distention of its parts; and shall have a 11
 capacity of not less than two thousand one hundred and seventy-three 12
 and one half cubic inches. 13

Establishment,
 etc., of official
 grades.
 1915, 261, § 2.
 1916, 63, § 1.
 1926, 264, § 1.
 1928, 189, § 1.
 1931, 194.

SECTION 101. The commissioner of agriculture shall establish and 1
 promulgate official grades of apples packed or repacked within the com- 2
 monwealth, and may from time to time amend or modify such grades. 3
 Before establishing, amending or modifying any such grades, the com- 4
 missioner shall consult with growers and shippers of apples relative to 5
 proposed grades, or, upon written petition of fifty or more growers 6
 producing annually an aggregate of not less than one hundred thousand 7
 bushels of apples, the commissioner shall, after reasonable notice, 8
 specifying the date, place and purpose of the proposed hearing, hold a 9
 public hearing for the purpose of obtaining information with a view to 10
 establishing, or amending or modifying, as the case may be, such official 11
 grades. The grades so established and promulgated shall include grades 12
 identical in name and requirements with all grades or standards of 13
 apples as promulgated, from time to time, by the secretary of agriculture 14
 of the United States and commonly known as the United States grades. 15

Marking, etc.,
 of closed
 packages
 regulated.
 1915, 261,
 §§ 1 & 2.
 1917, 13
 1918, 268,
 §§ 1, 4

SECTION 102. Each closed package of apples packed or repacked 1
 within the commonwealth and intended for sale within or without the 2
 commonwealth, shall be marked or branded at the time of packing, 3
 repacking or closing with a statement of the name and legal address of 4
 the person by whose authority the apples were packed, the true name 5

6 of the variety, and the minimum size or numerical count of the apples
 7 contained therein. If the true name of the variety is not known to the
 8 packer or other person by whose authority the apples are packed, the
 9 statement shall include the words "variety unknown". Each closed
 10 package of apples packed or repacked within the commonwealth and
 11 intended for sale in foreign countries shall also be marked or branded
 12 with a statement of such official grade designation applicable thereto
 13 as may be established and promulgated under section one hundred and
 14 one.

1919, 350,
 §§ 34, 35.
 G. L. (ed. of
 1920) 94,
 §§ 103-105.
 1924, 119,
 §§ 2, 4.
 1926, 264,
 §§ 2, 3
 1928, 180, § 2.
 1931, 194.

1 SECTION 103. Each closed package of apples packed or repacked
 2 within the commonwealth and intended for sale within the United States
 3 may be marked or branded with a statement of an official grade desig-
 4 nation established and promulgated under section one hundred and one.
 5 Closed packages of apples not marked or branded with an official grade
 6 designation at the time of packing, repacking or closing, may be so
 7 marked or branded at any subsequent time if there is submitted by the
 8 owner of said packages to the commissioner of agriculture at least three
 9 days prior to the sale of such packages a notice in writing stating the
 10 location and approximate number of such packages and the official
 11 grade designation marked or branded thereupon.

Same subject
 1931, 194.

1 SECTION 104. No open package of apples shall be marked or branded
 2 or have affixed thereto any brand, label, mark or stencil which purports
 3 to state or describe the grade or quality of the apples contained therein,
 4 except that any such package may be marked or branded with an official
 5 grade designation if all provisions of section one hundred and two are
 6 complied with.

Marking, etc.,
 of open
 packages
 regulated.
 1924, 119, § 3.
 1931, 194.

1 SECTION 105. For the purposes of sections one hundred to one hun-
 2 dred and nine, inclusive, apples packed in closed or open packages shall
 3 be deemed to be misbranded:

Apples packed
 in closed or
 open packages
 deemed mis-
 branded, when.
 1915, 261, § 9.
 G. L. (ed. of
 1920) 94, § 107.
 1931, 194.

4 First. If any closed package is packed or repacked in the common-
 5 wealth and fails to bear all statements required by section one hundred
 6 and two, or if any open package is marked or branded and fails to bear
 7 all statements required under section one hundred and four.

8 Second. If any package, whether packed or repacked within or with-
 9 out the commonwealth, is falsely branded or bears any statement, de-
 10 sign or device regarding the apples contained therein which is false or
 11 misleading, or if any package bears any statement, design or device
 12 indicating that the apples contained therein are of a specified grade
 13 established and promulgated under section one hundred and one, and
 14 said apples, when packed or repacked, do not conform to the require-
 15 ments prescribed for such grade, or if any package bears any statement,
 16 design or device, other than an official grade designation, describing the
 17 grade or quality of the apples therein.

1 SECTION 106. The commissioner of agriculture shall make and may
 2 modify rules and regulations for enforcing sections one hundred to one
 3 hundred and nine, inclusive, and shall, either in person or by his assist-
 4 ant, have free access at all reasonable hours to each building or other
 5 place where apples are packed, stored, sold, or offered or exposed for
 6 sale. He may also, in person or by his assistant, open each box, barrel
 7 or other container, and upon tendering the market price, may take as

Commissioner
 may make
 rules and
 regulations,
 enter certain
 places, etc.
 1915, 261,
 §§ 11, 12.
 1915, 268,
 § 1, 4.
 1919, 350,
 §§ 34, 35.

G. L. (ed. of
1920 94, § 110,
1931, 194.

a sample such container, with or without its contents, or any apples
8
9

Enforcement
of §§ 100-105
and 108.
Prosecutions.
Hearings.
1918, 169, § 3;
268, §§ 1, 4,
1919, 350,
§§ 34, 35.
G. L. (ed. of
1920 94, § 111,
1926, 264, § 5,
1931, 194.

SECTION 107. The commissioner of agriculture and his duly author- 1
ized assistants shall have authority to enforce sections one hundred to 2
one hundred and five, inclusive, and one hundred and eight, and to 3
prosecute all violations thereof. Before any prosecution is begun by 4
the commissioner of agriculture or any of his duly authorized assistants 5
the parties concerned shall be given an opportunity to be heard before 6
the said commissioner or a person designated by him for such purpose. 7
The parties concerned shall be given reasonable notice of the hearing, 8
specifying the day, hour and place thereof and accompanied by a descrip- 9
tion of the alleged violation. Such hearings shall be governed by rules 10
and regulations prescribed by said commissioner. 11

Penalties for
misbranding,
etc., apples,
and for ob-
structing, etc.,
commissioner,
etc.
1915, 261,
§§ 7, 14.
1918, 169, § 2.
G. L. (ed. of
1920 94, § 112,
1926, 357;
264, § 6,
1931, 194.
Op. A. G.
(1918) 11.

SECTION 108. Whoever, himself or by his servant or agent, mis- 1
brands apples within the meaning of section one hundred and five, or 2
packs, repacks, sells, distributes or offers or exposes for sale or distribu- 3
tion apples which are misbranded, or packs, repacks, sells, distributes 4
or offers for sale or distribution apples in closed or open packages so 5
packed or repacked that the faced or shown surface gives a false repre- 6
sentation of the color, size or quality of the other apples in the package, 7
or packs, repacks, sells, distributes, offers or exposes for sale or distribu- 8
tion apples otherwise in violation of any provision of sections one hun- 9
dred and one to one hundred and eight, inclusive, or wilfully alters, 10
effaces or removes, or causes to be altered, effaced or removed, wholly 11
or partly, any brands or marks put upon any package of apples under 12
authority of said sections, shall be punished for the first offence by a 13
fine of not more than fifty dollars, and for a subsequent offence by a 14
fine of not more than two hundred dollars. Whoever obstructs or hinders 15
the commissioner of agriculture or any of his assistants in the performance 16
of his duties under sections one hundred and one to one hundred and 17
seven, inclusive, shall be punished by a fine of not less than ten nor 18
more than one hundred dollars. 19

Certain ex-
emptions from
penalties for
misbranding,
etc., apples.
Liability for
acts of dis-
tributor in
certain cases.
1915, 261, § 15.
G. L. (ed. of
1920 94, § 113,
1926, 264, § 7,
1931, 194.
Op. A. G.
(1918) 11.

SECTION 109. No person who sells or distributes or offers or exposes 1
for sale or distribution apples misbranded within the meaning of section 2
one hundred and five, or apples in closed or open packages so packed 3
or repacked that the faced or shown surface gives a false representation 4
of the contents of the package, shall be deemed to have violated the 5
provisions of sections one hundred and one to one hundred and eight, 6
inclusive, relative thereto, if it appears that he acted in good faith solely 7
as a distributor and that he was not a party to the packing and grading 8
of the apples in question, or if he furnishes a guaranty signed by the 9
person from whom he received the apples, together with the address of 10
such person, that the apples are not misbranded within the meaning of 11
said section one hundred and five and that they are not so packed or 12
repacked that the faced or shown surface gives a false representation of 13
the contents of the package. In such case, the person from whom the 14
distributor received the apples shall be liable for the acts of the dis- 15
tributor, if he relied upon the guaranty, to the same extent that the 16
distributor would have been liable under said sections one hundred and 17
one to one hundred and nine, inclusive. 18

1 SECTION 110. [REPEALED, 1931, 194.]

1 SECTION 111. [REPEALED, 1931, 194.]

1 SECTION 112. [REPEALED, 1931, 194.]

1 SECTION 113. [REPEALED, 1931, 194.]

1 SECTION 114. [REPEALED, 1931, 194.]

CRANBERRIES.

1 SECTION 115. The legal and standard barrel for cranberries shall
 2 measure not less than twenty-five and one fourth inches between the
 3 heads, inside; the length of the staves shall be twenty-eight and one half
 4 inches; the diameter of the head shall be not less than sixteen and one
 5 fourth inches, including the bevelled edge; the outside bulge circum-
 6 ference shall measure not less than fifty-eight and one half inches; the
 7 thickness of the staves shall be not greater than four tenths of an inch.
 8 The legal and standard crate for cranberries shall measure seven and
 9 one half inches, by twelve inches, by twenty-two inches, inside, exclu-
 10 sive of any interior partition or support, and shall have an interior
 11 capacity of one thousand nine hundred and eighty cubic inches; but
 12 any square or oblong crate or box of different form, but of as great in-
 13 terior capacity, shall be considered a legal and standard crate.

Standard barrel
and crate for
cranberries.
1875, 62.
P. S. 60, § 20.
1884, 161.
R. L. 57, § 24.
1903, 408.
§§ 1, 3.
1911, 380, § 1.
38 U. S. Sts.
at L., 1186.

1 SECTION 116. Each barrel, crate, one half crate or one quarter crate
 2 used for the sale or delivery of cranberries shall be of the standard meas-
 3 ure prescribed in this or the preceding section, and shall be marked as
 4 therein required. No person shall use any barrel, crate, one half crate
 5 or one quarter crate for such sale or delivery, the capacity of which is
 6 less than that of the corresponding standard package prescribed in the
 7 preceding section. Sealers of weights and measures shall enforce this
 8 and the preceding section. Whoever violates any provision of this or the
 9 preceding section shall be punished by a fine of not more than one hun-
 10 dred dollars.

Provisions as
to barrels and
crates.
Penalty.
1884, 161.
R. L. 57, § 24.
1903, 408.
1905, 209.
1911, 380.
§§ 1, 2.
38 U. S. Sts.
at L., 1186.

11 It shall be lawful to use for the sale and delivery of cranberries, square
 12 or oblong packages which contain one half crate or one quarter crate,
 13 provided that such packages have an interior capacity, exclusive of any
 14 partition or support, of nine hundred and ninety and of four hundred
 15 and ninety-five cubic inches, respectively. No barrel, crate, one half
 16 crate or one quarter crate, intended to be used for the sale or delivery of
 17 cranberries, except of the standard measure specified in this section, and
 18 plainly marked with the words "Massachusetts Standard Measure",
 19 shall be manufactured or sold. No person shall so mark any barrel or
 20 other package so used, or intended to be used, unless its interior capacity
 21 is as great as the capacity herein specified for such package.

22 Nothing in this or the preceding section shall prohibit the use of third,
 23 half and three quarter barrels, as provided by United States law.

1 SECTION 117. It shall be lawful to use for the sale and delivery of
 2 cranberries packages containing one, two or four pounds of cranberries,
 3 net weight; provided, that said net weight is plainly stamped on the top
 4 or side of each package.

Sale of
cranberries in
packages.
1911, 380, § 3.

FARM PRODUCTS.

Grades and standards for certain farm products, establishment, etc. Brands or labels, use regulated. 1922, 438, § 1. 1927, 270. 1928, 57.

SECTION 117A. The commissioner of agriculture, in this and the five following sections called the commissioner, may establish and promulgate official grades and standards for farm products, except apples and milk, produced within the commonwealth for the purposes of sale, and may from time to time amend or modify such grades and standards. Before establishing, amending or modifying any such grades or standards the commissioner shall hold public hearings in such places within the commonwealth as he shall deem proper. Notice of such hearings shall be advertised in a newspaper or newspapers of general circulation within the county where the hearing is to be held for three successive weeks prior thereto, and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for such farm products, if deemed advisable. The commissioner may determine or design brands or labels for identifying such farm products packed in accordance with official grades and standards established as aforesaid, and may cause to be printed said brands or labels and may dispose of or cause the disposition of the same at reasonable prices. A written application to the commissioner requesting permission to use said brands or labels and a written authorization thereof by the commissioner or a duly authorized assistant shall be a condition precedent to the use of such brands or labels. The commissioner may revoke or suspend the right to use such brands or labels determined as aforesaid whenever it appears on investigation and after a subsequent hearing before said commissioner or authorized assistant that such brands or labels have been used to identify such farm products not in fact conforming to the grade or standard indicated.

Notice of establishment, etc., of grades, brands, etc. 1922, 438, § 1. 1927, 270.

SECTION 117B. Upon the establishment of such grades or standards and upon the proper determination of brands or labels, all in accordance with the provisions of section one hundred and seventeen A, notice thereof shall be published for three successive weeks in three newspapers stating the grades and standards so established and the brands or labels so determined, and the date on which such establishment or determination is to take effect. The commissioner shall distribute information relative to the grades and standards so established and the brands or labels so determined.

Unlawful use of brands or labels, penalized. 1922, 438, § 1. 1927, 270. 1931, 175.

SECTION 117C. After notice of the establishment of grades and standards and the determination of brands or labels as provided in the two preceding sections, it shall be unlawful to use an official grade designation in connection with the sale of such farm products without using the brand or label determined as aforesaid for such grade and standard, or to use such a brand or label unless the farm product bearing the brand or label is in fact of the grade or standard so established, or to use such a brand or label before the authorization of the use of, or after the revocation or during suspension of the right to use, such brand or label, by the commissioner. Any violation of this section shall be punished for a first offence by a fine of not more than fifty dollars and for a subsequent offence by a fine of not more than two hundred dollars. Whoever obstructs or hinders the commissioner or any of his assistants in the performance of his duties under sections one hundred and seventeen A to

15 one hundred and seventeen F, inclusive, shall be punished by a fine of not
16 less than ten nor more than one hundred dollars.

1 SECTION 117D. The commissioner may employ inspectors to inspect
2 such farm products marked, branded or labelled in accordance with
3 official grades or standards established and promulgated by the commis-
4 sioner, for the purpose of determining and certifying the quality and
5 condition thereof and other material facts relative thereto. Certificates
6 issued in pursuance of such inspection and executed by the inspector shall
7 state the date and place of inspection, the grade, standard, condition, and
8 approximate quality of the farm products inspected and any other per-
9 tinent facts that the commissioner may require. Such a certificate and all
10 federal certificates relative to the condition or quality of said farm prod-
11 ucts shall be prima facie evidence in all courts of the commonwealth of the
12 facts required as aforesaid to be stated therein.

Inspection of farm products, etc. Certificates regulated, to be prima facie evidence, etc. 1922, 438, § 1. 1927, 270.

1 SECTION 117E. The commissioner may prescribe rules and regulations
2 for carrying out the purposes of sections one hundred and seventeen A to
3 one hundred and seventeen F, inclusive, including the fixing of fees for
4 inspections.

Rules and regulations. 1922, 438, § 1. 1927, 270.

1 SECTION 117F. The commissioner, in person or by deputy, shall have
2 free access at all reasonable hours to any building or other place wherein
3 it is reasonably believed that farm products marked, branded or labelled
4 in accordance with official grades or standards established and promul-
5 gated by the commissioner are being marketed or held for commercial
6 purposes. He shall also have power in person or by deputy to open any
7 bags, crates, or other containers containing said farm products and
8 examine the contents thereof, and may, upon tendering the market price,
9 take samples therefrom.

Powers of commissioner of agriculture, etc. 1922, 438, § 1. 1927, 270.

SLAUGHTER HOUSES.

1 SECTION 118. The proprietor of each slaughter house, canning, salt-
2 ing, smoking or rendering establishment, and of each establishment used
3 for the manufacture of sausages or chopped meat of any kind, who is
4 engaged in the slaughter of neat cattle, sheep or swine, the meat or prod-
5 uct of which is to be sold or used for food, shall annually in April apply
6 for a license to the aldermen of the city or to the selectmen or, in a town
7 having a population of more than five thousand, to the board of health,
8 if any, of the town where such slaughter house or establishment is located.
9 The application shall be in writing signed and sworn to by one or more
10 of the owners or persons carrying on such business, or, if a corporation,
11 by some authorized officer thereof, shall state the name and address of
12 all the owners or persons carrying on said business, the location of the
13 slaughter house or establishment, the estimated number of neat cattle,
14 sheep or swine to be slaughtered per week, the days of the week upon
15 which they are to be slaughtered and the nature of the products thereof
16 to be sold or used for food.

Slaughter houses to be licensed. 1894, 491, § 17. 1895, 496, § 3. 1897, 428, § 2. R. L. 75, § 99. 109 Mass. 315, 320. 181 Mass. 563. 250 Mass. 570.

1 SECTION 119. The aldermen, selectmen, or such other officers as
2 they shall designate, or, in a town having a population of more than five
3 thousand, the board of health, if any, may annually issue licenses to carry
4 on the business of slaughtering neat cattle, sheep or swine to applicants

Issue of licenses. Record Fee. 1894, 491, § 18. 1895, 496, § 4. 1897, 428, § 2. R. L. 75, § 100.

1911, 297, § 2.
1914, 792, § 1.
1919, 350, § 96.
1924, 496, § 1.
181 Mass. 565.
221 Mass. 31.
250 Mass. 570.

[Penalty, § 134.]

License fee for
small towns.
1916, 153.

Additional
fees in cer-
tain towns
regulated.
1924, 496, § 2.

General powers
and duties of
district health
officers, etc.
1908, 329, § 4.
1914, 792,
§§ 1, 5.
1919, 350, § 96.
250 Mass. 570.

Certain powers
and duties of
certain in-
spectors, etc.
1908, 329, § 2.
1914, 792,
§§ 1, 5.
1919, 350, § 96.
250 Mass. 570.

therefor. Except as provided in the two following sections, the fee for each license shall be one dollar. The license shall name the persons licensed to conduct such business, and the building or establishment where it is to be carried on, and it shall continue in force until May first of the year next ensuing, unless sooner forfeited or rendered void. A record shall be kept by the board or officers authorized to issue such licenses of all applications for licenses under the preceding section and of all licenses issued, which shall be evidence of the issue of any such license. Such board or officers shall annually, on or before June first, send to the department of public health a copy of each application made to them under the preceding section and of their action thereon, together with a list of the names and addresses of all persons who, although engaged in the business named in said section on the preceding April thirtieth, failed to make application for a license.

SECTION 120. In towns having less than ten thousand inhabitants which accept this section or have accepted corresponding provisions of earlier laws at any annual town meeting, the annual license fee for carrying on the business of slaughtering neat cattle, sheep or swine shall be such sum not exceeding one hundred dollars as the selectmen fix.

SECTION 120A. A town which accepts this section may, in addition to the annual fee under section one hundred and nineteen or one hundred and twenty for a license to carry on the business of slaughtering neat cattle, sheep or swine, require the payment by the licensee of a further fee of not exceeding one dollar for each animal slaughtered under such license, but such further fee shall not be required for any animal slaughtered under federal inspection. Additional fees provided for under this section shall be paid to the town treasurer at such times and in such manner as the selectmen by vote determine. This section shall not apply to cities.

SECTION 121. The district health officers in their respective districts, and the inspectors appointed by the department of public health for duties relative to the sale of food and drugs, shall have the same rights, powers and authority for and in respect of the inspection, seizure and disposition of all carcasses, meats and provisions which are tainted, diseased, corrupted, decayed, unwholesome, or from any cause unfit for food, or the sale of which for food is unlawful, as are conferred by sections one hundred and twenty-six and one hundred and forty-six, or otherwise by law, upon boards of health of towns or their inspectors in respect of the articles specified in said sections, together with power to prosecute all offences relating thereto.

SECTION 122. The department of public health and its inspectors, the district health officers and all local boards of health and their inspectors, officers, agents and assistants in their respective districts, shall have and exercise the same powers and duties in and for the enforcement of sections one hundred and twenty-one to one hundred and twenty-four, inclusive, one hundred and thirty-three and one hundred and thirty-eight as are conferred or imposed by law upon any local board of health, inspector, officer, agent or assistant in respect of any other article or substance the sale or use of which for food is unlawful or prohibited; and they shall seize any carcass or part or product thereof described in sec-

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tion one hundred and thirty-eight, and cause the same to be destroyed forthwith or disposed of otherwise than for food; and all moneys received by the said department or by any local board of health for any property so disposed of, after deducting the expenses of such seizure and disposal, shall be paid to the owner of such property, if known.

SECTION 123. Inspectors, officers, agents and assistants mentioned in the preceding section shall visit and keep under observation each place within their respective districts where neat cattle, sheep, swine or other animals intended for slaughter or for sale or use as food are delivered from transportation, and shall have at all times free access to each such place and to each railroad train or car or other vehicle in which such animals are transported, to prevent, detect and punish violations of said sections.

Inspectors, etc., to visit certain places. 1908, 329, § 3.

SECTION 124. All slaughter houses shall be under the supervision of the department of public health and subject to inspection by district health officers in their respective districts.

Control of department of public health over slaughter houses.

1908, 329, § 5. 1914, 792, §§ 1, 5. 1919, 350, § 96. 250 Mass. 570.

SECTION 125. No licensee under section one hundred and nineteen shall slaughter or cause to be slaughtered at his slaughter house or establishment animals on any days other than those specified in the application for such license, or except in the presence of a member of the local board of health or of an inspector appointed therefor by said board; but he may at any time change the days for slaughtering animals, by giving at least seven days' written notice thereof to the board or officer authorized to issue such licenses, who shall immediately give written notice of the change to such inspector.

Slaughtering of cattle. 1894, 491, § 19. 1895, 496, § 5. R. L. 75, § 101. 1911, 297, § 3; 534, § 1. 250 Mass. 570. [Penalty, § 134.]

SECTION 126. An inspector appointed by the local board of health, or member of such board of health acting as such inspector, shall be present at each licensed slaughter house or establishment upon each day when slaughtering is allowed by law to be carried on therein and shall carefully examine the carcasses of all animals at the time of slaughter. Such inspection shall be made in such manner and under such rules and regulations as the department of public health may determine and direct. If, in the opinion of such inspector or member, any carcass, or any meat or product thereof is diseased, corrupted, unwholesome or unfit for food, he shall seize it and cause it to be destroyed, as provided in section one hundred and forty-six.

Inspection of carcasses. 1894, 491, § 20. 1895, 496, § 6. R. L. 75, § 102. 1911, 297, § 4. 1914, 792, § 1. 1919, 27, 350, § 96. 250 Mass. 570. [Penalty, § 134.]

SECTION 127. In a slaughtering establishment wherein inspection and branding are not carried on under the rules and regulations for the inspection of live stock and other products, established by the United States department of agriculture in accordance with acts of congress, the carcasses of animals slaughtered under sections one hundred and eighteen, one hundred and nineteen, one hundred and twenty-five and one hundred and twenty-six shall at the time of slaughter, if not condemned, be stamped or branded by the inspector thereof in like manner as those inspected by the United States bureau of animal industry for interstate commerce by a stamp or brand designed for the purpose by the department of public health, which shall be furnished by it to the board of health of a town applying therefor. Each package containing meats

Certain carcasses to be stamped or branded. 1901, 391, §§ 1, 2. R. L. 75, § 103. 1902, 312. 1903, 220, § 1. 1909, 471. 1911, 297, § 5. 1914, 206; 792, § 1. 1919, 350, § 96. 203 Mass. 602. 250 Mass. 570.

so stamped or branded by the inspector as aforesaid, before it has been shipped from the slaughtering establishment, shall have properly secured to it a tag bearing the words "Massachusetts, Inspected, Passed", which tag may be so attached by the licensee. Such stamps and tags shall be uniform in design throughout the commonwealth, but shall contain the name of the town where used.

Appointment, compensation, etc., of certain inspectors
1911, 297, § 6;
534, § 2.
1914, 792, § 1.
1918, 268, § 1.
1919, 350,
§§ 34, 37, 96.
1931, 426, § 215.

SECTION 128. For the purposes of sections one hundred and nineteen, one hundred and twenty-five to one hundred and twenty-seven, inclusive, and one hundred and forty-seven, said inspectors shall be appointed and compensated, and may be removed, in the manner provided for inspectors of animals, under sections fifteen to seventeen, inclusive, of chapter one hundred and twenty-nine, except that in respect to such first named inspectors, local boards of health and the department of public health shall perform the duties and exercise the authority imposed by said sections upon the mayor or selectmen and upon the director of animal industry, respectively, as to inspectors of animals.

Carcasses of certain animals deemed unfit for food.
1901, 391, § 3.
R. L. 75, § 104.
1902, 312, § 1.
1903, 220, § 1.
1909, 476.

SECTION 129. Carcasses of animals slaughtered under sections one hundred and eighteen, one hundred and nineteen and one hundred and twenty-five to one hundred and twenty-seven, inclusive, and not stamped or branded as provided in section one hundred and twenty-seven, shall be deemed unfit for human food and shall not be sold or offered for sale.

Penalty for sale, etc., of unstamped or falsely stamped carcasses.
1901, 391, § 4.
R. L. 75, § 104.
1902, 312, § 1.
1903, 220, § 1.
1909, 476.
250 Mass. 570.

SECTION 130. Whoever sells, or offers for sale, or has in his possession with intent to sell, a carcass or any part thereof required by section one hundred and twenty-seven to be stamped or branded, and which has not been stamped or branded as therein provided, or whoever, not being a member of a local board of health or a duly appointed inspector, stamps or brands a carcass or any part thereof required by said section to be stamped or branded, or whoever being a member of a board of health or a duly appointed inspector permits or allows the use of his stamp or brand by one not a member of a board of health or a duly appointed inspector, or whoever counterfeits any stamp or brand required by section one hundred and twenty-seven, or whoever stamps or brands any carcass or any part thereof with any counterfeit stamp or brand, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

Branding, etc., of carcasses of neat cattle, etc., slaughtered without the commonwealth.
"Official inspector" defined.
1912, 248, § 1.
214 Mass. 19.

SECTION 131. Carcasses of neat cattle, sheep or swine slaughtered without the commonwealth shall be deemed unfit for human food and shall not be sold or offered for sale unless they have been inspected at the time of slaughter by an official inspector, and unless, if not condemned, they have been stamped or branded by said inspector in like manner as those inspected by the United States bureau of animal industry for interstate commerce. By "official inspector" is meant one appointed or approved either (a) by the bureau of animal industry of the United States department of agriculture; or (b) by the department of health or similar body of the state where the animals are slaughtered; or (c) by the local board of health of the town where the animals are slaughtered. The stamp used by inspectors other than those of the bureau of animal industry of the United States department of agriculture shall indicate in letters not less than one fourth of an inch high the name of the town where the animals are slaughtered.

1 SECTION 132. Whoever sells or offers for sale, or has in his possession
 2 with intent to sell, a carcass, or any part thereof, required by the preced-
 3 ing section to be stamped or branded and which has not been stamped or
 4 branded as therein provided, shall be punished by a fine of not more
 5 than one hundred dollars or by imprisonment for not more than two
 6 months, or both.

Penalty for
 sale, etc., of
 certain un-
 branded car-
 casses.
 1912, 248, § 1.

1 SECTION 133. Sections one hundred and eighteen, one hundred and
 2 nineteen, one hundred and twenty-five to one hundred and twenty-seven,
 3 inclusive, one hundred and twenty-nine and one hundred and thirty, shall
 4 not apply to a person not engaged in the slaughtering business, who,
 5 upon his own premises and not in a slaughter house, slaughters his own
 6 neat cattle, sheep or swine, but the carcass of any such animal, intended
 7 for sale, shall be inspected, and, unless condemned, shall be stamped
 8 or branded under section one hundred and twenty-seven by an inspector
 9 at the time of slaughter.

Private slaugh-
 ter houses.
 1894, 491, § 21.
 1895, 496, § 7.
 R. L. 75, § 105.
 1902, 312, § 2.
 1903, 320, § 2.
 1908, 329, § 6.
 1912, 248, § 2.
 1916, 139
 250 Mass. 570.

[Penalty, § 134]

1 SECTION 134. Whoever violates any provision of sections one hun-
 2 dred and nineteen, one hundred and twenty-five, one hundred and
 3 twenty-six and one hundred and thirty-three shall be punished by a fine
 4 of not more than five hundred dollars or by imprisonment for not more
 5 than two months, or both.

General
 penalty.
 1894, 491, § 22
 1895, 496, § 8
 R. L. 75, § 106.

1 SECTION 135. Whoever, being engaged in the business of slaughtering
 2 neat cattle, sheep or swine, without a license slaughters the same or
 3 knowingly authorizes or causes the same to be slaughtered with intent
 4 to sell the meat or product thereof for food, or, having such license,
 5 slaughters or knowingly authorizes or causes to be slaughtered any neat
 6 cattle, sheep or swine without causing the carcass thereof to be inspected
 7 as provided in section one hundred and twenty-six, or sells or authorizes
 8 or causes to be sold any carcass or the meat or product thereof knowing
 9 that such carcass has not been inspected according to sections one hun-
 10 dred and twenty-six and one hundred and thirty-three, or, except as
 11 provided in section one hundred and thirty-three, slaughters or know-
 12 ingly authorizes or causes to be slaughtered any neat cattle, sheep or
 13 swine upon his own premises, being other than a slaughter house or es-
 14 tablishment mentioned in section one hundred and eighteen, without
 15 causing the carcass of such animal to be inspected, or sells or authorizes
 16 or causes to be sold the carcass or any meat or product thereof of any
 17 such animal slaughtered upon his own premises, knowing that the same
 18 has not been inspected as provided in section one hundred and thirty-
 19 three, shall be punished by a fine of not more than five hundred dollars
 20 or by imprisonment for not more than two months, or both.

Penalty for
 slaughtering,
 etc., without
 license.
 1894, 491, § 22
 1895, 496, § 8
 R. L. 75, § 106.
 250 Mass. 570.

1 SECTION 136. Whoever, being authorized or licensed to slaughter in
 2 a town, has in possession either himself or by his agent the dressed or
 3 plucked carcass, or any part thereof, of a bird or animal which has died a
 4 natural death shall be punished by a fine of not more than one hundred
 5 dollars.

Possession of
 certain car-
 casses pro-
 hibited.
 Penalty.
 1912, 467.

1 SECTION 137. A conviction under section one hundred and thirty-
 2 four or one hundred and thirty-five of any person licensed under section
 3 one hundred and nineteen shall render his license void, and no new

Conviction
 renders license
 void.
 1894, 491, § 23.
 R. L. 75, § 107.

license shall be granted to him for the balance of the term of the license so rendered void. 4
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Sale, etc., of certain carcasses prohibited. Penalty. 1908, § 29, § 1. 250 Mass. 570.

SECTION 138. Whoever sells, offers or exposes for sale or delivers or causes or authorizes to be sold, offered or exposed for sale or delivered for use as food the carcass, or any part or product thereof, of any animal which has come to its death in any manner or by any means other than by slaughter or killing while in a healthy condition, or which at the time of its death was unfit for use as food, by reason of disease, exhaustion, abuse, neglect or otherwise, or the carcass, or any part or product thereof, of any calf weighing less than forty pounds when dressed, with head, feet, hide and entrails removed, shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months. 1
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Certain provisions of law not affected. 1909, 474.

SECTION 139. Sections one hundred and twenty-one to one hundred and twenty-four, inclusive, one hundred and thirty-three and one hundred and thirty-eight shall not affect section one hundred and forty-seven; provided, that said first mentioned sections shall not permit the sale, offering for sale, or keeping with intent to sell, for food, of meat infected in any degree with tuberculosis or other disease. 1
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WEIGHERS OF BEEF.

Appointment. 1815, 99, § 1. R. S. 28, § 36. G. S. 49, § 3. P. S. 60, § 1. R. L. 57, § 1.

SECTION 140. In each town where beef cattle are sold for the purpose of marketing or barrelling, the mayor or selectmen shall appoint one or more persons, conveniently situated in such town and not dealers in cattle, as weighers of beef. Each such weigher shall be sworn to the faithful performance of his duties. 1
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Fees. 1815, 99, § 3. R. S. 28, § 38. G. S. 49, § 4. P. S. 60, § 2. R. L. 57, § 2.

SECTION 141. Fees for weighing cattle shall be paid by the vendor and shall be twenty cents for each of the first five cattle, fifteen cents for each of the second five, ten cents each from the eleventh to the twentieth, inclusive, and five cents for each above twenty; also twelve and one half cents for each certificate, which shall contain the weight of each of the cattle weighed for one person unless the vendor requests a division thereof. 1
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SAUSAGES.

Adulteration of sausages, etc. 1898, 193. R. L. 213, § 9. 1913, 650, § 1. 1914, 634, §§ 2, 5. 1917, 78. 1923, 425, § 1.

SECTION 142. For the purposes of this and the following section, sausage or sausage meat shall be deemed to be adulterated: 1
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First. If it contains any cereal or vegetable flour or any product thereof in excess of two per cent, except as authorized by section one hundred and forty-three A; 3
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Second. If it contains any coloring matter, or any substance injurious or deleterious to health; 6
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Third. If it contains water in excess of an amount sufficient to make the product palatable and to facilitate mixing and placing in casings; 8
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Fourth. If it contains, except as casing, the organs of the thoracic and abdominal cavities or any part thereof, except hearts, tripe and liver; 10
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Fifth. If it contains any diseased, contaminated, filthy or decomposed substance; or if it is manufactured, in whole or in part from, or contains a substance produced, stored, transported or kept in a way or manner that would render the article diseased, contaminated or un- 13
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17 wholesome; or if it is the product of a diseased animal or the product of
18 any animal which has died otherwise than by slaughter.

1 SECTION 143. No person shall manufacture, sell, or offer or expose
2 for sale, sausages or sausage meat containing any material or substance
3 which would render the same adulterated within the meaning of section
4 one hundred and forty-two. Whoever violates any provision of this
5 section shall be punished by a fine of not more than one hundred dollars.
1914, 634, §§ 3-5. 1930, 318.

Sale, etc., of
sausages
regulated.
Penalty
1899, 193.
R. L. 213, § 9.
1913, 650,
§§ 2, 3.

1 SECTION 143A. Nothing in this chapter shall prevent the sale or the
2 offering or exposing for sale of vegetable sausages as such, if such sau-
3 sages contain not less than twenty per cent of vegetables or vegetable
4 products and are otherwise made in conformity with the provisions of
5 this chapter; provided, that such sausages are sold, offered or exposed
6 for sale under their own distinctive name.

Sale, etc., of
vegetable
sausages
authorized.
1923, 425, § 2.

1 SECTION 144. Each application for a license for carrying on an estab-
2 lishment for the manufacture of sausages and chopped meat of any kind
3 shall be made, and any license granted therefor shall be granted, under
4 section eighty-nine. The board of health of a town may make and en-
5 force such rules and regulations as it deems necessary for the conduct of
6 such establishments, and any license therefor may be revoked for any
7 violation of such rules and regulations, after notice to the licensee and
8 a hearing before said board.

License to
manufacture
sausages.
1914, 325, § 1.

1 SECTION 145. Whoever carries on an establishment for the manu-
2 facture of sausages or chopped meat of any kind without a license as
3 provided in the preceding section shall be punished by a fine of not less
4 than ten nor more than one hundred dollars or by imprisonment for not
5 more than three months, or both.
6 This section shall not apply to retail dealers in chopped meats and
7 unsmoked sausages who manufacture the same for their retail trade.

Penalty
for making
sausages, etc.,
without a
license.
1914, 325, § 2.
1915, 22.
1917, 11.

INSPECTION AND SALE OF MEAT, ETC.

1 SECTION 146. Each local board of health by themselves, their officers
2 or agents, may inspect the carcasses of all slaughtered animals and all
3 meat, fish, vegetables, produce, fruit or provisions of any kind found in
4 their town, and all veal found, offered or exposed for sale or kept with
5 intent to sell therein, and for such purpose may enter any place where
6 such carcasses or articles are stored, kept or exposed for sale. If, in its
7 opinion, said veal is that of a calf less than four weeks old when killed,
8 or if on inspection it is found that said carcasses or articles are tainted,
9 diseased, corrupted, decayed, unwholesome or unfit for food from any
10 cause, the said board shall seize and cause the same to be destroyed
11 forthwith or disposed of otherwise than for food. All money received by
12 said board for property disposed of as aforesaid, after deducting the
13 expenses of said seizure and disposal, shall be paid to the owner of such
14 property. If said board seizes or condemns any such carcass or meat
15 because affected with a contagious disease, it shall immediately give
16 notice to the director of animal industry stating the name of the owner
17 or person in whose possession it was found, the nature of the disease and
18 the disposition made of said meat or carcass.

Inspection
of meat, etc.
Regulations as
to exposure of
food for sale.
1896, 253, § 1.
1872, 231,
§§ 2, 3.
1873, 29,
§§ 2, 3.
1876, 180,
§§ 2, 3.
P. S. 38, §§ 2,
3; 208, § 2.
1892, 195, § 2.
1894, 491,
§§ 10-13.
1899, 408, § 20.
R. L. 56,
§§ 70, 71.
1907, 243.
1908, 411,
§§ 1, 2.
1912, 448; 608,
§§ 1, 2, 4.
1914, 627;
702, § 1.
1919, 350,
§§ 39-41,
44, 96.
203 Mass. 602.

4 Op. A. G.
16, 100, 390,
637.
[Penalty. § 38.]

Local boards of health, subject to the approval of the department of public health, may make and enforce reasonable rules and regulations as to the conditions under which all articles of food may be kept or exposed for sale, in order to prevent contamination thereof and injury to the public health. Before such a board of health submits such rules and regulations to said department for approval, said board shall hold a public hearing thereon, of which notice shall be given by publication for two successive weeks, the first publication to be at least fourteen days prior to the date of the hearing, in a newspaper published in such town. Any person affected by such rules and regulations, in the form in which they are presented to said department for approval, may appeal to said department for a further hearing, and said department shall not grant its approval to rules and regulations concerning which such an appeal has been taken until it has held a public hearing thereon, advertised in the manner above set forth. No regulation adopted in accordance with this section shall be construed as preventing the exposure of food articles for sale at retail in the Boston "market limits", as defined in the ordinances of Boston, on Saturdays or on the day immediately preceding any holiday observed in Boston, but no area in said "market limits", where food articles on June sixth, nineteen hundred and fourteen, were not allowed to be exposed for sale at retail on these days, shall be occupied for the exposure of food articles without a permit from the board of health.

Regulations
for inspection
of meat.
1808, 451, § 2.
1899, 408, § 9.
R. L. 90, § 7.
1911, 297, § 1.

SECTION 147. The department of public health may make regulations for the inspection of meat, which shall conform to the regulations of the United States bureau of animal industry for the inspection of meat for export and for interstate commerce.

1914, 792, § 1.

1919, 350, § 96.

Regulations
for inspection,
etc., of
game, etc.
Penalty
1929, 106.

SECTION 147A. The department of public health may make regulations for the inspection of game, poultry, and other meat except that of cattle, sheep or swine, intended for sale or exchange for use as food, and as to the conditions under which such game, poultry and other meat may be handled, stored, sold or exchanged. Whoever violates any provision of such a regulation shall be punished by a fine of not more than five dollars.

Penalties.
1907, 243.
1912, 608,
§ § 1, 2, 4.
1914, 627;
792, § 1
1919, 359,
§ § 39-41, 44,
96.

SECTION 148. Whoever violates any rule or regulation of a local board of health which is approved by the department of public health shall be punished by a fine of not more than one hundred dollars.

Failure to give a notice required by section one hundred and forty-six to be given by a board of health to the director of animal industry shall be punished as provided in section twenty-eight of chapter one hundred and twenty-nine.

Interference
with certain
officers
punished.
1894, 401, § 13.
R. L. 56, § 72.
1908, 411, § 3.

SECTION 149. Whoever prevents, obstructs or interferes with a local board of health, its officers or agents, in the performance of its duties as provided in section one hundred and forty-six, or hinders, obstructs or interferes with any inspection or examination by it or them, or secretes or removes any carcass, meat, fish, vegetables, fruit or provisions of any kind, for the purpose of preventing the inspection or examination of the same under sections one hundred and forty-six, one hundred and fifty to one hundred and fifty-three, inclusive, shall be punished by a fine

9 of not more than one hundred dollars or by imprisonment for not more than two months, or both.

1 SECTION 150. Whoever, himself or by his agent, sells or offers for
2 sale for food or drink any diseased animal or product thereof or any
3 tainted, diseased, corrupt, decayed or unwholesome carcass, meat, vege-
4 table, produce, fruit or provisions of any kind, except when packed in
5 such a container that upon reasonable inspection the condition of the
6 contents thereof cannot be ascertained, without making the condition
7 of the thing sold or offered for sale fully known to the buyer, shall be
8 punished by a fine of not more than two hundred dollars or by imprison-
9 ment for not more than six months, or both.

Sale, etc., of unwholesome food penalized. 1784, § 1. R. S. 131, § 1. G. S. 166, § 1. 1872, 231, § 5. 1875, 29, § 5. 1876, 180, § 5. P. S. 58, § 5. 208, § 1. 1894, 491, § 15. R. L. 56, § 73. 1907, 293.

1913, 687.

1927, 46.

1928, 40, § 2.

1 Pick 524.

1 SECTION 150A. Whoever knowingly exposes for sale or has in posses-
2 sion with intent to sell, for food or drink, anything described in the pre-
3 ceding section shall be punished by a fine of not more than one hundred
4 dollars, or by imprisonment for not more than sixty days, or both. This
5 section shall not apply to a wholesale dealer who has in his possession
6 fruit or vegetables in the original package with intent to disclose fully
7 to the purchaser the partly decayed condition thereof.

Exposing for sale, etc., of unwholesome food penalized. Exceptions. 1921, 486, § 24.

1 SECTION 151. Whoever kills or causes to be killed or knowingly sells,
2 offers or exposes for sale or has in his possession with intent to sell for
3 food the veal of a calf killed when less than four weeks old shall be pun-
4 ished by a fine of not more than one hundred dollars or by imprisonment
5 for not more than two months, or both.

Sale, etc., of certain veal penalized. 1855, 239. G. S. 106, § 2. 1896, 253, § 1. 1872, 231, § 5.

1875, 29, § 5.
1876, 180, § 5.

P. S. 208, § 2.
1894, 491, § 15.

R. L. 56, § 74.
97 Mass. 507.

1 SECTION 152. The board of health of the town where any animal or
2 property has been condemned under section one hundred and forty-six
3 may cause a description of the place in which such condemned property
4 was found, the name of each person in whose possession it was found and
5 the name of each person convicted of an offence under the three preceding
6 sections to be published in two newspapers published in the county where
7 such property was found.

Boards of health may cause publication of certain facts. 1872, 231, § 6. 1875, 29, § 6. 1876, 180, § 6. P. S. 58, § 6. 1894, 491, § 16. R. L. 56, § 75.

1931, 426, § 74.

1 SECTION 153. Whoever knowingly sells or exposes for sale dead
2 poultry, before it has been properly dressed by the removal of the crop
3 and entrails if they contain food, shall be punished by a fine of not less
4 than five nor more than fifty dollars. Each local board of health shall
5 cause this section to be enforced in its town.

Sale, etc., of poultry regulated. Penalty. 1883, 230. 1887, 94. R. L. 56, § 76.

CANNED GOODS AND MOLASSES.

1 SECTION 154. Canned articles of food shall not be offered for sale
2 unless marked to indicate the grade or quality thereof and the name and
3 address of the person who packed or sells them.

Canned goods to be labelled. 1897, 344, § 4. R. L. 75, § 22.

1 SECTION 155. All canned articles of food which have been prepared
2 from dry products and have been soaked before canning shall be plainly
3 marked by an adhesive label having on its face the word "soaked" in
4 letters of legible type not smaller than two line pica. All cans, jugs and

Marking of canned soaked goods and molasses. 1897, 344, § 5. R. L. 75, § 23. 1910, 528, § 2.

other packages containing molasses shall be plainly marked by an adhesive label having on its face in the English language in letters of the size and description aforesaid the name and address of the person who made and prepared the same together with the name and quality of the ingredients thereof.

False stamping, etc., of cans, etc., and wrongful use of word "kosher", etc., penalized. Enforcement of section regulated. 1882, 263, § 7. 1897, 344, § 6. R. L. 75, § 24. 1905, 236. 1906, 305. 1913, 795. 1916, 58. 1929, 103.

SECTION 156. Whoever falsely stamps or labels any can, jar or other package containing fruit or food of any kind, or permits such stamping or labelling or violates either of the two preceding sections, or whoever sells or exposes for sale any meat or meat product or any food containing meat ingredients or prepared with meat substance or meat fat and falsely represents the same to be kosher or as having been prepared in accordance with the orthodox Hebrew religious requirements either by direct statements, orally or in writing, or by the display of the word "kosher" in any language or by the display of any sign or mark in simulation of such word, or by the display of any insignia, six-pointed star or any mark which might reasonably be calculated to deceive or lead a reasonable person to believe that a representation is being made that the food sold is kosher or prepared in accordance with the orthodox Hebrew religious requirements, or whoever sells or exposes for sale both kosher and non-kosher meat or meat products or food containing meat ingredients or prepared with meat substance or meat fat, and at the same time displays a sign on his door or window or anywhere in front of his place of business where such food products are sold bearing the word "kosher" in any language or any sign or mark in simulation of such word or of any insignia, six-pointed star or any mark which might reasonably be calculated to lead a reasonable person to believe that the food sold in such place is kosher or prepared in accordance with the orthodox Hebrew religious requirements, and who fails to display on his window-signs and all display advertising in block letters at least four inches in height "non-kosher food also sold here", shall be punished by a fine of not less than twenty-five nor more than five hundred dollars; and whoever knowingly sells such goods so falsely stamped or labelled shall be punished by a fine of not less than ten nor more than one hundred dollars.

This section shall be enforced by the local board of health, and for such purpose any person designated by it shall have the right to enter at any reasonable time during business hours upon premises where food represented to be kosher is sold or exposed for sale and inspect such food.

ICE.

Sale of ice at retail regulated. Penalty. 1909, 448. R. L. 57, § 44. 1918, 257, § 230. 1919, 5. 1920, 2.

SECTION 157. Whoever, being engaged in the business of selling ice at retail, and not engaged in the delivery of the same under a contract, refuses to sell from any place or vehicle engaged in the regular distribution of ice at retail a piece of ice at the fair value thereof to any person other than an ice dealer, shall, if such person tenders in payment therefor the amount of five cents or any multiple thereof not more than fifty cents in legal money of the United States, be punished by a fine of not more than one hundred dollars.

Failure to provide scales, furnish price lists, etc., penalized.

SECTION 158. A dealer in ice, who refuses or neglects to provide scales for each vehicle used by him for the retail delivery of ice, or who neglects to furnish to the sealer of weights and measures of each city or

4 town in which he conducts business a list of the current prices of ice 1890, 276.
 5 sold by him at retail, shall be punished by a fine of not more than fifty §§ 1, 3.
 6 dollars. R. L. 57, § 45.

1918, 257, § 231.
 1919, 5.

1920, 2.
 1926, 122, § 1.

1 SECTION 159. Whoever having charge of the retail delivery of ice Failure to
 2 from a vehicle neglects to keep conspicuously posted upon each side of post prices on
 3 the vehicle the current retail prices of ice sold by him, or refuses or vehicles, etc.,
 4 neglects to sell the same by weight, or refuses to weigh the same upon penalized-
 5 request of the purchaser, shall be punished by a fine of not more than 1890, 276, § 2.
 6 fifty dollars. R. L. 57, § 46.
 1918, 257,
 § 232.

1919, 5.

1920, 2.

1926, 122, § 2.

1 SECTION 160. The department of public health, upon written com- Impure ice.
 2 plaint of not less than twenty-five consumers of ice cut from any pond 1886, 287, § 1.
 3 or stream and sold or held for sale, alleging that said ice is impure and R. L. 75, § 59.
 4 injurious to health, after notice to the parties interested of the time and 1914, 792, § 1.
 5 place appointed for the hearing, and after hearing said parties, may make 1919, 350, § 96.
 6 such orders relative to the sale of said ice as in its judgment the public
 7 health requires.

1 SECTION 161. Orders made under the preceding section shall be Enforcement
 2 served upon any person selling or offering for sale impure ice, and may of orders of
 3 be enforced in equity by the supreme judicial or superior court. department of
 public health.

1886, 287, §§ 2, 3.

R. L. 75, § 60.

1 SECTION 162. Whoever is aggrieved by any order made under section Appeal from
 2 one hundred and sixty may appeal therefrom in the manner prescribed such order.
 3 by section one hundred and forty-seven of chapter one hundred and 1886, 287, § 3.
 4 eleven, and shall be subject to sections one hundred and forty-eight and R. L. 75, § 61.
 5 one hundred and forty-nine of said chapter, and the court may award
 6 costs in its discretion.

VINEGAR.

1 SECTION 163. Vinegar is hereby defined as being the result of alco- Definition
 2 holic and subsequent acetous fermentation of natural fruit juices or of vinegar.
 3 vegetable products. Vinegar shall contain no added or artificial coloring When deemed
 4 matter, and shall contain not less than four grams of acetic acid in each adulterated.
 5 one hundred cubic centimeters. If vinegar contains any added or 1884, 307, § 2.
 6 artificial coloring matter, or less than the required amount of acidity, or 1885, 150.
 7 if it is other than the product of alcoholic and subsequent acetous fer- R. L. 57, § 67.
 8 mentation of natural fruit juices or vegetable products, it shall be 1911, 600, § 2.
 9 deemed to be adulterated. 1913, 239.
 1916, 189.
 1918, 145.
 1922, 324.

1 SECTION 164. The methods for the examination of vinegar shall be Methods of
 2 those adopted by the Association of Official Agricultural Chemists. examination
 3 When no such methods are applicable, such additional methods as are ap- regulated.
 4 proved by the department of public health and published in its bulletin 1915, 239.
 5 shall be employed. 1916, 189.
 1918, 145.
 1919, 350, § 96.

1922, 206.

1 SECTION 165. No manufacturer or producer of, or wholesale dealer Cider vinegar,
 2 in, vinegar shall, by himself or by his servant or agent, use a cask, barrel compound
 3 or other container for the sale, offering for sale, exchange or delivery of vinegar, etc.
 4 vinegar, or have such vinegar in possession in any cask, barrel or other Containers to
 be marked.
 Penalty.
 Exception.

1911, 600, § 3.
1915, 158.
1931, 289.
261 Mass. 86.

container with intent to sell, offer for sale, exchange or deliver such 5
vinegar therein, unless the container is plainly marked with the name 6
and place of business of such manufacturer, producer or wholesale 7
dealer, the kind of vinegar contained therein and the substances from 8
which it is made and unless the following additional requirements as to 9
the marking and labelling of the container are complied with:— If 10
the vinegar is cider vinegar diluted to legal strength, the container shall be 11
distinctly and conspicuously labelled, "Diluted to Legal Strength" or 12
by other like words indicating such fact. Each compound, mixture or 13
blend of vinegar shall be marked with the word "compound" or "mix- 14
ture", together with a statement of its constituents and the percentage 15
of each constituent. The principal label, including the word "com- 16
pound" or "mixture", if used on vinegar in wooden packages, shall be in 17
Roman letters not less than one inch high, properly spaced and in 18
straight parallel lines with no more than two inches of space between 19
each line. The marking of vinegar in other containers than wooden 20
packages shall be governed by sections one hundred and eighty-six and 21
one hundred and eighty-seven. Violation of any provision of this section 22
shall be punished by a fine of not more than one hundred dollars. This 23
section shall not apply to undiluted cider vinegar. 24

Collection of
samples of
vinegar, etc.,
for analysis.
1917, 193, § 1.
1919, 350, § 96.

SECTION 166. The collection of samples of vinegar, as authorized by 1
section three hundred and four, shall be made under the direction and 2
supervision of the department of public health or by local boards of 3
health. Samples may be purchased in the open market, and the stencil- 4
ings, tags, brands or other markings upon the container shall be noted. 5
Samples shall be divided into two substantially equal parts of at least 6
sufficient volume to permit of a proper analysis as required by law, and 7
at the time of the taking of the samples there shall be delivered to the 8
owner or other person from whom the vinegar is taken one of the two 9
above mentioned parts properly labelled with identifying marks and 10
sealed with a seal, provided for that purpose, and a receipt therefor 11
shall be given to the inspector or collector. 12

Examination
of samples, etc.
1918, 137.
1919, 350, § 96.

SECTION 167. Samples of vinegar taken under authority of law shall 1
be examined by the department of public health or by boards of health 2
of towns. If it then appears that any sample is misbranded or adulter- 3
ated, the department of public health, or the board of health of a town, 4
as the case may be, need not cause formal complaint to be entered at 5
once, but shall grant the opportunity for a hearing under section one 6
hundred and eighty-nine. 7

Penalty for
possession of
imitation,
etc., seal.
1917, 193, § 2.

SECTION 168. Whoever makes, causes to be made, uses or has in his 1
possession, an imitation or counterfeit of a seal used by an inspector or 2
other officer engaged in the inspection of vinegar, and whoever changes 3
or tampers with a sample taken or sealed as provided in section one 4
hundred and sixty-six, shall be punished by a fine of not more than 5
one hundred dollars or by imprisonment for not more than six months, 6
or both. 7

Enforcement
of penalties.
1886, 113, § 2.
P. S. 60, § 71.
1883, 257, § 2.
1884, 307, § 3.
R. L. 57, § 69.

SECTION 169. Each officer or person whose duty it is to enforce the 1
laws relating to food and milk, shall enforce the laws relating to vinegar, 2
and all laws relating to food shall apply to vinegar so far as they are 3
applicable. 4

1 SECTION 170. Each person who manufactures, offers or exposes for
 2 sale any vinegar found upon proper tests to contain any preparation of
 3 lead, copper, sulphuric acid or other ingredient injurious to health, shall
 4 be punished by a fine of not less than one hundred dollars.

Penalty for
 manufacturing,
 selling, etc.,
 adulterated
 deleterious
 vinegar.
 1880, 113, § 2.

P. S. 60, § 70.

R. L. 57, § 68.

1 SECTION 171. Whoever himself or by his servant or agent sells, ex-
 2 changes or delivers or has in his custody or possession with intent so to
 3 do, or exposes or offers for sale or exchange adulterated vinegar, or who-
 4 ever labels, brands or sells as cider vinegar or as apple vinegar, any vin-
 5 egar not the exclusive product of the alcoholic and subsequent acetous
 6 fermentation of the pure juice of fresh apples, shall be punished by a fine
 7 of not more than one hundred dollars.

Penalty for
 selling, etc.,
 adulterated
 vinegar.
 1880, 113, § 1.
 P. S. 60, § 69.
 1883, 257, § 1.
 1884, 307,
 § 1, 4.
 R. L. 57, § 66.
 1911, 600, § 1.

CERTAIN STANDARDS.

1 SECTION 172. The barrel shall contain thirty-one and one half gal-
 2 lons and the hogshead two barrels, provided that in barrels and frac-
 3 tional parts thereof containing malt beverages a variation or tolerance of
 4 six per cent shall be permitted.

Barrel and
 hogshead.
 1894, 198, § 2.
 R. L. 62, § 2.
 1914, 525.

1 SECTION 173. [REPEALED, 1922, 355, § 8.]

1 SECTION 174. A cental or hundredweight shall be one hundred
 2 pounds.

P. S. 60, § 22.

1888, 414, § 2.

R. L. 62, § 5.

Cental.
 1880, 158, § 1.

1 SECTION 175. A barrel of flour, measured by weight, shall contain
 2 one hundred and ninety-six pounds.

R. L. 62, § 3.

1902, 115.

1911, 397.

38 U. S. Sts. at L., 1186.

Barrel of flour.
 1894, 198, § 5.

SALES BY WEIGHT.

1 SECTION 176. "Weight" in a sale of commodities by weight shall
 2 mean the net weight of all commodities so sold; and contracts concern-
 3 ing such sales shall be so construed; provided, that in respect to commod-
 4 ities not intended for food or fuel reasonable tolerances or variations shall
 5 be permitted in accordance with established trade customs. Violation
 6 hereof shall be punished by a fine of not more than one hundred dollars.

Definition of
 "weight".
 Penalty.
 1826, 121, § 1.
 R. S. 30, § 25.
 G. S. 51, § 17.
 P. S. 65, § 27.
 R. L. 62, § 39.
 1913, 164;
 801
 1917, 14.

128 Mass. 585.

1 SECTION 177. Except as otherwise provided by section two hundred
 2 and forty-eight, whoever himself or by his servant or agent gives or
 3 attempts to give false or insufficient weight or measure shall be punished
 4 for the first offence by a fine of not more than fifty dollars, for the second
 5 offence by a fine of not more than two hundred dollars, and for a subse-
 6 quent offence by a fine of fifty dollars and by imprisonment for not less
 7 than one nor more than three months.

Penalty for
 giving false
 weight or
 measure.
 1907, 394.
 1911, 163.
 1923, 155, § 3.
 214 Mass. 72.
 215 Mass. 349.

1 SECTION 178. Each public weigher of goods or commodities shall
 2 weigh them according to section one hundred and seventy-six, and shall
 3 certify accordingly; and for each refusal or neglect he shall forfeit not
 4 more than ten dollars. Each weigher of goods appointed by a town, and
 5 each weigher for hire or reward, shall be a public weigher hereunder.

Rules for
 weighing. Who
 are public
 weighers.
 1826, 121, § 2.
 R. S. 30, §§ 26,
 27.
 G. S. 51, § 18.
 P. S. 65, § 28.

R. L. 62, § 40.

SECTION 179. [REPEALED, 1931, 426, § 11.]

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Certain courts to have jurisdiction over prosecutions concerning false weights and measures.

SECTION 180. Complaints and prosecutions for violations of law relating to the use or giving of false or insufficient weight or measure may be commenced and prosecuted in a court having jurisdiction of the place to which the goods are shipped.

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1914, 387.

MARKING OF PACKAGES CONTAINING FOOD.

Net quantity contained in food packages to be marked thereon.
1914, 653,
§§ 1, 4, 7
1918, 218, § 1
1919, 350, § 77.
4 Op. A. G. 618.

SECTION 181. Subject to the variations, tolerances and exemptions provided for by the following section, no person shall himself or by his agent or servant sell or offer for sale food in package form unless the net quantity of the contents is plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count. This section shall not apply to retail sales of food made from bulk if the quantity is weighed, measured or counted at the time of such sale by the retailer, nor to the sale of milk, cream or buttermilk in glass jars, as provided by section fifteen of chapter ninety-eight.

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The director of standards shall enforce this and the three following sections.

Tolerances and exemptions.
1914, 653, § 2.
1918, 218, § 1.
1919, 350, § 77.

SECTION 182. The director of standards shall adopt the variations, tolerances and exemptions established, or hereafter established, by rules and regulations provided for by section three of the act of congress mentioned in section one hundred and ninety-two, with such further reasonable variations, tolerances and exemptions not covered by the rules and regulations of said section as he deems expedient.

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Penalty.
1914, 653, § 6.

SECTION 183. Whoever violates any provision of section one hundred and eighty-one shall for the first offence be punished by a fine of not less than ten nor more than fifty dollars, and for a subsequent offence by a fine of not less than twenty-five nor more than one hundred dollars.

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Hearing before prosecution.
Prosecution of guarantor.
1914, 653,
§§ 5, 8
1918, 218, § 1.
1919, 350, § 77.
4 Op. A. G. 618.

SECTION 184. Prosecutions under the preceding section shall not be commenced until the party concerned is notified and given an opportunity to be heard before the director of standards. No dealer shall be prosecuted thereunder if he establishes a guaranty, signed by the wholesaler, jobber, manufacturer, dealer or other person residing in the United States, from whom he purchased such articles, that they are correctly marked or labelled under section one hundred and eighty-one, designating it, and containing the name and address of such vendor, but in that case such guarantor shall be liable to prosecution and to the penalties provided by section one hundred and eighty-three. If section one hundred and eighty-one has been violated and the guarantor is without the commonwealth, no action shall be brought, but the director of standards shall report the facts to the proper national authorities.

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Marking of packages, etc., of food or medicine containing certain drugs.
Penalty.
Exemptions.
1921, 486, § 25.

SECTION 184A. Upon each package, bottle or other receptacle holding any proprietary or patent medicine, or proprietary or patent food preparation, containing alcohol, morphine, codeine, opium, heroin, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substance, there shall be a label upon which shall be printed, in type not smaller than eight point (brevier) capitals, a

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7 correct statement of the quantity or proportion of each of said substances
 8 therein contained; provided, that if the size of the package, bottle or
 9 other receptacle will not permit the use of such type, the size thereof
 10 may be reduced proportionately. Whoever manufactures, sells, or offers
 11 for sale any medicine or food preparation in violation of this section shall
 12 be punished by a fine of not less than five nor more than one hundred
 13 dollars; but no dealer shall be prosecuted hereunder if the article is
 14 marked as it was when purchased by him and he can establish a guaranty
 15 signed by the wholesaler, jobber or manufacturer, residing in this com-
 16 monwealth, from whom he purchases such article, to the effect that the
 17 same is correctly marked as required by this section, designating it. Such
 18 guaranty, to afford protection, shall contain the names and addresses
 19 of the parties making the sale of such articles to such dealer.

ADULTERATION AND MISBRANDING OF FOOD AND DRUGS.

1 SECTION 185. [REPEALED, 1921, 486, § 26.]

1 SECTION 185A. Sections one hundred and eighty-six to one hundred
 2 and ninety-five, inclusive, shall not apply to ice cream.

Certain sections
 not applicable
 to ice cream.

1927, 278, § 2.

1 SECTION 186. For the purposes of sections one hundred and eighty-
 2 six to one hundred and ninety-five, inclusive, an article shall be deemed
 3 to be adulterated:

Adulteration of
 drugs and food
 defined.
 1882, 263, § 3.
 1884, 289,
 §§ 5, 7.
 1897, 344, § 3.
 1901, 341
 R. J. 75, § 18.
 1910, 528, § 1.
 1913, 265; 272.
 1917, 208,
 §§ 7, 12.
 1923, 166.
 217 Mass 432.

4 In the case of a drug: First, If a drug sold under or by a name recog-
 5 nized in the United States pharmacopœia or national formulary differs
 6 from the standards of strength, quality or purity, as determined by the
 7 test, if any, laid down in the United States pharmacopœia or national
 8 formulary official at the time of investigation; provided, that no drug
 9 defined in the United States pharmacopœia or national formulary shall be
 10 deemed to be adulterated hereunder if the standard of strength, quality
 11 or purity thereof is plainly stated upon the bottle, box or other container
 12 thereof delivered to the customer, although such standard may differ
 13 from that determined by the test, if any, laid down in the United States
 14 pharmacopœia or national formulary. Second, If its strength or purity
 15 falls below the professed standard or quality under which it is sold.

16 In the case of confectionery: If it contains terra alba, barytes, paraf-
 17 fin, talc, chrome yellow or other mineral substance or poisonous color or
 18 flavor, or other ingredient deleterious or detrimental to health, or any
 19 vinous, malt or spirituous liquor or compound or narcotic drug.

20 In the case of food: First, If any substance has been mixed and packed
 21 with it so as to reduce or lower or injuriously affect its quality or strength.
 22 Second, If any substance has been substituted wholly or in part for the
 23 article. Third, If any valuable constituent of the article has been wholly
 24 or in part abstracted. Fourth, If it is mixed, colored, powdered, coated
 25 or stained in a manner whereby damage or inferiority is concealed. Fifth,
 26 If it contains any added poisonous or other deleterious ingredient which
 27 may render such article injurious to health; provided, that when in the
 28 preparation of food products for shipment they are preserved by any
 29 external application applied in such manner that the preservative is nec-
 30 essarily removed mechanically, or by maceration in water, or otherwise,
 31 and directions for the removal of said preservative are printed on the
 32 covering of the package, sections one hundred and eighty-six to one

hundred and ninety-five, inclusive, shall be construed as applying only 33
 when said products are ready for consumption. Sixth, If it consists in 34
 whole or in part of a filthy, decomposed, or putrid animal or vegetable 35
 substance, or any portion of an animal which is unfit for food, whether 36
 manufactured or not, or if it is the product of a diseased animal, or one 37
 that has died otherwise than by slaughter. Seventh, If the carcass or 38
 parts of the carcass of any animal shall be inflated with gas or air. 39

"Misbranded".
 Term defined
 when applied
 to drugs and
 food When
 not to be
 deemed adul-
 terated, etc.
 1901, 396,
 §§ 1-3, 5.
 R. L. 75, § 19.
 1906, 386, § 2.
 1907, 259, § 3.
 1917, 208,
 §§ 8, 12.
 3 Op. A. G.
 180.

SECTION 187. The term "misbranded" as used in sections one hun- 1
 dred and eighty-six to one hundred and ninety-five, inclusive, shall 2
 apply to each drug, or article of food, or article which enters into the 3
 composition of food, the package or label of which bears any statement, 4
 design or device regarding such article or the ingredients or substance 5
 contained therein, which is false or misleading in any particular, and 6
 also to any food or drug product which is falsely branded as to the state 7
 or country where it was manufactured or produced. 8

For the purposes of said sections an article shall also be deemed to be 9
 misbranded: 10

In the case of a drug: First, If it is an imitation of or offered for 11
 sale under the name of another article. Second, If the contents of the 12
 package as originally put up have been removed, in whole or in part, 13
 and other contents placed therein, or if the package fails to bear a state- 14
 ment on the label of the quantity or proportion of any alcohol, morph- 15
 ine, opium, codeine, cocaine, heroin, alpha or beta eucaine, chloro- 16
 form, cannabis indica, chloral hydrate, or acetanilide, or any derivative 17
 or preparation of any such substances contained therein. Third, If its 18
 package or label bears or contains any false and fraudulent statement, 19
 design or device regarding the curative or therapeutic effect of such 20
 article, or of any of the ingredients or substances contained therein. 21

In the case of food: First, If it is an imitation of or offered for sale 22
 under the distinctive name of another article. Second, If it is labelled 23
 or branded so as to deceive or mislead the purchaser, or purports to be a 24
 foreign product when not so, or if the contents of the package as origi- 25
 nally put up have been removed in whole or in part, and other contents 26
 placed therein, or if it fails to bear a statement on the label of the quan- 27
 tity or proportion of any morphine, opium, codeine, cocaine, heroin, 28
 alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or 29
 acetanilide, or any derivative or preparation of any such substance, 30
 contained therein; provided, that nothing in this paragraph shall apply 31
 to the repacking of highly perishable foodstuffs, such as fresh fruit, 32
 fresh vegetables or eggs. Third, If the package containing it or its 33
 label bears any statement, design or device regarding the ingredients or 34
 the substances contained therein which is false or misleading in any 35
 particular; provided, that an article of food which does not contain any 36
 added poisonous or deleterious ingredients shall not be deemed to be 37
 adulterated or misbranded in the following cases: (1) In the case of 38
 articles which are mixtures or compounds which are now or hereafter 39
 may be known as articles of food under their own distinctive names and 40
 not an imitation of or offered for sale under the distinctive name of 41
 another article, if the name be accompanied on the same label or brand 42
 with a statement of the place where said article was manufactured or 43
 produced. (2) In the case of articles labelled, branded or tagged so as 44
 to indicate plainly that they are compounds, imitations, or blends, if 45
 the word "compound", "imitation", or "blend", as the case may be, 46

47 is plainly stated on the package in which it is offered for sale; provided,
 48 that the term "blend" as used herein shall be construed to mean a
 49 mixture of like substances, not excluding harmless coloring or flavoring
 50 ingredients used for the purposes of coloring and flavoring only; and
 51 provided, that nothing in sections one hundred and eighty-six to one
 52 hundred and ninety-five, inclusive, shall be construed as requiring or
 53 compelling proprietors or manufacturers of proprietary foods which
 54 contain no unwholesome added ingredient to disclose their trade formu-
 55 las, except in so far as any provision of said sections may require in
 56 order to secure freedom from adulteration or misbranding.

1 SECTION 188. The collection of samples under sections one hundred
 2 and eighty-six to one hundred and ninety-five, inclusive, and three
 3 hundred and four may be made by authorized agents of the depart-
 4 ment of public health or of boards of health of towns. Samples may be
 5 purchased in the open market, and if in bulk and the sample is taken
 6 from the original package, carton, wrapper or other container in the
 7 presence of such authorized agent, the marks, brands or tags upon such
 8 container, and the accompanying printed or written matter shall be
 9 noted by such agent, who shall also note the name of the vendor by
 10 whom the sale was made, together with the date of the purchase. If
 11 practicable, samples shall be collected in duplicate, or divided into two
 12 substantially equal parts, and each part shall be labelled with identify-
 13 ing marks. One of such parts or samples shall be delivered to the person
 14 from whom they were taken, or, if a guaranty has been given, such part
 15 or sample shall be sent to the guarantor. The other part or sample
 16 shall be sent to the laboratory of the department or board taking the
 17 sample, if said board maintains a laboratory. Parts of samples divided
 18 as hereinbefore provided shall be sealed by said agent, at the time of
 19 the taking thereof, as provided by the regulations of the department of
 20 public health, with a seal provided for that purpose. Whenever it is
 21 impracticable either to collect more than one sample or to divide the
 22 same, such sample shall be sent to the laboratory of the department or
 23 board taking the sample, if said board maintains a laboratory.

Collection of
 samples of
 food, etc.
 1884, 289, § 8
 R. L. 75, § 21.
 1910, 416, § 1.
 1914, 792, § 1.
 1917, 208,
 §§ 4, 12.
 1919, 350, § 96

1 SECTION 189. Examination of samples of food and drugs in order to
 2 determine by analysis or test whether such articles are adulterated or
 3 misbranded within the meaning of sections one hundred and eighty-six
 4 to one hundred and ninety-five, inclusive, shall be made under the direc-
 5 tion and supervision of the department or board taking such samples
 6 as provided in the preceding section; and if it shall appear from such
 7 examination that any of the samples are so adulterated or misbranded,
 8 the commissioner of public health or the local board of health need not
 9 cause formal complaint to be entered at once, but shall in the case of
 10 misbranding, and may in the case of adulteration, cause reasonable
 11 notice thereof, together with a copy of the results of such analysis or
 12 test, to be given to the party from whom the sample was obtained, to
 13 the guarantor, if any, and to the party, if any, whose name appears upon
 14 the label as manufacturer, packer, producer, wholesaler, retailer or
 15 other dealer. Before any formal complaint is entered, any person so
 16 notified shall be given an opportunity to be heard before any person
 17 designated by the commissioner of public health or local board of health
 18 taking the sample, under such rules and regulations as the department
 19 of public health prescribes. Such notice shall specify the date, hour

Examination
 of samples, by
 whom made,
 etc.
 Complaints.
 1910, 416, § 1.
 1917, 208,
 §§ 5, 12, 13.
 1919, 350, § 96.
 1925, 42.

and place of hearing, and the parties interested therein may appear in 20
 person or by attorney. If it is decided that the party whose name ap- 21
 pears upon the label, or the guarantor, shall be notified, and such party 22
 or guarantor resides without the commonwealth, the notice shall be sent 23
 by mail to such address as, with due diligence, may be obtained. If 24
 after such opportunity to be heard it appears that any provision of sec- 25
 tions one hundred and eighty-six to one hundred and ninety-five, in- 26
 clusive, has been violated, the department of public health or local board 27
 of health may make or authorize to be made a formal complaint to a 28
 court or justice having jurisdiction in such cases, but no evidence of the 29
 result of such analysis or test shall be received if the agent described in 30
 the preceding section has refused or neglected to seal and deliver the 31
 sample, or part thereof, if and as required in the preceding section. 32

Penalty on
 manufacturer,
 etc.
 1882, 263, § 1.
 1897, 344, § 1.
 R. L. 75, § 16.
 1903, 367.
 1917, 208,
 §§ 2, 13.
 1924, 228.

SECTION 190. Whoever manufactures any article of food or any 1
 drug which is adulterated or misbranded within the meaning of sections 2
 one hundred and eighty-six and one hundred and eighty-seven, or 3
 which does not comply with the rules, regulations and standards provided 4
 in sections one hundred and eighty-six to one hundred and ninety- 5
 five, inclusive, shall be punished by a fine of not less than fifteen nor 6
 more than five hundred dollars or by imprisonment for not more than 7
 six months. 8

Penalty for
 delivery, etc.,
 of adulterated,
 etc., food
 or drugs.
 1917, 208,
 §§ 2, 13.
 1924, 228.

SECTION 191. Except as otherwise provided in sections one hundred 1
 and eighty-six to one hundred and ninety-six, inclusive, whoever for 2
 pay or otherwise delivers or offers to deliver to any person any article 3
 of food or drug adulterated or misbranded, or which does not comply 4
 with the rules, regulations and standards provided for in sections one 5
 hundred and eighty-six to one hundred and ninety-five, inclusive, shall 6
 in the case of misbranding or non-compliance with said rules, regulations 7
 and standards be punished by a fine of not more than two hundred dol- 8
 lars, and shall in the case of adulteration be punished by a fine of not 9
 less than twenty-five nor more than two hundred dollars; but no article 10
 shall be deemed misbranded or adulterated under sections one hundred 11
 and eighty-six to one hundred and ninety-five, inclusive, or not to 12
 comply with the rules, regulations and standards provided for in said 13
 sections, if it is intended for export to any foreign country and is pre- 14
 pared or packed according to the specifications or directions of the 15
 foreign purchaser; provided, that no substance is used in the prepara- 16
 tion or packing thereof in violation of the laws of the foreign country 17
 to which the article is intended to be shipped; but if the article is sold 18
 or offered for sale for domestic use or consumption then it shall not be 19
 exempt from said sections. 20

Rules and regu-
 lations to be
 adopted, etc.
 1917, 208,
 §§ 3, 13.
 1919, 350, § 96.

SECTION 192. The department of public health and local boards of 1
 health shall enforce sections one hundred and eighty-six to one 2
 hundred and ninety-five, inclusive, and, except as to standards fixed by 3
 law, the said department shall adopt rules and regulations, consistent 4
 with said sections, standards, tolerances and definitions of purity or 5
 quality, conforming to the rules and regulations, standards, tolerances 6
 and definitions of purity or quality adopted or that may hereafter be 7
 adopted for the enforcement of the act of congress approved June thir- 8
 tieth, nineteen hundred and six, and the amendments thereof, the said 9
 9

10 act being entitled "An Act for preventing the manufacture, sale or trans-
 11 portation of adulterated or misbranded or poisonous or deleterious
 12 foods, drugs, medicines, and liquors, and for regulating traffic therein
 13 and for other purposes", or now or hereafter adopted by the United
 14 States department of agriculture under any other federal law.

1 SECTION 193. Except as provided in the following section, no dealer
 2 shall be prosecuted under sections one hundred and eighty-six to one
 3 hundred and ninety-five, inclusive, for selling or offering for sale any
 4 article of food or drug in the original unbroken package in which it was
 5 received by him, if he can establish a guaranty by the wholesaler, jobber,
 6 manufacturer or other person residing in the United States, from whom
 7 he purchased the article, to the effect that the same is not adulterated or
 8 misbranded within the meaning of the laws of this commonwealth. Such
 9 guaranty, to afford protection, shall contain the name and address of
 10 the person making the sale of this article to the dealer, and in that case
 11 such person shall be amenable to the prosecutions, fines and other pen-
 12 alties which would attach in due course to the dealer under sections one
 13 hundred and eighty-six to one hundred and ninety-five, inclusive. If
 14 it shall appear that any provision of said sections has been violated, and
 15 the party giving said guaranty is without the commonwealth, no action
 16 shall be brought except as is provided therein, but the department of
 17 public health or the local board taking the sample shall present the
 18 facts to the proper national authorities for their action.

Prosecutions in
 certain cases
 forbidden
 Guaranty for
 protection.
 Rules and
 regulations.
 1907, 259, § 2.
 1911, 289, § 1.
 1914, 792, § 1.
 1917, 208,
 §§ 9, 12.
 1919, 350, § 96.

19 Under the authority given by section one hundred and ninety-two the
 20 department of public health shall adopt rules and regulations which shall
 21 be observed by the said department and by local boards of health in
 22 ascertaining whether there is such a guaranty which may be relied upon
 23 by the dealer.

1 SECTION 194. After a sample of an article of food or drug which is
 2 adulterated or misbranded has been taken from a person who estab-
 3 lishes a guaranty, as provided in the preceding section, and the guar-
 4 antor resides without the commonwealth, the dealer may nevertheless
 5 be prosecuted for a subsequent sale of such adulterated or misbranded
 6 article; provided, that the department of public health or local board
 7 which took the sample has presented the facts to the proper national
 8 authorities for their action, that the person from whom the sample was
 9 taken has been notified by said department or board that the facts have
 10 so been presented, and that such person continues to sell such articles
 11 after he has been notified by said department or board as to the particu-
 12 lars of the adulteration or misbranding and warned to desist from further
 13 sales or distribution of the article. Upon conviction in any such case
 14 the penalties provided in section one hundred and ninety-one may be
 15 imposed.

Dealer estab-
 lishing guar-
 anty may be
 prosecuted,
 when.
 1917, 208,
 §§ 10, 13.
 1919, 350, § 96.

16 In case of adulteration, if the department of public health or a board
 17 of health in a city having a population exceeding one hundred thousand,
 18 finds that the same when analyzed is plainly a gross violation of any
 19 of sections one hundred and eighty-six to one hundred and ninety-five,
 20 inclusive, or that the article is distinctly injurious to the health of the
 21 community, even though the case has not as yet been adjudicated, said
 22 department may cause notice of these facts to be published in its monthly
 23 bulletin and in such other ways as it establishes by rules and regulations;
 24 provided, that the guarantor has been notified and has been afforded

an opportunity to be heard as provided in section one hundred and twenty-eighty-nine. Said notice shall contain a warning to all dealers to desist from further sale or distribution of such article. Whoever sells such article after said notice and warning shall be amenable, for each subsequent sale, to the penalties provided in section one hundred and ninety-one.

Certain facts as defenses to prosecutions for sale, etc., of adulterated shellfish. 1931, 357.

SECTION 194A. In any prosecution in which it is alleged that the defendant for pay or otherwise delivered or offered to deliver to any person shellfish which are adulterated within the meaning of clause sixth of section one hundred and eighty-six, or however otherwise the offense may be described, it shall be a defense if the defendant shows that such shellfish were taken from an area not designated as contaminated by the department of public health or have passed a shellfish treatment plant approved by said department unless it appears from all the evidence that he knew or ought to have known of such adulteration or that he caused or contributed to the same.

Construction of §§ 186-195. 1917, 208, §§ 11, 13.

SECTION 195. When construing and enforcing sections one hundred and eighty-six to one hundred and ninety-five, inclusive, the act, omission or failure of any officer, agent or other individual acting for or employed by any individual, corporation, company, society or association within the scope of his employment or office, shall in each case be also deemed to be the act, omission or failure of such corporation, company, society or association as well as that of the individual.

Prosecutions as to drugs limited. 1882, 263, § 4. 1884, 289, § 5. R. L. 75, § 27.

SECTION 196. If the standard of strength or purity of any drug has been raised since the issue of the last edition of the United States pharmacopoeia or national formulary, no prosecution relative to it shall be maintained until after such change of standard has been published throughout the commonwealth.

SALE AND DISTRIBUTION OF NARCOTIC DRUGS.

Definitions. 1917, 275, § 19.

SECTION 197. The following words as used in sections one hundred and ninety-seven to two hundred and thirteen, inclusive, and in section thirty-eight of chapter two hundred and seventy-seven and schedule of forms at end of said chapter, unless the context otherwise requires, shall have the following meanings:

[For additional definitions see §§ 1, 64, 64A, 74, 96, 131, 163, 176, 186, 187, 261J, 305A, 305B.]

"Druggist", "apothecary" or "pharmacist", a person duly registered under chapter one hundred and twelve, and actively engaged as a practitioner, or employed in an established and fixed place of business for the sale, compounding and dispensing of drugs.

"Narcotic drug", coca leaves, cocaine, alpha or beta eucaine, or any synthetic substitute for them or any salts, compound or derivative thereof except decocainized coca leaves and preparations thereof, opium, morphine, heroin, codeine, or any preparation thereof or any salt, compound or derivative of the same; and, subject to section two hundred and six, cannabis indica and cannabis sativa.

"Opium", "morphine", "heroin", "codeine" and "cocaine", as used in statutes or in complaints or indictments include any synthetic substitute for such drugs or any salts, compounds, derivatives or preparations thereof, except decocainized coca leaves and preparations thereof.

20 "Physician" or "practitioner of medicine", "veterinarian" and
 21 "dentist", a person duly registered and authorized to practice medicine,
 22 veterinary medicine and dentistry, respectively.

1 SECTION 198. Except as otherwise provided in sections one hundred
 2 and ninety-nine and two hundred, no person shall sell, furnish, give or
 3 deliver any narcotic drug except upon the written order of a manufacturer
 4 or jobber in drugs, wholesale druggist, registered pharmacist actively
 5 engaged in business as such, physician, dentist or veterinarian regis-
 6 tered under the laws of the state where he resides, or an incorporated
 7 hospital, college or scientific institution through its superintendent or
 8 official in immediate charge, or upon the written prescription of a physi-
 9 cian, dentist or veterinarian registered as above provided, such order
 10 bearing his legal signature, the date of the signature, his office address,
 11 the registry number given him under the act of congress approved
 12 December seventeenth, nineteen hundred and fourteen, and the name,
 13 age and address of the patient for whom it is prescribed. The prescrip-
 14 tion, when filled, shall show the date of filling and the legal signature
 15 of the person filling it, written across the face of the prescription, and
 16 the prescription shall be retained on file for at least two years by the
 17 druggist filling it. No prescription shall be filled except in the manner
 18 indicated therein and at the time when it is received, and the full quantity
 19 of each substance prescribed shall be given. No order or prescription
 20 shall be either received for filling or filled more than five days after its
 21 date of issue as indicated thereon. Each pharmacist who fills a pre-
 22 scription for a narcotic drug shall securely attach to the container thereof
 23 a label giving the name and address of the store where the prescription
 24 is filled, the date of filling, the name of the person for whom it is pre-
 25 scribed, the name of the physician, dentist or veterinarian who issued
 26 it; and the narcotic drug so delivered shall always be kept in its con-
 27 tainer until used. No prescription shall be refilled, nor shall a copy
 28 of the same be made except for the purpose of record by the druggist
 29 filling the same, such record to be open at all times to inspection by the
 30 officers of the department of public health, the board of registration in
 31 pharmacy, the board of registration in medicine, authorized agents of
 32 said department and boards, and by the police authorities and police
 33 officers of towns; provided, that sections one hundred and ninety-seven
 34 to two hundred and thirteen, inclusive, shall not apply to prescriptions,
 35 nor to the sale, distribution, giving, dispensing or possession of prepara-
 36 tions or remedies, if such prescriptions do not call for, or such preparations
 37 and remedies do not contain, more than two grains of opium or more than
 38 one quarter of a grain of morphine, or more than one eighth of a grain
 39 of heroin or more than one grain of codeine, in one fluid ounce, or, if a
 40 solid or semi-solid preparation, in the avoirdupois ounce; nor shall they
 41 apply to liniments, ointments or other preparations which are prepared
 42 for external use only, except liniments, ointments and other preparations
 43 containing cocaine or alpha or beta eucaine; provided, that such prepa-
 44 rations, remedies or prescriptions are sold, distributed, given, dispensed
 45 or held in possession in good faith as medicines and not for the purpose
 46 of evading any provision of the last named sections, and provided that
 47 the possession of any narcotic drug, except in the form of prescriptions
 48 and preparations or remedies especially exempted in this section, by
 49 any one not being a manufacturer or jobber of drugs, or wholesale
 50 druggist, registered pharmacist actively engaged in business as such, or

Sale and distribution of certain narcotic drugs regulated.
 1906, 386,
 §§ 3, 4, 6
 1908, 307, § 2.
 1909, 373
 1910, 271, § 1;
 387, § 2, 11.
 1914, 691,
 §§ 1, 7, 788;
 792, § 1
 1915, 187,
 §§ 1, 3, 12.
 1917, 275,
 §§ 1, 22
 1919, 350, § 96.
 1924, 208.

a physician, dentist or veterinarian registered as above provided, or 51
 superintendent or official in charge of an incorporated hospital, college 52
 or scientific institution shall, except as provided in section two hundred 53
 and five, be presumptive evidence of an intent to violate sections one 54
 hundred and ninety-eight to two hundred and ten, inclusive. This sec- 55
 tion shall not apply to a person having in his possession any of the above 56
 mentioned articles by virtue of a legal prescription legally issued under 57
 any provision of sections one hundred and ninety-eight to two hundred 58
 and ten, inclusive, and not obtained by any false representation made 59
 to the physician, dentist or veterinarian issuing it, or to the pharmacist 60
 who filled it; nor shall such sections apply to decocainized coca leaves 61
 or preparations made therefrom or to other preparations of coca leaves 62
 which do not contain cocaine. 63

Veterinarians,
 etc., to pre-
 scribe only in
 certain cases.
 1910, 271, § 2;
 387, § 3.
 1914, 694,
 §§ 2, 7, 788.
 1915, 187,
 §§ 2, 12.
 1917, 275,
 §§ 2, 22.

SECTION 199. No practitioner of veterinary medicine shall prescribe 1
 any narcotic drug for the use of a human being or in such manner that 2
 it may be used subcutaneously by such person, nor shall any physician 3
 or dentist prescribe, dispense, administer, sell, give or deliver any nar- 4
 cotic drug to any person except when the drug is obviously and in good 5
 faith then and there needed for the treatment and cure of a disease or 6
 ailment, and not needed for any condition or disease directly due to any 7
 drug habit or resulting solely from the failure of an habitual user of 8
 narcotic drugs to procure the particular narcotic drug to the use of which 9
 he is addicted. 10

Physician may
 personally ad-
 minister nar-
 cotic drug,
 when.
 1914, 694, § 3.
 1915, 187,
 §§ 3, 12.
 1917, 275,
 §§ 3, 22.

SECTION 200. A physician may personally administer any narcotic 1
 drug at such time and under such circumstances as he, in good faith 2
 and in the legitimate practice of medicine, believes to be necessary for 3
 the alleviation of pain and suffering or for the treatment or alleviation 4
 of disease. 5

Sales to certain
 persons and in-
 stitutions
 regulated.
 1906, 386,
 §§ 3, 5.
 1910, 271, § 1;
 387, §§ 4, 11.
 1914, 694, § 4;
 788; 792, § 1.
 1915, 187,
 §§ 4, 12.
 1917, 275,
 §§ 4, 22.
 1919, 350, § 96.

SECTION 201. Subject to section two hundred and sixteen, any man- 1
 ufacturer or jobber of drugs, wholesale druggist, registered pharmacist 2
 actively engaged in business as such, and any physician, dentist or veter- 3
 inarian registered under the laws of the state where he resides may sell a 4
 narcotic drug to any of the persons aforesaid or to any incorporated 5
 hospital, college or scientific institution, but such substances or prepara- 6
 tions, excepting such preparations as are included within the exemptions 7
 set forth in section one hundred and ninety-eight, shall be sold only upon 8
 the written order of such hospital, college or institution, duly signed by 9
 its superintendent or official in immediate charge, or upon a written order 10
 duly signed by any manufacturer or jobber in drugs, wholesale druggist, 11
 registered pharmacist actively engaged in business as such, or physician, 12
 dentist or veterinarian registered as above provided, and the order shall 13
 state the articles ordered, the quantity ordered and the date. Said 14
 orders shall be kept on file in the laboratory, warehouse, pharmacy or 15
 store in which they are filled, by the proprietor thereof or his successor, 16
 for not less than two years after delivery, and shall at all times be open 17
 to inspection by the department of public health, the board of registra- 18
 tion in pharmacy, the board of registration in medicine, authorized agents 19
 of said department and boards, and by the police authorities and police 20
 officers of towns. 21

1 SECTION 202. Any person or institution mentioned in the preceding
 2 section giving an order for any narcotic drug in accordance therewith
 3 shall preserve a duplicate thereof for two years after giving the same.
 4 The duplicate shall at all times be open to inspection by the department
 5 of public health, the board of registration in pharmacy, the board of
 6 registration in medicine, authorized agents of said department and
 7 boards, and by the police authorities and police officers of towns. The
 8 order required by the commissioner of internal revenue under and by
 9 virtue of the act of congress approved December seventeenth, nineteen
 10 hundred and fourteen, shall be deemed to be a sufficient order to comply
 11 with this and the preceding section.

Duplicate
 orders to be
 preserved, etc.
 1915, 187, § 5.
 1917, 275,
 §§ 5, 22
 1919, 350, § 96.

1 SECTION 203. Whoever, for the purpose of evading or assisting in the
 2 evasion of any provision of sections one hundred and ninety-eight to two
 3 hundred and ten, inclusive, falsely represents that he is a physician,
 4 dentist or veterinarian, or that he is a manufacturer of or jobber in drugs
 5 or wholesale druggist or pharmacist actively engaged in business as such,
 6 or that he is superintendent or official in immediate charge of an incor-
 7 porated hospital, college or scientific institution, or a person registered
 8 under the act of congress mentioned in the preceding section, or whoever,
 9 not being an authorized physician, dentist or veterinarian, makes or alters
 10 a prescription or written order for a narcotic drug, or knowingly issues or
 11 utters a prescription or written order falsely made or altered, or whoever
 12 makes any false representation or statement as to his name, age, address
 13 or any other matter, either in writing or orally, to any physician, dentist,
 14 pharmacist or veterinarian for the purpose of procuring a prescription
 15 for, or the delivery of, a narcotic drug, shall be punished as provided in
 16 section two hundred and thirteen. Each prescription or order which is
 17 altered, or is obtained by a false representation, shall be void and of no
 18 effect.

False repre-
 sentations
 deemed viola-
 tions.
 1914, 694, § 5;
 788
 1915, 187,
 §§ 6, 12,
 1917, 275,
 §§ 6, 22.

1 SECTION 204. The possession by any person of a federal certificate
 2 issued under and by virtue of the act of congress mentioned in section
 3 two hundred and two shall be prima facie evidence of an intent to sell,
 4 furnish, give or deliver a narcotic drug.

Possession of
 federal certifi-
 cate to be
 evidence of
 intent.

1915, 187, § 7.

1917, 275, §§ 7, 22.

1 SECTION 205. Sections one hundred and ninety-eight to two hundred
 2 and thirteen, inclusive, shall not apply to common carriers engaged in
 3 transporting narcotic drugs or to any employee, acting within the scope
 4 of his employment, of any person who is lawfully in possession, for the
 5 purpose of delivery, of any such drug, or to any person who delivers any
 6 such drug, which has been prescribed or dispensed by a physician, dentist
 7 or veterinarian registered under the laws of the state where he resides
 8 who has been employed to prescribe for the particular patient receiving
 9 such drug, or to a nurse under the supervision of a physician, dentist or
 10 veterinarian having possession or control by virtue of his employment or
 11 occupation and not on his own account, or to the possession of any of
 12 the aforesaid drugs which have been prescribed in good faith by a physi-
 13 cian, dentist or veterinarian, or to any United States, state, county,
 14 municipal, district, territorial or insular officer or official who has posses-
 15 sion of any of said drugs by reason of his official duties, or to a person
 16 who, as an officer or duly appointed agent of any incorporated society

Common
 carriers and
 certain officials,
 etc., exempt
 1910, 387, § 6.
 1915, 187,
 §§ 8, 11,
 1917, 275,
 §§ 8, 22.

for the suppression of vice, has the same in his possession for the purpose of assisting in the prosecution of violations of sections one hundred and ninety-eight to two hundred and thirteen, inclusive.

Cannabis indica and cannabis sativa. 1915, 187, § 9. 1917, 275, § 9, 22.

SECTION 206. The provisions of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, except such as require the ordering of narcotic drugs on an official order blank and the keeping of the same on file, and the keeping of the record relative thereto, shall apply to cannabis indica and cannabis sativa, except that such provisions shall not apply to prescriptions, preparations or remedies which do not contain more than one half grain of extract of cannabis indica or more than one half grain of extract of cannabis sativa in one fluid ounce, or, if a solid or semi-solid preparation, in the avoirdupois ounce, nor to liniments, ointments or other preparations containing cannabis indica and cannabis sativa which are prepared for external use only.

Liability of manufacturer, etc., limited. 1917, 275, § 10. [Penalty, § 212.]

SECTION 207. No manufacturer or jobber in drugs, wholesale druggist or registered pharmacist shall be liable to prosecution if he fills any prescription or written order for a narcotic drug in good faith, unless he knows or has reasonable cause to suspect that the prescription or order was issued in violation of sections one hundred and ninety-eight to two hundred and thirteen, inclusive, in which event any such sale or delivery of a narcotic drug shall constitute an unlawful sale or delivery of such drug.

Physicians, dentists, etc., prohibited from certain advertising. 1917, 275, § 11. [Penalty, § 213.]

SECTION 208. No physician, dentist or veterinarian, and no druggist or pharmacist, either wholesale or retail, shall solicit by public advertisement or otherwise the application to him for prescriptions for, or sales of, narcotic drugs, nor shall he publicly advertise any treatment the principal element of which consists in the administering, dispensing, furnishing, giving or delivering of a narcotic drug, except that a wholesale druggist or manufacturing pharmacist may advertise in journals and publications intended for circulation among the medical profession and drug trade generally.

Possession of certain instruments regulated. Record of sales to be kept. Penalty. 1917, 275, § 15. 1919, 350, § 96. 1922, 535, § 1. 1924, 239, § 1.

SECTION 209. No person, not being a physician, dentist, nurse or veterinarian registered under the laws of this commonwealth or of the state where he resides, or a registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, registered pharmacist, manufacturer of surgical instruments, official of any government having possession of the articles hereinafter mentioned by reason of his official duties, nurse acting under the direction of a physician or dentist, employee of an incorporated hospital acting under the direction of its superintendent or officer in immediate charge, or a carrier or messenger engaged in the transportation of such articles, or the holder of a permit issued under section two hundred and nine A, shall have in his possession a hypodermic syringe, hypodermic needle, or any instrument adapted for the use of narcotic drugs by subcutaneous injection. No such syringe, needle or instrument shall be delivered or sold to, or exchanged with, any person except a registered pharmacist, physician, dentist, veterinarian, registered embalmer, manufacturer or dealer in embalming supplies, wholesale druggist, manufacturing pharmacist, a nurse upon the written order of a physician or dentist, the holder of a permit issued under section two hundred and nine A, or an employee

20 of an incorporated hospital upon the written order of its superintendent
 21 or officer in immediate charge. A record shall be kept by the person sell-
 22 ing such syringe, needle or instrument, which shall give the date of the
 23 sale, the name and address of the purchaser and a description of the
 24 instrument. This record shall at all times be open to inspection by the
 25 department of public health, the boards of registration in medicine,
 26 veterinary medicine, and pharmacy and the board of dental examiners,
 27 authorized agents of said department and boards, and police authorities
 28 and police officers of towns. Whoever violates any provision of this
 29 section shall be punished by a fine of not more than one hundred dollars
 30 or by imprisonment in a jail or house of correction for not more than two
 31 years, or both.

1 SECTION 209A. A registered physician may, subject to the rules and
 2 regulations of the board of registration in medicine, issue to a patient
 3 under his immediate charge a permit to have in possession any of the
 4 instruments specified in the preceding section. Such permits shall be
 5 issued upon blanks to be furnished by said board and any permit so
 6 issued may be revoked at any time by it.

Permits by
 physicians for
 such in-
 struments
 1924, 239, § 2.

1 SECTION 210. Each building, place or tenement which is resorted
 2 to by habitual users of narcotic drugs for the purpose of using such drugs,
 3 or which is used for the illegal keeping or sale of the same, shall be
 4 deemed a common nuisance. Whoever keeps or maintains such a com-
 5 mon nuisance shall be punished by imprisonment for not less than three
 6 months nor more than two years.

Buildings, etc.,
 illegally used
 deemed
 common
 nuisances.
 Penalty,
 1885, 73
 R. L. 212, § 42;
 1917, 275, § 12.

1922, 535, § 2.

1 SECTION 211. Whoever, not being a manufacturer or jobber of drugs,
 2 wholesale druggist, registered pharmacist, registered physician, regis-
 3 tered veterinarian, registered dentist, nurse acting under the direction of
 4 a physician, or employee of an incorporated hospital acting under the
 5 direction of its superintendent or official in immediate charge, or a com-
 6 mon carrier or messenger when transporting any narcotic drug between
 7 persons mentioned in this section in the same package in which the
 8 drug was delivered to him for transportation, is found in possession
 9 thereof except by reason of a physician's prescription lawfully and prop-
 10 erly issued shall be punished by a fine of not more than one thousand
 11 dollars or by imprisonment for not more than two and one half years in
 12 the house of correction.

Penalty for
 unlawful
 possession
 of narcotic
 drugs.
 1911, 372, § 3.
 1912, 283, § 2.
 1915, 187,
 §§ 1, 11
 1917, 275,
 §§ 13, 22,
 1918, 257,
 § 464.
 1919, 5.
 1920, 2.

1 SECTION 212. Whoever has in his possession a narcotic drug with
 2 intent unlawfully to sell and deliver or to exchange such drug, or any
 3 part thereof, or whoever unlawfully sells, furnishes, gives, delivers or
 4 exchanges any narcotic drug in violation of any provision of sections one
 5 hundred and ninety-eight to two hundred and thirteen, inclusive, shall be
 6 punished by imprisonment in the state prison for not more than five
 7 years, or in a jail or house of correction for not less than one year nor
 8 more than two and one half years.

Penalty for
 illegal sale, etc
 of narcotic
 drugs.
 1885, 73.
 R. L. 212, § 42.
 1917, 275, § 14
 1922, 535, § 3.

1 SECTION 213. Whoever violates any provision of sections one hun-
 2 dred and ninety-eight to two hundred and two, inclusive, and two hun-
 3 dred and four to two hundred and thirteen, inclusive, the penalty whereof
 4 is not specified therein, or of section two hundred and three, shall be

General
 penalty.
 1906, 386, § 6.
 1908, 307, § 4.
 1910, 271, § 3;
 387, § 5
 1911, 341.

1914, 694,
§§ 6, 7, 788.
1915, 187,
§§ 11, 12.

punished by a fine of not more than one thousand dollars or by imprisonment in a jail or house of correction for not more than one year, or both. 5
6
1917, 275, §§ 21, 22.

Issue of search warrants
Penalty for being present, etc.
1910, 387, § 7.
1911, 372,
§§ 1, 2.
1912, 283, § 1.
1915, 159.
1916, 117.

SECTION 214. If a person makes complaint under oath to a district court, or to a trial justice or justice of the peace authorized to issue warrants in criminal cases, that he has reason to believe that opium, morphine, heroin, codeine, cannabis indica, cannabis sativa, peyote or any other hypnotic drug, or any salt, compound or preparation of said substances, or any cocaine, alpha or beta eucaine, or any synthetic substitute for them, or any preparation containing the same, or any salts or compounds thereof, is kept or deposited by a person named therein in a store, shop, warehouse, building, vehicle, steamboat, vessel or any place whatever, such person being other than a manufacturer or jobber of drugs, wholesale druggist, registered pharmacist, registered physician, registered veterinarian, registered dentist, registered nurse, employee of an incorporated hospital, or a common carrier or messenger when transporting any drug mentioned herein between parties hereinbefore mentioned, such court or justice, if it appears that there is probable cause to believe that said complaint is true, shall issue a search warrant to a sheriff, deputy sheriff, city marshal, chief of police, deputy marshal, police officer or constable, commanding him to search the premises where it is alleged that any of the above mentioned drugs is kept or deposited, and to seize and securely keep the same until final action, and to arrest the person in whose possession such drug is found, together with all persons present where such drug is found, and to return forthwith the warrant with his doings thereon, to a court or trial justice having jurisdiction in the town where said drug is alleged to be kept or deposited. Whoever is so present where any of the aforesaid drugs is found shall be punished by a fine of not more than fifty dollars or by imprisonment in the house of correction for three months. 1
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Articles seized to be forfeited.
1910, 387, § 8.
1912, 283, § 3.
1914, 792, § 1.
1919, 350, § 96.

SECTION 215. If after such notice as the court or trial justice orders it appears that any drug seized under the preceding section was, at the time of the making of the complaint, unlawfully in the possession of the person alleged therein, the court or trial justice shall order that such article or drug so seized be forfeited to the commonwealth and shall order such article or drug sent to the department of public health. Possession of such drug shall be prima facie evidence that such possession was in violation of law. Said department may destroy such article or drug or cause it to be destroyed or to be disposed of in any way not prohibited by law, and, after paying the cost of the transportation and disposition of the same, it shall pay over the net proceeds to the commonwealth. Section eight of chapter two hundred and seventy-six shall apply to all judgments rendered and orders made under this and the preceding section. 1
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Manufacture of certain preparations forbidden.
1908, 307, § 1.
1910, 387,
§§ 1, 11.

SECTION 216. No person shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine, or any of its salts, or alpha or beta eucaine, or any of their salts, or any synthetic substitute for them. 1
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Prosecution for certain violations regulated.
1906, 386, § 6.

SECTION 217. The department of public health shall cause the prosecution of all persons violating any provision of sections one hundred and ninety-eight, one hundred and ninety-nine and two hundred and one, but 1
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4 no prosecution shall be brought for the sale at retail or for the gift or
 5 exchange of any patent or proprietary medicine or food preparation con-
 6 taining any drug or preparation the sale of which is prohibited by sections
 7 one hundred and ninety-eight and two hundred and one, or against any
 8 wholesale or retail druggist for the sale, gift or exchange of any patent or
 9 proprietary preparation containing cocaine or alpha or beta eucaine, or
 10 any synthetic substitute for them unless said department, prior to such
 11 sale, gift or exchange, has given public notice in some trade journal that
 12 the gift, exchange or sale at retail of such medicine or food preparation,
 13 or the gift, sale or exchange of such patent or proprietary preparation, as
 14 the case may be, naming it in each instance, would be contrary to law.

GRAIN AND MEAL.

1 SECTION 218. [REPEALED, 1922, 355, § 8.]

1 SECTION 219. Mayors and selectmen shall annually appoint one or
 2 more weighers of grain, who shall be sworn to the faithful performance of
 3 their duty; and if only one is appointed by them, they may authorize
 4 him to appoint deputy weighers.

Weighers
of grain.
C. L. 156, § 2.
1742-3, 4, § 5.
1762-3, 19, § 2.

1855, 232, § 2; 422. P. S. 60, § 23. 1922, 355, § 3.
G. S. 49, § 65. R. L. 57, § 26.

1 SECTION 220. [REPEALED, 1922, 355, § 8.]

1 SECTION 221. The fees of weighers of grain and their deputies, if any
 2 are authorized, shall be prescribed by the aldermen or selectmen of the
 3 several towns where they are appointed. One half of such fee shall be
 4 paid by the seller and one half by the purchaser.

Fees of
weighers
1762-3, 19, § 3.
1855, 232, § 4.
G. S. 49, § 67.

P. S. 60, § 27. R. L. 57, § 30. 1922, 355, § 4.

1 SECTION 222. If any wheat, corn, rye, oats, barley, buckwheat,
 2 cracked corn, ground corn or corn meal, ground rye or rye meal, or feed,
 3 or any other meal, is sold by the cental or hundredweight, the weigher or
 4 his deputy, on request of either party to the contract, shall ascertain the
 5 weight thereof and shall give a certificate of the number of centals or
 6 hundredweight of the same; and whoever sells and delivers a quantity
 7 of either of said articles exceeding one cental or hundredweight, if it has
 8 not been weighed by such weigher or his deputy, shall forfeit to the pur-
 9 chaser ten dollars for each lot purporting to be a cental or hundredweight
 10 which contains less than one hundred pounds.

Certificate of
sale by cental.
Penalty.
1880, 158, § 3.
P. S. 60, § 26.
R. L. 57, § 29.
1922, 355, § 5.

1 SECTION 223. [REPEALED, 1922, 355, § 8.]

1 SECTION 224. If a weigher or deputy weigher uses, or has in his pos-
 2 sion with intent to use, for the purposes provided in sections two hun-
 3 dred and nineteen to two hundred and twenty-two, inclusive, any false
 4 weight, scale, balance or other instrument for weighing, or colludes with
 5 the purchaser or seller with intent to defraud the other party, or makes
 6 and utters a false and fraudulent certificate under sections two hundred
 7 and nineteen to two hundred and twenty-two, inclusive, he may be re-
 8 moved from office by the aldermen or selectmen, and shall also on con-
 9 viction thereof be punished by a fine of not more than five hundred dol-
 10 lars or by imprisonment for not more than six months.

Penalty for
false weights
or collusion.
1762-3, 19, § 4.
1855, 232, § 5.
G. S. 49, § 68.
P. S. 60, § 28.
R. L. 57, § 31.
1922, 355, § 6.

COMMERCIAL FEEDING STUFF.

Tag or label affixed to commercial feeding stuff. Form and contents. 1903, 122, § 1. 1912, 527, §§ 3, 15.

SECTION 225. Each package, lot or parcel of commercial feeding stuff sold or offered, exposed or kept for sale or distributed shall have affixed thereto in a conspicuous place, as provided in the following section, a tag or label containing a legible and plainly printed statement in the English language clearly and truly certifying:

- (a) The weight of the contents of the package, lot or parcel;
- (b) The name, brand or trade mark;
- (c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market;
- (d) The minimum per cent of crude protein;
- (e) The minimum per cent of crude fat;
- (f) The maximum per cent of crude fibre;
- (g) The specific name of each ingredient used in its manufacture.

Tag, etc., to be affixed to package, etc. 1903, 122, § 1. 1912, 527, §§ 3, 15.

SECTION 226. When any feeding stuff is sold or offered, exposed or kept for sale or distributed in packages, the tag or label shall be affixed in a conspicuous place on the outside thereof. When any feeding stuff is offered, exposed or kept for sale in bulk, the tag or label shall be affixed in a conspicuous place on the bin or other enclosure where the feeding stuff is contained, but need not state the number of pounds thereof. When any feeding stuff is sold or distributed in bulk the tag or label shall be affixed in a conspicuous place on the vehicle in which the feeding stuff is shipped, delivered or distributed and shall state the number of pounds thereof. When any feeding stuff is sold in packages furnished by the purchaser the seller shall furnish the tags or labels therefor. The provisions required by the preceding section to be printed on the tag or label relating to the constituents contained in any commercial feeding stuff shall be known and recognized as the guaranteed analysis of such feeding stuff.

Copy of tag, etc., to be filed with the director. 1912, 527, § 4. 1922, 400, § 1.

SECTION 227. No manufacturer, importer or other person shall sell or offer, expose or keep for sale or distribute any commercial feeding stuff, until he has filed with the director or his authorized deputy for registration, a copy certified by him to be a true copy of the tag or label required by the two preceding sections, excepting the item as to the number of pounds, for each brand of feeding stuff to be sold or offered, exposed or kept for sale or distributed and has paid to said director or his authorized deputy a registration fee of twenty dollars for each such brand. No agent or other person shall be obliged to file a copy of the tag or label of, or pay a registration fee for, any brand of feeding stuff, for which a copy of the tag or label has been filed and the registration fee paid by the manufacturer or importer of such brand and for which a certificate of registration has been issued.

Certified copy of tag, etc., to be filed. 1912, 527, § 5. 1917, 47, § 1. 1922, 400, § 2.

SECTION 228. A certified copy of the tag or label required by any provision of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, shall be filed for registration with the director or his authorized deputy, and said registration fee paid to him, prior to January first in each year for each brand of commercial feeding stuff to be sold or offered, exposed or kept for sale or distributed during the

7 year beginning with said January first. The director or his author-
 8 ized deputy may thereafter permit a manufacturer, importer or other
 9 person to file a copy of the tag or label of a brand of feeding stuff, and,
 10 upon payment to him of said registration fee, may register the same for
 11 said year in accordance with the rules and regulations which are pre-
 12 scribed by the director.

1 SECTION 229. When the certified copy of the tag or label of any
 2 brand of commercial feeding stuff has been filed as provided in the two
 3 preceding sections and said registration fee has been paid, the director
 4 or his authorized deputy shall register such tag or label if he finds the
 5 same to be in accordance with the requirements of sections two hundred
 6 and twenty-five to two hundred and thirty-five, inclusive, and shall
 7 issue, or cause to be issued, a certificate of such registration. The
 8 certificate shall authorize the sale of the brand of feeding stuff for which
 9 it is issued, up to and including December thirty-first of the year for
 10 which it is issued. All registration fees received under this and the
 11 preceding section by the director or his authorized deputy shall be paid
 12 to the commonwealth.

Tag, etc., to
 be registered.
 Disposition
 of fees.
 1912, 527, § 6.
 1917, 47, § 2.
 1922, 400, § 3.

1 SECTION 230. The director or his authorized deputy may refuse to
 2 register any commercial feeding stuff under a name, brand or trade
 3 mark which, in his opinion, would be misleading or deceptive, or which
 4 would tend to mislead or deceive as to the materials of which the feeding
 5 stuff is composed. He may refuse to register more than one feeding
 6 stuff under the same name or brand, or to register any feeding stuff under
 7 a name or brand to the use of which the applicant for registration is not
 8 lawfully entitled. If any feeding stuff is registered and it is afterward
 9 discovered that any provision of sections two hundred and twenty-five to
 10 two hundred and thirty-five, inclusive, was violated in obtaining such
 11 registration or that such registration is in any respect in violation of any
 12 provision thereof, the director or his authorized deputy may cancel such
 13 registration and the certificate issued therefor. No person shall sell or
 14 offer or expose or keep for sale or distribute any commercial feeding stuff,
 15 registration whereof has been cancelled by the director or by his author-
 ized deputy.

Misleading
 name, brand,
 tag, etc.,
 prohibited.
 1912, 527, § 7.

1 SECTION 231. Each commercial feeding stuff and cattle feed, or brand
 2 thereof, sold or offered, exposed or kept for sale or distributed shall be
 3 subject to analysis by the director or by his duly authorized deputy, and
 4 the said director shall make or cause to be made in each year one or more
 5 analyses of each brand of feeding stuff sold or offered, exposed or kept for
 6 sale or distributed, and he or his deputy shall have free access to each
 7 place of business, mill, building, vehicle, vessel and other receptacle used
 8 in the manufacture, sale, storage or delivery of any feeding stuff or cattle
 9 feed, or in the importation or transportation of any feeding stuff or cattle
 10 feed for sale or distribution in the commonwealth. He or his deputy may
 11 open any receptacle containing or supposed to contain any feeding stuff
 12 or cattle feed for sale or distribution as aforesaid and may take samples
 13 for analysis. The methods of making analyses of all feeding stuffs and
 14 cattle feeds shall be those in force by the Association of Official Agricul-
 15 tural Chemists of North America.

Analysis, etc.
 1897, 117, § 1.
 R. L. 57, § 18.
 1903, 122,
 §§ 5, 11.
 1912, 527,
 §§ 8, 15.

Results of analysis, publication of, Free analysis, when
 1897, 117, § 1.
 R. L. 57, § 18.
 1903, 122, § 5.
 1912, 527, § 9, 15.

SECTION 232. The director may publish or cause to be published in reports, bulletins, special circulars or otherwise the results obtained by such analyses, and said reports, bulletins, circulars or other publications may contain such additional information in relation to the character, composition, value and use of the feeding stuffs or cattle feed analyzed as he may include. The said director may at any time make or cause to be made for consumers a free analysis of any brand of feeding stuff or cattle feed sold or offered or exposed or kept for sale or distributed in the commonwealth; but all samples for such free analysis shall be taken and submitted in accordance with the rules and regulations which are prescribed by him. The results of any analysis of a commercial feeding stuff made in accordance with the preceding section, except a free analysis as above provided, shall be sent by the director, at least fifteen days before any publication thereof, to the person named on the tag or label of the feeding stuff analyzed.

Samples for analysis, how taken, etc.
 1897, 117, § 2.
 R. L. 57, § 19.
 1903, 122, §§ 5, 11.
 1912, 527, §§ 10, 15.

SECTION 233. All samples for analysis of any commercial feeding stuff or cattle feed shall be taken, whenever the circumstances conveniently permit, in the presence of at least one witness, and no action shall be maintained for any violation of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, based upon an analysis of a sample, parts of which are taken from less than five separate original packages, unless there are less than five separate original packages in the lot, in which case parts of the official sample shall be taken from each original package. If the feeding stuff or cattle feed is in bulk, parts of the sample shall be taken from not less than five different places in the lot; provided, that this shall not exclude sampling from bulk when the feeding stuff or cattle feed is not exposed sufficiently to take parts from five different places, in which case parts shall be taken from as many places as practicable. All samples thus taken shall be placed in suitable vessels, marked and sealed. A part of each sample shall be held by the director or his deputy, at the disposal of the person named on the tag or label of the feeding stuff sampled, for fifteen days after the results of the analysis have been reported as provided in the preceding section.

Penalty for certain sales, etc., and for branding, etc., director, etc.
 1903, 122, §§ 4-6.
 1912, 527, §§ 11, 12, 15.

SECTION 234. Whoever sells, offers, exposes or keeps for sale or distributes any commercial feeding stuff without the tag or label required, or with a tag or label that has not been registered or the registration of which has been cancelled by the director or by his authorized deputy, or whoever files with the said director or with his authorized deputy for registration a false copy of the tag or label of any feeding stuff or brand of feeding stuff, or whoever impedes, obstructs or hinders the director or any of his deputies in the discharge of the authority or duty conferred or imposed by any provision of sections two hundred and twenty-five to two hundred and thirty-five, inclusive, or whoever sells, offers, exposes or keeps for sale or distributes any feeding stuff which contains a smaller per cent of crude protein or crude fat, or a larger per cent of crude fibre, than is certified in the tag or label of such feeding stuff to be contained therein, or whoever fails properly to state the specific name of each ingredient used in its manufacture, or whoever sells, offers, exposes or keeps for sale or distributes any feeding stuff or cattle feed or brand thereof which has been mixed or adulterated with any substance injurious to the health of live stock or poultry, shall for the first offence be punished by a fine of not more than one hundred dollars and for a sub-

20 sequent offence shall be punished by a fine of not less than one hundred
21 dollars.

1 SECTION 235. The director shall enforce sections two hundred and
2 twenty-five to two hundred and thirty-four, inclusive, and may pre-
3 scribe and enforce such rules and regulations relative to the sale of
4 commercial feeding stuff or cattle feed as he deems necessary to enforce
5 said sections. He may prosecute or cause to be prosecuted any person
6 violating any provision of said sections, and no complaint shall be made
7 or prosecuted for any such violation except with his authorization or
8 approval.

Enforcement
of rules and
regulations
1903, 122, § 7.
1912, 527,
§§ 13, 15.

HAY.

1 SECTION 236. If a town or the city council of a city accepts this sec-
2 tion or has accepted corresponding provisions of earlier laws, the mayor
3 or selectmen may from time to time appoint, for a term not exceeding
4 one year, and may at any time remove, weighers of hay, who shall be
5 sworn to the faithful performance of their duty and who shall have the
6 superintendence of the hay scales belonging to such city or town, and
7 shall weigh hay offered for sale therein and any other article offered to
8 be weighed. Cities and towns may establish ordinances and by-laws
9 for the regulation of hay scales and of the compensation of weighers of
10 hay. Whoever, not having been so appointed, sets up hay scales in a
11 city or town for the purpose of weighing hay or other articles offered
12 to be weighed shall forfeit to the use of such city or town twenty dollars
13 a month, so long as such scales are maintained.

Weighers
of hay.
1824, 102.
R. S. 15, § 38.
28, §§ 95-98.
G. S. 18, § 37;
49, §§ 72-75.
P. S. 60,
§§ 32-34.
R. L. 57, § 35.

TIMOTHY OR HERDSGRASS SEED.

1 SECTION 237. Except as otherwise provided in chapter ninety-nine,
2 all contracts for the sale and delivery of timothy or herdsgrass seed
3 shall be made by avoirdupois weight. Whoever violates this section
4 shall be punished by a fine of not more than twenty dollars.

Sale of timothy,
etc., seed regu-
lated. Penalty.
1862, 134
P. S. 60,
§§ 67, 68

R. L. 57, § 65.

1922, 355, § 7.

COAL, COKE, CHARCOAL AND KINDLING WOOD.

1 SECTION 238. The mayor or selectmen shall annually appoint, and
2 may remove, weighers of coal, one of whom at least shall not be engaged
3 in the business of selling coal, who shall be sworn to the faithful per-
4 formance of their duty, and by whom all coal shall be weighed. No
5 person shall be ineligible for appointment in a town because of the fact
6 that he is not a resident thereof, notwithstanding any provisions to the
7 contrary in any city charter. Women shall be eligible for appointment
8 as weighers of coal.

Weighers
of coal
1849, 143, § 4
1850, 25.
1855, 188,
§§ 3, 5.
G. S. 49, § 188
1865, 191, § 1
1870, 205, § 2.
P. S. 60, § 80.
R. L. 57, § 83.
1902, 159;
453, § 1.

1918, 257, § 235.
1919, 5.

1920, 2,
2 Allen, 320.

216 Mass. 126.

1 SECTION 239. [REPEALED, 1931, 426, § 12.]

1 SECTION 239A. The director of standards shall from time to time
2 by rule or regulation establish standard sizes for anthracite coal offered
3 for sale within the commonwealth, with variances or tolerances not to
4 exceed five per cent determined by weight.

Standard sizes
for anthracite
coal, estab-
lishment, etc.
1926, 382.

Coal, charcoal and coke sold by weight, when
1849, 143, § 1.
1850, 25
1855, 188, § 1.

SECTION 240. Coal shall be sold by weight, and, except when sold by cargo, two thousand pounds avoirdupois shall be the standard for the ton. Coke and charcoal in any quantities shall be sold only by weight or measure.

G 8 49, § 187.
1870, 205, § 1.
P 8 60, § 79
1894, 429, §§ 1-3.
1901, 423, § 1.

R L. 57, §§ 84, 86.
1907, 228, § 1.
1908, 205, § 1.
1918, 257, §§ 236, 237.
1919, 5.

1920, 2.
1921, 95, § 2.
1923, 106, § 2.
216 Mass. 126.

Sale of coal, coke and charcoal in bags, sacks and baskets regulated.
1883, 218, § 1.
1884, 70, § 1.
1894, 429, §§ 1-3.
1901, 423, § 1.
R L. 57, §§ 84, 86.
1907, 228, § 1.
1908, 205, § 1.
1918, 257, §§ 236, 237.
1919, 5.
1920, 2.
1921, 95, § 1.
1923, 106, § 1.
1926, 217
216 Mass. 126.

SECTION 241. Coal in quantities of one hundred pounds or less shall be sold by weight, and coke and charcoal in quantities of one hundred pounds or less shall be sold by weight or measure, in bags, sacks or baskets, and until delivered shall be kept in the same bags, sacks or baskets in which they were weighed or measured; and coal, coke and charcoal thus sold shall be exempt from section two hundred and forty-four. When sold by weight, such bags, sacks or baskets shall be plainly marked with the name and business address of the person who puts up the same, and with the weight of the coal, coke or charcoal therein in letters and numerals, respectively, of bold uncondensed type at least one inch in height. Paper bags or sacks used in the sale of coal shall contain and shall be sold as containing twenty-five pounds, avoirdupois weight, and, in addition to the marking heretofore required, such bags or sacks shall be plainly and conspicuously marked with the classification of such coal, whether anthracite, semi-anthracite, bituminous containing less than twenty-three per cent volatile matter or bituminous containing more than twenty-three per cent volatile matter, and with the size of the coal contained therein.

Baskets, etc., used in selling coke, etc., regulated.
1901, 423, § 2.
R L. 57, § 87.
1908, 205, § 2.
1909, 424, § 1.
1919, 91, §§ 1, 4.

SECTION 242. Baskets or similar receptacles used in selling coke, charcoal or unpacked kindling wood by measure shall be of one bushel or multiple thereof, Massachusetts standard dry measure, shall have their capacity plainly marked thereon, shall be sealed by a sealer of weights and measures of the town or district where the vendor resides or conducts his business, and shall be filled at least level full when well shaken.

Paper bags, etc., used in sale of coke, etc., regulated. Penalty.
1908, 205, § 2.
1909, 424, § 1.
1919, 91, §§ 2, 4.
1921, 89, § 1.

SECTION 243. Paper bags or sacks used or intended to be used in the sale of coke, charcoal or kindling wood by measure shall be not less than twenty-five inches in height, not less than thirteen and one half inches in width, and the bottoms shall not be less than four and three quarters inches wide. They shall be filled to a point not more than six inches from the upper end. Bags of unpacked kindling wood or of coke or charcoal sold or offered for sale by measure shall contain, and shall be sold as containing, one half bushel, Massachusetts standard dry measure. Bags and sacks shall be plainly marked with the name and business address of the person putting up the same, and the words "one half bushel" in bold, uncondensed, capital letters at least one inch in height. Whoever himself or by his servant or agent or as the servant or agent of another sells or offers for sale a paper bag or sack to be used in the sale of coke, charcoal or kindling wood by measure which does not conform in every particular to the requirements of this section shall be punished by a fine of not more than one hundred dollars.

Certificate of weight, etc.
1901, 423, § 3.
R L. 57, § 88.

SECTION 244. Whoever, except as provided in section two hundred and forty-one, sells coke, charcoal or coal by weight shall without cost to

3 the purchaser cause the goods to be weighed by a sworn weigher of the
 4 town where they are weighed, and shall cause to be signed by the weigher
 5 a certificate stating the name and place of business of the seller, and
 6 either the identifying number, of which a permanent record shall be kept,
 7 or the name of the person taking charge of the goods after the weighing
 8 as given to the weigher on his request, the tare weight, and the quantity
 9 of the goods. Such certificate shall be given to said person and shall be
 10 given by him only to the owner of the goods or his agent when he unloads
 11 the same; and each such person, on request and without charge therefor,
 12 shall permit any sealer of weights and measures of any town to examine
 13 the certificate and to make a copy thereof.

1902, 453, § 2.
 1908, 301
 1910, 219, § 1.

1 SECTION 245. A sealer of weights and measures of a town where any
 2 quantity of coke, charcoal or coal for delivery is found may direct the
 3 person in charge of the goods to convey the same without delay or charge
 4 to scales designated by such sealer, who shall there determine the
 5 quantity of the goods, and, if they are not in baskets or bags as required
 6 by section two hundred and forty-one, shall determine their weight to-
 7 gether with the tare weight, and shall direct said person to return to such
 8 scales immediately after unloading the goods; and upon such return, the
 9 sealer shall determine the tare weight. The scales designated by the
 10 sealer as aforesaid may be the public scales of the town or any other scales
 11 therein which have been duly tested and sealed, and shall be such scales
 12 as in his judgment are most convenient.

Sealer may
 direct goods to
 be weighed.
 1901, 423, § 4
 R. L. 57, § 89.
 1902, 453, § 3
 1910, 219, § 2.

1 SECTION 246. Each sealer of weights and measures of a town and
 2 each sworn weigher shall keep in a book used by him solely for that pur-
 3 pose a record of all baskets sealed by him as aforesaid, and of all weigh-
 4 ings and determinations of quantities of coke, charcoal or coal made by
 5 him as aforesaid. Such record shall be made at the time of measuring or
 6 weighing, and shall state the day and hour of the measuring or weigh-
 7 ing, the name and place of business of the vendor, the name of the owner
 8 of the baskets or of the purchaser of the goods as given to him on his
 9 request by the person taking charge of the baskets or goods after weighing
 10 or measuring, the capacity of the baskets measured or quantity of goods
 11 determined, and the name of said person; and, in the case of a reweighing
 12 as provided in the preceding section, shall state the weight as given in
 13 the certificate and as determined by him. No charge shall be made by
 14 any such sealer for anything done under this and the two preceding
 15 sections.

Record of
 weights and
 measures
 to be kept.
 1901, 423, § 5.
 R. L. 57, § 90

1 SECTION 247. Edgings or kindling wood shall not be sold in bundles
 2 unless the same are closely packed and are not less than twenty-seven
 3 inches in circumference. Kindling wood may be sold in bulk by the
 4 load; but if unpacked shall not be sold unless by measure and, if exceed-
 5 ing six inches in length, shall not be sold in bags or sacks.

Edgings and
 kindling wood,
 sale of.
 1909, 424, § 1.
 1919, 91, §§ 1,
 2, 4, 5

1 SECTION 248. Whoever violates any provision of sections two hun-
 2 dred and forty to two hundred and forty-seven, inclusive, except as other-
 3 wise provided therein, or fails to comply with any request for informa-
 4 tion or direction made under authority of sections two hundred and forty,
 5 two hundred and forty-one, two hundred and forty-four to two hundred
 6 and forty-six, inclusive, or gives a false answer to any such request, shall
 7 be punished by a fine of not more than fifty dollars; and whoever is

Penalty for
 certain
 offenses.
 1901, 423, § 6.
 R. L. 57, § 91.
 1902, 453, § 4.
 1909, 424, § 2.
 1918, 218, § 1.
 1919, 91,
 §§ 3, 4; 350,
 § 77.
 1921, 89, § 2.

1923, 155, § 2.
216 Mass. 126.

Enforcement
of law.

guilty of fraud or deceit as to the weighing, selling or delivering of coke, charcoal or coal, or whoever, by himself, or by his servant, agent or employee, sells or delivers coal which is short in weight or measure or which contains an unreasonable amount of shale, slate, rock or other foreign substance, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. The director of standards and local sealers of weights and measures shall cause sections two hundred and forty to two hundred and forty-nine, inclusive, to be enforced.

Penalty for
having illegal
coal, etc.,
measures.
1758-9, 16, § 6.
1772-3, 8,
§§ 6-8.
1833, 193, § 2.
R. S. 28, § 208.
1852, 302, § 1.
1853, 305, § 3.
1859, 250,
§§ 1, 2.

SECTION 249. A vendor of coal, coke, charcoal or kindling wood, who has in his possession a basket, bag, sack or other measure which does not conform in every particular to the requirements respecting such measure, with intent to use or permit it to be used in measuring coal, coke, charcoal or kindling wood sold or offered for sale, shall be punished by a fine of not more than twenty dollars, and such basket, bag, sack or measure shall be destroyed.

G. S. 49, § 193.	1884, 70.	1918, 257, § 238.
P. S. 60, § 87.	1894, 429, § 4.	1919, 5.
1883, 218, § 2.	R. L. 57, § 92.	1920, 2.

Inspection
of coal
regulated.
Analysis.
Condemna-
tion, etc.
1923, 155, § 1.

SECTION 249A. The department of public health, local boards of health, the director of standards and local sealers of weights and measures, by themselves or by their authorized agents, may enter each place where coal is stored or kept for sale and each railroad train or car or any vehicle used for its conveyance and may inspect said coal or take therefrom samples for analysis or inspection. Said department or board shall cause each sample taken to be analyzed, inspected or otherwise satisfactorily tested and shall record and preserve as evidence the results thereof. If, in the opinion of said department or board, upon inspection, analysis or other satisfactory test, said coal is unfit for ordinary use, said department, or said board with the approval of said department, may condemn, seize and cause the same to be destroyed forthwith or disposed of otherwise than for ordinary use. All money received by said department or board for coal disposed of as aforesaid, after deducting the expenses of said seizure and disposal, shall be paid to the owner of such coal.

Hindrance of
or interference
with officials
penalized.
1923, 155, § 1.

SECTION 249B. Any person who hinders, obstructs or interferes with the department of public health, local boards of health, the director of standards, local sealers of weights and measures, or their authorized agents, in the performance of their duty under the preceding section, shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment for not less than one month nor more than one year, or both.

Sale, etc., of
condemned
coal penalized.
1923, 155, § 1.

SECTION 249C. Whoever, by himself, or by his servant, agent or employee, sells, exposes or offers for sale, or has in his custody or possession with intent to sell, coal condemned under the provisions of section two hundred and forty-nine A shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment for not less than one month nor more than one year, or both.

1 SECTION 249D. Whoever, by himself, or by his servant, agent or
 2 employee, sells, exposes or offers for sale, or has in his custody or posses-
 3 sion with intent to sell, coal unfit for ordinary use shall be punished by
 4 a fine of not more than one thousand dollars or by imprisonment for not
 5 more than one year, or both.

Sale, etc., of
 unfit coal
 penalized
 1923, 155, § 1.

1 SECTION 249E. Whoever, by himself, or by his servant, agent or
 2 employee, in placing or packing coal in any basket, bag, sack or other
 3 receptacle, places or causes to be placed therein any foreign substance,
 4 or sells, or exposes or offers for sale, or has in his custody or possession
 5 with intent to sell, coal placed or packed in a basket, bag, sack or other
 6 receptacle containing an unreasonable amount of any foreign substance
 7 shall be punished by a fine of not more than one thousand dollars or by
 8 imprisonment for not more than one year, or both.

Placing, etc.,
 foreign sub-
 stances with
 coal in
 receptacles
 penalized
 1923, 155, § 1.

1 SECTION 249F. The department of public health, local boards of
 2 health, the director of standards and local sealers of weights and meas-
 3 ures shall cause the five preceding sections to be enforced.

Enforcement
 of five preced-
 ing sections
 regulated
 1923, 155, § 1.

COMMERCIAL FERTILIZERS.

1 SECTION 250. No commercial fertilizer shall be sold or offered or
 2 exposed for sale without a plainly printed label accompanying it, dis-
 3 played in the manner hereinafter set forth, and truly stating the following
 4 particulars:

Sale of com-
 mercial ferti-
 lizers regulated
 Label, form and
 contents:

5 1. The number of pounds of the fertilizer sold or offered or exposed
 6 for sale.

1869, 63, § 1
 1873, 312, § 1
 1874, 206, § 1.
 1878, 258, § 1.
 P. S. 60, § 13.

7 2. The name, brand or trade mark under which the fertilizer is sold,
 8 and, in the case of agricultural lime, its particular form.

1888, 296,
 §§ 1, 4
 1896, 297,
 §§ 1, 4

9 3. The name and principal address of the manufacturer, importer or
 10 other person putting the fertilizer on the market in the commonwealth.

R. L. 57, §§ 11,
 14,
 1911, 388, §§ 1,
 12.

11 4. The minimum percentage of each of the following constituents
 12 which the fertilizer contains: (a) nitrogen, (b) phosphoric acid soluble
 13 in distilled water, (c) available phosphoric acid, (d) total phosphoric
 14 acid, (e) potash soluble in distilled water; except that when undissolved
 15 bone, untreated phosphate rock, tankage, pulverized natural manures,
 16 the ground seeds of plants, or wood ashes are sold unmixed with other
 17 substances, the minimum percentage of total phosphoric acid therein
 18 may be stated in place of the percentages of soluble and available phos-
 19 phoric acid; and except that in the case of agricultural lime the label
 20 shall truly state the following: (a) minimum and maximum percentage
 21 of total lime, (b) minimum and maximum percentage of total magnesia,
 22 (c) minimum percentage of lime and magnesia combined as carbonates,
 23 (d) minimum percentage of lime sulphate in gypsum or land plaster.

24 5. If any part of the nitrogen contained in the fertilizer is derived
 25 from pulverized leather, raw, roasted or steamed, or from untreated
 26 hair, wool waste, peat, garbage tankage, or from any inert material
 27 whatsoever, the label shall truly state the specific materials from which
 28 such part of the nitrogen is derived.

1 SECTION 251. When any fertilizer is sold or offered or exposed for sale
 2 in packages, the label shall be affixed in a conspicuous place on the out-
 3 side thereof. When any fertilizer other than the product of gas houses,
 4 known as gas house lime, is offered or exposed for sale in bulk the label

Label to be
 affixed, when.
 1911, 388, § 2.

shall be affixed in a conspicuous place to the bin or other enclosure where the fertilizer is contained but need not state the number of pounds thereof, and when such fertilizer is sold in bulk the label shall be affixed in a conspicuous place to the vehicle in which the fertilizer is shipped or delivered, and shall state the number of pounds thereof. When any fertilizer is sold in packages furnished by the purchaser the seller shall furnish the labels therefor.

Certain provisions of label recognized as guaranteed analysis. 1911, 388, § 3.

SECTION 252. The provisions of the printed label required under the two preceding sections relating to the constituents contained in any fertilizer shall be known and recognized as the guaranteed analysis of such fertilizer, and the available phosphoric acid in basic phosphatic slag shall be stated in the label thereof.

Sale of certain commercial fertilizers for-bulden. 1869, 63, § 2. 1873, 312, § 2. 1874, 206, § 3. 1878, 258, § 3. P. S. 60, § 15.

SECTION 253. No person shall sell, offer or expose for sale a commercial fertilizer or brand of commercial fertilizer, any constituent part of which is of a smaller percentage than as stated on the label of said fertilizer, and no person shall sell, offer or expose for sale a fertilizer or brand thereof with a label which is untrue in any particular.

1888, 296, § 5. 1896, 297, § 5. R. L. 57, § 15. 1911, 388, §§ 4, 12.

Sale of commercial fertilizers regulated. Fees, etc. 1873, 312, § 4. 1874, 206, § 3. 1878, 258, § 3. P. S. 60, § 15. 1888, 296, § 5. 1896, 297, § 5. R. L. 57, §§ 12, 13. 1911, 388, §§ 5, 12.

SECTION 254. No person shall sell or offer or expose for sale any commercial fertilizer until he has filed with the director a copy certified by him to be a true copy of the label required by section two hundred and fifty, excepting as to the item as to the number of pounds, for each brand of fertilizer to be sold, offered or exposed for sale and has paid to the said director an analysis fee for each brand aforesaid as follows: eight dollars for nitrogen, eight dollars for phosphoric acid, eight dollars for potash, contained or stated to be contained in any such brand of fertilizer, and twelve dollars for each brand of agricultural lime except gas house lime; nor unless he holds a valid and uncanceled certificate issued under section two hundred and fifty-six. Any person desiring in any year to sell or to offer or expose for sale any brand of commercial fertilizer in respect of which the requirements of this section as to the filing of a copy of the label thereof and the payment of the analysis fee therefor have not been complied with before January first of said year, may offer or expose for sale and sell the said brand upon filing a certified copy of the label thereof and paying the full analysis fee therefor. No person shall be obliged to file a copy of the label of, or to pay an analysis fee for, any brand of fertilizer for which a certified copy of the label has been filed and the analysis fee paid by the manufacturer or importer of such brand.

No person shall file with the director a false copy of the label of any fertilizer or brand of fertilizer

Same subject. Statement, permit, fee 1918, 220, § 3.

SECTION 255. In addition to the requirements of the preceding section, each person who sells or offers or exposes for sale any commercial fertilizer shall, on or before January first and July first in each year, file with the director a sworn statement in such form as he prescribes setting forth the number of net tons of fertilizer sold by him in the commonwealth during the preceding six months, stating in each case the number of tons of each brand sold, together with a permit allowing the director or his authorized deputy to examine the books of the person filing the statement, for the purpose of verifying the same, and shall thereupon pay to the

10 director a fee of six cents a ton of two thousand pounds for the fertilizers
 11 so sold; except that no such statement, permit or fee shall be required in
 12 respect of agricultural lime. The director or his authorized deputy may
 13 cancel the certificate for any brand of fertilizer in respect to which the
 14 requirements of this section have not been complied with. Whoever sells,
 15 offers or exposes for sale a fertilizer or brand of fertilizer without having
 16 filed the statement and permit and paid the fee required by this section
 17 shall be punished by a fine of not more than five hundred dollars. But
 18 no person shall be obliged to file a statement or permit, or to pay the fee
 19 required by this section, for any brand of fertilizer for which the state-
 20 ment and permit have been filed and for which the fee has been paid by
 21 the manufacturer or importer of such brand.

1 SECTION 256. When the certified copy of the label of any brand of
 2 fertilizer has been filed, and the proper fees have been paid, the director
 3 shall issue a certificate to that effect; and the certificate shall authorize
 4 the sale, in compliance with sections two hundred and fifty to two hun-
 5 dred and sixty-one, inclusive, of the brand of fertilizer for which the
 6 certificate is issued, up to and including December thirty-first of the year
 7 for which it is issued. The said director or his authorized deputy may
 8 refuse to issue a certificate for any fertilizer or brand of fertilizer which
 9 does not contain at least one half of one per cent of nitrogen, or one half
 10 of one per cent of potash soluble in distilled water, or one per cent of
 11 phosphoric acid, or five per cent of lime, or five per cent of magnesia, or
 12 which contains its potash, phosphoric acid, lime or magnesia in forms
 13 substantially insoluble by the methods of analysis for commercial ferti-
 14 lizers prescribed by the Association of Official Agricultural Chemists of
 15 North America, or which does not possess substantial properties as a
 16 fertilizer. The director or his authorized deputy may also refuse to issue
 17 a certificate for any fertilizer under a name, brand or trade mark which
 18 is untrue in any particular, or which, in his opinion, would be misleading
 19 or deceptive in any particular, or would tend to mislead or deceive as to
 20 the constituents or properties of said fertilizer, and may refuse to issue
 21 more than one certificate for any fertilizer under the same name or brand,
 22 or to issue a certificate for any fertilizer under a name or brand to the use
 23 of which the person seeking it is not lawfully entitled. If a certificate is
 24 issued for any fertilizer and it is afterward discovered that the certificate
 25 itself, or the granting of it, or the manner of procuring it, was in any
 26 respect in violation of any provision of sections two hundred and fifty to
 27 two hundred and sixty-one, inclusive, the director or his authorized
 28 deputy may cancel the certificate. Whoever sells, offers or exposes for
 29 sale any fertilizer or brand of fertilizer for which no certificate has been
 30 issued by the director or his authorized deputy, or the certificate for which
 31 has been cancelled, shall be punished by a fine of not more than two
 32 hundred dollars.

1 SECTION 257. Each commercial fertilizer and brand of commercial
 2 fertilizer sold or offered or exposed for sale shall be subject to analysis
 3 by the director or by his duly designated deputy. The said director shall
 4 make or cause to be made in each year one or more analyses of each fer-
 5 tilizer and brand of fertilizer sold or offered or exposed for sale in the
 6 commonwealth, and shall collect the annual analysis fee provided for by
 7 section two hundred and fifty-four; and he, his inspectors and deputies,
 8 may enter upon any premises where any commercial fertilizer is sold or

Certificate
 of filing of
 label, etc.
 Issue, revoca-
 tion, etc.
 Penalty for
 sale, etc., if
 certificate not
 issued, etc.
 1911, 388, § 6.
 1918, 220, § 1.

Annual
 analysis
 Publication of
 reports, etc.
 Free analysis.
 1873, 312,
 §§ 3, 5
 1874, 206,
 §§ 4, 6
 1878, 258,
 §§ 4, 6
 P. 8. 60. §§ 11,
 16
 1888, 296, § 7.

1896, 297, § 7.
R. 1. 57, § 17.
1907, 289.
1911, 388,
§§ 7, 12.

offered or exposed for sale to ascertain if sections two hundred and fifty 9
to two hundred and sixty-one, inclusive, are complied with, and to take 10
samples for analysis. The analysis of all fertilizers shall be made by the 11
methods adopted by the Association of Official Agricultural Chemists of 12
North America, except that basic phosphatic slag may be analyzed by the 13
Wagner method, so called, until a method of analysis therefor is adopted 14
by said association. The said director may publish or cause to be pub- 15
lished in reports, bulletins, special circulars or otherwise, the results 16
obtained by said analyses, and in connection therewith shall, in each case, 17
state the cost of equivalent amounts of nitrogen, phosphoric acid and 18
potash in unmixed materials when bought for cash on the market at 19
retail. Said publications shall also contain such additional information 20
in relation to the character, composition, value and use of the fertilizers 21
analyzed as the director sees fit to include. He may make or cause to 22
be made for any person a free analysis of any commercial fertilizer or 23
brand of commercial fertilizer sold or offered or exposed for sale in the 24
commonwealth, but he shall not be obliged to make such free analysis, 25
or to cause the same to be made, unless the samples therefor are taken 26
and submitted in accordance with the rules and regulations which he 27
prescribes. The results of any analysis made in accordance with the 28
aforesaid sections, except a free analysis as aforesaid, shall be sent by 29
the director to the person named in the printed label of the fertilizer 30
analyzed at least fifteen days before any publication of such results. 31

Taking of
samples for
analysis regu-
lated.

1911, 388, § 8.

SECTION 258. Each sample of commercial fertilizer taken for analy- 1
sis shall be of not less than substantially one and one half pounds in 2
weight, and each sample shall be taken, whenever the circumstances con- 3
veniently permit, in the presence of the person selling or offering or 4
exposing for sale the fertilizer sampled, or of a representative of such 5
person. Broken packages shall not be sampled, and all samples shall be 6
taken from substantially ten per cent of the fertilizer to be sampled, 7
except that if fertilizer is sold or offered or exposed for sale in bulk ten 8
single samples shall be taken from as many different portions of the lot. 9
All samples taken shall be thoroughly mixed and divided into two nearly 10
equal samples, placed in suitable vessels, and marked and sealed. Both 11
shall be retained by the director, but one shall be held intact by him for 12
one year at the disposal of the person named in the label of the fertilizer 13
sampled. 14

Disposition of
fees, etc.

1911, 388, § 10.
1918, 220, § 3.

SECTION 259. All fees for analysis, or otherwise, under any provision 1
of sections two hundred and fifty to two hundred and sixty-one, inclusive, 2
shall be collected by the director and paid to the commonwealth. 3

Rules and
regulations.
Complaints.

1873, 312,
§§ 3, 5.
1874, 206,
§§ 4, 6.
1878, 258,
§§ 4, 6.
P. 8, 60,
§§ 11, 16.
1888, 296, § 7.
1896, 297, § 7.
R. 1. 57, § 17.
1911, 388,
§§ 9, 12.
1918, 220, § 2.

SECTION 260. The director shall enforce sections two hundred and 1
fifty to two hundred and sixty-one, inclusive, and may prescribe and 2
enforce such rules and regulations as to the sale of commercial fertilizers 3
as he deems necessary to enforce said sections, and may prosecute or 4
cause to be prosecuted any person violating any provision of said sections. 5
No complaint based upon an analysis of samples shall be made for any 6
violation of any provision of said sections, if samples are taken otherwise 7
than as provided therein. No complaint shall be made for the failure 8
of any fertilizer or brand of fertilizer to meet the guaranteed analysis 9
thereof if the analysis made by the director of such fertilizer or brand 10

11 shows the amounts of its constituents to be substantially equivalent to
12 the percentages stated in the label.

1 SECTION 261. Whoever hinders or obstructs the director, his inspector
2 or deputy, in the discharge of any authority or duty conferred or imposed
3 by any provision of sections two hundred and fifty to two hundred and
4 sixty-one, inclusive, and, except as otherwise provided in section two
5 hundred and fifty-six, whoever violates any provision of sections two
6 hundred and fifty to two hundred and fifty-four, inclusive, shall be
7 punished by a fine of not less than fifty nor more than two hundred
8 dollars.

Penalty for
hindering,
etc., direc-
tor, etc.
1911, 388, § 9
1918, 220, § 2

AGRICULTURAL SEEDS.

1 SECTION 261A. Every lot of agricultural seeds of ten pounds or
2 more, except as otherwise provided in sections two hundred and
3 sixty-one B to two hundred and sixty-one L, inclusive, shall have affixed
4 thereto, in a conspicuous place, on the exterior of the container of such
5 agricultural seeds, a plainly written or printed tag or label in the English
6 language, stating:

Tag or label
affixed to
container.
Contents,
if lot ten
pounds
or over.
1927, 274, § 2

7 (a) The commonly accepted name of such agricultural seeds.
8 (b) The approximate percentage, by weight, of purity; meaning, the
9 freedom of such agricultural seeds from inert matter and from other
10 seeds distinguishable by their appearance.

11 (c) The approximate total percentage, by weight, of weed seeds.
12 (d) The name and approximate number per ounce of each kind of
13 noxious weed seeds, which are present, singly or collectively, as follows:

14 (1) in excess of one seed in each five grams of seeds of grasses, alfalfa
15 and clovers; (2) in excess of one seed in each twenty-five grams of
16 millets, rape, Sudan grass and other seeds of similar size not specified in
17 subdivision (1) or (3) of this paragraph; (3) in excess of one seed in each
18 hundred grams of wheat, oats, rye, barley, buckwheat, vetches, soybeans,
19 cowpeas and other seeds as large or larger than wheat.

20 (e) The approximate percentage of germination of such agricultural
21 seed together with the month and year said seed was tested.

22 (f) Name and address of the vendor of such agricultural seed.

1 SECTION 261B. Mixtures of agricultural seeds of ten pounds or
2 more which contain not more than two kinds of such seeds which are
3 present in excess of five per cent by weight of each kind, shall have
4 affixed thereto, in a conspicuous place on the exterior of the container
5 of such mixture of seeds, a plainly written or printed tag or label, in the
6 English language, stating:

Same subject.
Contents,
if certain
mixtures
1927, 274, § 2.

7 (a) That such seed is a mixture.

8 (b) The name and approximate percentage by weight of each kind
9 of agricultural seed present in such mixture in excess of five per cent by
10 weight of the total mixture.

11 (c) Approximate total percentage by weight of weed seeds.

12 (d) The name and approximate number per ounce of noxious weed
13 seeds which are present singly or collectively in excess of one seed in
14 each fifteen grams of such mixture.

15 (e) Approximate percentage of germination of each kind of agricul-
16 tural seed present in such mixture in excess of five per cent by weight,
17 together with the month and year said seed was tested.

18 (f) Name and address of the vendor of such mixture.

Same subject Contents, if other mixtures 1927, 274, § 2.	SECTION 261C. Mixtures of agricultural seeds, except as specified	1
	in section two hundred and sixty-one B, shall have affixed thereto in a	2
	conspicuous place on the exterior of the container of such mixture a	3
	plainly written or printed tag or label in the English language stating:	4
	(a) That such seed is a mixture.	5
	(b) The name of each kind of agricultural seed which is present in	6
	excess of five per cent or more by weight of the total mixture.	7
Same subject. Contents, if vegetable seeds 1927, 274, § 2.	(c) The approximate total percentage by weight of weed seeds.	8
	(d) The approximate percentage by weight of inert matter.	9
	(e) The name and approximate number per ounce of each kind of	10
	noxious weed seeds which are present singly or collectively in excess of	11
	one seed in each fifteen grams of such mixture.	12
	(f) Name and address of the vendor of such mixture.	13
	Same subject. Contents, if seeds "not tested" 1927, 274, § 2.	SECTION 261D. Every lot of vegetable seeds shall have affixed
thereto in a conspicuous place on the exterior of the container a plainly		2
written or printed tag or label in the English language stating:		3
Same subject. Contents, if seeds "not tested" 1927, 274, § 2.	(a) The kind of seed and variety.	4
	(b) Name and address of the vendor of such vegetable seeds.	5
	SECTION 261E. Agricultural seeds or mixtures thereof may be	1
	marked "not tested" and seeds so marked or labelled shall have affixed	2
	thereto in a conspicuous place on the exterior of the container of each	3
Seeds, when exempt from §§ 261A-261L. 1927, 274, § 2.	lot of such "not tested" seeds, a plainly written or printed tag or label	4
	in the English language stating:	5
	(a) That such seed is "not tested".	6
	(b) The name and address of the vendor of such "not tested" seeds.	7
	SECTION 261F. Agricultural seeds or mixtures thereof shall be ex-	1
empt from the provisions of sections two hundred and sixty-one A to	2	
two hundred and sixty-one L, inclusive:	3	
(a) When sold to merchants to be recleaned before being sold or	4	
exposed for sale for use for seeding purposes.	5	
(b) When in storage for the purpose of recleaning or not possessed,	6	
sold or offered for sale for use for seeding purposes within the common-	7	
wealth.	8	
Enforcement of said sections and prosecu- tion thereof violations there- of regulated 1927, 274, § 2.	SECTION 261G. The commissioner of agriculture and his duly au-	1
	thorized assistants shall have authority to enforce sections two hundred	2
	and sixty-one A to two hundred and sixty-one L, inclusive, and to prose-	3
	cute all violations thereof. Before any prosecution is begun by said	4
	commissioner or any of his duly authorized assistants, the parties con-	5
	cerned shall be given an opportunity to be heard before said commis-	6
	sioner or a person designated by him for such purpose. The parties	7
	concerned shall be given reasonable notice of the hearing, specifying	8
	the day, hour and place thereof, and accompanied by a description of	9
	the alleged violation.	10
Access to stores, etc. Taking of samples for analysis, etc. 1927, 274, § 2.	SECTION 261H. The commissioner of agriculture, either in person or	1
	by his assistants, shall have free access at all reasonable hours to each	2
	building or other place where agricultural seeds or mixtures thereof	3
	are stored, sold or offered or exposed for sale for the purpose of inspec-	4
	tion of such seeds and, upon tendering the market price, may take	5
	samples of such agricultural seeds or mixtures thereof for tests and	6

7 analyses. Such samples shall be thoroughly mixed and two official
 8 samples taken therefrom; each official sample shall be securely sealed.
 9 One of these official samples shall be held by the commissioner or his
 10 authorized agent at the disposal of the person named on the label as
 11 the vendor of the agricultural seed sampled, for six months after the
 12 results of the analysis have been reported as provided in the following
 13 section, and the other sample retained by said commissioner or agent for
 14 analysis.

1 SECTION 261I. The commissioner of agriculture shall cause such
 2 tests and analyses as he may specify to be made of samples collected
 3 under the preceding section in order to determine the quality of the
 4 seeds contained in such samples. To enable said commissioner to de-
 5 termine the trueness to type or variety of vegetable and other seeds he
 6 shall provide that field tests be made of such samples of seeds as he may
 7 designate and may publish the results of all such tests and analyses as
 8 are made in accordance with the provisions of this section.

Analyses and
 tests. Pub-
 lication of
 results.
 1927, 274, § 2

1 SECTION 261J. The word "approximate" as used in sections two
 2 hundred and sixty-one A to two hundred and sixty-one L, inclusive, shall
 3 be defined in rules and regulations promulgated by the commissioner of
 4 agriculture.

Definition of
 "approximate"
 by
 commissioner
 of agriculture
 authorized

1927, 274, § 2.

1 SECTION 261K. Any person residing or doing business in this com-
 2 monwealth shall have the privilege of submitting to the commissioner
 3 of agriculture samples of agricultural seeds for test and analysis, subject
 4 to such rules and regulations as may be adopted by said commissioner,
 5 including a reasonable charge or fee for such test and analysis. Re-
 6 ceipts under this section shall be paid into the treasury of the common-
 7 wealth.

Submission of
 seeds for test
 and analysis.
 Fee; disposi-
 tion.
 1927, 274, § 2.

1 SECTION 261L. Whoever sells, offers or exposes for sale, any lot of
 2 agricultural seeds, or mixtures of agricultural seeds, without complying
 3 with the requirements of sections two hundred and sixty-one A to two
 4 hundred and sixty-one K, inclusive, or falsely marks or labels such agri-
 5 cultural seeds or mixtures thereof or vegetable seeds, or impedes, ob-
 6 structs or hinders the commissioner of agriculture or any of his duly
 7 authorized agents in the discharge of the authority or duties conferred
 8 or imposed by any provision of said sections, shall be punished by a fine
 9 of not more than five hundred dollars.

Penalty.
 1927, 274, § 2.

LIME AND LIME CASKS.

1 SECTION 262. The mayor of a city or the selectmen of a town where
 2 lime is manufactured, or into which it is imported, may annually appoint
 3 one or more inspectors of lime, who shall be sworn to the faithful per-
 4 formance of their duty and shall inspect all lime manufactured in such
 5 city or town at the time when a cask is filled at the kiln, and all lime
 6 imported or sold in such city or town.

Inspectors
 of lime.
 1909, 62, §§ 5,
 6, 9.
 R. S. 28, § 133.
 G. S. 49, § 118.
 P. S. 60, § 46.
 R. L. 57, § 47.

1 SECTION 263. Each cask of lime so inspected shall be branded with
 2 the word "inspected", with the name of the inspector and with the
 3 name of the town where it is manufactured.

Casks of lime,
 how branded.
 1909, 62, § 6.

R. S. 28, § 134.

G. S. 49, § 119.

P. S. 60, § 47.

R. L. 57, § 48.

Fees of inspectors
 1869, 62, § 4-6
 1810, 128
 R. S. 28, § 135
 G. S. 49, § 120
 P. S. 60, § 48
 R. L. 57, § 49

SECTION 264. An inspector of lime shall receive four cents for the inspection and branding of each cask of such manufactured lime, which shall be paid by the manufacturer or owner; and the same amount for the inspection of each cask of lime so imported or sold, which shall be paid by the purchaser.

Quality of lime and casks.
 1785, 25, § 16
 1793, 65, § 1
 1794, 22
 1796, 16
 1802, 121
 1809, 62, § 1
 R. S. 28, § 136
 G. S. 49, § 121
 P. S. 60, § 49

SECTION 265. No stone lime manufactured within the commonwealth shall be sold or exposed for sale, or shipped on board a vessel in casks, unless it is well burnt and pure, in good and sufficient new casks containing either one hundred and eighty or two hundred and eighty pounds each, made of well seasoned heads and staves, with ten good and sufficient hoops on each cask, well driven and sufficiently secured with nails or pins.

R. L. 57, § 50. 1918, 257, § 233. 1919, 5. 1920, 2.

Penalty for sale, etc., of certain lime
 1809, 62, § 7, 11
 R. S. 28, § 137
 G. S. 49, § 123
 P. S. 60, § 50
 R. L. 57, § 51.

SECTION 266. Whoever sells, exposes for sale, ships or receives on board a vessel in casks, any lime manufactured in the commonwealth, other than such as is contained in casks made according to the preceding section and marked or branded as provided in section two hundred and sixty-three, shall be punished by a fine of one dollar and fifty cents for each cask sold, exposed for sale, shipped or received on board a vessel; but sections two hundred and sixty-two to two hundred and sixty-eight, inclusive, shall not prevent any person from retailing lime by the bushel or other quantity, when not in casks.

Penalty for shifting contents of casks.
 1793, 65
 1809, 62, § 8
 R. S. 28, § 139
 G. S. 49, § 125

SECTION 267. Whoever, after a cask containing lime has been branded as aforesaid, shifts the contents of such cask and puts therein other lime with intent to sell the same, shall be punished by a fine of one dollar and fifty cents for each cask of lime so shifted.

P. S. 60, § 51. R. L. 57, § 52.

Forfeiture of casks.
 1793, 65
 1809, 62, § 7
 R. S. 28, § 138
 G. S. 49, § 124
 P. S. 60, § 52

SECTION 268. A cask of lime which is sold, exposed for sale, or put on board a vessel, contrary to any provision of sections two hundred and sixty-two to two hundred and sixty-eight, inclusive, shall be forfeited, and may be seized and libelled by an inspector of lime.

R. L. 57, § 53

MARBLE, SOAPSTONE AND FREESTONE.

SECTION 269. [REPEALED, 1931, 426, § 13.] 1

MATTRESSES, ETC.

Manufacture, etc., of articles of bedding or upholstered furniture, and covering, etc., of mattresses, regulated.
 This quality, form and contents.
 1917, 118, § 1
 1925, 226, § 1
 1928, 307, § 2
 270 Mass. 248.
 [Penalty, § 277]

SECTION 270. No person shall manufacture for purposes of sale, sell, offer or expose for sale, or have in possession with intent to sell, any article of bedding or article of upholstered furniture unless there is plainly marked upon each such article, or upon a tag sewed thereon, or otherwise securely attached thereto, a statement in the English language of the kind of material used for filling in the manufacture of such article, the name of the manufacturer or vendor, and, also, if the material has previously been used, the words "second hand" and, unless, if any such article is enclosed in a bale, box, crate or other receptacle, there shall be plainly marked upon such receptacle, or upon a tag securely attached thereto, a statement that the contents of the package are marked as herein required. Whoever renovates or remakes any mattress shall attach a tag thereto

13 bearing the word "remade" and a statement of the kind of material used
 14 for filling. Possession of any article of bedding or article of upholstered
 15 furniture not marked as provided herein, by any person engaged in the
 16 business of manufacturing, selling or offering for sale any such article,
 17 shall be prima facie evidence that such article is being manufactured,
 18 remade or renovated, or is offered or exposed for sale, in violation of the
 19 provisions of this section. If none of the material used for filling any
 20 article of bedding or article of upholstered furniture shall have been pre-
 21 viously used the tag shall in addition bear the words "manufactured of
 22 new material". The tag required by this section shall be of durable
 23 muslin or linen, or in the case of articles of upholstered furniture, of paper
 24 or cloth permanently pasted or attached to each such article and shall be
 25 in such form as shall be prescribed by the department of public health.
 26 If what is known in the trade as "sweeps" or "sweepings" is used in the
 27 filling of any article of bedding, such material shall be named "mill
 28 sweepings" on any tag required under this section and if material known
 29 in the trade as "oily sweeps" or "oily mill sweepings" is used in the filling
 30 of any article of bedding such material shall be named "oily mill sweep-
 31 ings" on any tag required under this section. The tag shall be securely
 32 sewed at least by one edge to the outside seam of the ticking or cover of
 33 every article of bedding to be manufactured, before the material used for
 34 filling has been placed inside the ticking or cover. No tag shall bear any
 35 misleading term or description.

1 SECTION 271. No person shall use, in the manufacture of any article
 2 of bedding or article of upholstered furniture for purposes of sale, or sell
 3 or offer or expose for sale, or have in possession for the purpose of such
 4 use or for sale or for use in the remaking or renovating of any such article,
 5 any material which has previously been used in or about a hospital, or
 6 on or about the person of any one having an infectious or contagious
 7 disease, nor shall any person sell, or offer or expose for sale, any such
 8 article containing materials which have previously been so used.

Use of certain
 material
 prohibited.
 1913, 148, § 3.
 1923, 226, § 3.
 1928, 307, § 3.
 [Penalty, § 277.]

1 SECTION 272. No person shall sell or offer for sale any second hand
 2 hair, down, feathers, wool, cotton, kapok or other materials commonly
 3 used for filling articles of bedding or articles of upholstered furniture,
 4 representing the same to be new material. No person engaged in the
 5 business of selling any such materials shall ship any box, crate, package
 6 or other container in which is placed any such hair or other material
 7 above specified unless there is attached thereto a tag containing a state-
 8 ment of the contents of the package together with the name of the
 9 vendor, and if the material has been used before, with the words "second
 10 hand". Violation of any provision of this section shall be punished by
 11 a fine of not more than five hundred dollars or by imprisonment for not
 12 more than six months, or both.

Sale, etc., of
 second hand
 hair, etc.,
 regulated.
 Penalty
 1919, 123.
 1923, 226, § 3.
 1928, 307, § 4.

1 SECTION 273. The department of public health, whenever there is
 2 reason to believe that any provision of sections two hundred and sev-
 3 enty to two hundred and seventy-seven, inclusive, is being violated in
 4 any factory, shop, warehouse, store or other place, shall cause an investi-
 5 gation to be made of any such place, and for this purpose any member
 6 or duly authorized employee of the said department may enter such
 7 building or other place at all reasonable times. If, upon investigation,
 8 articles of bedding or articles of upholstered furniture, or materials for

Investigation,
 etc., by de-
 partment of
 public health
 Certain articles
 to be marked
 "unclean".
 Penalty for
 interference
 1915, 148, § 3.
 1919, 350, § 90.
 1923, 226, § 4.
 1928, 307, § 5.

use in the manufacture, remaking or renovation of the same, shall there 9
 be found, which have been previously used in or about a hospital, or on 10
 or about the person of any one having an infectious or contagious dis- 11
 ease, such materials or articles, whether manufactured, remade or reno- 12
 vated or in process of manufacture, remaking or renovation, shall be 13
 marked by the said department with labels bearing the word "unclean" 14
 in conspicuous letters, and the said department, with or without notice 15
 to the owner or supposed owner, may order the removal and destruction 16
 of the said materials or articles or make such other order relating thereto 17
 as the circumstances of the case require. Whoever obstructs, hinders or 18
 in any way interferes with any duly authorized employe of the depart- 19
 ment in the performance of his official duties under this and the fol- 20
 lowing sections shall for the first offence be punished by a fine of not 21
 more than fifty dollars and for a subsequent offence by a fine of not 22
 more than one hundred dollars. 23

Posting of
 notices, etc.
 Penalty for
 removal
 1915, 148, § 5
 §§ 4, 6.

SECTION 274. The said department, or its duly authorized employe, 1
 whenever it is deemed necessary to safeguard the public health, may 2
 post upon any building or part thereof containing materials or articles 3
 mentioned in the preceding section, or from which the same have been 4
 removed, a notice or warning of the danger of contagion or infection 5
 resulting from the violation of sections two hundred and seventy to two 6
 hundred and seventy-seven, inclusive, and may continue such notice 7
 upon the said premises until the same have been properly cleaned and 8
 disinfected. Whoever removes or effaces such notice or warning except 9
 by order of the said department shall be punished by a fine of not more 10
 than fifty dollars. 11

Police, etc., to
 notify depart-
 ment, etc.,
 when
 1915, 148, § 5
 1919, 550, § 96.

SECTION 275. Any police officer, member of any local board of health, 1
 or other town official, who has reason to believe that any provision of 2
 sections two hundred and seventy to two hundred and seventy-seven, 3
 inclusive, has been or is being violated, shall give notice thereof to the 4
 department of public health. 5

Penalty for
 removal, etc.,
 of marking
 or tag, etc.
 1915, 148,
 §§ 1, 6.

SECTION 276. Whoever, except a purchaser at retail, removes or 1
 effaces any marking upon any article or receptacle or any tag or label 2
 attached thereto as provided in section two hundred and seventy shall 3
 be punished by a fine of not more than fifty dollars. 4

Penalty for
 violation of
 §§ 270 and 271.
 1915, 148, § 6
 1925, 226, § 5

SECTION 277. Whoever violates any provision of section two hundred 1
 and seventy or two hundred and seventy-one shall be punished by a fine 2
 of not more than five hundred dollars or by imprisonment for not more 3
 than six months, or both. 4

NAILS.

Nails and
 brads, how to
 be made and
 packed.
 1799, 64, § 5
 1802, 103, § 5.
 1826, 122, § 4.
 R. S. 28,
 §§ 163, 164
 G. S. 89, § 152.
 P. S. 60, § 56.

SECTION 278. Wrought, cut or wire nails and brads of all sizes man- 1
 ufactured in the commonwealth shall be well made, packed free from 2
 waste pieces of iron unless they are refuse nails or brads, and free from 3
 any fraudulent mixture increasing the weight, in strong and sufficient 4
 casks of season timber, well hooped, containing not more than three 5
 hundred pounds each. 6

1 SECTION 279. Each cask of wrought, cut or wire nails or brads shall
 2 be marked or branded on the head by the manufacturer, in plain, legible
 3 letters in the English language, with his name and the net weight of the
 4 contents of the cask.

G. S. 49, § 153. P. S. 60, § 57. 1892, 63, § 1. R. L. 57, § 56.

Casks, how to
 be branded
 1799, 64, § 1.
 1802, 103, § 5.
 1826, 122, § 1.
 1837, 111, § 1.

1 SECTION 280. If a cask, package or quantity of wrought, cut or wire
 2 nails or brads, manufactured in the commonwealth or elsewhere and
 3 not branded or marked as provided in the preceding section, is offered
 4 or exposed for sale within the commonwealth or put on board a vessel
 5 or vehicle, unless to be carried out of the commonwealth, it shall be
 6 forfeited.

G. S. 49, § 154. P. S. 60, § 58. 1892, 63, § 2. R. L. 57, § 57.

Penalty for
 selling, etc.,
 casks, etc., of
 nails, etc., not
 branded.
 1799, 64, § 4
 1802, 103, § 6
 1826, 122, § 2
 R. S. 28, § 165.

1 SECTION 281. Whoever counterfeits a brand used or intended to be
 2 used for the purpose of marking a cask of nails or brads, or destroys or
 3 alters a mark or impression made by another's brand on a cask of wrought,
 4 cut or wire nails or brads, and causes a different impression by such
 5 counterfeit brand to be marked or impressed thereon, or shifts any such
 6 nails or brads from one branded cask to another and thereby avails him-
 7 self of another's brand, shall forfeit twenty dollars.

Penalty for
 counterfeiting
 brand, etc.
 1799, 64, § 8.
 1802, 103, § 7.
 1826, 122, § 3.
 R. S. 28, § 166.
 G. S. 49, § 155.
 P. S. 60, § 59.
 1892, 63, § 3.
 R. L. 57, § 58.

1 SECTION 282. All forfeitures recovered under the two preceding sec-
 2 tions shall be divided equally between the informer and the common-
 3 wealth.

1802, 103, § 9. R. S. 28, § 168. R. L. 57, § 59.
 1826, 122, § 5. 1892, 63, § 4

Disposition of
 forfeitures.
 1799, 64,
 §§ 4, 9.

SLOT MACHINES, ETC.

1 SECTION 283. No person shall maintain any slot machine or other
 2 automatic device, except gas meters, electric meters and telephones,
 3 which, upon the deposit therein of any coin or other article of value,
 4 furnishes music or other entertainment, exhibits pictures, provides facil-
 5 ities for weighing, supplies any merchandise or other thing, or renders
 6 any service, or is represented to do or perform any of the above men-
 7 tioned things, unless such machine or device is of a type approved by the
 8 director of standards; but no person maintaining such machine or device
 9 with respect to which, or to the operation, service or supplies of which,
 10 there is any element of chance shall be protected or be entitled to im-
 11 munity from prosecution because of such approval.

Slot machines
 and other auto-
 matic devices,
 use regulated.
 1920, 325,
 §§ 1, 3.

1 SECTION 284. Whoever installs or maintains a machine or device
 2 mentioned in the preceding section which is of a type not approved as
 3 therein provided shall, if such machine or device fails properly to respond
 4 to the insertion or deposit therein of a coin or other article of value, be
 5 punished by a fine of not more than twenty-five dollars.

Penalty.
 1920, 325, § 2.

THREAD.

1 SECTION 285. Each manufacturer of cotton, linen or silk sewing
 2 thread, and each person engaged in putting up such thread on spools,
 3 or in packages of four ounces weight or less not wound on spools, shall,
 4 before the same is offered for sale, affix to or impress upon each spool
 5 of such thread, and upon each package of such thread not wound on
 6 spools, a label or stamp plainly and conspicuously designating the quan-

Sewing thread
 to be labelled.
 1869, 120, § 1.
 1878, 169, § 1.
 1880, 119, § 1.
 P. S. 60, § 63.
 R. L. 57, § 61.

tity of thread which such spool or package contains, either by giving the length in yards or by giving the weight. 7
8

Penalty for neglect to affix label. 1869, 120, § 2. 1878, 169, § 2. P. S. 60, § 64. R. L. 57, § 62.

SECTION 286. Each person referred to in the preceding section who neglects to affix a correct label to or to impress a correct stamp upon each spool and package of thread, or who affixes to or impresses upon, or causes or suffers to be affixed to or impressed upon any spool or package of thread intended for sale, a label or stamp specifying that such spool or package contains a greater number of yards or a greater quantity of thread by five per cent than such spool or package does contain, shall forfeit five dollars for each spool or package so without a label or stamp or so falsely labelled or stamped which is sold or delivered to any person to be sold; one half to the use of the commonwealth and one half to the use of the person who sues therefor. 1
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Penalty for selling thread falsely labelled. 1869, 120, § 3. 1878, 169, § 1. 1880, 119, § 1. P. S. 60, § 65. R. L. 57, § 63.

SECTION 287. A merchant, jobber or trader who sells or offers for sale cotton, linen or silk sewing thread, put up either on spools, or in packages of the weight of four ounces or less not wound on spools, which is not labelled or stamped, or which is falsely labelled or stamped as regards length or quantity by an amount greater than five per cent of the true length or quantity, shall be liable to the penalty provided in the preceding section. 1
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Certain bobbins exempted. 1878, 169, § 5.

SECTION 288. The three preceding sections shall not apply to ready wound bobbins of thread adapted for use in sewing machine shuttles. 1
2

P. S. 60, § 60.

R. L. 57, § 64

TURPENTINE, PAINTS AND LINSEED OIL.

Manufacture and sale of turpentine regulated. Penalty. 1908, 531, §§ 1, 4. 1911, 266, §§ 1, 4, 5.

SECTION 289. No person shall manufacture, mix for sale, dispose of, offer or expose for sale, have in possession with intent to sell or dispose of, or sell under the name of turpentine, or spirits of turpentine, or under any name or phrase of which the word turpentine forms a part, or under any name or device illustrating or suggesting turpentine or spirits of turpentine, any article which is not wholly distilled from rosin, turpentine gum, or scrapings from pine trees, unmixed and unadulterated with any other substance, unless the package containing the same shall be stencilled or marked, with letters not less than two inches in height and one inch in width, "Adulterated Spirits of Turpentine", except that these letters upon packages of one gallon capacity, or less, may be reduced to one fourth of the said size. No person shall sell or deliver such adulterated spirits of turpentine without informing the purchaser at the time of sale that the article is not pure spirits of turpentine. Nothing herein contained shall be construed as prohibiting the manufacture or sale of such compound or imitation, if the container is plainly marked and the purchaser notified as aforesaid. 1
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Whoever violates any provision of this section shall be punished for the first offence by a fine of one hundred dollars, for the second offence by a fine of two hundred dollars, and for a subsequent offence by a fine of five hundred dollars or by imprisonment for not more than one month, or both. 18
19
20
21
22

Enforcement of preceding section.

SECTION 290. The state police and all local police authorities shall enforce the preceding section. 1
2

1 SECTION 291. No person shall sell, offer or expose for sale, or dispose
 2 of, or have in possession with intent to sell or dispose of, any paint or
 3 linseed oil which is labelled or marked in such manner as to deceive, or
 4 to tend to deceive, any person as to its nature or composition.

Sale of paint
 and linseed oil
 regulated
 1908, 531, § 1.

1 SECTION 292. The having in possession, by any person dealing in
 2 such articles, of any article or substance designated in section two hun-
 3 dred and eighty-nine or two hundred and ninety-one, and marked or
 4 labelled contrary to said sections, shall be prima facie evidence that the
 5 same is kept by such person in violation of the provisions thereof.

Possession of
 incorrectly
 labelled, etc.,
 paint, etc.
 1908, 531, § 3.

1 SECTION 293. Upon the written complaint of any person aggrieved by
 2 any violation of section two hundred and eighty-nine or two hundred and
 3 ninety-one, the state police and their agents may enter any place of
 4 business, store or building where the sale of paint, turpentine or linseed
 5 oil is carried on, and open and inspect any package, can, jar, tub or other
 6 receptacle containing articles which might be sold or exposed for sale in
 7 violation of said sections, and may appoint and remove inspectors, an-
 8 alysts and chemists for the purpose of inspecting or analyzing the contents
 9 of any such receptacle. Inspectors so appointed shall have the same
 10 powers and authority relative to the articles aforesaid as are given by
 11 sections thirty-three, thirty-five and sixty to the inspectors named
 12 therein.

Certain duties
 of police. In-
 spectors, etc.
 1908, 531, § 5
 1919, 350,
 §§ 99, 101

1 SECTION 294. Whoever hinders, obstructs or in any way interferes
 2 with any inspector, analyst or other officer appointed or acting under
 3 the preceding section while in the performance of his official duty shall be
 4 punished for the first offence by a fine of not more than fifty dollars, and
 5 for a subsequent offence by a fine of not more than one hundred dollars.

Penalty for
 interference,
 etc., with
 inspector, etc.
 1908, 531, § 6

1 SECTION 295. Whoever violates any provision of section two hundred
 2 and ninety-one shall be punished by a fine of not less than twenty-five
 3 nor more than one hundred dollars or by imprisonment for not more than
 4 two months.

Penalty for
 unlawful sale,
 etc., of paint,
 etc.
 1908, 531, § 4

WOOD AND BARK.

1 SECTION 296. A town and the city council of a city shall annually
 2 choose one or more measurers of wood and bark, who shall be sworn to
 3 the faithful performance of their duties and shall hold office during the
 4 year and until others are chosen and qualified in their stead. A town,
 5 by vote fixing the number to be chosen, may delegate the appointment of
 6 such measurers to the selectmen.

Measurers of
 wood and bark.
 C. L. 156
 1705-6, 8, § 2
 1758-9, 16, § 2
 1772-3, 8, § 2.
 1779-80,
 17, § 2
 1796, 107, § 2

R. S. 15, §§ 33, 38.

G. S. 18, §§ 31, 37.

P. S. 60, § 72.

R. L. 57, § 75.

1 SECTION 297. Such measurers may, in the manner prescribed for
 2 measurers of lumber in section eight of chapter ninety-six, be licensed to
 3 act in a town adjoining that for which they are elected or appointed.

Measurers may
 act in adjoining
 town
 1894, 83, § 2
 R. L. 57, § 76.

1920, 551, § 6.

1 SECTION 298. Cord wood sold or offered or exposed for sale shall be
 2 four feet in length, including half the kerf. The term "firewood" shall
 3 be construed to mean and include wood cut to any lengths of less than
 4 four feet. The standard unit of measure for cord wood or firewood shall

Cord wood,
 dimension-
 Standard unit
 defined
 C. L. 156,
 § 2; 160
 1705-6, 8, § 1.

1758-9, 16, § 1.
1772-3, 8, § 1.
1796, 67, § 1.
1827, 19, § 1.
R. S. 28, § 200.

be the "cord" of one hundred and twenty-eight cubic feet consisting of 5
or equivalent to a pile, closely stacked, eight feet in length, four feet in 6
width and four feet in height. 7

G. S. 49, § 181.
P. S. 60, § 73.

R. L. 57, § 77.
1921, 251, § 1.

2 Allen, 317.

[Penalty, § 299.]

Certificate or
memorandum.

Contents.
Penalty
1758-9, 16, § 3.
1772-3, 8, § 3.
1779-80,
17, § 1.
1796, 67, § 3.
R. S. 28, § 201.
G. S. 49, § 182.
P. S. 60, § 74.
R. L. 57, § 78.
1921, 251, § 2.

SECTION 299. Whoever, except as otherwise provided, sells cord wood 1
or firewood, shall cause a certificate or memorandum to be issued and 2
delivered to the purchaser or his agent at the time of delivery of the wood, 3
or as soon thereafter as practicable. Such certificate or memorandum 4
shall include the names and addresses of the seller and of the purchaser, 5
and a statement of the quantity of wood delivered, in terms of cords or 6
cubic feet. Whoever violates any provision of this or the preceding 7
section shall be punished by a fine of not more than fifty dollars. 8

7 Cush. 371.

Op. A. G. (1918) 23.

Fees of

measurers.
C. L. 156.
1705-6, 8, § 2.
1710-11, 4
1758-9, 16, § 2.
1772-3, 8, § 2.

SECTION 300. Measurers of wood and bark shall be entitled to such 1
fees for their services as the aldermen or selectmen shall establish; and 2
the fees shall in each case be paid to the measurer by the driver and 3
shall be repaid by the purchaser. 4

1779-80, 17, § 2.
1796, 67, § 2.

R. S. 28, § 202.
G. S. 49, § 183.

P. S. 60, § 75.
R. L. 57, § 79.

Measurement
of water borne

wood
1799, 26, § 1.
1830, 27, § 2.
R. S. 28, § 203.
G. S. 49, § 184.
P. S. 60, § 76.
R. L. 57, § 80.

SECTION 301. Cord wood brought by water into a town for sale, and 1
landed, shall be measured by a public measurer; and for that purpose the 2
wood shall be corded and piled by itself in ranges, making up in height 3
what is wanting in length, and, being so measured, a ticket shall be given 4
to the purchaser, who shall pay the stated fees for such service. Towns 5
may establish ordinances and by-laws, with suitable penalties, for the 6
inspection, survey, measurement and sale of wood and bark for fuel 7
brought therein for sale, and may also provide for the appointment of 8
inspectors, surveyors and other officers and establish their fees. 9

Tickets showing
quantity
in load. Cer-
tain sections
not to apply.

1758-9, 16,
§ 3, 4, 5.
1772-3, 8,
§ 3, 4, 5.
1779-80,
17, § 1.
1796, 67, § 4.
1799, 26, § 2.
R. S. 28, § 204.
G. S. 49, § 185.
P. S. 60, § 77.
R. L. 57, § 81.

SECTION 302. Each wharfinger, carter or driver who conveys firewood 1
or bark from a wharf or landing place shall be furnished by the owner or 2
seller with a ticket certifying the quantity which the load contains and 3
the name of the driver; and if firewood or bark is thus conveyed without 4
such ticket accompanying the same, or if a driver refuses to produce and 5
show such ticket to any sworn measurer on demand, or to give his con- 6
sent to have the same measured, or if such ticket certifies a greater quan- 7
tity of wood or bark than the load contains in the opinion of such meas- 8
urer after measuring the same, the driver and owner shall for each load 9
thereof severally forfeit five dollars. Sections two hundred and ninety- 10
six to three hundred and three, inclusive, shall not apply to a person who 11
transports or carts or causes to be transported or carted from a wharf or 12
landing place to his own dwelling house or store cord wood or bark which 13
he has purchased on a wharf or landing place, or which he has landed 14
thereon upon his own account. 15

Inspection and

sale of bark,
slabs, etc.
1830, 27.
1854, 361
G. S. 49, § 186
P. S. 60, § 78
1891, 136
R. L. 57, § 82

SECTION 303. The city council of a city may establish ordinances, 1
with suitable penalties not exceeding five dollars for any one violation 2
thereof, for the regulation of the sale of prepared wood, slabs and edgings 3
for fuel, when sold by the load, and for the inspection, survey, measure- 4
ment and sale of bark for fuel or manufacturing purposes brought into said 5

6 city for sale, whether the same is exposed for sale in ranges or upon a
 7 vehicle; and said city may provide for the appointment of such sur-
 8 veyors, inspectors and other officers as may be necessary to carry into
 9 effect said ordinances and may establish their fees.

GENERAL PROVISIONS AND PENALTIES.

1 SECTION 304. Whoever offers or exposes for sale or delivers to a pur-
 2 chaser any drug or article of food, shall, upon application of an inspector,
 3 analyst or other officer or agent of the department of public health and
 4 upon tender of the value thereof, furnish a sample sufficient for the
 5 analysis of any such drug or article of food which is in his possession.
 6 Violation of this section shall be punished by a fine of not less than
 7 twenty-five nor more than five hundred dollars.

Vendor to fur-
 nish sample
 for analysis,
 when.
 Penalty.
 1882, 263, § 6.
 R. L. 75, § 20.
 1914, 702, § 1.
 1919, 350, § 96.
 1921, 486, § 27.

1 SECTION 305. Whoever, with intent to defraud or injure, in baling
 2 or in packing in any container any commodity sold by weight, including
 3 wool, leather, cotton, waste, rags and paper, places therein any substance
 4 foreign to the contents thereof shall be punished for the first offence by
 5 a fine of not more than one hundred dollars, for the second offence by a
 6 fine of not more than two hundred dollars, and for a subsequent offence
 7 by a fine of fifty dollars and imprisonment for not less than one nor more
 8 than three months.

Penalty for
 fraud in pack-
 ing certain
 commodities.
 1919, 63.
 252 Mass. 105.

1 SECTION 305A. Unless another penalty is provided under this chap-
 2 ter or sections thirty-four to forty-nine, inclusive, of chapter one hundred
 3 and eleven, whoever for the purpose of sale manufactures, prepares,
 4 packs, cans, bottles, keeps, exposes, stores, handles, serves, or distributes
 5 in any manner, food in or from an unclean, unsanitary or unhealthful
 6 establishment, place or vehicle or under unclean, unsanitary or unhealth-
 7 ful conditions shall be punished for the first offence by a fine of not more
 8 than one hundred dollars and for a subsequent offence by a fine of not
 9 more than five hundred dollars. The provisions of this section relative
 10 to the keeping or exposing for sale of food shall not apply in any city or
 11 town where rules and regulations made by its board of health under
 12 section one hundred and forty-six, or corresponding provisions of earlier
 13 laws, are in force. For the purposes of this section, the word "food"
 14 shall mean and include all articles, whether simple, mixed or compound,
 15 used or intended to be used for food or drink, confectionery or condiment,
 16 by human beings, except milk and cream.

General
 penalty for
 improper man-
 ufacture, etc.,
 of food.
 Exceptions.
 "Food"
 defined.
 1924, 50.

1 SECTION 305B. The commissioner of public health, on his own
 2 initiative or at the request of a local board of health, may require any
 3 person working in an establishment engaged wholly or in part in the
 4 business of producing, manufacturing, processing, storing or offering
 5 or exposing for sale any article of food and whose duties actually in-
 6 volve the handling of food during such production, manufacture,
 7 processing, storing or offering or exposing for sale, to submit to thorough
 8 examination by the department of public health, hereinafter called
 9 the department, or by the local board of health, if said commissioner
 10 has reason to believe that the examination of such person is necessary
 11 for the protection of the public health, to ascertain whether or not he
 12 is afflicted with any contagious, infectious or other disease or physical

Medical exami-
 nation of per-
 sons engaged in
 handling food.
 Employment
 of certain
 persons
 penalized.
 "Food"
 defined.
 1928, 229, § 1.

ailment which might render such employment detrimental to the public health, and whether or not, in the opinion of the department, he is a carrier, so called, of such a disease. Such examination shall be made by a physician duly registered and licensed to practice in the commonwealth, and shall be made without charge to the person examined at the expense of the department or of the local board requesting it. Such examination may include the taking of samples of body fluids, secretions or excretions for examination. Any person so examined may have his physician present at the examination, and, at the request of the person so examined and at his expense, additional samples may be taken for examination at any laboratory approved by the department, but pending the report from the examination of such additional samples the person so examined shall be subject to the rules and regulations of the department made hereunder. The department, and local boards of health within their respective jurisdictions, shall enforce the provisions of this section, and the department may make rules and regulations consistent with said provisions to carry out the purposes thereof. No owner, manager or person in charge of such an establishment shall knowingly require or permit any person who is found upon examination to be afflicted or to be a carrier as aforesaid, or who refuses to submit to such examination, if required so to submit, to continue to work therein in the performance of duties actually involving the handling of food as aforesaid. Whoever violates any provision of this section or of any rule or regulation made thereunder shall be punished by a fine of not less than ten nor more than one hundred dollars. For the purposes of this section, the word "food" shall mean and include all articles, whether simple, mixed or compound, used or intended to be used for food or drink, confectionery or condiment, by human beings.

General
penalty
relative to
branding or
marking
articles.
R. S. 28, § 56.
G. S. 49, § 29.
P. S. 56, § 13.
R. L. 56, § 2.

SECTION 306. Unless another penalty is provided in this chapter, whoever counterfeits any brand required by this chapter or whoever without authority marks or brands any article required to be inspected, or marks or brands such article with a counterfeited brand, shall be punished by a fine of not more than two hundred dollars; and whoever alters or defaces any marks or brands made by an inspector of milk or collector of samples of milk under this chapter, unless another penalty is provided, shall be punished by a fine of not more than twenty-five dollars.

CHAPTER 95.

MEASURING OF LEATHER.

SECT.

1. Measurers of leather, appointment, etc.
2. Measurers may act in any city or town.
3. Duties of measurer.

SECT.

4. Penalty for selling leather not measured, etc.
5. Penalty for altering or counterfeiting measurers' marks.

1 SECTION 1. The mayor of a city or the selectmen of a town, upon
 2 the request of two or more voters thereof, shall annually appoint one or
 3 more measurers of leather who have been certified by the director of
 4 standards as fit persons for such appointment, and who shall be sworn
 5 to the faithful performance of their duty. The director of standards
 6 may at any time, for cause, revoke such certificate of fitness, and such
 7 revocation shall immediately render such appointment void.

Measurers
of leather,
appointment,
etc.
1841, 119, § 1
G. S. 49, § 112
P. S. 62, § 1.
R. L. 59, § 1.
1913, 502, § 1
1919, 350, § 77.

1 SECTION 2. A measurer of leather for one town may measure leather
 2 in any other town.

Measurers may
act in any city
or town.

1866, 236, § 2. P. S. 62, § 2. R. L. 59, § 2. 1913, 502, § 2.

1 SECTION 3. Each measurer, upon request, shall go to any place
 2 within the town for which he is appointed and there ascertain the area
 3 of each skin or side or other portion of leather submitted to him. For
 4 this purpose, he shall use only such racks, measures or mechanical
 5 devices as have been legally tested and sealed, and shall mark or cause
 6 each skin or side or other portion of leather to be marked with indelible
 7 figures giving the measurement thereof in square feet, including frac-
 8 tions as small as one quarter of a foot. After the area of any skin or side
 9 or other portion of leather has been determined as aforesaid, it shall be
 10 permissible to add one quarter of a foot to such measurement for any
 11 remaining fraction greater than one eighth of a foot; but no such re-
 12 maining fraction of less than one eighth of a foot shall be added or
 13 included in such measurement.

Duties of
measurer.
1841, 119,
§§ 2, 3.
G. S. 49, § 113.
P. S. 62, § 3.
R. L. 59, § 3
1913, 502, § 3.

1 SECTION 4. Whoever sells or offers leather for sale by measure shall
 2 cause the same to be measured by a sworn measurer unless such leather
 3 has previously been measured by a sworn measurer of a town in the
 4 commonwealth, or by some person lawfully appointed therefor in any
 5 other state, or unless the measurement thereof has been expressly waived
 6 in writing by the buyer and seller thereof. Whoever violates this section
 7 shall be punished by a fine of not less than ten nor more than fifty dollars.

Penalty for
selling leather
not measured,
etc.
1866, 236,
§§ 3, 4.
P. S. 62, §§ 4, 5.
R. L. 59, § 4
1913, 502, § 4.

1 SECTION 5. Whoever counterfeits or causes to be counterfeited, or,
 2 not being a sworn measurer, alters or defaces with intent to deceive, a
 3 measurer's marks on a skin or side or other portion of leather shall be
 4 punished by a fine of twenty-five dollars.

Penalty for
altering or
counterfeiting
measurers'
marks.

1841, 119, § 4. P. S. 62, § 7. 1913, 502, § 5.
G. S. 49, § 115. R. L. 59, § 6.

CHAPTER 96.

MEASUREMENT OF LUMBER.

SECT.

1. [Repealed.]
2. [Repealed.]
3. [Repealed.]
4. [Repealed.]
5. [Repealed.]
6. [Repealed.]
7. Measurers of lumber.
8. Measurers may be licensed to act in adjoining towns.

SECT.

9. Penalty for fraud in measuring.
10. Penalty for inducing, etc., measurer to make false measurement.
11. Penalty for misrepresentation of authority.
12. [Repealed.]

SECTION 1. [REPEALED, 1924, 25S, § 3.] 1

SECTION 2. [REPEALED, 1924, 25S, § 3.] 1

SECTION 3. [REPEALED, 1924, 25S, § 3.] 1

SECTION 4. [REPEALED, 1924, 25S, § 3.] 1

SECTION 5. [REPEALED, 1924, 25S, § 3.] 1

SECTION 6. [REPEALED, 1924, 25S, § 3.] 1

Measurers of
lumber
1710-11, 7, § 1.
1743-4, 22, § 1.
1783, 15, § 1.
R. S. 28, § 141.
1858, 164, § 1.

SECTION 7. Towns may annually elect one or more measurers of lumber, who shall be sworn to the faithful performance of their duties, and cities may by ordinance provide for the annual appointment of such measurers. 1
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4

G. S. 18, § 31;
49, § 131.

P. S. 63, § 6.
R. L. 60, § 6.

1920, 551, §§ 5, 12.
119 Mass. 285.

Measurers
may be
licensed to act
in adjoining
towns.
1894, 83,
§§ 1, 3.
R. L. 60, § 7.
1902, 477, § 2.
1920, 551,
§§ 6, 12.

SECTION 8. A measurer of lumber in any town may apply to the selectmen of an adjoining town for a license to measure lumber therein, and if the selectmen are of the opinion that it will be for the public convenience they may, upon payment of a fee not exceeding one dollar, grant such license, and may limit the territory in which such license may be exercised. Such a license shall remain in force while the licensee holds the office of measurer in the town for which he was chosen, but not later than the next annual town meeting of said town. 1
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Penalty for
fraud in
measuring
1783, 15, § 8.
R. S. 28, § 153.
1858, 164, § 12.
1859, 224, § 4.
G. S. 49, § 142.
1878, 65, § 4.

SECTION 9. A measurer of lumber for any city or town who is guilty of or connives at a fraud or deceit in measuring, marking or numbering the contents of any kind of wood or lumber, or who, when lawfully requested, refuses without good reason to measure lumber, shall be punished by a fine of not less than fifty nor more than two hundred dollars. 1
2
3
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P. S. 63, § 17
R. L. 60, § 16.

1920, 551, §§ 8, 12.
1924, 258, § 4.

Penalty for
inducing, etc.,
measurer to
make false
measurement.

SECTION 10. A seller or purchaser of lumber who induces or attempts to induce a measurer to make a false measurement shall be punished by a fine of not less than fifty nor more than two hundred dollars. 1
2
3

1878, 65, § 5.
P. S. 63, § 18.

R. L. 60, § 17.
1920, 551, §§ 9, 12.

1924, 258, § 5.

1 SECTION 11. Whoever without authority represents himself to be an official measurer of lumber of any city or town shall be punished by a fine of not less than fifty nor more than two hundred dollars.

1858, 164, § 14.
G. S. 49, § 144.
P. S. 63, § 19.

1890, 150, § 7.
R. L. 60, § 18.
1920, 551, §§ 10, 12.

1924, 258, § 6.
1 Op. A. G. 78.

Penalty for misrepresentation of authority.

1 SECTION 12. [REPEALED, 1924, 258, § 3.]

CHAPTER 97.

SURVEYING OF LAND.

SECT.	SECT.
1. Posts indicating meridian lines, access to. Penalty for injury.	4. Appointment of person other than sealer to make test.
2. Surveyors to adjust compasses annually and record, etc.	5. Tests to be based on state standards.
3. Annual test of surveyors' apparatus. Penalty.	6. Fees for testing.
	7. Penalty for failure to adjust compass, etc.

1 SECTION 1. The posts or pillars erected pursuant to chapter two hundred and eighty-six of the acts of eighteen hundred and seventy to indicate the true meridian lines shall remain the property of the respective counties in which they are situated, under the care of the county commissioners, and shall be accessible to any surveyor or civil engineer residing in the same county or engaged in surveying therein, for the purpose of testing the variation of the compass for the time being. Whoever wilfully displaces, alters, defaces, destroys or otherwise injures any of the aforesaid posts or the fixtures thereof, shall be punished by a fine of not more than two hundred dollars, to be divided between the complainant and the county.

Posts indicating meridian lines, access to. Penalty for injury.
1870, 286, §§ 1, 7.
P. S. 64, §§ 1, 5.
R. L. 61, §§ 1, 4.

1 SECTION 2. Every land surveyor shall, at least once in every year, adjust and verify his compass by the meridian line so established in the county in which his surveys are to be made, insert in his field notes both the true and the magnetic bearings of the lines of his surveys and the days on which such lines were run and shall enter in a book open to public inspection, to be provided by the commissioners of each county and kept by the clerk of courts, or by a person appointed by the commissioners therefor, the variation of his compass from the true meridian, whether east or west, and shall sign and make oath to such entry.

Surveyors to adjust compasses annually and record, etc.
1870, 286, §§ 3, 4.
P. S. 64, §§ 2, 3.
R. L. 61, § 2.

1 SECTION 3. All apparatus for linear measurements used by a land surveyor shall be annually tested and proved by the sealer of weights and measures in the town where such surveyor resides or has his office, and all chains, tapes or other apparatus used for linear measurements which cannot be made to conform to the standard shall be marked "condemned", or "CD", by said sealer, and any surveyor who thereafter uses for measuring land any such apparatus shall be punished by a fine of twenty dollars.

Annual test of surveyors' apparatus. Penalty.
1871, 330, § 1.
P. S. 64, § 6.
R. L. 61, § 5.

Appointment of person other than sealer to make test
1871, 330, § 2.
P. S. 64, § 7
R. L. 61, § 6.

SECTION 4. The mayor and aldermen of a city or the selectmen of a town may appoint a suitable person, other than the sealer of weights and measures, to test, prove and mark the measuring apparatus of land surveyors.

Tests to be based on state standards
1871, 330, § 3.
P. S. 64, § 8.

SECTION 5. The standards used for such tests shall be based upon and shall correspond to the standards furnished by the commonwealth to sealers of weights and measures.

R. L. 61, § 7.

Fees for testing
1871, 330, § 4.
P. S. 64, § 9
R. L. 61, § 8

SECTION 6. The fees for such testing and proof of each article of apparatus shall be twenty-five cents, and shall be paid by the person presenting the apparatus for test.

Penalty for failure to adjust compass, etc.
1870, 286, § 5
1875, 13.
P. S. 64, § 4
R. L. 61, § 3.

SECTION 7. A surveyor who violates the provisions of section two, if he has used his compass to measure an angle in surveying within the year preceding, shall be punished by a fine of ten dollars, to be divided between the complainant and the county.

CHAPTER 98.

WEIGHTS AND MEASURES.

SECT.

1. Definitions.

STANDARDS.

2. Relation of avoirdupois pound to troy pound.
3. State standards.
4. Additional state standards. Replacements.
5. Municipal standards.
6. Safe keeping of municipal standards.
7. Penalty for neglect of town treasurer.
8. Vibrating steelyards.
9. State clinical standard thermometer.
10. Office clinical standard thermometers.
11. Tolerances, etc., for clinical thermometers.

WEIGHING AND MEASURING DEVICES.

12. Testing of clinical thermometers. Fees.
13. Manufacture, sale and sealing of clinical thermometers regulated. Designating marks.
14. Penalties for violation of preceding section.

SECT.

- 14A. Manufacture, sealing, etc., of glass bottles or jars intended to be used in sale of lubricating oils regulated. Designating marks.
15. Sealing of glass milk or cream bottles or jars. Designating marks.
16. Sealing and stamping of paper or fibre milk or cream bottles or jars.
17. Penalty for re-use of such bottles or jars.
18. Certain milk containers, sealing, etc. Designating marks.
19. Penalties for violation of preceding section.
20. Containers for sale of ice cream. Capacity, sealing, marking.
21. Sealers to inspect such container semi-annually.
22. Cartons for sale of viscous, etc., commodities regulated.
23. Testing, etc., of containers.
24. Penalty for unauthorized marking.
25. Marking of incorrect or unsealed devices. Penalty for removal of mark, etc.
26. Penalty for using, etc., false or condemned devices.

- SECT.
 27. Penalty for using unsealed devices.
 28. Value of goods sold by unsealed devices, etc., may be recovered, when.

POWERS AND DUTIES OF DIRECTOR OF STANDARDS AND INSPECTORS.

29. Certain duties of director of standards.
 30. Powers and duties of inspectors.
 31. Director, etc., to have seal, etc. Penalties.
 32. Tests and inspections of local standards and devices. Complaints. Penalties.
 33. Annual tests of devices used in state institutions, etc. Report of findings. Special deputies.

SEALERS OF WEIGHTS AND MEASURES.

34. Sealers and deputy sealers in cities and large towns.
 35. Sealers and deputy sealers in small towns.
 36. District sealers.
 37. Annual reports of sealers.
 38. Duplicate sets of apothecaries' weights, etc., to be provided upon request.
 39. Accountability to towns for standards, etc., received.
 40. Duplicate sets of weights, etc., to be provided and used.
 41. Annual tests and sealing. Notice, etc.
 42. Same subject. Procedure when notice disregarded, etc. Exceptions. Penalty.

- SECT.
 43. Testing of devices registering price.
 44. Testing of mechanical devices for measuring leather.
 45. Testing of taximeters. Penalty.
 46. Testing of devices used in standardizing production and in determining wages, capacity of tanks, etc., and the accuracy of automatic devices. Exceptions.
 47. Annual testing of apothecaries' weights, etc. Exceptions. Graduated glass measures; approval, designating marks, etc.
 48. Penalty for use of untested weights or measures.
 49. Annual test of hay and coal scales, etc.
 50. Sealer to test upon request, etc.
 51. Sealing of glass milk or cream bottles, etc.
 52. Sealer to test devices upon complaint, etc. Entry upon premises, when authorized. Penalty.
 53. Certain devices to be marked with stencil. Certificate, when authorized. Notice forbidding use of device. Penalty for removal.
 54. Seizure of certain devices for evidence. Disposition.
 55. Seizure of illegal devices. Disposition. Penalty.
 56. Fees of sealers.

ANNUAL REPORT OF COMMISSIONER.

57. Annual report of commissioner.
 58. [Repealed.]

1 SECTION 1. In this chapter the following words, unless a different
 2 meaning is required by the context or is specifically prescribed, shall have
 3 the following meanings:

4 "Director", director of standards of the department of labor and
 5 industries.

6 "Deputy", deputy sealer of weights and measures.

7 "Inspector", inspector of standards.

8 "Sealer", sealer of weights and measures.

9 "Weighing or measuring device", all weights, measures, scales, bal-
 10 ance beams, vibrating steelyards, and weighing or measuring devices
 11 used for weighing or measuring any commodity bought, sold or ex-
 12 changed or for hire or reward, computing scales and other devices having
 13 a device for indicating or registering the price as well as the weight or
 14 measure of a commodity offered for sale, taximeters and other forms of
 15 measuring devices used upon vehicles for determining the cost of trans-
 16 portation; and all machines and other forms of measuring devices used
 17 or intended to be used for determining the measurement of leather bought,
 18 sold or offered for sale.

Definitions
 1907, 535, § 1.
 1909, 412; 541.
 §§ 1, 2.
 1917, S. 98, § 1
 1919, 350, § 77
 199 Mass 503
 4 Op. A. G. 86

STANDARDS.

Relation of
avoirdupois
pound to
troy pound.
1894, 198, § 1.
R. L. 62, § 1.

SECTION 2. The avoirdupois pound shall bear to the troy pound the relation of seven thousand to five thousand seven hundred and sixty. The hundredweight shall contain one hundred avoirdupois pounds, and the ton twenty hundredweight.

State
standards.
C. L. 155;
279; 291.
1692-3, 30, § 1.
1705-6, 6, § 3.
1730-31, 18.
1799, 60, § 1.
1800, 54.
1803, 141.
R. S. 30,
§§ 1, 2, 4.
1847, 242,
§§ 1, 2; Res. 55.
G. S. 51,
§§ 1, 3.
P. S. 65,
§§ 1, 3.
1897, 443,
§§ 1, 2; 517.
1901, 103.
R. L. 62, § 3.
1907, 534, § 3.
1918, 218, § 1;
257, § 241.
1919, 5; 350,
§ 77.
1920, 2.

SECTION 3. The following weighing and measuring devices now in the custody of the director shall be the sole authorized standards, except as provided in sections four, nine and ten of this chapter, and in section one of chapter ninety-nine, and with the standards supplied under authority of said sections shall be called the state standards: a set of dry measures consisting of one half-bushel, eight, four, two and one quarts, one pint and one half-pint; a set of liquid measures consisting of one gallon, two and one quarts, one pint, two and one gills; a set of apothecaries' liquid measures consisting of one gallon, four, two and one pints, twelve, eight, six, four, three, two and one ounces, four, two and one drams, ten and five minims; a set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, three, two and one pounds, eight, six, four, three, two and one ounces, eight, six, four, three, two and one drams; a set of troy weights consisting of five thousand, three thousand, two thousand, one thousand, five hundred, three hundred, two hundred, one hundred, fifty, thirty, twenty, ten, five, three, two and one pennyweights, ten, six, five, four, three, two and one grains, one half a grain, twelve, ten, six, five, four, three, two and one ounces, five tenths, four tenths, three tenths, two tenths, one tenth, five one-hundredths, four one-hundredths, three one-hundredths, two one-hundredths, one one-hundredth, five one-thousandths, four one-thousandths, three one-thousandths, two one-thousandths, one one-thousandth, five ten-thousandths, four ten-thousandths, three ten-thousandths, two ten-thousandths and one ten-thousandth of an ounce; a set of apothecaries' weights consisting of twelve, six, two and one ounces, four, two and one drams, two and one scruples, ten, five, four, three, two and one grains, one half, one quarter and one tenth grains; a yard measure and three sets of balances.

Such standards shall be kept by the director, and he shall, at least once in five years, cause them to be compared with the standards of the United States government, and, if necessary, corrected to agree therewith.

Additional
state
standards.
Replacements.
1799, 60, § 1.
R. S. 30, § 3.
G. S. 51, § 2.
P. S. 65, § 2.
R. L. 62, § 7.
1918, 257,
§ 242.
1919, 5,
1920, 2.

SECTION 4. The state standards shall also include all weighing and measuring devices received from the United States under the resolution of congress approved June fourteenth, eighteen hundred and thirty-six, and all other weighing and measuring devices received from the United States as standard weights and measures, and such as have been or shall be supplied by the commonwealth and certified by the national bureau of standards. Weighing and measuring devices procured to replace the standards shall be preserved in the same form and of the same dimensions as required of said standards, and the denominations thereof shall be marked thereon.

Municipal
standards.
C. L. 155.
1730-31, 18.
1798-9, 24, § 1.

SECTION 5. Towns shall keep the following standard weights, measures and balances: A set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, two and one pounds, and eight, four,

4 two, one, one half, one quarter, one eighth and one sixteenth ounces;
 5 a set of dry measures consisting of one half-bushel, one eight-quart, one
 6 four-quart, one two-quart, one one-quart, one pint and one half-pint;
 7 a set of liquid measures consisting of one gallon, one half-gallon, one
 8 quart, one pint, one half-pint and one gill; one balance; one yard meas-
 9 ure; and each town hereafter incorporated shall be furnished by the
 10 director with a complete set of the foregoing standards. Each city and
 11 each shire town shall keep the meter and kilogram and the standard troy
 12 weights designated by the director.

1907, 534, § 3. 1918, 218, § 1; 257, § 243. 1920, 2.
 1909, 310, § 1. 1919, 5; 350, § 77. Op. A. G. (1919) 42.

1799, 60, § 2.
 1800, 54.
 R. S. 30, § 8.
 1847, 242, § 8;
 Res. 55.
 1848, 332, § 1.
 1850, 295.
 G. S. 51, § 4.
 1880, 229, § 1.
 P. S. 65, § 4.
 1890, 426,
 §§ 1, 2, 4.
 R. L. 62,
 §§ 11, 12.

1 SECTION 6. Town treasurers shall, at the expense of the towns, pro-
 2 vide therein accessible places for the safe and suitable keeping and preser-
 3 vation of the standards furnished by the commonwealth, which shall be
 4 used only as standards. The treasurer shall have the care and oversight
 5 thereof; shall see that they are kept in good order and repair; and if
 6 any are lost, destroyed or irreparably damaged, shall, at the expense of
 7 the town, replace them by similar standards. Towns may effect insurance
 8 on such standards for their own benefit.

1897, 443, §§ 3, 4. R. L. 62, § 15. 1909, 310, § 1.

Safe keeping
 of municipal
 standards.
 1692-3, 30, § 1.
 1799, 60, § 2.
 1800, 18.
 R. S. 30, § 5.
 1848, 332,
 §§ 2, 3.
 G. S. 51, § 5.
 1877, 150, § 2.
 P. S. 65, § 5.

1 SECTION 7. Every such treasurer who neglects to provide a suitable
 2 place for keeping such standards, or to keep them in good order and re-
 3 pair, or who suffers any of them through his neglect to be lost, damaged
 4 or destroyed, shall forfeit two hundred dollars.

G. S. 51, § 6. P. S. 65, § 6. 1897, 443, § 5. R. L. 62, § 16.

Penalty for
 neglect of town
 treasurer.
 1799, 60, § 2.
 R. S. 30, § 7.
 1848, 332, § 4.

1 SECTION 8. Vibrating steelyards may be used if each beam and the
 2 poises thereof are annually tried, proved and sealed by a sealer or deputy.

1816, 60. G. S. 51, § 15. R. L. 62, § 36.
 R. S. 30, § 22. P. S. 65, § 24.

Vibrating
 steelyards.
 1800, 32.

1 SECTION 9. A clinical standard thermometer supplied by the com-
 2 monwealth and certified by the national bureau of standards for use by
 3 the commonwealth, shall be the state clinical standard thermometer.
 4 Nothing in the five following sections shall be construed as adopting
 5 or authorizing the adoption of any particular scale as the thermometer
 6 standard for this commonwealth.

State clinical
 standard
 thermometer.
 1917, 152,
 §§ 1, 7.

1 SECTION 10. The commonwealth shall also supply additional clinical
 2 standard thermometers necessary to carry out sections nine to fourteen,
 3 inclusive, to be known as office clinical standards. Such thermometers
 4 shall be verified by the director upon their receipt and at least once in
 5 each six months thereafter, by direct comparison with the state clinical
 6 standard thermometer. The office clinical standards may be used in
 7 making comparisons of clinical thermometers under test.

Office clinical
 standard
 thermometers
 1917, 152, § 2.
 1918, 218, § 1.
 1919, 350, § 77.

1 SECTION 11. The director shall promulgate tolerances and specifica-
 2 tions for clinical thermometers. A correct clinical thermometer shall be
 3 one conforming to the standard established as provided in section nine
 4 and to specifications promulgated under this section, within such toler-
 5 ances.

Tolerances,
 etc., for clinical
 thermometers
 1917, 152, § 3.
 1918, 218, § 1.
 1919, 350, § 77.

WEIGHING AND MEASURING DEVICES.

Testing of
clinical
thermometers.
Fees.
1917, 152, § 4.
1918, 218, § 1.
1919, 350, § 77.
1921, 263, § 1.

SECTION 12. The director may at any time inspect and test any clinical thermometer in the possession of any manufacturer or dealer in this commonwealth and for this purpose may remove the same to such place as he may deem most convenient. Whenever he inspects and tests such a thermometer and finds it to be correct he shall seal, mark or otherwise certify it as correct. Whenever he inspects and tests such a thermometer and finds it to be incorrect he may condemn, seize and destroy it; or he may return it to the owner upon a satisfactory guarantee that it will not be sold or used.

The following fees for testing clinical thermometers shall be paid to the director for the use of the commonwealth: (a) one to eight thermometers, inclusive, twenty-five cents for the first and ten cents for each additional one; (b) any number from nine to eleven, inclusive, total fee one dollar; (c) one dozen to six dozen, inclusive, one dollar per dozen; (d) more than six dozen and not more than twelve dozen, seventy-five cents per dozen; (e) more than twelve dozen, sixty cents per dozen.

Manufacture,
sale and seal-
ing of clinical
thermometers
regulated.
Designating
marks.
1917, 152, § 5.
1918, 218, § 1.
1919, 350, § 77.
1921, 263, § 2.

SECTION 13. The director shall prescribe rules and regulations governing the manufacture and sale of clinical thermometers and may authorize the sealing of such thermometers by any manufacturer thereof upon his agreement to conform to said rules and regulations and the filing of a surety bond in such sum and upon such terms as the director may require. When representative samples of any clinical thermometer have been submitted by the manufacturer to the director and approved by him, he shall assign a designating mark which shall thereafter be permanently engraved by the manufacturer upon all clinical thermometers which are intended for sale and which conform to the samples which have been so approved. Clinical thermometers sealed by the manufacturer shall be marked with the name, initials or trade mark of the manufacturer, and with such other marks as the director may authorize or require. The director may revoke the authority given by him to any manufacturer under the provisions of this section upon proof that the authorized seal or designating mark has been affixed to a thermometer not conforming to the approved sample or that the prescribed rules and regulations have not been complied with.

Penalties for
violation of
preceding
section.
1917, 152, § 6.
1918, 218, § 1.
1919, 350, § 77.
1921, 263, § 3.

SECTION 14. Whoever, himself or by his servant or agent, or as the servant or agent of another person, keeps for the purpose of sale, offers or exposes for sale, or sells any clinical thermometer not sealed, marked or certified as correct by the director, or by the manufacturer as provided by the preceding section, shall be punished by a fine of not more than ten dollars for each thermometer so sold, or kept, offered or exposed for sale, and whoever violates any rule or regulation prescribed by the director under authority of said section shall be punished by a fine of not more than fifty dollars.

Manufacture,
marketing, etc., of
glass bottles or
jars intended
to be used in
sale of lubri-
cating oils
regulated.

SECTION 15A. Glass bottles or jars intended to be used in the sale of lubricating oil shall be made of clear, uncolored glass and shall be manufactured only in the following capacities: two quarts, one quart, or one pint, Massachusetts standard liquid measure. Each bottle or jar shall

5 have its capacity clearly blown in the glass and shall be sealed by the
 6 manufacturer thereof, as hereinafter provided, or by a sealer of the
 7 town where the user resides or has a usual place of business. The direc-
 8 tor shall prescribe regulations, including specifications and tolerances,
 9 governing the sealing of such bottles or jars by the manufacturer and
 10 may authorize such sealing by any manufacturer upon his written agree-
 11 ment to comply with such regulations. The director may at any time,
 12 for cause, revoke the authority so given by him to any manufacturer.
 13 When sealed by the manufacturer, such bottles or jars shall have clearly
 14 blown therein his name, initials or trade mark, and any other designat-
 15 ing marks which the director may authorize or require. The sealing of
 16 such bottles or jars by the manufacturer shall not exempt the user from
 17 the laws relating to the giving of false or insufficient measure, the using
 18 of a false measure, or having in his possession a false measure with
 19 intent to use. Sealers of the town where the user resides or has a usual
 20 place of business shall at least annually inspect bottles or jars marked
 21 and sealed in accordance with this section and shall make a record of
 22 such inspections. When once sealed as herein required, such bottles
 23 and jars need not again be sealed while in the same condition as when
 24 first sealed.

Designating
 marks
 1931, 49.

1 SECTION 15. Glass bottles or jars used for the distribution of milk
 2 or cream to consumers, and holding, when filled to a level with the bot-
 3 tom of the cap or stopple or other definite filling point, not less than
 4 three ounces and seven drams and not over four ounces and two drams;
 5 not less than seven ounces and six drams and not over eight ounces
 6 and two drams; not less than fifteen ounces and five drams and not
 7 over sixteen ounces and four drams; not less than thirty-one ounces
 8 and four drams and not over thirty-two ounces and four drams; not
 9 less than forty-seven ounces and three drams and not over forty-eight
 10 ounces and five drams; not less than sixty-three ounces and two drams
 11 and not over sixty-four ounces and six drams, shall be sealed as measures
 12 under section forty-one or by the manufacturer. Dealers in milk or
 13 cream using glass bottles or jars for the distribution of milk or cream to
 14 consumers, not sealed by the manufacturer, shall bring them into the
 15 office of the sealer in their town, to be sealed; but no fee shall be charged
 16 or received for sealing them. If a bottle or jar has once been sealed by
 17 a sealer or manufacturer, it need not be sealed again while used for the
 18 distribution of milk or cream to consumers. Glass bottles or jars sealed
 19 hereunder shall be legal measures only for the distribution of milk or
 20 cream to consumers. Bottles or jars sealed by the manufacturer shall
 21 be marked with his name, initials, or trade mark, and by any other
 22 mark required by the director. The sealing of such bottles or jars by
 23 the manufacturer shall not affect any law relating to the giving of false
 24 measure or the using, or having in possession, of false measures with
 25 intent to use the same. The director, on approval by the commissioner
 26 of labor and industries, may revoke the authority given by him to any
 27 manufacturer under this section, on proof that the authorized seal or
 28 designating mark has been affixed to any bottle or jar not conforming
 29 to the respective capacities provided for in this section.

Sealing of
 glass milk
 or cream
 bottles or
 jars. Desig-
 nating marks.
 1900, 369
 1901, 369
 R. L. 62, § 43.
 1902, 531, § 1.
 1920, 45
 4 Op. A. G.
 182.

1 SECTION 16. Paper or fibre bottles and jars used for the distribution
 2 of milk or cream to consumers, and holding, when filled to a level with
 3 the bottom of the cap or stopple, not less than eight, sixteen, thirty-two,

Sealing and
 stamping of
 paper or
 fibre milk
 or cream

bottles
or jars.
1910, 462, § 1.

forty-eight or sixty-four ounces, shall be sealed as measures under section 4
forty-one or fifty-one, or by the manufacturer in the manner provided 5
in the preceding section, and when so sealed may be used as provided 6
by law for glass milk jars and bottles. Every such bottle or jar shall 7
have plainly stamped upon it by the manufacturer the words: "Penalty 8
for re-use, twenty-five dollars." 9

Penalty for
re-use of
such bottles
or jars.
1910, 462, § 2.

SECTION 17. Whoever re-uses any such paper or fibre bottle or jar 1
for distributing milk, cream or other liquid used for food after such bottle 2
or jar has been once used therefor, shall be punished by a fine of not more 3
than twenty-five dollars. 4

Certain milk
containers,
sealing, etc.
Designating
marks
1916, 151, § 1.
1921, 45, § 1.
1924, 90.

SECTION 18. All cans or containers sold for use in the purchase or 1
sale of milk or cream at wholesale shall have their capacity plainly, 2
conspicuously and indelibly marked thereon in terms of liquid quarts. 3
They shall be sealed by the manufacturer thereof, as hereinafter pro- 4
vided, or by a sealer of the town where the user resides or has a usual 5
place of business. The director shall prescribe regulations governing the 6
sealing of such cans or containers by the manufacturer and may author- 7
ize such sealing by any manufacturer upon his agreement to conform to 8
said regulations. The director may at any time, for cause, revoke the 9
authority so given by him to any manufacturer. When sealed by the 10
manufacturer, such cans or containers shall be marked with his name, 11
initials or trade mark and with any other designating marks which the 12
director may require. The sealing of such containers by the manu- 13
facturer shall not exempt the user from the laws relative to giving a 14
false or insufficient measure, using a false measure, or having the same 15
in possession with intent to use. Sealers of the town where the user 16
resides or has a usual place of business shall at least annually inspect all 17
cans or containers marked and sealed in accordance with this section 18
and shall make a record of such inspections. When once sealed as herein 19
required, a can or container need not again be sealed while in the same 20
condition as when first sealed. 21

Penalties for
violation of
preceding
section
1916, 151, § 2.
1921, 45, § 2.
1924, 90.

SECTION 19. Whoever, by himself or by his servant or agent, or as 1
the servant or agent of another person, sells any can or container to be 2
used in the purchase or sale of milk or cream at wholesale that is not 3
marked and sealed as required by the preceding section, shall be pun- 4
ished by a fine not exceeding ten dollars for each can or container so 5
sold. Whoever, by himself or by his servant or agent, or as the servant 6
or agent of another person, uses any can or container in the purchase or 7
sale of milk or cream at wholesale that is not marked and sealed as 8
required by the preceding section, shall be punished by a fine not exceed- 9
ing ten dollars for each offence. The director, inspectors and sealers 10
shall enforce the provisions of this and the preceding section. 11

Containers for
sale of ice
cream
Capacity,
sealing,
marking
1920, 259, § 1.

SECTION 20. All cans, moulds or other containers used in the sale 1
of ice cream by measure shall be of the capacity of Massachusetts stand- 2
ard liquid measure. Such cans, moulds or other containers shall be 3
sealed, as hereinafter provided, by the manufacturer thereof, or by a 4
sealer, and shall not be legal measures except for ice cream. When 5
sealed by the manufacturer, such containers shall be marked with his 6
name, initials or trade mark. They may also be marked with any other 7
designating mark assigned to him by the director; provided, that he 8

9 has agreed to conform to the regulations made by the director relative
10 thereto. When such containers have not been sealed by the manu-
11 facturer, they shall be sealed, before they are used, by a sealer, and the
12 dealer who intends to use them shall bring such containers to the office
13 of such sealer for that purpose, but no fee shall be charged for sealing
14 them. The sealing of such containers by the manufacturer shall not
15 be held to exempt the user from the laws relating to the giving of false
16 or insufficient measure, or the using of a false measure, or having in his
17 possession a false measure with intent to use.

1 SECTION 21. Sealers shall inspect at least semi-annually all cans,
2 moulds or other containers sealed in accordance with the preceding
3 section, and shall make a record of such inspection. If a container has
4 once been sealed as aforesaid, it shall not be necessary to have it sealed
5 again while it is used for the sale of ice cream as long as it remains in the
6 same condition as when first sealed.

Sealers to
inspect such
containers
semi-annually.
1920, 259, § 2.

1 SECTION 22. Paper or fibre cartons which are used for the sale by
2 measure of viscous or semi-solid commodities or mixtures of solids and
3 liquids shall contain and shall be sold as containing one quart, one pint,
4 one half pint or one gill, Massachusetts standard liquid measure. Such
5 cartons shall be of such shape and dimensions as may be approved by
6 the director. Whenever the shape and dimensions of any such carton
7 have been so approved, the director may authorize the manufacturer
8 to have printed thereon a statement of its capacity in terms of Massa-
9 chusetts standard liquid measure, with the words "Approved by the
10 Director of Standards for Massachusetts", and with such other mark-
11 ing as the director may require. Such cartons shall be legal measure
12 only for such commodities as may be designated by the director and
13 shall be exempt from the laws requiring the sealing of measures.

Cartons for
sale of
viscous, etc.,
commodities
regulated
1920, 259, § 3.
1921, 374.

1 SECTION 23. A sealer or deputy of any city or town or the director
2 or an inspector may, if he so desires, and shall, upon complaint, test
3 the capacity of any container which is used or intended to be used as
4 a measure under sections twenty to twenty-four, inclusive; and if the
5 same does not conform to the law, he shall seize it and enter com-
6 plaint. The director may, at any time, for due cause, revoke any
7 authority or permit granted by him to any manufacturer under said
8 sections.

Testing, etc.,
of containers.
1920, 259, § 4.

1 SECTION 24. Whoever violates any provision of sections twenty to
2 twenty-three, inclusive, and whoever marks a container or other measure,
3 or procures the same to be marked or has printed thereon or procures
4 to have marked or printed thereon, a mark, number or designation with-
5 out the approval or authority of the director, except as provided in sec-
6 tion twenty, shall be punished by a fine of not more than fifty dollars.

Penalty for
unauthorized
marking
1920, 259, § 5.

1 SECTION 25. All weighing or measuring devices which cannot be
2 made to conform to the standard shall be stamped, marked or labelled
3 "Condemned" or "CD" by the sealer. Weighing or measuring devices
4 in possession of a merchant or vendor not used for buying or selling, or
5 for weighing and measuring for hire or reward shall be plainly marked
6 by the sealer with a notice that such articles have not been sealed under

Marking of
incorrect or
unsealed
devices
Penalty for
removal of
mark, etc.
1870, 218, § 5.
1876, 123, § 6.
P. S. 65, § 20.

1897, 443, § 8.
R. L. 62, § 32.
1910, 209, § 2.
1918, 257,
§ 249.

this chapter. Whoever removes said notice without the consent of the person affixing the same shall be punished by a fine of not more than fifty dollars.

1919, 5.

1920, 2.

Penalty for using, etc., false or condemned devices.
1863, 179, § 3.
1876, 123, §§ 6, 7.
P. S. 65,
§§ 20, 21.
1897, 443, § 8.

SECTION 26. Whoever uses, or has in possession with intent to use, a false or condemned weighing or measuring device for weighing or measuring any commodity bought, sold or exchanged, or for hire or reward, shall be punished by a fine of not more than fifty dollars. The possession of such weighing or measuring device shall be prima facie evidence of intention to use it in violation of law.

R. L. 62, § 33.
1906, 215.

1914, 379.
1918, 257, § 250.

1919, 5.
1920, 2.

Penalty for using unsealed devices.
C. L. 279.
1705-6, 6, § 2.
1738-9, 24, § 7.
1799, 60, § 8.
R. S. 30, § 24.
1847, 242,
§§ 5, 6.

SECTION 27. Whoever sells or, if by the custom of trade such weighing or measuring devices are provided by the buyer, buys, by any weighing or measuring device which has not been sealed according to law shall forfeit not more than twenty dollars to the use of the person suing therefor.

1851, 68.
G. S. 51, § 16.

P. S. 65, § 25.
1897, 443, § 8.

R. L. 62, § 37.
109 Mass. 220.

Value of goods sold by unsealed devices, etc., may be recovered, when.
1875, 153.
1878, 66.
P. S. 65, § 26.
R. L. 62, § 38.
119 Mass. 285.

SECTION 28. A seller may recover the fair market value of goods, wares or merchandise sold, if they were, for the purpose of the sale, weighed or measured upon weighing or measuring devices not sealed according to law, or weighed or measured by a person not a sworn weigher, measurer or surveyor, or by a person not authorized by law to weigh or measure the same, if such sale is made in good faith and the purchaser is not injured thereby.

POWERS AND DUTIES OF DIRECTOR OF STANDARDS AND INSPECTORS.

Certain duties of director of standards.
1907, 534, § 3.
1918, 218, § 1.
1919, 350, § 77.
1924, 258, § 7.
1925, 72.

SECTION 29. The director shall enforce the laws relating to the use of weighing and measuring devices and the giving of false or insufficient weight or measure and shall keep a detailed record of his work in connection therewith. He shall also from time to time establish units of measurement to be observed in the sale of wooden shingles in the Commonwealth. He may also, if he deems it desirable, and shall, upon request of the manufacturer of any weighing or measuring device or of any sealer of weights and measures, examine such device to determine whether or not its construction is such as to insure reasonably permanent accuracy and whether or not it may be used to facilitate the perpetration of fraud, approving or disapproving it accordingly. When any weighing or measuring device has been so approved or disapproved by him, he shall notify all sealers of weights and measures, who shall thereafter act in accordance with such approval or disapproval when devices of that type are submitted to them for test.

Powers and duties of inspectors.

SECTION 30. The inspectors shall aid the director in the performance of his duties and shall have all necessary powers therefor.

1907, 531, § 4.

1918, 218, § 1.

1919, 350, § 77.

Director, etc., to have seal, etc. Penalties.
C. L. 155; 279.
1705-6, 6, § 4.
1730-31, 18.
1738-9, 24, § 1.

SECTION 31. The director and town and district sealers shall keep seals for their use. The seal of the director shall bear the letters "C. M." and those of the sealers shall be of a type approved by the director. Any sealer neglecting to keep such a seal shall forfeit not more than twenty

5 dollars, and whoever, without being duly authorized thereto, imperson-
 6 ates a sealer or deputy by the use of a seal or otherwise, or has in his
 7 possession an imitation or counterfeit of the seal used by a sealer or
 8 deputy shall be punished by a fine of not more than fifty dollars.

G. S. 51, §§ 10, 13. R. L. 62, § 20. 1918, 218, § 1
 P. S. 65, § 11. 1907, 283. 1919, 350, § 77.

1799, 60,
 §§ 1, 3
 1800, 18
 R. S. 30,
 §§ 3, 5, 11, 21,
 1847, 242, § 3.

1 SECTION 32. At least once in three years, the standards of apothec-
 2 aries' weights and of apothecaries' liquid measures in the custody of
 3 town treasurers and at least once in ten years, or oftener if the director
 4 deems it necessary, the other standard weights, measures and balances of
 5 each town shall be tested, adjusted and sealed or certified under his direc-
 6 tion. He shall also see that such standards are kept in good order and
 7 condition, and may at any time, and shall on request of a town treasurer,
 8 cause an inspection of the standards to be made. The director and his
 9 inspectors may also inspect any weighing or measuring devices used for
 10 buying, selling or exchanging goods, wares, merchandise or other com-
 11 modity, or for public weighing in a town, and, if found inaccurate, shall
 12 forthwith inform the mayor or selectmen, who shall cause the law relat-
 13 ing thereto to be enforced. If the director or an inspector discovers a vio-
 14 lation of law, he may make and prosecute a complaint and shall have
 15 therefore the same statutory powers relative to the enforcement of laws
 16 pertaining to weights and measures as are vested in local sealers. Who-
 17 ever hinders, obstructs or in any way interferes with him in the perform-
 18 ance of duty hereunder shall be punished by a fine of not more than three
 19 hundred dollars, or by imprisonment for not more than two months.
 20 Every treasurer neglecting to have the standards in his care sealed as
 21 provided in this section shall forfeit not more than fifty dollars.

Tests and inspections of local standards and devices. Complaints. Penalties. 1738-9, 24, § 1
 1799, 60,
 §§ 2, 3
 R. S. 30, § 7
 1847, 242, § 7
 1848, 352, § 5
 G. S. 51, § 7
 P. S. 65, § 7.
 1890, 426,
 §§ 6, 7
 1897, 443, § 5
 1901, 425
 R. L. 62,
 §§ 9, 17
 1902, 539
 1907, 534, § 3.
 1909, 310, § 1.
 1917, 125,
 § 1, 2
 1918, 218, § 1
 1919, 350, § 77

1 SECTION 33. The director or his inspectors under his direction, shall
 2 at least once in each year test all weighing and measuring devices used
 3 in checking the receipt or disbursements of supplies in each state insti-
 4 tution or department, and shall mark them in accordance with the
 5 results of such tests. He shall report in writing his findings to the ex-
 6 ecutive officers of the institution or department; and at their request
 7 shall appoint in writing one or more employees, then in the actual service
 8 of such institution or department, as special deputies to check the receipt
 9 or disbursement of supplies.

Annual tests of devices used in state institutions, etc. Report of findings. Special deputies. 1915, 190.
 1918, 218, § 1
 1919, 350, § 77.

SEALERS OF WEIGHTS AND MEASURES.

1 SECTION 34. Subject to chapter thirty-one, the mayor of each city
 2 and the selectmen of each town of over ten thousand inhabitants shall
 3 appoint a sealer, and may appoint one or more deputies to act under
 4 the direction of the sealer. The sealer and deputies shall enforce the law
 5 pertaining to weighing and measuring devices and to the giving of false
 6 or insufficient weight or measure. Sealers and deputies appointed here-
 7 under shall receive a salary to be determined by the board, officer or body
 8 authorized to determine salaries in their respective cities and towns, and
 9 shall also receive an additional allowance for transportation and other
 10 necessary expenses. They shall account for and pay into their city or
 11 town treasuries monthly all fees received and shall make an annual re-
 12 port to the appointing board or officer, and to the director as provided
 13 by section thirty-seven.

Sealers and deputy sealers in cities and large towns. C. L. 153
 1692-3, 30, § 1
 1799, 60, § 4
 R. S. 15, § 38;
 30, §§ 12, 13
 G. S. 18, § 37
 1863, 179,
 §§ 4, 5
 1870, 123,
 §§ 1, 8, 9
 1877, 151, § 1
 P. S. 65,
 §§ 8, 23
 1882, 42,
 R. L. 62,
 §§ 18, 35
 1909, 382, § 1.

1914, 452, §§ 1, 4
 1918, 218, § 1; 257, § 252.
 1919, 5, 350, § 77.

1920, 2.
 216 Mass. 126
 222 Mass. 296

3 Op. A. G. 51
 4 Op. A. G. 127, 213, 316.

Sealers and deputy sealers in small towns.
1863, 179, § 4.
1876, 123, § 1, 8.
P. S. 65, § 23.
R. L. 62, § 35.
1914, 452, § 2.
1918, 257, § 253.
1919, 5.
1920, 2.

SECTION 35. The selectmen of towns of less than ten thousand inhabitants shall annually appoint a sealer and may appoint one or more deputies to act under his direction. Such sealers and deputies shall have the same powers and duties as sealers and deputies appointed under the preceding section and shall receive such compensation as may be determined by the selectmen and an additional allowance for transportation and other necessary expenses. The selectmen may at any time remove such sealers or deputies and appoint others in their places.

District sealers.
1914, 452, § 3.
1918, 218, § 1.
1919, 350, § 77.

SECTION 36. Two or more towns, or one city and one or more towns, may combine the whole or any part of their respective territories as may be agreed upon by the boards or officers having the appointing power in such cities or towns into a district with one district sealer and one set of standards. He shall have the powers of and perform the duties of sealers under the direction of the director within the district. Each such sealer shall forthwith on his appointment give bond, with sureties approved by the appointing power, for the faithful performance of his duties, for the safety of the standards, working equipment, records, and other things committed to him, and for their surrender to his successor or to any person duly appointed to receive them. He shall be paid a salary determined by the appointing power and shall be provided by them with necessary standards and working equipment, and shall be allowed necessary sums for transportation and other expenses. Each such sealer shall keep a complete record of all his official acts and shall make an annual report to the director as provided by the following section and to each city or town in his district. He shall account for and pay into the treasury of each city or town monthly all fees received by virtue of his office in such city or town.

Annual reports of sealers.
1907, 534, § 5.
1918, 218, § 1;
257, § 251.
1919, 5; 350, § 77.
1920, 2.

SECTION 37. Each sealer shall annually, between the first and tenth days of December, report to the director the weighing and measuring devices tested, sealed or condemned by him, with an inventory of standards and working apparatus in possession of his town or district, and other information required by the director.

Duplicate sets of apothecaries' weights, etc., to be provided upon request.
1897, 443, § 4.

SECTION 38. Sealers shall, upon request to the director, be provided, at the expense of their towns, with duplicate sets of apothecaries' weights and apothecaries' liquid measures described in section three, to be used as standards in the towns where they are kept.

R. L. 62, § 14. 1914, 633, § 1. 1918, 218, § 1. 1919, 350, § 77.

Accountability to towns for standards, etc., received.
1799, 60, § 4, 5.
R. S. 30, § 15.
G. S. 51, § 9.
P. S. 65, § 9.

SECTION 39. Except as otherwise provided in section thirty-six each sealer shall receive from his town treasurer a set of standards and a seal, and shall give a receipt therefor, stating their condition when received; and shall be accountable to such town for the preservation thereof in like condition until returned to the treasurer.

R. L. 62, § 19. 1914, 452, § 3. 206 Mass. 46.

Duplicate sets of weights, etc., to be provided and used.
1877, 151, § 4.
P. S. 65, § 17.

SECTION 40. A sealer or deputy visiting the place of business of a person to test and seal weighing or measuring devices may use therefor suitable weights, measures and balances; and each town and district shall furnish its sealer with one or more duplicate sets of weights, meas-

Testing of devices used in standardizing production and in determining wages, capacity of tanks, etc., and the accuracy of automatic devices. Exceptions. 1920, 369.

SECTION 46. The director may, if he deems it desirable, and shall, upon request, test any weights, measures, instruments or mechanical devices of any kind used or intended to be used in standardizing the production of any manufactured article by controlling processes or by determining the dimensions, proportions or properties of materials or products, in determining wages or compensation for labor performed, in determining the dimensions or capacity of any tank, can or other container, or in determining the accuracy of any automatic weighing or measuring device. When any such weight, measure, instrument or mechanical device has been tested and found correct by the director, he may seal the same. If he finds it inaccurate, he may, in his discretion, either condemn it or he may furnish the owner or user with a certificate indicating the amount and direction of any errors found by him. This section shall not give to the said director or to his inspectors the power to seal any of the devices which, on April twenty-ninth, nineteen hundred and twenty, were required by law to be sealed by the local sealers throughout the commonwealth.

Annual testing of apothecaries' weights, etc. Exceptions. Graduated glass measures; approval, designating marks, etc. 1897, 443, § 6. R. L. 62, § 25. 1914, 633, § 2. 1917, 21. 1918, 218, § 1. 1919, 350, § 77.

SECTION 47. Apothecaries and other persons dealing in or dispensing drugs, medicines or merchandise sold, dispensed or given away by apothecaries' weights or by apothecaries' liquid measure, shall, at least annually, cause the weights and measures so used to be tested and sealed by the sealer in the town where they do business; provided, that a graduated glass measure once sealed by a sealer, or by the manufacturer, need not be again sealed while remaining in the same condition as when first sealed. The director shall establish specifications for graduated glass measures. When a representative sample of a graduated glass measure has been submitted to the director and approved by him, as conforming to specifications, he shall assign a designating mark or number to be thereafter permanently affixed to such measures of the particular kind so approved. Graduated glass measures sealed by the manufacturer shall be marked with his name, initials or trade mark and by other marks required by the director. The director may revoke the authority so given to any manufacturer under this section on proof that the authorized seal or designating mark has been affixed to a measure not conforming to the approved sample.

Penalty for use of untested weights or measures. 1897, 443, § 7. R. L. 62, § 26. 1914, 633, § 3.

SECTION 48. Whoever sells or dispenses drugs, medicines or merchandise requiring the use of apothecaries' weights or apothecaries' liquid measures or in the sale of which they are commonly used, and does not have such weights and measures tested under this chapter shall be punished by a fine of not less than five nor more than fifty dollars.

Annual test of hay and coal scales, etc. 1705-6, 6, § 5. 1835, 126. R. S. 30, § 19. 1847, 242, § 6. G. S. 51, § 12.

SECTION 49. Sealers shall go once a year, and oftener if necessary, to each hay and coal scale and other weighing or measuring device in their towns not easily or conveniently removed, and shall test, adjust and seal or condemn them.

1876, 123, § 3.
P. S. 65, § 14.

R. L. 62, § 23.
1918, 257, § 246.

1919, 5.
1920, 2.

Sealer to test upon request, etc. 1870, 218, § 1. 3.

SECTION 50. Whoever uses any weighing or measuring devices may have them tested by the sealer at any time upon request and the sealer shall seal or condemn the same in accordance with the results of his tests.

1876, 123, § 4.

P. S. 65, § 15.

R. L. 62, § 24.

1 SECTION 51. When notified by a dealer in milk or cream using glass
 2 bottles or jars for the distribution thereof that he has in his possession
 3 not less than six gross of such bottles or jars not sealed, sealers shall
 4 forthwith seal them as provided in section fifteen, at a suitable place
 5 provided by the dealer.

Sealing of
 glass milk
 or cream
 bottles, etc.
 1906, 323, § 1.

1 SECTION 52. If a person informs a sealer that he has reasonable
 2 cause to believe, or if such sealer has reasonable cause to believe, that
 3 any weighing or measuring device used in the sale of a commodity in
 4 his town is incorrect, said sealer shall go where it is and shall test and
 5 mark it according to the result of the test; and if it is incorrect and can-
 6 not be adjusted, he shall attach thereto a notice of that fact forbidding
 7 its use until it conforms to the authorized standard. If a sealer has
 8 reasonable cause to believe that any weighing or measuring device has
 9 been altered since last adjusted and sealed, he shall enter the premises
 10 where it is kept or used and examine it. Whoever uses a weighing or
 11 measuring device after refusing permission to a sealer to test it shall be
 12 punished by a fine of not less than ten nor more than one hundred dollars.

Sealer to test
 devices upon
 complaint,
 etc. Entry
 upon prem-
 ises, when
 authorized.
 Penalty.
 1863, 179,
 § 2, 3.
 1870, 218, § 4.
 1876, 123,
 § 5, 7.
 P. S. 65,
 § 19, 21.
 1897, 443, § 8.
 R. L. 62, § 31
 114 Mass. 431,
 433.

1 SECTION 53. If a sealer cannot seal any weighing or measuring device
 2 in the usual manner, he may mark it with a stencil or by other suitable
 3 means, showing that it has been inspected; and if a weighing or measur-
 4 ing device is so small as to render it impracticable to seal it in the usual
 5 manner, he shall give a certificate in a form approved by the director,
 6 specifying each such weighing or measuring device so tested; but he
 7 shall in no case seal or mark as correct weighing or measuring devices
 8 not conforming to the standards. If such weighing or measuring device
 9 can be readily adjusted by means at hand, he may adjust and seal it;
 10 but if not, he shall affix thereto a notice forbidding its use until he is
 11 satisfied that it conforms to the standards; and whoever removes said
 12 notice without the consent of such officer shall forfeit not more than
 13 fifty dollars, to be equally divided between the town and the complainant.

Certain dev-
 ices to be
 marked with
 stencil. Cer-
 tificate, when
 authorized.
 Notice for-
 bidding use
 of device.
 Penalty for
 removal.
 1877, 151, § 3.
 P. S. 65, § 16
 R. L. 62, § 27.
 1917, 15,
 1918, 218, § 1.
 1919, 350, § 77.

1 SECTION 54. A sealer or deputy may seize without a warrant weighing
 2 or measuring devices necessary to be used as evidence in cases of violation
 3 of the laws relative to the sealing thereof; and they shall be returned to
 4 the owners or forfeited, as the court directs.

Seizure of
 certain dev-
 ices for evi-
 dence. Dispo-
 sition.
 1877, 151, § 5.

P. S. 65, § 18.
 1897, 443, § 8.

R. L. 62, § 29.
 1918, 257, § 248.

1919, 5.
 1920, 2.

1 SECTION 55. A sealer or deputy may seize weighing or measuring
 2 devices not conforming to legal standards or not sealed as required by
 3 law; and a person having in his possession such weighing or measuring
 4 devices, with intent to use them in violation of law, shall be punished by
 5 a fine of not more than fifty dollars; and such devices, upon order of a
 6 court, shall be destroyed. Possession thereof shall be prima facie evi-
 7 dence of intention to use them in violation of law.

Seizure of
 illegal devices.
 Disposition.
 Penalty.
 1883, 225.
 R. L. 62, § 30.
 1907, 325, § 2.
 1909, 412, § 2;
 541, § 2.
 1914, 346.
 1917, 98, § 2.

1 SECTION 56. Except as otherwise provided, sealers shall receive the
 2 following fees for sealing the following weighing or measuring devices: —
 3 (a) Each scale with a weighing capacity of more than five thousand
 4 pounds, one dollar.

Fees of
 sealers.
 C. L. 135; 156.
 1692, 3.
 30, § 1.
 1730-31, 18.
 1738, 9.
 24, § 6.
 1743, 4.
 29, § 2.

5 (b) Each scale with a weighing capacity of one hundred to five thou-
 6 sand pounds, fifty cents.

1799, 60.
 §§ 3, 6.
 R. S. 30.
 § 10, 17.
 1847, 242.
 § 4, 6.
 G. S. 51, § 14.
 1870, 218, § 6.
 1876, 123.
 § 2, 3.
 P. S. 65, § 22.
 R. L. 62, § 34.
 1886, 323, § 2.
 1909, 541, § 3.
 1913, 503, § 3.
 1917, 98, § 3.
 1919, 128.
 1927, 95, § 2.

- (c) All other scales, balances, and measures on pumps, ten cents each. 7
 (d) Each taximeter, or measuring device used upon vehicles for 8
 determining the cost of transportation, one dollar. 9
 (e) Each machine or other device used for determining the measure- 10
 ment of leather, one dollar. 11
 (f) Milk bottles or jars, fifty cents per gross. 12
 (g) Vehicle tanks used in the sale of commodities by liquid measure 13
 and having a capacity of one hundred gallons or less, one dollar. For 14
 each additional one hundred gallons or fraction thereof, an additional 15
 fee of fifty cents shall be received. When a vehicle tank is subdivided 16
 into two or more compartments, each compartment shall, for the pur- 17
 poses of this section, be considered as a separate tank. 18
 (h) All weights and other measures, three cents each. 19
 They shall also receive reasonable compensation for necessary repairs, 20
 alterations and adjustments made by them. 21

ANNUAL REPORT OF COMMISSIONER.

Annual
 report of
 commissioner.

SECTION 57. The commissioner of labor and industries shall make an 1
 annual report of the acts of the director. 2

1890, 426, § 8.	1907, 534, § 3.	1919, 350, §§ 8, 77.
R. L. 62, § 10.	1918, 218, § 1.	1931, 426, § 58.

SECTION 58. [REPEALED, 1922, 355, § 8.] 1

CHAPTER 99.

THE METRIC SYSTEM OF WEIGHTS AND MEASURES.

SECT.

1. Metric system authorized.
2. Tables of measurements.
3. Duties of director of standards and town treasurers.

SECT.

4. Sealing of metric weights and measures.
5. Duties of persons using metric system.

Metric system
 authorized.
 1877, 40, § 1.
 P. S. 66, § 1.
 R. L. 63, § 1.
 1914, 183.
 1919, 350, § 77.
 U. S. Rev. Sts.
 § 3569.

SECTION 1. The weights and measures of the metric system may be 1
 employed and used in the commonwealth, and no contract or dealing 2
 shall be deemed invalid and no pleading in any court shall be open to 3
 objection because the weights or measures are stated therein in terms 4
 of the metric system; provided, that the carat weight of two hundred 5
 milligrams, and its multiples and subdivisions, shall be the sole legal 6
 standard for the buying and selling of diamonds and other precious stones. 7
 The metric weights and measures received from the United States and 8
 now in the custody of the director of standards may be used as authorized 9
 standards, and shall in no case be removed from his custody except when 10
 necessary for their preservation or repair. 11

Tables of
 measurements.
 1877, 40, § 2.
 P. S. 66, § 2.
 R. L. 63, § 2.
 U. S. Rev. Sts.
 § 3570.

SECTION 2. The following tables shall be recognized in the 1
 construction of contracts and in legal proceedings as establishing in terms 2
 of the metric system the equivalents of the other weights and measures 3
 expressed therein and may also be used for computing, determining and 4
 expressing in customary weights and measures the weights and measures 5
 of the metric system. 6

Measures of Length.

METRIC DENOMINATIONS AND VALUES.		EQUIVALENTS IN DENOMINATIONS IN USE.
Myriameter	10,000 meters	6 2137 miles.
Kilometer	1,000 meters	0 62137 mile, or 3 280 feet 10 inches.
Hectometer	100 meters	328 feet 1 inch.
Dekameter	10 meters.	39 37 inches.
Meter	1 meter.	39 37 inches.
Decimeter	1-10 of a meter.	3 937 inches.
Centimeter	1-100 of a meter.	0 3937 inch.
Millimeter	1-1000 of a meter.	0 0394 inch.

Measures of Surface.

METRIC DENOMINATIONS AND VALUES.		EQUIVALENTS IN DENOMINATIONS IN USE.
Hectare	10,000 square meters	2 471 acres.
Are	100 square meters.	119 6 square yards.
Centare	1 square meter.	1 550 square inches.

Measures of Capacity.

METRIC DENOMINATIONS AND VALUES.			EQUIVALENTS IN DENOMINATIONS IN USE	
Names	Number of Liters.	Cubic Measure.	Dry Measure.	Liquid or Wine Measure.
Kiloliter or Stere	1,000	1 cubic meter	1 308 cubic yards	264 17 gallons.
Hectoliter	100	1-10 of a cubic meter	2 bush. and 3 35 pecks	26 417 gallons.
Dekaliter	10	10 cubic decimeters	9 08 quarts	2 6117 gallons.
Liter	1	1 cubic decimeter	0 908 quart	1 0567 quarts.
Deciliter	1-10	1-10 of a cubic decimeter	6 1022 cubic inches	0 845 gill.
Centiliter	1-100	10 cubic centimeters	0 6102 cubic inch	0 338 fluid ounce.
Milliliter	1-1000	1 cubic centimeter	0 061 cubic inch	0 27 fluid dram.

Weights.

METRIC DENOMINATIONS AND VALUES.			EQUIVALENTS IN DENOMINATIONS IN USE.
Names.	Number of Grams.	Weight of What Quantity of Water at Maximum Density.	Avoirdupois Weight.
Millier or Tonneau	1,000,000	1 cubic meter	2204 6 pounds.
Quintal	100,000	1 hectoliter	220 46 pounds.
Myriagram	10,000	10 liters	22 046 pounds.
Kilogram or Kilo	1,000	1 liter	2 2046 pounds.
Hectogram	100	1 deciliter	3 5274 ounces.
Dekagram	10	10 cubic centimeters	0 3527 ounce.
Gram	1	1 cubic centimeter	15 432 grams.
Decigram	1-10	1-10 of a cubic centimeter	1 5432 grams.
Centigram	1-100	10 cubic millimeters	0 1543 gram.
Milligram	1-1000	1 cubic millimeter	0 0154 gram.

1 SECTION 3. The duties of the director of standards and the duties
 2 and responsibilities of the treasurer of each town, with respect to the
 3 keeping, care, verification and use of the standard weights and measures
 4 of the metric system, shall be the same as those established by law with
 5 respect to other standard weights and measures.

Duties of director of standards and town treasurers. 1877, 40, § 4. P. S. 66, § 3. R. L. 63, § 3.

1907, 534, §§ 1, 3.

1918, 218

1919, 350, § 77.

Sealing of metric weights and measures. 1877, 40, § 5. P. S. 66, § 4. 1890, 426, § 9. R. L. 63, § 4. 1907, 534, §§ 1, 1. 1918, 218. 1919, 350, § 77.

SECTION 4. The director of standards may verify, adjust and seal all metric weights and measures brought to him for that purpose. The sealer of weights and measures in each town which has received the standard metric weights and measures shall verify, adjust and seal all metric weights and measures brought to him for that purpose from within the county where such town is situated, and he shall receive a reasonable compensation therefor; but he shall claim no fees for any sealing, verification or adjustment for the performance of which he may otherwise receive compensation by salary paid by the town.

Duties of persons using metric system. 1877, 40, § 6. P. S. 66, § 5. R. L. 63, § 5.

SECTION 5. Every person who uses weights or measures of the metric system for the purpose of selling any goods, wares, merchandise or other commodities shall have them adjusted, sealed and recorded by an authorized sealer of weights and measures, and shall thereafter be responsible for the correctness and exactness of the same; and every person who illegally or fraudulently uses the metric weights or measures shall be liable to the same penalty to which he would have been liable if he had used other weights and measures.

CHAPTER 100.

AUCTIONEERS.

SECT.

1. "Licensing authority" defined.
2. Issue, revocation, etc., of auctioneers' licenses.
3. Bond.
4. Account of sales.
5. Authority of auctioneer to sell goods regulated. Penalty.
6. Sales by auction of certain goods regulated. Penalty.
7. Tenants, when liable for unlicensed sales. Penalty.
8. Conditional licenses. Penalty.
9. Penalty for receiving goods from minors.

SECT.

10. Penalty for selling, etc., without license.
11. Penalty for fraudulent bankrupt sales.
12. Penalty for deceit in sale by auction.
13. Sales by sheriffs, etc., not affected.
14. Establishments for sale of certain personal property at auction. Licenses, etc.
15. Same subject. Records.
16. Same subject. Forfeiture, etc., of licenses.
17. Same subject. Penalties.

"Licensing authority" defined. 1878, 244, § 2. 1885, 323, § 2.

SECTION 1. In this chapter, "licensing authority" shall mean the police commissioner in Boston, the aldermen in any other city or the selectmen in a town.

1906, 291, § 10.

1909, 221.

Issue, revocation, etc., of auctioneers' licenses. 1773-3, 44, §§ 1, 4. 1773-4, 10. 1780, 25, §§ 1, 3; 30. 1789, 59, §§ 1, 7. 1795, 8, §§ 1, 3. R. S. 29, §§ 1, 2, 12.

SECTION 2. The licensing authority of any town may, upon payment of a license fee of two dollars to such town, license any suitable inhabitant thereof, who has resided therein during the six months next preceding the application for such license, to be an auctioneer therein for one year, and may for any cause deemed satisfactory, and without a hearing, revoke or suspend such license. Such license shall be signed, in Boston by the police commissioner, elsewhere by the town clerk, and shall be recorded in a book kept for that purpose.

G. S. 50, § 1. 1878, 244, § 2. P. S. 67, § 1. 1886, 289.

1899, 235. R. L. 63, § 1. 1906, 291, § 10. 1909, 221.

1918, 257, § 255. 1919, 5. 1920, 2. 5 Mass. 505.

1 SECTION 3. Each auctioneer shall, if required, give bond, in a reason- Bond
2 able penal sum and with sufficient sureties, to the treasurer of the town 1780, 25, § 5.
3 where he is licensed, with condition that he shall in all things conform 1822, 87, § 3.
4 to the laws relative to auctioneers. R. S. 29, § 6.
1857, 232, § 1.

G. S. 50, § 3. P. S. 67, § 3. R. L. 64, § 4.

1 SECTION 4. Each auctioneer shall keep a fair and particular account Account
2 of all goods and chattels sold by him and of the persons from whom of sales.
3 they were received and to whom they were sold. 1772-3, 44, § 2.
1780, 25, § 2.

1795, 8, § 2. G. S. 50, § 4. R. L. 64, § 5.
R. S. 29, § 5. P. S. 67, § 4.

1 SECTION 5. An auctioneer, except as provided in section eight or in Authority of
2 section twenty-nine of chapter one hundred and one, may sell real or to
3 personal property by public auction in any place within his county and, sell goods
4 when employed by others, may sell such property in any place within regulated.
5 the commonwealth, if such sale is made where such property is situated Penalty.
6 and in accordance with such conditions relative to the hours and places 1789, 59,
7 of selling goods and chattels in the town of sale as the licensing authority § 5, 6.
8 thereof deems expedient; provided, that such personal property does R. S. 29, § 8.
9 not consist of goods, wares or merchandise which have been brought 1837, 243.
10 into a town by persons engaged in the business of traveling and carrying 1852, 115, § 1.
11 stocks of goods, wares or merchandise from one town to another within G. S. 50, § 6.
12 the commonwealth for the purpose of selling the same by auction. An P. S. 67, § 6.
13 auctioneer selling by auction in a town where he is not authorized 1890, 449, § 1.
14 sell shall forfeit fifty dollars. If an auctioneer makes a sale by auction R. L. 64, § 6.
15 at a time or place in a town not authorized by the licensing authority 1921, 127.
16 thereof he shall be liable to like penalties as if he had sold without a 3 Met. 159.
17 license.

1 SECTION 6. Goods, wares and merchandise brought into a town for Sales by
2 the purpose of being sold by auction shall be sold by auction therein only auction of
3 by an auctioneer duly licensed in said town, or in some other town within certain goods
4 the commonwealth, and having a regular and established place of busi- regulated.
5 ness in the town where the goods, wares or merchandise are to be sold. Penalty.
6 If he is a non-resident of the town where he has his place of business, he 1890, 449, § 2.
7 shall obtain from the licensing authority thereof a permit to hold such 1801, 144.
8 sales by auction therein, and a special license fee may be required there- R. L. 64, § 7.
9 for. Violation of this section shall be punished by a fine of not more
10 than one hundred dollars.

1 SECTION 7. Any tenant or occupant of a house or store, having the Tenants, when
2 actual possession and control of the same, who knowingly permits a liable for
3 person to sell real or personal property by public auction in such house unlicensed
4 or store, or in any apartment or yard appurtenant thereto, contrary to sales.
5 this chapter, shall forfeit not more than five hundred dollars. Penalty.
1814, 46.
R. S. 29, § 10.

G. S. 50, § 8. P. S. 67, § 8. R. L. 64, § 8.

1 SECTION 8. Licenses may be granted upon such conditions relative Conditional
2 to the hours and places of selling goods and chattels within a town as licenses.
3 the licensing authority thereof deems expedient; and if an auctioneer Penalty.
4 makes a sale by auction at a time or place within said town not au- 1819, 257, § 1.
5 thorized by his license, he shall be liable to like penalties as if he had R. S. 29,
6 sold without a license. § 13, 14.
G. S. 50, § 12.
P. S. 67, § 12.
R. L. 64, § 9.
1919, 227.

Penalty for receiving goods from minors.
1772-3, 44, § 2.
1780, 25, § 2.

SECTION 9. An auctioneer who receives for sale by auction any goods from a minor, knowing him to be such, shall forfeit not more than two hundred dollars to the use of the town.

1789, 59, § 8.	G S. 50, § 5.	1886, 289.
1795, 8, § 2.	P. S. 67, § 5.	R. L. 64, § 10.
R. S. 29, § 4.		

Penalty for selling, etc., without license.
1772-3, 44, § 1.
1778-9, 29, § 1.

SECTION 10. Whoever, not being licensed and qualified as an auctioneer, sells or attempts to sell any property by public auction, shall forfeit not more than five hundred dollars.

1780, 25, § 1.	G S. 50, § 9.	10 Met. 17.
1789, 59, § 1.	P. S. 67, § 9.	8 Allen, 97.
1822, 87, § 2.	R. L. 64, § 12.	139 Mass. 31.
R. S. 29, § 7.	19 Pick. 287, 482.	

Penalty for fraudulent bankrupt sales.
1800, 449, § 3.
It L. 64, § 14.

SECTION 11. Whoever sells or attempts to sell by public auction or advertises for sale any goods, wares or merchandise falsely representing or pretending that such goods, wares or merchandise are, in whole or in part, a bankrupt or insolvent stock, or damaged goods, or goods saved from fire, or makes any false statement as to the previous history or character of such goods, wares or merchandise, shall be punished by a fine of not more than one hundred dollars, and shall be liable in contract to any person purchasing any such goods, wares or merchandise because of such representation or statement, in an amount equal to three times the amount paid therefor.

Penalty for deceit in sale by auction.
1822, 87, § 6.
1837, 292, § 2.

SECTION 12. An auctioneer or other person who is guilty of fraud or deceit in relation to a sale by auction shall forfeit not more than one thousand dollars.

G S. 50, § 11.	R. L. 64, § 13.
P. S. 67, § 11.	19 Pick. 287.

Sales by sheriffs, etc., not affected.
1772-3, 44, § 3.
1777-8, 2, § 1.
1778-9, 29, § 1.
1780, 25, § 2.

SECTION 13. This chapter shall not extend to sales made by sheriffs, deputy sheriffs, constables, collectors of taxes, executors, administrators, guardians, conservators, assignees of insolvent debtors or by any other person required by law to sell real or personal property.

1789, 59, § 11.	G. S. 50, § 10.	R. L. 64, § 15.
1795, 8, § 2.	P. S. 67, § 10.	1915, 23.
R. S. 29, § 11.		

Establishments for sale of certain personal property at auction.
Licenses, etc.
1925, 351.

SECTION 14. No person shall conduct or maintain an establishment where any gold, silver or plated ware, stones, precious or otherwise, watches, clocks, jewelry, bric-a-brac, crockery, glassware, art goods or leather goods, or articles or goods represented as such, are sold at auction unless he is licensed to conduct or maintain the same by the licensing authority as defined in section one. Every application for such a license shall contain the name and place of residence of the applicant, a description of the premises whereon the applicant intends to conduct or maintain such an establishment, the name of the owner of said premises, a description of the class or classes of articles or goods intended to be sold under the license. The license shall be expressed to be and shall be subject to such reasonable conditions as to the hours of keeping open such an establishment as the licensing authority may prescribe. No person licensed hereunder shall conduct or maintain such an establishment in any place other than that set forth in the license. Every license granted hereunder shall expire on December thirty-first of the year of issue, and the fee for each such license and any renewal

18 thereof shall be ten dollars which shall accompany the application
 19 therefor. Nothing in this section shall authorize any sale at auction by
 20 any person other than a licensed auctioneer.

1 SECTION 15. Every such licensee shall keep books in which shall be
 2 described and inventoried all goods received at such establishment,
 3 the date of such receipt, the name and place of business of the per-
 4 son on whose account they are to be sold, the cost price to the licensee
 5 if purchased by him for purposes of sale, together with the name
 6 and place of business of the vendor, the names and addresses of the
 7 purchasers at the auction, the dates when sold at auction and the prices
 8 paid by said purchasers, together with a description of each article so
 9 sold. Said books shall be open to the inspection, at all reasonable times,
 10 of the licensing authority and its agents, or of any police officer. All
 11 blank forms for applications and licenses, and blank record books neces-
 12 sary to the administration of this section and section fourteen shall be
 13 furnished to the licensing authorities of cities and towns at cost, by
 14 the commissioner of public safety.

Same subject.
 Records.
 1925, 331.

1 SECTION 16. The licensing authority, after notice to the licensee
 2 and reasonable opportunity for him to be heard, may declare his license
 3 forfeited, or may suspend his license for such period of time as it may
 4 deem proper, upon satisfactory proof that he has violated or permitted
 5 a violation of any condition thereof or of any provision of any law, by-
 6 law or ordinance. The pendency of proceedings before a court shall
 7 not suspend or interfere with the power to declare a forfeiture. If the
 8 license is declared forfeited, the licensee shall be disqualified to receive
 9 a like license for one year after the expiration of the term of the license
 10 so forfeited.

Same subject.
 Forfeiture,
 etc., of licenses.
 1925, 331.

1 SECTION 17. Any person who violates any provision of section four-
 2 teen or fifteen, or any person licensed under said section fourteen to
 3 conduct or maintain an auction establishment who is guilty of fraud
 4 or deceit in relation to any sale thereat, shall be punished by a fine of
 5 not more than one hundred dollars or by imprisonment for ten days,
 6 or both; and if a person licensed as aforesaid is convicted of a violation
 7 of any provision of this section or of said section fourteen or fifteen, such
 8 license shall be revoked by the licensing authority without a hearing.

Same subject.
 Penalties.
 1925, 331.

CHAPTER 101.

TRANSIENT VENDORS, HAWKERS AND PEDLERS.

SECT.

TRANSIENT VENDORS.

1. Definitions.
2. Limit of application of chapter. Certain persons not exempted.
3. State license, bond or deposit, and fee.
4. Application for and record of license to be filed.
5. Local license. Application, fee, etc.
6. Penalty for neglect to file statement, etc.
7. Bankrupt sales, etc., regulated.
8. Selling without license, etc., prohibited.
9. Penalty for violation of two preceding sections.
10. Action for recovery of local license fee.
11. Return or surrender of license, filing certificate of loss, etc.
12. Special deposit and bond attachable, when.

HAWKERS AND PEDLERS.

13. Definitions.
14. Unauthorized selling, etc., by hawker or pedler penalized.
15. Limit of application of chapter.
16. Selling of certain articles prohibited.
17. Selling of certain articles permitted without a license, etc.

SECT.

18. Sale without license regulated.
19. Regulation of trade of bootblacking and sales by minors. Penalty.
20. Permitting or aiding minor in violating certain provisions prohibited. Penalty.
21. Same subject. Penalty.
22. Hawkers' and pedlers' licenses. Special state licenses. Fees.
23. County licenses. Fees.
24. Special state or county license to veteran without fee.
25. Transfer of licenses. Fee.
26. Records, etc., of licenses to hawkers and pedlers.
27. Endorsement of license, production thereof and use of badges, etc.
28. Effect of licenses on prosecution.
29. Pedlers, etc., licensed as auctioneers.
30. Revocation of licenses.

GENERAL PROVISIONS.

31. Counterfeiting licenses, etc., penalized.
32. Arrest. Prosecution.
33. Temporary licenses to sell articles for charitable purposes.

TRANSIENT VENDORS.

Definitions.
1890, 448, § 1.
R. L. 65, § 1.
1918, 257,
§§ 256, 257.
1919, 5.
1920, 2.
1921, 106, § 1.
1923, 102, § 1.
156 Mass. 215.
164 Mass. 338.
175 Mass. 325.
Op. A G.
(1917) 57, 119.

SECTION 1. "Transient vendor" for the purposes of this chapter shall mean and include any person, either principal or agent, who engages in a temporary or transient business in the commonwealth, either in one locality or in traveling from place to place selling goods, wares or merchandise.

"Temporary or transient business" for the purposes of this chapter shall mean and include any exhibition and sale of goods, wares or merchandise which is carried on in any tent, booth, building or other structure, unless such place is open for business during usual business hours for a period of at least nine months in each year.

Limit of application of chapter
Certain persons not exempted.
1890, 448,
§§ 2, 5.
R. L. 65, § 2.
1917, 237, § 1.
1918, 257,
§ 256
1919, 5.
1920, 2.
1921, 106, § 2.
1923, 102, § 2.
1926, 120, § 1.
Op. A G.
(1917) 57.

SECTION 2. The provisions of this chapter relative to transient vendors shall not apply to sales by commercial travelers or by selling agents to dealers in the usual course of business, or to bona fide sales of goods, wares or merchandise by sample for future delivery, or to sales of goods, wares or merchandise by any person, whether principal or agent, who engages in temporary or transient business in any town in which taxes have been assessed upon his stock in trade during the current year, or to hawkers and pedlers as defined in section thirteen, nor shall they affect the right of any town to pass ordinances or by-laws authorized by law relative to transient vendors. No transient vendor shall be

11 relieved or exempted from the provisions and requirements of this chap-
 12 ter relative to transient vendors by reason of associating himself tempo-
 13 rarily with any local dealer, trader or merchant, or by conducting such
 14 temporary or transient business in connection with or as a part of the
 15 business of, or in the name of any local dealer, trader or merchant.

1 SECTION 3. Every person before commencing business in the com-
 2 monwealth as a transient vendor, whether as principal or agent, shall
 3 make written application, under oath, for a state license to the director
 4 of standards, in this chapter called the director, stating the names and
 5 residences of the owners or parties in whose interest said business is to
 6 be conducted, and shall make a special deposit of five hundred dollars
 7 with the director or shall give a bond in the sum of five hundred dollars,
 8 payable to the director and his successors, with sureties approved by the
 9 director, conditioned upon (1) compliance with the provisions of this
 10 chapter relative to transient vendors, (2) payment of all fines or penalties
 11 incurred by him through violations of such provisions, and (3) payment
 12 or satisfaction of any judgment obtained against him in behalf of any
 13 creditor whose claim arises in connection with the business done under the
 14 licensee's state license and who, before the expiration of sixty days from
 15 the return or surrender of said license or the filing of an affidavit of its
 16 loss, shall have given due notice of his claim to the director. Thereupon,
 17 upon the payment of a fee of twenty-five dollars, the director shall issue
 18 to him a state license authorizing him to do business as a transient vendor.
 19 Such license shall expire one year from the date thereof or on the day of
 20 its surrender or of the filing of an affidavit of its loss, if it is earlier sur-
 21 rendered or if such affidavit is earlier filed. Such license shall contain
 22 a copy of the application therefor and of any statements required under
 23 section seven, and shall not be transferable. It shall not authorize more
 24 than one person to sell goods, wares or merchandise as a transient vendor
 25 either by agent or clerk or in any other way than in his own proper
 26 person, but a licensee may have the assistance of one or more persons
 27 in conducting his business who may aid him but not act for or without
 28 him.

State license,
 bond or
 deposit,
 and fee
 1890, 448,
 §§ 5-7, 12, 14,
 R. L. 65, § 3
 1916, 120,
 § 1, 3
 1917, 237, § 2
 1918, 218, 257,
 § 256
 1919, 5; 350,
 § 77
 1920, 2
 1926, 120, § 2.

1 SECTION 4. The director shall keep on file all applications for such
 2 licenses and a record of all licenses issued thereon. All files and records
 3 of the director and of the respective town clerks shall be in convenient
 4 form and open to public inspection.

Application for
 and record of
 license to be
 filed.
 1890, 448, § 7.
 R. L. 65, § 4.

1916, 120, § 2.

1918, 218.

1919, 350, § 77.

1 SECTION 5. Every transient vendor, before making any sales of
 2 goods, wares or merchandise in a town, shall make application to the
 3 aldermen or selectmen or other board authorized to issue such licenses
 4 and, unless the fee therefor is fixed as hereinafter provided, shall file
 5 with them a true statement, under oath, of the average quantity and
 6 value of the stock of goods, wares and merchandise kept or intended to
 7 be kept or exposed by him for sale. Said board shall submit such state-
 8 ment to the assessors of the town, who, after such examination and
 9 inquiry as they deem necessary, shall determine such average quantity
 10 and value, and shall forthwith transmit a certificate thereof to said
 11 board. Thereupon the board shall authorize the town clerk, upon the
 12 payment by the applicant of a fee equal to the taxes assessable in said

Local license.
 Application,
 fee, etc
 1890, 448,
 §§ 5, 8, 9,
 1894, 525,
 R. L. 65,
 §§ 5, 6
 1918, 257,
 §§ 256, 258.
 1919, 5,
 1920, 2.

town under the last preceding tax levy therein upon an amount of 13
 property of the same valuation, to issue to him a license authorizing the 14
 sale of such goods, wares and merchandise within the town. The board 15
 may, however, authorize the issue of such license without the filing of said 16
 statement as aforesaid, upon the payment of a license fee fixed by it. 17
 Upon payment of such fee, said town clerk shall thereupon issue such 18
 license, which shall remain in force so long as the licensee shall con- 19
 tinuously keep and expose for sale in such town such stock of goods, 20
 wares or merchandise, but not later than the first day of April following 21
 its date. Upon such payment and proof of payment of all other license 22
 fees, if any, chargeable upon local sales, such town clerk shall record 23
 the state license of such transient vendor in full, shall endorse thereon 24
 "local license fees paid" and shall affix thereto his official signature and 25
 the date of such endorsement. 26

Penalty for neglect to file statement, etc. 1890, 448, § 10. R. L. 65, § 7. 1918, 257, § 256. 1919, 5. 1920, 2.

SECTION 6. Any transient vendor who neglects or refuses to file the statement described in the preceding section, if required by the aldermen, selectmen or other like board, or makes a false or fraudulent representation therein, shall be punished by a fine of not less than five nor more than twenty dollars for each day on which he keeps or exposes for sale any goods, wares or merchandise.

Bankrupt sales, etc., regulated 1890, 448, § 12. R. L. 65, § 8. 1916, 420, § 3. 1918, 218, 257, § 256. 1919, 5; 350, § 77. 1920, 2.

[Penalty, § 9.]

SECTION 7. No transient vendor shall advertise, represent or hold forth any sale as an insurance, bankrupt, insolvent, assignee's, trustee's, executor's, administrator's, receiver's, wholesale, manufacturers' wholesale or closing out sale, or as a sale of any goods damaged by smoke, fire, water or otherwise or in any similar form, without first making a sworn statement to the director, either in the original application for a state license or in a supplementary application, of all the facts relating to the reasons for and character of such special sale so advertised or represented, and of the names of the persons from whom the goods, wares or merchandise were obtained, the date of delivery to the person applying for or holding the license, the place from which said goods, wares or merchandise were last taken, and all details necessary to exactly locate and fully identify all such goods, wares or merchandise.

Selling without license, etc., prohibited 1890, 448, §§ 3, 4, 8, 13. R. L. 65, § 9. 1902, 544, § 9. 1918, 257, § 256. 1919, 5. 1920, 2.

[Penalty, § 9.]

SECTION 8. No transient vendor shall sell or expose for sale, at public or private sale, any goods, wares or merchandise without state and local licenses therefor, properly endorsed, nor shall any person, either principal or agent, advertise by circular, handbill, newspaper or in any other manner any such unlicensed sales. No transient vendor shall file any application, original or supplementary, containing any false statement.

Penalty for violation of two preceding sections 1890, 448, §§ 3, 4, 8, 13.

SECTION 9. Violations of section seven or eight shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than two months, or both.

R. L. 65, § 9.

1902, 544, § 9.

Action for recovery of local license fee 1890, 448, § 11. R. L. 65, § 10.

SECTION 10. If a person liable for the license fee required by section five refuses or neglects to pay the same after demand by the clerk of the town in which he intends to sell goods, wares and merchandise, the

4 clerk may maintain an action of contract therefor in his own name for
5 the benefit of such town.

1 SECTION 11. Upon the expiration and return, or surrender before
2 expiration, of each state license, the director shall cancel the same,
3 endorse the date of return or surrender thereon, and place the same on
4 file. If a license is lost he may accept in lieu of the return or surrender
5 thereof an affidavit to that effect, which shall be so endorsed and filed.
6 He shall hold the special deposit of the licensee for sixty days after the
7 return or surrender of the license or the filing of such affidavit and, after
8 satisfying or making provision in accordance with the following section
9 for all claims made upon the same under said section, shall return the
10 surplus, if any, to said licensee; or, if said licensee has given a bond in
11 lieu of said deposit, the director shall, after said sixty days and after all
12 claims made under the following section have been satisfied or settled,
13 cancel said bond and notify said licensee and the surety on said bond.

Return or
surrender of
license, filing
certificate of
loss, etc.
1890, 448, § 15.
R. L. 65, § 11.
1916, 120, § 4.
1917, 237, § 3.
1918, 218; 237,
§ 259.
1919, 5, 350,
§ 77.
1920, 2

1 SECTION 12. Each deposit made with the director shall, during the
2 term of the licensee's license and for sixty days after the return or sur-
3 render thereof or the filing of an affidavit of its loss, be subject to attach-
4 ment and execution in behalf of any creditor of the licensee whose claim
5 arises in connection with the business done under his state license and
6 who gives notice of such claim to the director during such period, and the
7 director may be held to answer as trustee, under the trustee process, in
8 any civil action in contract or tort brought against said licensee for such
9 claim and shall pay over upon execution such amount of money as he
10 may be chargeable with upon his answer. Said deposit shall also be sub-
11 ject to the payment of any fine or penalty imposed on the licensee for
12 violation of any provision of the eleven preceding sections; provided,
13 that written notice of the name of said licensee and of the amount of such
14 fine or penalty is given during such period to the director by the clerk of
15 the court in which, or the trial justice by whom, such fine or penalty was
16 imposed. No payment of any part of said deposit shall be made to the
17 licensee unless so much thereof is retained as is required to discharge all
18 claims, fines and penalties of which notices have been given to the director
19 as herein provided and which remain undecided or unpaid. Upon the
20 giving of notice as herein provided, a bond given in lieu of such deposit
21 may be put in suit by any such creditor to recover the amount of such
22 claim or by any such clerk of court or trial justice to recover the amount
23 of such fine or penalty. If the licensee has made a deposit, the director
24 shall, until said deposit is exhausted, pay or make provision for the pay-
25 ment of all such claims, fines and penalties in the order in which notices
26 thereof were received by him. If the licensee has given a bond, the order
27 in which persons entitled to all such claims, fines and penalties shall
28 recover on the bond shall, until the penal sum of the bond is exhausted,
29 be determined by the order in which notices thereof were received by the
30 director.

Special deposit
and bond at-
tachable, when.
1890, 448, § 16.
R. L. 65, § 12.
1916, 120, § 5.
1917, 237, § 4.
1918, 218.
1919, 350, § 77.

HAWKERS AND PEDLERS.

1 SECTION 13. Except as hereinafter expressly provided, the terms
2 "hawker" and "pedler" as used in this chapter shall mean and include
3 any person, either principal or agent, who goes from town to town or
4 from place to place in the same town selling or bartering, or carrying for

Definitions.
1713-14, 7
1721-2, 6.
1726-7, 4.
1785, 2.
1799, 20.
1820, 45.

R. S. 35, § 7.
1846, 244, § 1.
G. S. 50, § 27.

sale or barter or exposing therefor, any goods, wares or merchandise, either on foot, on or from any animal or vehicle. 5
6

1864, 151, § 3.	1919, 5.	197 Mass. 199.
1870, 331.	1920, 2.	217 Mass. 579.
1878, 216, § 1.	12 Cush 493.	229 Mass. 225.
P. S. 68, §§ 16, 19.	157 Mass. 392.	272 Mass. 100.
R. L. 65, § 13.	175 Mass. 325.	156 U. S. 296.
1916, 242, § 1.	195 Mass. 262.	4 Op. A. G. 633.
1918, 257, § 260.		

Unauthorized selling, etc., by hawkers or pedler penalized.
[For statutory references see § 13.]
120 Mass. 183.

SECTION 14. A hawker or pedler who sells or barter or carries for sale or barter or exposes therefor any goods, wares or merchandise, except as permitted by this chapter, shall forfeit not more than two hundred dollars, to be equally divided between the commonwealth and the town in which the offence was committed. 1
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157 Mass. 392.	195 Mass. 262.	272 Mass. 100.
175 Mass. 325.	229 Mass. 225.	4 Op. A. G. 515.

Limit of application of chapter.
1920, 591, § 21.
1920, 349, § 1.
114 Mass. 207.
229 Mass. 225.
Op. A. G.
(1917) 57.

SECTION 15. The provisions of this chapter relating to hawkers and pedlers shall not apply to wholesalers or jobbers selling to dealers only, nor to commercial agents or other persons selling by sample, lists, catalogues or otherwise for future delivery, nor to any person who peddles only fish obtained by his own labor or that of his family, fruits, vegetables or other farm products raised or produced by himself or his family, nor to persons selling articles for charitable purposes under section thirty-three. 1
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Selling of certain articles prohibited.

SECTION 16. The sale by hawkers or pedlers of jewelry, furs, wines or spirituous liquors is prohibited. 1
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1820, 45.	P. S. 68, § 3.	14 Gray, 29.
R. S. 35, § 8.	R. L. 65, § 14.	217 Mass. 579.
1846, 244, § 2.	1916, 242, § 2.	4 Op. A. G. 633.
G. S. 50, § 15.	1929, 349, § 2.	

[Penalty, § 14.]

Selling of certain articles permitted without a license, etc.
1820, 45
1823, 122
R. S. 35, § 8
1846, 244, § 2.
G. S. 50, § 13
1878, 216, § 2
P. S. 68, § 1
1883, 168
1899, 260
1900, 157
R. L. 65, § 15.
1905, 377.
1906, 345.
1916, 48.
242, § 3.
1918, 257,
§ 261
1919, 5.
1920, 2, 504,
§ 20
1923, 285
1927, 185, § 1.
1929, 349, § 3.
1931, 278; 429.

SECTION 17. Hawkers and pedlers may sell without a license newspapers, religious publications, ice, flowering plants, and such flowers, fruits, nuts and berries as are wild or uncultivated. The aldermen or selectmen may by regulations, not inconsistent with this chapter, regulate the sale or barter, and the carrying for sale or barter or exposing therefor, by hawkers and pedlers, of said articles without the payment of any fee; may in like manner require hawkers and pedlers of meats, butter, cheese, fish, and fresh fruit or vegetables, whether adults or minors, to be licensed except as otherwise provided, and may make regulations governing the same, provided that the license fee does not exceed that prescribed by section twenty-two for a license embracing the same territorial limits; and may in like manner affix penalties for violations of such regulations not to exceed the sum of twenty dollars for each such violation. A hawker and pedler of meats, butter, cheese, fish, or fresh fruit and vegetables licensed under this section need not be licensed under section twenty-two. 1
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157 Mass. 392.	190 Mass. 355.	272 Mass. 100.
175 Mass. 325.	219 Mass. 121.	4 Op. A. G. 567, 633.

Sale without license—regulated
G. S. 50, § 13.
1862, 178.
P. S. 68, § 1.
1899, 260
R. L. 65, § 16.

SECTION 18. Articles other than those the sale of which is licensed, or permitted without a license, under the preceding section, and not prohibited by section sixteen, shall not be sold by hawkers or pedlers unless duly licensed as hereinafter provided. 1
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1918, 257, § 262.	1920, 2.	156 U. S. 296.
1919, 5.	190 Mass. 355.	4 Op. A. G. 633.

1 SECTION 19. The aldermen or selectmen may make regulations con-
 2 sistent with the general laws relative to the exercise of the trade of boot-
 3 blacking by minors, and to the sale or barter by minors of any goods,
 4 wares or merchandise the sale of which is permitted without a license by
 5 section seventeen, and may prohibit such trade or such sales, or may
 6 require a minor to obtain from them a permit therefor to be issued on
 7 terms and conditions prescribed in such regulations; provided, that in
 8 the case of girls under the age of eighteen years and of boys under the
 9 age of sixteen years the foregoing powers in cities shall be vested in and
 10 exercised by the school committee. No permit issued to a minor under
 11 this section nor badge issued to him under sections sixty-nine to seventy-
 12 three, inclusive, of chapter one hundred and forty-nine shall authorize
 13 the sale by a minor of any article, other than those which may be sold
 14 without a license under section seventeen. A minor who sells such
 15 article or exercises such trade without a permit, if one is required, or
 16 who violates the conditions of his permit or any provision of said regu-
 17 lations, shall be punished by a fine of not more than ten dollars.

Regulation of
 trade of boot-
 blacking and
 sales by minors.
 Penalty.
 1846, 244, § 2.
 G. S. 50, § 14.
 P. S. 68, § 2.
 1802, 331
 R. L. 65, § 17.
 1902, 531
 1906, 151
 1910, 419
 1916, 242, § 4.
 1918, 257, § 1.
 § 263
 1919, 5.
 1920, 2.
 1929, 349, § 4
 4 Op. A. G. 567.

1 SECTION 20. No person, having a minor under his control, shall
 2 knowingly permit him to violate any provision of section nineteen, nor
 3 shall any person procure or employ a minor to commit any such viola-
 4 tion, nor shall any person, either for himself or as agent of any other
 5 person, furnish or sell to a minor any article the sale of which is per-
 6 mitted without a license by section seventeen, with knowledge that
 7 he intends to sell it in violation of section nineteen, or after having
 8 received written notice to that effect from the school committee or any
 9 officer charged with the enforcement of said section nineteen. Violation
 10 of this section shall be punished by a fine of not more than two hundred
 11 dollars or by imprisonment for not more than six months.

Permitting or
 aiding minor
 in violating
 certain provisions
 prohibited.
 Penalty.
 1910, 419
 1916, 242, § 4.
 1918, 257,
 § 263.
 1919, 5.
 1920, 2.

1 SECTION 21. Whoever employs a minor in, or, having the care or
 2 custody of a minor, permits him to engage in, hawking or peddling
 3 without a permit or license, if one is required, or, for himself or as agent
 4 of any other person, furnishes or sells to a minor any article with knowl-
 5 edge that he intends to sell such article in violation of the provisions
 6 of this chapter relative to hawkers and peddlers, shall be punished by
 7 a fine of not more than two hundred dollars, to be equally divided be-
 8 tween the commonwealth and the town in which the offence was com-
 9 mitted, or by imprisonment for not more than six months.

Same subject.
 Penalty.
 1887, 422.
 R. L. 65, § 18.
 1916, 242, § 5.
 1918, 257,
 § 264
 1919, 5.
 1920, 2.

1 SECTION 22. The director may grant a license to go about carrying
 2 for sale or barter, exposing therefor and selling or bartering any goods,
 3 wares or merchandise, the sale of which is not prohibited by section
 4 sixteen, to any person who files in his office a certificate signed by the
 5 mayor or by a majority of the selectmen, stating that to the best of his
 6 or their knowledge and belief the applicant therein named is of good
 7 repute as to morals and integrity, and is, or has declared his intention
 8 to become, a citizen of the United States. The mayor or selectmen,
 9 before granting such certificate, shall require the applicant to make
 10 oath that he is the person named therein, and that he is, or has declared
 11 his intention to become, a citizen of the United States. The oath
 12 shall be certified by an officer duly qualified to administer oaths and
 13 shall accompany the certificate. The director shall cause to be inserted
 14 in every such license the amount of the license fee and the name of the

Hawkers' and
 peddlers'
 licenses.
 Special state
 license. Fees.
 1846, 244,
 §§ 2-5, 7
 1851, 298, § 1.
 G. S. 50, §§ 10,
 20
 1864, 151, § 2.
 1870, 331.
 P. S. 68,
 §§ 4-8.
 R. L. 65, § 19.
 1905, 204.
 1907, 571, § 1.
 1912, 192.
 1915, 253, § 1.
 1916, 242, § 6.
 1918, 218; 257,
 § 265
 1919, 5; 350.
 § 77
 1920, 2.

1929, 349, § 5.
 141 Mass. 81.
 195 Mass. 262.
 156 U. S. 296.
 2 Op. A. G.
 610.
 4 Op. A. G.
 567, 633.

TOWN for which it is issued. The licensee may go about carrying for 15
 sale or barter, exposing therefor and selling or bartering in any town 16
 mentioned in his license any meats, butter, cheese, fish, fruits, vegetables 17
 or other goods, wares or merchandise, not prohibited in section sixteen, 18
 upon payment to the director of the following fees: for each town contain- 19
 ing not more than one thousand inhabitants, according to the then 20
 latest census, state or national, four dollars; for each town containing 21
 more than one thousand and not more than two thousand inhabitants, 22
 seven dollars; for each town containing more than two thousand and 23
 not more than three thousand inhabitants, nine dollars; for each town 24
 containing more than three thousand and not more than four thousand 25
 inhabitants, eleven dollars; and for each city and each other town, 26
 eleven dollars, and one dollar for every one thousand inhabitants thereof 27
 over four thousand; but the fee shall in no case exceed twenty-six dol- 28
 lars, and the amount paid shall be certified on the face of the license. 29
 The director shall retain one dollar for every city and town named in 30
 each of the above described licenses, and shall pay over to the treasurers 31
 of the respective cities and towns at least semi-annually the balance of 32
 said fees so received. The director may grant, as aforesaid, special 33
 state licenses upon payment by the applicant of fifty dollars for each 34
 license; and the licensee may go about carrying for sale or barter, expos- 35
 ing therefor and selling or bartering in any city or town in the com- 36
 monwealth any meats, butter, cheese, fish, fruits, vegetables, or other 37
 goods, wares or merchandise, the sale of which is not prohibited by 38
 statute. A hawker or pedler licensed under this section need not be 39
 licensed under section seventeen or twenty-three within the territorial 40
 limits for which the license under this section is issued. 41

COUNTY
 Licenses Fees
 1846, 244, § 7
 G. S. 50, § 20
 P. S. 68, § 8
 R. L. 65, § 20
 1915, 253, § 2
 1916, 242, § 2
 1918, 218; 257,
 § 266
 1919, 5; 350,
 § 77
 1929, 2
 1927, 185, § 2
 1929, 349, § 6
 2 Op. A. G. 610

SECTION 23. The director may also grant as aforesaid special county 1
 licenses for each county mentioned therein; and the licensee may go 2
 about carrying for sale or barter, exposing therefor and selling or bar- 3
 tering within such county any goods, wares or merchandise manufac- 4
 tured by himself or by his employer and not prohibited by section 5
 sixteen, upon paying to the director the amounts following: for Suffolk, 6
 Essex, Middlesex and Worcester, each, ten dollars; for Norfolk, 7
 Plymouth, Bristol, Berkshire and Hampden, each, eight dollars; for 8
 Franklin, Hampshire and Barnstable, each, six dollars; and for Dukes 9
 county and Nantucket, each, four dollars. The license shall describe 10
 the manufactured articles to be sold or bartered under it, and shall 11
 not authorize the sale or barter of any other article by the licensee. 12
 In case the licensee is selling or bartering goods, wares or merchandise 13
 manufactured by his employer, the name of such employer shall be 14
 stated upon the license. The director shall retain one dollar for every 15
 county named in each of the above described licenses, and shall pay 16
 over to the treasurers of the respective counties at least semi-annually 17
 the balance of said fees so received. A hawker or pedler licensed under 18
 this section need not be licensed under section twenty-two in any city 19
 or town embraced within the territorial limits for which the license under 20
 this section is issued. 21

Special state
 of county
 license to
 veteran with-
 out fee
 1919, 22, 350,
 § 77.

SECTION 24. The director may grant without fee, on proof of iden- 1
 tity, a special state or county license to act as hawker or pedler, subject 2
 otherwise to this chapter, to any soldier or sailor resident in the common- 3
 wealth who served in the army or navy of the United States during the 4

5 world war and received an honorable discharge or a release therefrom,
6 and who is wholly or partly disabled by reason of wounds or injury re-
7 ceived, or disease contracted, during such service.

1 SECTION 25. A license granted under section twenty-two or twenty-
2 three may be transferred by the director, upon application therefor,
3 accompanied by a fee of one dollar and upon evidence furnished by
4 the applicant like that required for the original granting of such license,
5 and the transferee of a license granted under said section twenty-three
6 may go about carrying for sale or barter, exposing therefor and selling
7 or bartering any articles described therein within the county therein
8 set forth. The director may make rules and regulations consistent
9 with law covering the transfer of licenses granted under said section
10 twenty-three.

Transfer of
licenses. Fee.
1846, 244,
§ 9, 8.
G. S. 50, § 23.
P. S. 68, § 10.
R. L. 65, § 22.
1915, 253, § 3.
1918, 218.
1919, 530, § 77.
1927, 119.
1929, 349, § 7.
2 Op. A. C. 610.

1 SECTION 26. The director shall keep a record of all licenses to hawkers
2 and pedlers granted by him, with the number of each, the name and resi-
3 dence of the licensee, and the counties, cities and towns, if any, mentioned
4 therein, and of all transfers of licenses; and all such records shall be
5 open to public inspection. The provisions of this chapter relating to
6 hawkers and pedlers, or a synopsis thereof, shall be printed on every
7 such license. All such licenses shall bear the date of their issue and shall
8 continue in force for one year from that date.

Records, etc.,
of licenses to
hawkers and
pedlers.
1846, 244,
§§ 6, 9.
G. S. 50, §§ 21,
24.
1864, 151, § 1.
P. S. 68, §§ 11,
13, 18.
R. L. 65, § 23.

1915, 253, § 4.
1916, 242, § 8.

1918, 218; 257, § 267.
1919, 5; 350, § 77.

1920, 2.

1 SECTION 27. Every person licensed as a hawker or pedler shall
2 endorse his usual signature upon his license. He shall produce his
3 license for inspection whenever demanded by a mayor, alderman,
4 selectman, director or inspector of standards, sealer or deputy sealer
5 of weights and measures, city or town treasurer or clerk, constable,
6 police officer or justice of the peace; and if he fails so to do, he shall be
7 subject to the same penalty as if he had no license. The director shall,
8 at the expense of the licensee, provide a badge for each pedler and plates
9 or tags for each pack, parcel or vehicle used in hawking or peddling.
10 Such badges, plates or tags shall bear the number of the license, the
11 word "pedler", and such other information as the director may deem
12 necessary. Each pedler shall wear his badge in a conspicuous place.
13 Each wagon or other vehicle shall have attached to the front or side
14 thereof, in a place where it may readily and plainly be seen, and each
15 pack or parcel carried by a pedler traveling on foot shall have conspicu-
16 ously displayed thereon, the plate or tag provided by the director with
17 the license number attached thereto.

Endorsement
of license,
production
thereof
and use of
badges, etc.
1846, 244, § 9.
1851, 298, § 2.
G. S. 50, § 24.
P. S. 68, § 13.
R. L. 65, § 25.
1915, 253, § 6.
1916, 242, § 10.
1918, 218.
1919, 356, § 77.
1929, 349, § 8.
120 Mass. 183.

1 SECTION 28. No license issued to a hawker or pedler shall defeat or
2 bar a prosecution against the licensee, if it is proved that he sold or
3 bartered, carried for sale or barter or exposed therefor, any articles,
4 except such as are permitted without a license by section seventeen, in a
5 place in which he was not licensed to sell.

R. L. 65, § 26

1916, 242, § 11.

Effect of
licenses on
prosecution.
1846, 244,
§ 4, 10.
G. S. 50, § 25.
P. S. 68, § 14.

1 SECTION 29. No hawker or pedler, holding an auctioneer's license,
2 shall sell or expose for sale by public auction any goods, wares or mer-
3 chandise in any town other than that from whose authorities such license
4 was obtained, nor in any place in such town not expressly described
5 therein.

Pedlers, etc.,
licensed as
auctioneers.
1852, 115, § 2.
G. S. 50, § 25.
P. S. 68, § 17.
R. L. 65, § 28.

Revocation of licenses.
1908, 208.
1915, 253, § 5.
1916, 242, § 9.
1918, 218.
1919, 350, § 77.
1923, 154.
1928, 211
1929, 349, § 9.

SECTION 30. Any license granted by the director to a hawker or pedler may be revoked by him upon conviction of the licensee of any crime which in the judgment of the director warrants such revocation, or upon the submission to the director of evidence satisfactory to him that, during the term of the license, the licensee has accepted or solicited money otherwise than through the bona fide sale or barter of goods, wares or merchandise or has violated any provision of section ten A of chapter two hundred and sixty-four, or has in any manner begged or solicited alms from the public, or for any other sufficient cause. Whenever any person is convicted of a violation of any provision of this chapter, relative to hawkers and pedlers, or a person holding such a license is convicted of any crime, the clerk of the court in which, or the trial justice by whom, such person was convicted shall notify the director.

GENERAL PROVISIONS.

Counterfeiting licenses, etc., penalized.
1846, 244, § 10.
G. S. 50, § 26.
1870, 331.
1878, 216, § 1.
P. S. 68, § 15.
R. L. 65, § 27
1916, 242, § 12.
1918, 257, § 268
1919, 5.
1920, 2.

SECTION 31. Whoever counterfeits or forges a license, or has a counterfeited or forged license in his possession with intent to utter or use the same as true, knowing it to be false or counterfeit, or attempts to sell under a license which has expired or has been revoked or cancelled, or which has not been issued or transferred to him, or has in his possession another's license with intent to use the same, shall be punished by a fine of not more than one thousand dollars.

Arrest.
Prosecution
1864, 151, § 3.
P. S. 68, § 19
R. L. 65, § 29.
1915, 253, § 7
1916, 120, § 6
1918, 218.
1919, 350, § 77

SECTION 32. The director and inspectors of standards and, within their respective towns, sealers or deputy sealers of weights and measures, constables and police officers shall arrest and prosecute every hawker and pedler, and transient vendor, whom they may have reason to believe guilty of violating any provision of this chapter.

Temporary licenses to sell articles for charitable purposes.
1916, 188.
1931, 394, § 115.

SECTION 33. The board of public welfare in any city or the selectmen in any town may, under such conditions as they may deem proper, grant to any organization engaged exclusively in charitable work a special license authorizing it, upon a particular day and for a charitable purpose named in such license, to sell, through its accredited agents in the streets and other public places within such city or town, or in any designated part thereof, flags, badges, medals, buttons, flowers, souvenirs and similar small articles; provided, that no person under sixteen years of age shall be accredited as such agent, that each agent shall wear in plain sight while engaged in selling such articles a badge, provided by such organization and approved by the authority issuing the license, bearing upon it the name of such organization and the date on which the license is to be exercised, and that no such agent shall be authorized to make or attempt to make such sales in front of any private premises against the objection of the owner or occupant thereof. The exercise of the licenses hereby provided for shall be subject to the provisions of all statutes, ordinances, by-laws, rules and regulations not inconsistent herewith.

CHAPTER 102.

SHIPPING AND SEAMEN, HARBORS AND HARBOR MASTERS.

SECT.

SHIPPING AND SEAMEN.

1. Penalty for boarding vessels without leave.
2. Seamen exempt from arrest for debt, when. Penalty.
3. Penalties, how recovered, etc.
4. Harbor limits.
5. Relief of shipwrecked seamen.

VESSELS TRANSPORTING STONE, ETC.

6. Weighers of vessels.
7. Vessels transporting stone, etc., to be marked. Marks.
8. Duties of weighers.
9. Deduction from tonnage, when made.
10. Regulations on board during weighing.
11. Marks to be annually examined. Fee.
12. Fees of weighers.
13. Penalties.
14. Ordinances, etc., as to weighing of lighters, etc.

SECT.

15. Use of motor boats not provided with certain appliances penalized.
16. Power boats on certain ponds, lakes, etc., to display lights at night.

HARBORS AND HARBOR MASTERS.

17. Illegal deposit of stones, etc., in harbor penalized.
18. No line to be passed across channel.
19. Harbor masters, etc.
20. Powers and duties of assistants.
21. Powers of harbor masters.
22. Same subject.
23. Same subject.
24. Removal of vessel lying in harbor.
25. Removal of vessel lying at wharf.
26. Regulation of station of vessels, etc.
27. Harbor masters to report violations.
28. Penalties.

SHIPPING AND SEAMEN.

1 SECTION 1. Whoever, not being a pilot or public officer, shall board
 2 or attempt to board a vessel arriving in the harbor of Boston, Salem,
 3 Fall River, New Bedford and Fairhaven or Gloucester, before such
 4 vessel has been made fast to the wharf, without the previous permission
 5 of the master or person having charge thereof or the previous written
 6 permission of its owners or agent, or whoever, without such leave and
 7 without authority of law, shall board a vessel in any of said harbors
 8 after having been forbidden so to do by a person having charge thereof
 9 at the time, or, having boarded such vessel, shall refuse or neglect to
 10 leave it when ordered so to do by the person having charge of it, shall
 11 forfeit not more than fifty dollars.

Penalty for
boarding ves-
sels without
leave.
1857, 139,
§§ 1-3.
G. S. 52,
§§ 22, 23.
P. S. 69,
§§ 5, 6.
1895, 106, § 1.
R. L. 66, § 1
160 Mass. 312.
U. S. Rev. Sts.
§ 4606.

1 SECTION 2. A seaman or mariner who has shipped or entered into a
 2 contract for a voyage from a port in this commonwealth shall not be
 3 arrested on mesne process on account of a debt to a landlord or boarding
 4 house keeper; nor shall a landlord or boarding house keeper detain or
 5 have a lien upon his wearing apparel or other property, or hinder, ob-
 6 struct or delay him in the performance of such contract. Violation of
 7 this section shall be punished by a fine of not more than two hundred
 8 dollars.

Seaman
exempt from
arrest for
debt, when.
Penalty.
C. L. 293
1693-4, 10, § 1.
1859, 235.
G. S. 52, § 26
P. S. 69, § 9
R. L. 66, § 4

1 SECTION 3. If any offense mentioned in the two preceding sections
 2 is committed in Boston or Boston harbor, the penalty may be recovered
 3 by complaint in the municipal court of the city of Boston; if in Salem
 4 or Salem harbor, in the first district court of Essex; if in Fall River or
 5 Fall River harbor, in the second district court of Bristol; if in New
 6 Bedford or Fairhaven or in the harbor of New Bedford and Fairhaven,

Penalties, how
recovered, etc
1857, 139, § 6
G. S. 52, § 27
P. S. 69, § 10
R. L. 66, § 5
193 Mass. 280.

in the third district court of Bristol, and if in Gloucester or Gloucester harbor, in the district court of eastern Essex. Whoever commits any such offence may be arrested without a warrant by any officer qualified to serve criminal process in the town in which the offence may be tried, and he shall be forthwith brought before the court.

Harbor limits.
1857, 139, § 7.
G. S. 52, § 28.
P. S. 69, § 11.
1895, 106, § 2.
R. L. 66, § 6.

SECTION 4. For the purposes of the three preceding sections, the outer limits of Boston harbor shall be a line drawn from Harding's Rock to the Outer Graves and thence to Nahant Head, and said harbor shall include the shores of Chelsea; the outer limits of Salem harbor shall be the chops of said harbor; the harbor of Fall River shall include the waters of Taunton Great river and Mount Hope bay, from the south line of the town of Freetown to the Rhode Island state line, including the shores of Somerset; the harbors of New Bedford and Fairhaven shall be considered one harbor, the outer limits of which shall be the outer limits of Buzzard's bay; and the outer limits of Gloucester harbor shall be a line drawn from Eastern Point to Norman's Woe.

Relief of shipwrecked seamen
1886, 179.
1898, 230.
R. L. 66, § 7.
1918, 291, § 17.
1919, 350, § 87.
1926, 241, § 2.
1928, 155, § 2.

SECTION 5. Boards of public welfare of towns may provide transportation to destitute shipwrecked seamen from one place to another within the commonwealth, and such other assistance while they are awaiting transportation, not exceeding ten dollars for each person, as the said board deem necessary. A detailed statement of expenses so incurred shall be rendered to the department of public welfare, and, after approval by it, such expenses shall be paid by the commonwealth, subject otherwise to the provisions of section forty-two of chapter one hundred and twenty-one, from the appropriation for temporary aid without reference to the legal settlement of such seamen.

VESSELS TRANSPORTING STONE, ETC.

Weighers of vessels.
1890, 75, § 2.
1822, 103, § 2.
R. S. 31, § 1.
G. S. 52, § 30.
P. S. 69, § 13.

SECTION 6. The mayor of a city and the selectmen of a town in which lighters or other vessels are employed in transporting stones, gravel or sand shall annually, in March or April, appoint one or more sworn weighers of vessels.

R. L. 66, § 8.

11 Met. 59.

Vessels transporting stone, etc., to be marked
Marks
1804, 75, § 1.
1822, 103, § 1.
R. S. 31, § 2.
G. S. 52, § 31.
P. S. 69, § 14.
1807, 273.
R. L. 66, § 9.

SECTION 7. Every lighter or other vessel employed in transporting stone sold by weight or gravel or sand shall be marked on the stem and stern post, nearly level with the bend of the vessel, with stationary marks or bar iron, not less than six inches long and two and a half inches wide, fastened with two good and sufficient iron bolts driven through said stem and stern post and riveted into said bar iron, from which all other marks shall take their distance in feet, inches and parts of inches, as the distance may require, from the lower edge of the stationary marks to the lower edge of the other marks; which marks shall be as follows: light water marks, not less than four inches long and one inch and a half wide; and marks for every four tons above said light water marks, legibly cut or cast, in figures of four and multiples of four, up to the full capacity of the vessel. Said figures shall express the weight which such vessel is capable of carrying when the lower parts of such figures touch the water; and all the marks shall be of good and sufficient lead or copper, fastened on the stem and stern post of each vessel with sufficient nails not less than one inch long; or the weight which such lighter or

18 other vessel is capable of carrying shall be indicated by having in the
 19 hold of such lighter or vessel, at each end thereof, and as near as practi-
 20 cable to the extremities of the space where the cargo is usually carried,
 21 a glass tube, with a stopcock at the bottom, which shall be mounted
 22 upright upon a scaleboard of metal or wood having marks or figures so
 23 arranged thereon as to indicate the weight of the cargo when the water
 24 in the tube shall reach the bottom of a figure or mark on the scaleboard.

1 SECTION 8. Each weigher, upon request, shall furnish the requisite
 2 marks and nails, and shall cause lighters and other vessels to be weighed
 3 and marked in conformity with the preceding section. The weigher
 4 shall keep in a book provided for the purpose a correct account of the
 5 distance of each mark from the stationary marks, in feet, inches and
 6 fractions thereof, and shall give a certificate thereof, expressing the
 7 distance, to the master of every such vessel.

Duties of
 weighers
 1822, 103, § 3.
 R. S. 31, § 3
 G. S. 52, § 32
 P. S. 69, § 15
 R. L. 66, § 10.

1 SECTION 9. In taking the tonnage of every such vessel, a deduction
 2 may be made of one ton for every inch that the light water marks are
 3 under water after such vessel has discharged its cargo.

Deduction
 from tonnage,
 when made

1822, 103, § 4.
 R. S. 31, § 4.

G. S. 52, § 33.
 P. S. 69, § 16.

R. L. 66, § 11.

1 SECTION 10. Every person on board such vessel, who does not keep
 2 within the bounds of the bulkhead and fore chains during the time of
 3 taking the marks or while a weigher is employed in weighing or marking,
 4 unless in case of absolute necessity, shall forfeit not more than twenty
 5 dollars.

Regulations
 on board dur-
 ing weighing.
 1822, 103, § 5.
 R. S. 31, § 5
 G. S. 52, § 34
 P. S. 69, § 17.

R. L. 66, § 12.

1 SECTION 11. Such vessels shall have their marks examined annually
 2 in June by a sworn weigher; and if the marks agree with the former
 3 certificates, he shall certify the same accordingly; otherwise he shall keep
 4 such certificates, which shall be admitted in evidence in any prosecu-
 5 tion against the master or owner of such vessel under this chapter, and
 6 such vessel shall be weighed again. For the services required by this
 7 section he shall receive one dollar and fifty cents.

Marks to be
 annually ex-
 amined. Fee.
 1815, 18.
 1822, 103, § 7.
 R. S. 31, §§ 6, 7
 G. S. 52,
 §§ 35, 36.
 P. S. 69,
 §§ 18, 19
 R. L. 66, § 13.

1 SECTION 12. Each weigher shall receive from the owner or master
 2 of a vessel weighed and marked twenty cents for every ton of such vessel,
 3 and four dollars for furnishing marks, nails and other necessary articles,
 4 fastening the same and giving the certificate.

Fees of
 weighers.
 1822, 103,
 §§ 6, 7
 R. S. 31, § 7.

G. S. 52, § 36.

P. S. 69, § 19.

R. L. 66, § 14.

1 SECTION 13. Every owner or master of any such vessel who neglects
 2 to have the same weighed, marked and examined according to this
 3 chapter, or removes any marks or alters his certificate, and every weigher
 4 who places any mark contrary to this chapter, or gives a false certificate,
 5 shall forfeit not more than three hundred dollars.

Penalties.
 1800, 75, § 1.
 1822, 103, § 5.
 R. S. 31,
 §§ 8, 9
 G. S. 52,
 §§ 37, 38.

P. S. 69, §§ 20, 21.

R. L. 66, § 15.

11 Met. 59.

1 SECTION 14. Towns may establish ordinances or by-laws regulating
 2 the marking and weighing of lighters and other vessels employed in
 3 transporting stones, gravel, sand or other ballast; the inspection and
 4 weighing of such ballast; and the appointment and compensation of
 5 weighers, markers, inspectors and other officers necessary to carry such

Ordinances,
 etc., as to
 weighing of
 lighters, etc.
 1848, 208.
 G. S. 52, § 39
 P. S. 69, § 22
 R. L. 66, § 16.

ordinances or by-laws into effect; and may affix penalties for breaches thereof not exceeding those named in sections ten and thirteen. 6
7

Use of motor boats not provided with certain appliances penalized. 1909, 245, §§ 1, 2.

SECTION 15. Whoever uses a boat propelled in whole or in part by gas, gasoline or naphtha, unless the same is provided with a muffler or an under-water exhaust, so constructed and used as to muffle in a reasonable manner the noise of the explosion, shall be punished by a fine of not more than twenty-five dollars. 1
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Power boats on certain ponds, lakes, etc., to display lights at night. 1910, 397, § 1. 1918, 257, § 269. 1919, 5. 1920, 2.

SECTION 16. All boats propelled by gasoline or naphtha, or by steam, electric or mechanical power, on ponds, lakes and rivers, when in use from one half hour after sunset until one half hour before sunrise, shall display lights as follows: 1
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(a) On the starboard side, a green light of such a character as to be visible on a dark night, with a clear atmosphere, and so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, and so fixed as to throw the light from a point right ahead to two points abaft the beam on the starboard side. 5
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(b) On the port side, a red light of such a character as to be visible on a dark night, with a clear atmosphere, and so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, and so fixed as to throw the light from a point right ahead to two points abaft the beam on the port side. The red and green lights shall be fitted with inboard screens. 10
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(c) A white light at the stern plainly visible above any deck-house or other obstruction. 16
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HARBORS AND HARBOR MASTERS.

Illegal deposit of stones, etc., in harbor penalized. C. L. 9: 157, § 3. 1713-14, 10, § 1. 1881, 8, § 6.

SECTION 17. Whoever wilfully and without lawful authority or license therefor, deposits in a harbor or other navigable tide waters stones, gravel, mud, ballast, cinders, ashes, dirt or any other substance tending to injure the navigation or to shoal the depth thereof shall be punished by a fine of not more than twenty dollars. 1
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P. S. 69, § 23.

1884, 269, § 1.

R. L. 66, § 17.

No line to be passed across channel.

SECTION 18. No warp or line shall be passed across a channel or dock so as to obstruct vessels passing along the same. 1
2

1881, 8, § 7.

P. S. 69, § 24.

R. L. 66, § 18.

[Penalty, § 28.]

Harbor masters, etc. 1881, 8, § 1. P. S. 69, § 25. 1882, 216, § 1. R. L. 66, § 19. 1909, 270.

[Penalty, § 28.]

SECTION 19. The mayor of a city, except Boston, or the selectmen of a town where a harbor is situated, unless otherwise specially provided, may, and for all harbors that have been improved by the expenditure of money by the commonwealth shall, appoint a harbor master and assistant harbor masters and fix their compensation, to be paid by their respective cities or towns. The harbor master shall continue in office until the appointment of his successor, and the assistants, until the appointment of their successors or until their appointments have been revoked. 1
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Powers and duties of assistants. 1882, 216, § 2. R. L. 66, § 20. [Penalty, § 28.] law.

SECTION 20. Such assistants shall be subject to the direction and control of the harbor master of their town, and shall have all the powers given to, and be subject to all the duties required of, harbor masters by law. 1
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1 SECTION 21. The master of a vessel within a harbor for which a harbor master is appointed shall anchor his vessel according to the regulations of the harbor master, and shall move to such place as he directs.

2 The master of a towboat having a vessel in tow and a pilot having a vessel in charge shall allow such vessel to anchor only in such place as the regulations of the harbor master provide for anchorage.

Powers of harbor masters.
C. L. 157, § 2.
1881, 8, § 2.
P. S. 69, § 26.
1884, 173.
R. L. 66, § 21.
223 Mass. 84.
[Penalty, § 28.]

1 SECTION 22. The master of a vessel, before unloading lumber in the stream or channel of a harbor having a harbor master, shall obtain from him a permit, designating where such lumber may be rafted.

Same subject.
1881, 8, § 3.
P. S. 69, § 27.
R. L. 66, § 22.

[Penalty, § 28.]

1 SECTION 23. A vessel lying in a harbor or at a wharf or pier in a harbor shall, if so directed by the harbor master, cockbill the lower yards, brace the topsail yards fore and aft and rig in the jib-boom.

Same subject.
1881, 8, § 4.
P. S. 69, § 28.
R. L. 66, § 23.

[Penalty, § 28.]

1 SECTION 24. A harbor master may, at the expense of the master or owners thereof, cause the removal of any vessel which lies in his harbor and is not moved when directed by him, and upon the neglect or refusal of such master or owners on demand to pay such expense, he may recover the same from them in contract, to the use of the town where the harbor is situated.

Removal of vessel lying in harbor.
1881, 8, § 5.
P. S. 69, § 29.
1884, 173.
R. L. 66, § 24.
[Penalty, § 28.]

1 SECTION 25. If the master or other person in charge of a vessel occupying a berth at a wharf or pier fails, after notice from the wharfinger thereof or his agent, to remove his vessel from such berth within such time as the harbor master adjudges reasonable, the harbor master shall cause such vessel to be moved to some other berth or anchored in the stream, and may recover the expense thereof in contract from the master or owners thereof, to the use of the town where the harbor is situated.

Removal of vessel lying at wharf.
1881, 8, § 8.
P. S. 69, § 30.
R. L. 66, § 25.
[Penalty, § 28.]

1 SECTION 26. A harbor master may regulate and station all vessels in the streams or channels of his harbor, and may remove such as he determines are not fairly and actually employed in receiving or discharging their cargoes, to make room for such others as require to be more immediately accommodated for such purposes.

Regulation of station of vessels, etc.
1881, 8, § 9.
P. S. 69, § 31.
R. L. 66, § 26.

1 SECTION 27. Harbor masters shall report to the department of public works any violation of section seventeen or of any law relating to tide water in their respective harbors, and of all shipwrecks in the tide waters of their respective harbors and of any obstructions therein.

Harbor masters to report violations.
1881, 8, § 11.
P. S. 69, § 32.
1883, 260, § 8.
R. L. 66, § 27.

1916, 288, § 1.

1919, 350, § 111.

[Penalty, § 28.]

1 SECTION 28. Whoever violates any of the provisions of the ten preceding sections or refuses or neglects to obey the lawful orders of a harbor master, or resists him in the execution of his duties, shall be punished by a fine of not more than fifty dollars, and shall be liable in tort to any person suffering damage thereby.

Penalties.
1881, 8, § 10, 12.
P. S. 69, § 33, 34.
1884, 173.
R. L. 66, § 28.
223 Mass. 84.

CHAPTER 103.

PILOTS.

SECT.	SECT.
1. Pilot districts.	21. Pilots to board first vessel showing signal.
2. Commissioners and deputy commissioners of pilots. Appointment, etc.	22. What shall constitute an offer of pilotage service.
3. Same subject. Powers and duties.	23. Inward vessel to take first pilot offering.
4. Secretary to commissioners of district one. Appointment, duties, etc.	24. Outward vessel to pay fees to inward pilot.
5. Accounts of pilots. Compensation, etc., of commissioners, etc.	25. What vessels pilots are to take charge of.
6. Pilots to give bonds.	26. Certain vessels liable only for half fees.
7. [Repealed.]	27. Fees of vessel taking steam towage.
8. [Repealed.]	28. Exemption of certain vessels from compulsory pilotage.
9. [Repealed.]	29. [Repealed.]
10. [Repealed.]	30. Additional fees in case of detention.
11. [Repealed.]	31. Rates of pilotage.
12. [Repealed.]	32. Pay of pilot when carried to sea.
13. [Repealed.]	33. Failure to anchor vessels with alien passengers penalized.
14. [Repealed.]	34. Controversies between pilots, how settled.
15. Discharge of surety on bond of pilot.	35. Persons not pilots forbidden to act as such. Penalty.
16. Pilots to give new bond, when.	
17. Lien of pilots for their fees.	
18. Liability of pilots for negligence, etc.	
19. Pilots to exhibit their commissions.	
20. Pilots taking charge of certain vessels suspended, etc.	

Pilot districts
 1857, 139, § 7
 G. S. 52, § 28
 1862, 176, § 7.
 P. S. 70, § 7.
 R. L. 67, § 6
 G. L. (ed. of
 1920) 103, § 6.
 1925, 390, § 1.
 9 Mos. 371
 119 Mass. 179.

SECTION 1. For the purposes of this chapter the shore line of the commonwealth shall be divided into four districts. 1

District one shall be the harbor of Boston and shall include all places or landings accessible to vessels from the sea within the limits of Egg Rock, now or formerly known as Nahant Rock or Nahant Head, on the north, and Point Allerton on the south. 2

District two shall include all landing places accessible to vessels from the sea situated between the New Hampshire state line on the north and Egg Rock on the south, including rivers, bays and sounds adjacent thereto. 3

District three shall include all landing places accessible to vessels from the sea situated between Point Allerton on the north and the Rhode Island state line on the west, with all such landing places on the Elizabeth Islands and in the counties of Nantucket and Dukes, including rivers, bays and sounds adjacent thereto, and the Cape Cod canal. 4

District four shall include all landing places on Mount Hope bay and the Taunton river situated within the commonwealth. 5

Commissioners and deputy commissioners of pilots—Appointment, etc.
 1775, 4, 16
 1808, 37
 1855, 139,
 58, 1, 7
 R. S. 32, § 15
 1855, 121
 G. S. 52, § 1
 1862, 176, § 5

SECTION 2. There shall be two commissioners of pilots for district one and one deputy commissioner of pilots for each of the other three districts. On or before December first in any year when their terms of office expire, their successors shall be appointed by the governor, with the advice and consent of the council, for terms of three years. A deputy commissioner of pilots for any district shall be a resident of a town having a landing place accessible to vessels from the sea situated within that district. In this chapter, the word "commissioners" shall be held to mean, as to dis- 6

9 trict one, the commissioners of pilots for said district and, as to each other
 10 district mentioned in section one, the deputy commissioner of pilots for
 11 such district. They shall have experience in maritime and nautical
 12 affairs. Appointments of commissioners for district one shall be made
 13 upon the recommendation of the trustees of the Boston Marine Society
 14 provided such recommendation is made. Appointments of commission-
 15 ers for districts other than district one may be made upon the recom-
 16 mendation of said trustees. No commissioner for any district shall be
 17 such a trustee.

P S 70, § 2.
 R L 67, § 1.
 G L, (ed of
 1920) 103, § 1.
 1923, 390, § 1.
 1931, 126, § 59
 154 Mass 603.

1 SECTION 3. The commissioners, subject to the approval of the trust-
 2 tees of said society, shall formulate rules and regulations for pilotage and
 3 establish rates within their respective districts, which, for district one
 4 shall be the rates established in section thirty-one, and which for the
 5 other three districts shall not exceed the rates established by said section.
 6 The commissioners also, in accordance with such rules and regulations,
 7 shall grant commissions as pilots for their districts or for special locations
 8 therein, to such persons as they consider competent; provided that for
 9 district one such persons shall first be approved by said trustees. The
 10 commissioners may, upon satisfactory evidence of his misconduct, care-
 11 lessness or neglect of duty, suspend any such pilot until the next meeting
 12 of said trustees and may thereafter continue such suspension until the
 13 close of the next stated meeting of said trustees, but no longer for the same
 14 offense. If said trustees decide at either of said meetings that the com-
 15 mission of such pilot ought to be revoked, the commissioners may revoke
 16 it at any time after said decision is rendered and before it is reversed.
 17 The commissioners shall cause the laws and regulations for pilotage within
 18 their district to be duly observed and executed, and shall receive, hear
 19 and determine complaints by and against pilots for said district.

Same subject
 Powers and
 duties
 1783, 13,
 §§ 1, 9
 1785, 29, § 5
 1796, 85, § 4
 1813, 104
 1826, 88,
 104, 114
 1829, 2, § 2
 1835, 119, § 2.
 R S 32, §§ 5,
 16, 25, 26, 29,
 33
 1855, 421, § 2.
 G S 52, § 2.
 1862, 176,
 §§ 4, 8-16.
 1878, 39,
 § 3
 1882, 174
 P S 70,
 §§ 3, 8-16
 1887, 298, § 1.
 1890, 399,
 R L 67,
 §§ 2, 7-13
 G L, (ed of
 1920) 103, §§ 2,
 7-13.
 1923, 390, § 1
 1911 Mass. 498
 2 Op A G 416

1 SECTION 4. The commissioners of district one shall appoint a secre-
 2 tary who shall keep an office and attend the same during the day to re-
 3 ceive complaints by and against the pilots for said district, and who shall
 4 keep a fair record of his doings which shall be open at all times for exami-
 5 nation.

Secretary to
 commissioners
 of district one.
 Appointment,
 duties, etc.
 1835, 119, § 3.
 R S 32, § 19.
 1855, 421, § 4.

G S 52, § 11.
 1862, 176, § 5.

P S 70, § 4.
 R L 67, § 3.

G L, (ed of 1920) 103, § 3.
 1923, 390, § 1.

1 SECTION 5. Once in every three months each pilot shall render to
 2 the commissioners for his district an accurate account of all vessels
 3 piloted by him and of all money received for pilotage by him or by any
 4 person for him, and shall pay to the said commissioners four per cent of
 5 the amount thereof, and if he makes a false return of money received he
 6 shall pay to them not more than fifty dollars. The trustees of the Boston
 7 Marine Society shall fix the compensation of the commissioners and their
 8 allowance for office rent, clerk hire and incidental expenses, which shall
 9 be paid out of the amounts so paid to the commissioners, and the surplus,
 10 if any, shall be paid to said society.

Accounts of
 pilots. Com-
 pensation, etc.,
 of commis-
 sioners, etc.
 1835, 119, § 6
 R S 32, § 20
 1862, 176, § 3
 G S 52, § 12.
 1862, 176, § 6.
 1863, 75
 1871, 351, § 2.
 P S 70,
 §§ 5, 6
 R L 67,
 §§ 4, 5.

G L, (ed of 1920) 103, §§ 4, 5.

1923, 390, § 1.

1 SECTION 6. No person shall receive a commission or exercise the
 2 office of pilot until he has given to the state treasurer a bond with two
 3 sureties, approved by the commissioners, or a surety bond of a surety
 4 company authorized to transact business in the commonwealth, in the
 5 penal sum of one thousand dollars, conditioned on the faithful perform-

Pilots to give
 bond.
 1783, 13, § 2.
 1785, 29, § 4.
 1796, 85, § 5.
 1826, 88, § 4
 1835, 119, § 5.
 R S 32, § 6.
 17, 30, 35.

1855, 421, § 3. G. S. 52, § 8. 1862, 176, § 19; 176, reg. 8.	ance of the duties of his office and the payment of all damages accruing from his negligence, unskillfulness or unfaithfulness.	6 7
P. S. 70, § 17. R. L. 67, § 14.	G. L. (ed. of 1920) 103, § 14.	1923, 390, § 1. 136 Mass. 499.

SECTION 7. [REPEALED, 1923, 390, § 1.] 1

SECTION 8. [REPEALED, 1923, 390, § 1.] 1

SECTION 9. [REPEALED, 1923, 390, § 1.] 1

SECTION 10. [REPEALED, 1923, 390, § 1.] 1

SECTION 11. [REPEALED, 1923, 390, § 1.] 1

SECTION 12. [REPEALED, 1923, 390, § 1.] 1

SECTION 13. [REPEALED, 1923, 390, § 1.] 1

SECTION 14. [REPEALED, 1923, 390, § 1.] 1

Discharge of surety on bond of pilot. 1855, 449, § 5. R. S. 32, § 18. 1844, 168. G. S. 52, § 9. 1862, 176, § 20. P. S. 70, § 18. R. L. 67, § 15. 1923, 390, § 2.	SECTION 15. A surety upon the bond of a pilot desiring to be discharged from liability thereon shall give notice thereof to the commissioners, and shall also give written notice to such pilot, which may be served by a constable, and shall, with the return of the constable thereon, be filed with the state treasurer, and at the expiration of thirty days therefrom, the liability of such surety for the subsequent acts of said pilot shall cease. If a pilot so notified fails to furnish a new bond before the expiration of said thirty days, his commission shall be void.	1 2 3 4 5 6 7 8
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Pilots to give new bond, when. 1862, 176, § 21; 176, reg. 2. P. S. 70, §§ 19, 20.	SECTION 16. A pilot, in case of the decease, insolvency or bankruptcy of a surety upon his bond, shall give notice thereof to the commissioners. In such a case, or whenever a pilot's bond appears to the commissioners to be insufficient, he shall give a new bond.	1 2 3 4
	R. L. 67, § 16.	1923, 390, § 3.

Lien of pilots for their fees. 1796, 85, § 12. G. S. 52, § 7. 1862, 176, reg. 10. 1871, 351, § 3.	SECTION 17. A pilot shall have a lien for his pilotage fees upon the hull and appurtenances of every vessel liable to him therefor under this chapter for sixty days after the completion of his services; but the lien shall not be enforced until approved by the commissioners.	1 2 3 4
	P. S. 70, § 21.	R. L. 67, § 17.
		1923, 390, § 4.

Liability of pilots for negligence, etc.	SECTION 18. A pilot shall be liable for all damages accruing from his negligence, unskillfulness or unfaithfulness.	1 2
	1783, 13, § 8. 1796, 85, § 10. R. S. 32, § 11.	1855, 421, § 3. G. S. 52, § 8.
		1862, 176, reg. 8. P. S. 70, § 22.
		R. L. 67, § 18. 8 Pick. 23.

Pilots to exhibit their commissions.	SECTION 19. A pilot shall, if so required, exhibit his commission to the master of any vessel of which he may take charge.	1 2
	1783, 13, § 2. 1796, 85, § 5.	1862, 176, reg. 6. P. S. 70, § 23.
		R. L. 67, § 19. 5 Met. 412.

Pilots taking charge of certain vessels suspended, etc.	SECTION 20. A pilot taking charge of a vessel drawing more water than his commission authorizes shall be suspended or removed.	1 2
	1862, 176, reg. 7.	P. S. 70, § 24.
		R. L. 67, § 20.

1 SECTION 21. Pilots shall first board such vessels, irrespective of size,
2 as may have signals set for a pilot. If there are no such signals to be
3 seen, pilots shall offer their services to the first vessel which they can
4 board; and if a vessel liable to pilotage refuses to take a pilot, a pilot
5 offering his services shall inform the officers of such vessel that she will
6 be held to pay the regular fees for pilotage, whether such services are
7 accepted or not.

Pilots to board
first vessel
showing signal.
1862, 176,
reg. 5.
P. S. 70, § 25.
R. L. 67, § 21.
101 Mass. 267.
2 Op. A. G. 47.

1 SECTION 22. A pilot boat, being on its station and displaying the
2 signals required by law, shall constitute an offer of pilotage service, and
3 shall constitute on the part of the pilot such compliance with sections
4 twenty-one and twenty-three as is necessary to entitle him to the regular
5 fees for pilotage from vessels otherwise liable therefor.

What shall
constitute an
offer of pilot-
age service.
1918, 56, § 2.

1 SECTION 23. Every inward bound vessel shall, except as provided in
2 sections twenty-five and twenty-eight, receive the first pilot holding a
3 commission for her port of destination offering his services, and such
4 vessels shall, except as provided in sections twenty-six and twenty-
5 seven, be held to pay such pilot the regular fees for pilotage, whether his
6 services are accepted or not.

Inward vessel
to take first
pilot offering.
1783, 13,
§§ 2, 6, 10
1796, 87, § 8.
1819, 45.
R. S. 32,
§§ 7, 12.

1841, 45, § 1.
1847, 279, § 4.
G. S. 52, § 6.
1862, 176, reg. 4.

P. S. 70, § 26.
R. L. 67, § 22.
5 Met. 412.
1 Gray, 257.

103 Mass. 237.
120 Mass. 3.
1 Op. A. G. 180.
2 Op. A. G. 47.

1 SECTION 24. Every outward bound vessel, except vessels under three
2 hundred and fifty tons register bound out of the port of Boston and
3 whaling vessels outward bound from the port of New Bedford, which is
4 liable to pilotage if inward bound, shall, whether the services of a pilot
5 are accepted or not, be held to pay the regular fees to the pilot who
6 brought her into port or to some other pilot of the same boat, if he
7 offers his services before she gets under way; or if such pilot does not so
8 offer, or if such vessel was not piloted into port, then to the pilot who first
9 offers his services.

Outward vessel
to pay fees to
inward pilot.
1862, 176, § 17;
176, reg. 4.
P. S. 70, § 27.
1884, 213.
R. L. 67, § 23.
1915, 17.
135 Mass. 175.
2 Op. A. G. 47.

1 SECTION 25. Every pilot shall take charge, within the limits of his
2 commission, of any vessels, not exempt from compulsory pilotage by
3 section twenty-eight, and of vessels not bound from one port to another
4 within the commonwealth, unless they are in the completion of a voyage
5 from a port out of the commonwealth.

What vessels
pilots are
to take
charge of.
1783, 13,
§§ 2, 6, 10.
R. S. 32,
§§ 7, 12.

1841, 45, § 1.
1847, 279, § 1.
G. S. 52, § 5.

1862, 176, reg. 17.
P. S. 70, § 29.
R. L. 67, § 25.

U. S. Rev. Sta.
§§ 4401, 4444.
4 Op. A. G. 365.

1 SECTION 26. Vessels of not more than two hundred tons burden,
2 or vessels under three hundred and fifty tons register bound into the
3 port of Boston, which decline the services of a pilot, shall, if otherwise
4 liable under this chapter to the payment of pilotage fees, be liable to one
5 half of the regular fees; but if they request and receive such services,
6 they shall pay the regular rates.

Certain vessels
liable only for
half fees.
1857, 221, § 1.
G. S. 52, § 15.
1862, 176,
reg. 18.
P. S. 70, § 30.
1884, 252, § 2.

R. L. 67, § 26.

1 SECTION 27. If steam towage is taken by the desire of the master,
2 the vessel shall pay full pilotage fees; but if taken by direction of the
3 pilot in charge, such vessel shall pay to the pilot seventy-five per cent
4 of the regular fees.

Fees of vessel
taking steam
towage.
1857, 221, § 3.
G. S. 52, § 17.

1862, 176, reg. 18.

P. S. 70, § 31.

R. L. 67, § 27.

Exemption of certain vessels from compulsory pilotage
 1783, 13,
 § 7, 10
 1796, 85,
 § 5, 9
 1819, 45
 1826, 88, § 8
 1829, 2, § 1, 4
 R 8 32,
 § 7, 21, 41
 1841, 45, § 1
 1847, 279, § 4
 G 8 52, § 5
 1862, 176,
 regs. 3, 15-18
 1869, 236, § 2
 1871, 351, § 3
 1873, 284, § 1
 P 8 70,
 § 28, 32, 33,
 1884, 252,
 § 1, 3-5.

SECTION 28. All coastwise steam vessels not sailing under register, 1
 certain vessels, vessels bound in or out of any port other than their 2
 ports of departure and destination, vessels regularly employed in the 3
 coasting trade, fishing vessels other than whalers, vessels of less than 4
 seven feet draught of water, vessels otherwise liable to pilotage bound 5
 into the harbor of Boston and arriving within a line drawn from Harding's 6
 Ledge to the Graves and thence to Nahant Head before the services of a 7
 pilot have been offered, and vessels under three hundred and fifty tons 8
 register bound out of the port of Boston, shall be exempt from compulsory 9
 payment of pilotage, but if any such vessel requests the aid of a 10
 pilot, he shall, when permitted by the laws of the United States, serve the 11
 same in like manner as vessels not exempt, and shall be entitled to the 12
 regular compensation therefor, except as provided in the preceding 13
 section. 14

R L 67, §§ 24, 28, 29,
 1915, 17
 P 8 Rev. Sta.
 §§ 4409, 4444

14 Mass. 17,
 1 Gray, 257
 127 Mass. 98
 135 Mass. 347.

254 Mass. 190
 118 U. S. 90
 4 Op. A. G. 365

SECTION 29. [REPEALED, 1923, 390, § 5.]

Additional fees in case of detention.
 1862, 176,
 reg. 13
 P 8 70, § 35,
 R L 67, § 31.

SECTION 30. If a vessel is anchored for twelve hours or more under 1
 any regulation relative to quarantine or to alien passengers, the pilot 2
 in charge, upon piloting such vessel to her port of destination, shall be 3
 entitled to an addition of twenty-five per cent to the regular fees. 4

Rates of pilotage
 1918, 56, § 1.

SECTION 31. Rates of pilotage outward and inward for the port of 1
 Boston, calculated per foot of draught, shall be as follows: three dollars 2
 for vessels not over five hundred tons; three dollars and fifty cents for 3
 vessels over five hundred tons and not over one thousand tons; four 4
 dollars for vessels over one thousand tons and not over fifteen hundred 5
 tons; four dollars and fifty cents for vessels over fifteen hundred tons 6
 and not over two thousand tons; five dollars for vessels over two thou- 7
 sand tons. The tonnage herein specified shall mean the net registered 8
 tonnage. 9

Pay of pilot when carried to sea.
 1862, 176,
 reg. 14
 P 8 70, § 36
 R L 67, § 32.

SECTION 32. If a pilot, without fault or negligence of his own or of 1
 his associates, is unable to leave the vessel under his charge and is carried 2
 to sea, he shall be entitled to five dollars for each day while necessarily 3
 detained from home. 4

1918, 56, § 3.

Failure to anchor vessels with alien passengers penalized.

SECTION 33. A pilot failing to anchor a vessel carrying alien passen- 1
 gers or a vessel subject to quarantine at the place assigned by the proper 2
 authorities shall be suspended or removed. 3

1862, 176, reg. 11

P 8 70, § 37.

R L 67, § 33.

Controversies between pilots, how settled.
 1862, 176,
 reg. 12.

SECTION 34. All controversies between pilots relative to their mutual 1
 rights, privileges and duties shall be referred to and settled by three 2
 master pilots, to be chosen by the parties for the purpose. 3

P 8 70, § 38.

R L 67, § 34.

Persons not pilots forbidden to act as such.
 Penalty.
 1796, 85, §§ 2, 3.

SECTION 35. No person unless he holds a commission as a pilot 1
 shall, if a commissioned pilot offers his services or can be obtained 2
 within a reasonable time, assume or continue to act as pilot in the charge 3

4 or conduct of any vessel within the waters of this commonwealth, unless
 5 he is actually employed on such vessel for the voyage. Whoever violates
 6 the provisions of this section shall be punished by a fine of not less than
 7 twenty nor more than fifty dollars.

1862, 176, reg. 1.
 P. S. 70, § 39.

1884, 252, § 6.
 R. L. 67, § 35.

5 Met. 412.
 254 Mass. 190.

CHAPTER 104.

AGENTS, CONSIGNEES AND FACTORS.

SECT.

1. Sales by consignees, etc.
2. Lien of consignee.
3. Same subject.
4. Lien for advances to consignee.

SECT.

5. Pledge by consignee to secure antecedent debt.
6. Effect of three preceding sections.

1 SECTION 1. A factor or other agent intrusted with the possession
 2 of merchandise or of a bill of lading consigning merchandise to him with
 3 authority to sell the same shall be deemed the true owner of such mer-
 4 chandise, so far as to give validity to any bona fide contract of sale made
 5 by him.

115 Mass. 224.
 144 Mass. 156.

164 Mass. 276.
 214 Mass. 217.

221 Mass. 62.
 258 Mass. 548.

Sales by consignees, etc.
 1845, 193, § 2.
 G. S. 54, § 2.
 P. S. 71, § 1.
 R. L. 68, § 1.
 15 Gray, 362.

1 SECTION 2. A shipper in lawful possession of merchandise at the time
 2 of shipment and in whose name it is shipped for sale shall be deemed the
 3 true owner thereof so far as to entitle the consignee to a lien thereon for
 4 money advanced or for securities given to the shipper for or on account
 5 of such consignment, unless the consignee, at or before the time when
 6 he made the advances or gave the securities, had notice by the bill of
 7 lading or otherwise that the shipper was not the actual and bona fide
 8 owner.

Lien of consignee
 1815, 193, § 1.
 G. S. 54, § 1.
 P. S. 71, § 2.
 R. L. 68, § 2.

1 SECTION 3. If a person intrusted with merchandise has authority
 2 to sell or consign the same, a consignee to whom he consigns it shall have
 3 a lien thereon for any money or merchandise advanced or for any negotia-
 4 ble security given by him on the faith of such consignment, to or for the
 5 use of the person in whose name the consignment or delivery was made,
 6 and for any money, negotiable security or merchandise received for the
 7 use of such consignee by the person in whose name the consignment or
 8 delivery was made, if such consignee had, at the time of such advance or
 9 receipt, probable cause to believe that the person in whose name the
 10 merchandise was shipped, transmitted or delivered was the actual owner
 11 thereof or had a legal interest therein to the amount of said lien.

Same subject.
 1849, 216.
 §§ 1, 2.
 G. S. 54, § 3.
 P. S. 71, § 3.
 R. L. 68, § 3.
 134 Mass. 156.
 165 Mass. 552.
 214 Mass. 217.
 258 Mass. 17.

1 SECTION 4. If a consignee or factor, having possession of merchandise,
 2 or a bill of lading, permit, certificate or order for the delivery thereof,
 3 with authority to sell said merchandise, deposits or pledges such mer-
 4 chandise or a part thereof or such document with any other person as
 5 security for money or merchandise advanced or for a negotiable instru-
 6 ment given by him on the credit thereof, such other person, if he makes

Lien for advances to consignee.
 1849, 216, § 3.
 G. S. 54, § 4.
 P. S. 71, § 4.
 R. L. 68, § 4.
 3 Allen, 491.
 5 Allen, 419.
 134 Mass. 156.

152 Mass 189.
259 Mass 302.

such loan, advance or exchange in good faith and with probable cause to believe that the agent making the deposit or pledge had authority so to do and was not acting fraudulently against the owner of such merchandise, shall, notwithstanding he has notice of such agency, acquire the same interest in and authority over such merchandise and documents as he would have acquired if the agent had been the actual owner thereof.

Pledge by consignee to secure antecedent debt
1849, 216, § 4.
G. S. 54, § 5.
P. S. 71, § 5.
R. L. 68, § 5.
259 Mass 302.

SECTION 5. If such merchandise or document is accepted in deposit or pledge for an antecedent debt due from such consignee or factor, the person receiving the same shall thereby acquire no other or further right or interest in or authority over or lien upon the same than the consignee or factor might have enforced against the actual owner.

Effect of three preceding sections.
1849, 216, § 5.
G. S. 54, § 6.
P. S. 71, § 6.
R. L. 68, § 6.

SECTION 6. The three preceding sections shall not affect the lien of a consignee or factor for expenses and charges attending the shipment, transportation and care of merchandise intrusted to him; nor prevent the actual owner of merchandise from recovering it, previous to any pledge thereof, from the consignee or factor or from his assignee in case of his insolvency; nor prevent such owner from recovering any merchandise or document so deposited or pledged, on tender of the money and restoration of the negotiable security or property so advanced to such consignee or factor, and on tender of such further amount of money and restoration of such negotiable instrument or property advanced or given by the consignee or factor to the owner, or upon tender of an amount of money equal to the amount or value of such merchandise; nor prevent him from recovering from a person with whom such merchandise has been so deposited or pledged any balance of money remaining in his hands as the proceeds of the sales thereof, after deducting the amount or value of the money or negotiable security so advanced thereon.

CHAPTER 105.

PUBLIC WAREHOUSES.

SECT.

PUBLIC WAREHOUSEMEN.

1. Public warehousemen to be licensed.
2. Penalty for failure to file bond, etc.
3. Action on bond.
4. Warehouseman to insure property, when.
5. Warehouseman to keep books.
6. Publication of certain facts.

ISSUE OF WAREHOUSE RECEIPTS.

7. Certain terms defined.
8. Warehouseman to issue receipts.
9. Receipts to embody certain terms.
10. Certain other terms and conditions may be inserted.
11. Non-negotiable receipt.
12. Negotiable receipt.

SECT.

13. Duplicate receipts.

14. Non-negotiable receipt to be plainly marked.

OBIGATIONS AND RIGHTS OF WAREHOUSEMEN UPON THEIR RECEIPTS.

15. Obligation of warehouseman to deliver.
16. Justification of warehouseman in delivering.
17. Liability for wrong delivery.
18. Failure to cancel receipt on delivery of goods.
19. On partial delivery.
20. Altered receipts.
21. Lost or destroyed receipts.
22. Duplicate receipts.
23. Assertion of title by warehouseman.

SECT.

- 24. Claims of third persons.
- 25. As defence for failure to deliver.
- 26. Liability of warehouseman for discrepancies.
- 27. Liability for loss or injury.
- 28. Goods must be kept separate.
- 29. Fungible goods may be mingled.
- 30. Liability for fungible goods.
- 31. Creditor's rights against negotiable receipts.
- 32. Warehouseman's lien, scope of.
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- 42. Negotiation.
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- 55. Penalty for issue of receipt for goods not received.
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- 61. Penalty for fraudulent negotiation or transfer of receipt.
- 62. Penalty for selling, etc., property deposited.
- 63. Penalty for forging, etc., warehouse receipt, etc.
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INTERPRETATION.

- 65. Rules of law and equity to govern cases not provided for in this chapter.
- 66. Warehouse receipts act. Interpretation.

PUBLIC WAREHOUSEMEN.

1 SECTION 1. The governor, with the advice and consent of the council, may license suitable persons, or corporations established under the laws of, and having their places of business within, the commonwealth, to be public warehousemen. Such warehousemen may keep and maintain public warehouses for the storage of goods, wares and merchandise. They shall give bond to the state treasurer for the faithful performance of their duties in an amount and with sureties approved by the governor, and may appoint one or more deputies, for whose acts they shall be responsible. A railroad corporation licensed as a public warehouseman shall not be required as such to receive any property except such as has been or is forthwith to be transported over its road or to give sureties on its bond.

Public warehousemen to be licensed 1860, 206, §§ 1, 11 1879, 104, 1880, 63, P. S. 72, §§ 1, 2, 13, 1885, 167 R. 1, 49, § 1 258 Mass. 577, 259 Mass. 310

1 SECTION 2. Whoever keeps and maintains a public warehouse for the storage of goods, wares and merchandise without procuring a license and giving a bond, as provided in the preceding section, shall be punished by a fine of not more than one thousand dollars, and may be enjoined by the supreme judicial court from maintaining such a public warehouse, upon an information in equity brought by the attorney general at the relation of any person.

Penalty for failure to file bond, etc. 1915, 98.

Action on
bond
1860, 206, § 2
1873, 210, § 1
P. S. 72, § 3
R. L. 69, § 2
218 Mass. 577
250 Mass. 449
259 Mass. 310
262 Mass. 588

SECTION 3. Whoever is injured by the failure of a licensed warehouseman to perform his duty or by his violation of any provision of this chapter may bring an action for his own benefit, in the name of the commonwealth, on the bond of such warehouseman. The writ shall be endorsed by the person in whose behalf such action is brought, or by some other person satisfactory to the court; and the endorser shall be liable to the defendant for any costs which he may recover in such action, but the commonwealth shall not be liable for any costs.

Warehouse-
man to insure
property,
when
1860, 206, § 3
1879, 104.
P. S. 72, § 4.

SECTION 4. A licensed warehouseman shall, upon written request by a party placing property with him on storage, cause such property to be insured for whom it may concern. A railroad corporation acting as warehouseman may itself be the insurer.

R. L. 69, § 3.

Warehouse-
man to keep
books,
1860, 206, § 6
1878, 93, § 5.
1879, 104.
P. S. 72, § 8.
1887, 277, § 3
1895, 348, § 1
R. L. 69, § 7

SECTION 5. Such warehouseman shall keep books in which shall be entered an account of all his transactions relative to the storing and insuring of goods, wares and merchandise, to the issuing of receipts therefor and to the disposition of proceeds of sales thereof under this chapter. Such books shall be open to the inspection of any person interested in the property to which the entries relate.

Publication of
certain facts
1860, 206, § 7.
P. S. 72, § 9
R. L. 69, § 8

SECTION 6. The state secretary shall, at the expense of each warehouseman, give notice of his license and qualification, of the amount of the bond given by him and also of the discontinuance of his license by publishing the same for not less than ten days in one or more newspapers, if any, published in the county or town where the warehouse is located; otherwise, in one or more newspapers published in Boston.

ISSUE OF WAREHOUSE RECEIPTS.

Certain terms
defined
1907, 582, § 1

SECTION 7. (1) The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:

"Action" includes counter-claim, set-off and suit in equity.

"Delivery", voluntary transfer of possession from one person to another.

"Fungible goods", goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit.

"Goods", chattels or merchandise in storage, or which have been or are about to be stored.

"Holder" of a receipt, a person who has both actual possession of such receipt and a right of property therein.

"Order", an order by endorsement on the receipt.

"Owner" does not include mortgagee or pledgee.

"Person" includes a corporation, or partnership, or two or more persons having a joint or common interest.

"To purchase" includes to take as mortgagee or as pledgee.

"Purchaser" includes mortgagee and pledgee.

"Receipt", a warehouse receipt.

"Value", any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction thereof or as security therefor.

23 "Public warehouse", any building, or part thereof, kept and main- 1915, 98.
 24 tained for the storage of goods, wares and merchandise as a business. 1919, A. G. 466

Op. A. G. (1917) 1

25 "Warehouseman" or "public warehouseman", a person, corporation, 1915, 98.
 26 partnership, association or trustees keeping and maintaining a public Op. A. G.
 27 warehouse. (1917) 1.

28 (2) A thing is done "in good faith" when it is in fact done honestly,
 29 whether or not done negligently.

1 SECTION 8. Every warehouseman shall give to each person deposit- Warehouse-
 2 ing property with him for storage a receipt therefor which shall conform man to issue
 3 to the following section. receipts.

1860, 206, § 3.
 1878, 93,
 §§ 2, 5

P. S. 72, § 5.
 1886, 258
 R. L. 69, § 1

1907, 582, § 2.
 1918, 297,
 § 270

1919, 5
 1920, 2

1 SECTION 9. Warehouse receipts need not be in any particular form, Receipts to
 2 but every such receipt shall embody within its written or printed terms — embody certain
 3 terms.

3 (a) The location of the warehouse wherein the goods are stored; 1860, 206, § 3.
 4 (b) The date of issue; 1878, 93,
 5 (c) The consecutive number; § 2, 5
 6 (d) A statement whether the goods received will be delivered to the P. S. 72, § 5.
 7 bearer, to a specified person, or to a specified person or his order; 1886, 258.
 8 (e) The rate of storage charges; R. L. 69, § 4
 9 (f) A description of the goods or of the packages containing them; 1907, 582, § 3.

10 (g) The signature of the warehouseman, which may be made by his
 11 authorized agent;

12 (h) If the receipt is issued for goods of which the warehouseman is
 13 owner, either solely or jointly or in common with others, the fact of such
 14 ownership; and

15 (i) A statement of the amount of advances made and of liabilities
 16 incurred for which the warehouseman claims a lien. If the precise amount
 17 of such advances made or of such liabilities incurred is, at the time of the
 18 issue of the receipt, unknown to the warehouseman or to his agent who
 19 issues it, a statement of the fact that advances have been made or liabili-
 20 ties incurred and the purpose thereof will be sufficient.

21 A warehouseman shall be liable to any person injured thereby for all
 22 damage caused by the omission from a negotiable receipt of any provi-
 23 sion required by this section.

1 SECTION 10. A warehouseman may insert in a receipt, issued by him Certain other
 2 any other terms and conditions, provided that they shall not — terms and con-
 3 (a) Be contrary to any provision of this chapter, or ditions may be
 4 (b) In any wise impair his obligation to exercise at least that degree inserted
 5 of care in the safe keeping of the goods intrusted to him which a reason- 1907, 582, § 4

6 ably careful man would exercise relative to similar goods of his own.

1 SECTION 11. A receipt stating that the goods will be delivered to the Non-negotiable
 2 depositor, or to any other specified person, is a non-negotiable receipt. receipt
 1907, 582, § 5

1 SECTION 12. A receipt stating that the goods received will be deliv- Negotiable
 2 ered to the bearer, or to the order of any person named in such receipt, receipt
 3 is a negotiable receipt. 1907, 582, § 6.

4 Any provision in such a receipt stating that it is non-negotiable shall
 5 be void.

Duplicate receipts. 1907, 582, § 7.

SECTION 13. When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt except the one first issued. A warehouseman shall be liable for all damage caused by his failure so to do to any one who purchased the subsequent receipt for value, supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt.

Non-negotiable receipt to be plainly marked. 1907, 582, § 8.

SECTION 14. A non-negotiable receipt shall have plainly placed upon its face by the warehouseman issuing it "non-negotiable", or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value, supposing it to be negotiable, may, at his option, treat it as imposing upon the warehouseman the same liabilities which he would have incurred had the receipt been negotiable.

OBLIGATIONS AND RIGHTS OF WAREHOUSEMEN UPON THEIR RECEIPTS.

Obligation of warehouseman to deliver. 1907, 582, § 9. 249 Mass. 492

SECTION 15. A warehouseman, in the absence of a lawful excuse provided by this chapter, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied by —

- (a) An offer to satisfy the warehouseman's lien;
- (b) An offer to surrender properly endorsed the receipt, if negotiable; and
- (c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

If the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal or failure.

Justification of warehouseman in delivering. 1907, 582, § 10.

SECTION 16. A warehouseman is justified, subject to the three following sections, in delivering the goods to one who is —

- (a) The person lawfully entitled to their possession, or his agent;
- (b) A person either himself entitled to delivery by the terms of a non-negotiable receipt issued for the goods, or who has written authority from the person so entitled either endorsed upon the receipt or written upon another paper; or
- (c) A person in possession of a negotiable receipt by the terms of which the goods are deliverable to him or order or to bearer, or which has been endorsed to him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate endorsee.

Liability for wrong delivery. 1907, 582, § 11.

SECTION 17. If a warehouseman delivers the goods to one not in fact lawfully entitled to their possession, the warehouseman shall be liable as for conversion to all having a right of property or possession in the goods if he delivered them otherwise than as authorized by paragraph (b) or (c) of the preceding section, and though he delivered the goods as authorized by either of said paragraphs, he shall so be liable if prior to such delivery he had —

- 8 (a) Been requested, by or on behalf of the person lawfully entitled to
 9 a right of property or possession in the goods, not to make such delivery;
 10 or
 11 (b) Had information that the delivery about to be made was to one
 12 not lawfully entitled to their possession.

1 SECTION 18. Except as provided in section thirty-nine and except
 2 when compelled by legal process, when a warehouseman delivers goods
 3 for which he had issued a negotiable receipt, the negotiation of which
 4 would transfer the right to the possession of the goods, and fails to take
 5 up and cancel the receipt, he shall be liable to any one who purchases
 6 for value in good faith such receipt, for failure to deliver the goods to
 7 him, whether such purchaser acquired title to the receipt before or after
 8 the delivery of the goods by the warehouseman and notwithstanding
 9 delivery was made to the person entitled thereto.

Failure to
cancel receipt
on delivery
of goods—
1907, 582, § 12.

1 SECTION 19. Except as provided in section thirty-nine and except
 2 when compelled by legal process, if a warehouseman delivers part of the
 3 goods for which he had issued a negotiable receipt and fails either to
 4 take up and cancel such receipt, or to place plainly upon it a statement
 5 of what goods or packages have been delivered, he shall be liable to any
 6 one who purchases for value in good faith such receipt, for failure to
 7 deliver all the goods specified in the receipt, whether such purchaser
 8 acquired title to the receipt before or after the delivery of any portion
 9 of the goods by the warehouseman.

On partial
delivery
1907, 582, § 13.

1 SECTION 20. The alteration of a receipt shall not excuse the ware-
 2 houseman who issued it from any liability if such alteration was —

Altered
receipts.
1907, 582, § 14.

3 (a) Immaterial;

4 (b) Authorized; or

5 (c) Made without fraudulent intent.

6 If authorized, the warehouseman shall be liable according to the terms
 7 of the receipt as altered. If unauthorized, but made without fraudulent
 8 intent, the warehouseman shall be liable according to the terms of the
 9 receipt before alteration.

10 Material and fraudulent alteration of a receipt shall not excuse the
 11 warehouseman who issued it from liability to deliver, according to the
 12 terms of the receipt as originally issued, the goods for which it was issued,
 13 but shall excuse him from any other liability to the person who made the
 14 alteration and to any person who took with notice thereof. Any pur-
 15 chaser of the receipt for value without notice of the alteration shall ac-
 16 quire the same rights against the warehouseman which such purchaser
 17 would have acquired if the receipt had not been altered at the time of
 18 the purchase.

1 SECTION 21. If a negotiable receipt has been lost or destroyed, a
 2 court of competent jurisdiction may order the delivery of the goods upon
 3 satisfactory proof of such loss or destruction, and upon the giving of a
 4 bond with sufficient sureties to be approved by the court to protect the
 5 warehouseman from any liability or expense which he or any person
 6 injured by such delivery may incur by reason of the original receipt re-
 7 maining outstanding. The court may also in its discretion order the
 8 payment of the warehouseman's reasonable costs and counsel fees.

Lost or
destroyed
receipts
1907, 582, § 15

The delivery of the goods under such an order of the court shall not relieve the warehouseman from liability to a person to whom the negotiable receipt has been or may be negotiated for value, without notice of the proceedings or of the delivery of the goods.

Duplicate receipts.
1907, 582, § 16

SECTION 22. A receipt upon the face of which the word "duplicate" is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability.

Assertion of title by warehouseman.
1907, 582, § 17.

SECTION 23. No title or right to the possession of the goods, on the part of the warehouseman, unless such title or right is derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt.

Claims of third persons.
1907, 582, § 19.
207 Mass. 407.

SECTION 24. If another than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, he shall be excused from liability for refusing to deliver them, either to the depositor or person claiming under him or to the adverse claimant, until he has had a reasonable time to ascertain the validity of the adverse claim, or to bring legal proceedings to compel all claimants to interplead.

As defence for failure to deliver.
1907, 582, § 20

SECTION 25. Except as provided in the preceding section and in sections sixteen and forty-one of this chapter and section forty-one of chapter two hundred and thirty-one, no right or title of a third person, unless enforced by legal process, shall be a defence to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt.

Liability of warehouseman for discrepancies.
1907, 582, § 21
218 Mass. 518.

SECTION 26. A warehouseman shall be liable to the holder of a receipt for damages caused by the non-existence of the goods, or by their failure to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that packages containing them are said to contain goods of a certain kind, or by words of like purport, such statements, if true, shall not render the warehouseman issuing the receipt liable, although the goods are not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor.

Liability for loss or injury.
1907, 582, § 22
220 Mass. 307
249 Mass. 492
250 Mass. 119.

SECTION 27. A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful owner of similar goods would exercise; but not, in the absence of an agreement to the contrary, for any loss or injury to the goods which could not have been avoided by the exercise of such care.

Goods must be kept separate.
1907, 582, § 23

SECTION 28. Except as provided in the following section, a warehouseman shall keep the goods so far separate from goods of other depositors, and from other goods of the same depositor for which a separate

4 receipt has been issued, as to permit at all times their identification and
5 re-delivery.

1 SECTION 29. If authorized by agreement or by custom, a warehouse-
2 man may mingle fungible goods. In such case the various depositors of
3 the mingled goods shall own the entire mass in common, and each depos-
4 itor shall be entitled to such proportion thereof as the amount deposited
5 by him bears to the whole.

Fungible
goods may be
mingled.
1878, 393, § 3.
P. S. 72, § 7.
R. L. 69, § 6.
1907, 582, § 24.

1 SECTION 30. The warehouseman shall be liable severally to each
2 depositor for the care and re-delivery of his share of such mass to the
3 same extent and under the same circumstances as if the goods had been
4 kept separate.

Liability for
fungible goods.
1907, 582, § 25.

1 SECTION 31. A creditor whose debtor is the owner of a negotiable
2 receipt shall be entitled to such aid from courts of appropriate jurisdic-
3 tion, by injunction and otherwise, in attaching such receipt or in satisfy-
4 ing the claim by means thereof as is allowed at law or in equity, in regard
5 to property which cannot readily be attached or levied upon by ordinary
6 legal process.

Creditor's
rights against
negotiable
receipts.
1907, 582, § 27.
234 Mass. 477.

1 SECTION 32. Subject to section thirty-four, a warehouseman shall
2 have a lien on goods deposited or on the proceeds thereof in his hands,
3 for all lawful charges for their storage and preservation; also for all law-
4 ful claims for money advanced, interest, insurance, transportation, labor,
5 weighing, coopering and other charges and expenses in relation thereto;
6 also for all reasonable charges and expenses for notice, and advertise-
7 ments of sale, and for sale thereof where default has been made in satis-
8 fying his lien.

Warehouse-
man's lien,
scope of
1907, 582, § 28
216 Mass. 367.

1 SECTION 33. Subject to the provisions of the following section, such
2 a lien may be enforced —
3 (a) Against all goods, whenever deposited, belonging to the person who
4 is liable as debtor for the claims to secure which the lien is asserted; and
5 (b) Against all goods belonging to others which have been deposited
6 at any time by the person who is liable as debtor for the claims to secure
7 which the lien is asserted, if such person had been so intrusted with the
8 possession of the goods that a pledge of the same by him at the time of
9 the deposit to one who took the goods in good faith for value would have
10 been valid.

Application
of lien.
1907, 582, § 29.
216 Mass. 367.

1 SECTION 34. A warehouseman loses his lien —
2 (a) By surrendering possession; or
3 (b) By refusing to deliver the goods when a demand is made with
4 which he is bound to comply under this chapter.

Loss of lien.
1907, 582, § 30.

1 SECTION 35. If a negotiable receipt is issued for goods, the ware-
2 houseman shall have no lien thereon, except for charges for storage and
3 preservation of those goods subsequent to the date of the receipt, unless
4 the receipt expressly enumerates other charges for which a lien is claimed.
5 In such case there shall be a lien for the charges enumerated, so far as
6 they are within the terms of section thirty-two although the amount
7 of the charges so enumerated is not stated in the receipt.

Additional
charges for
which lien is
claimed.
1907, 582, § 31.

Satisfaction
of lien a con-
dition of
delivery.
1907, 582, § 32.

SECTION 36. A warehouseman having a lien valid against the person demanding the goods may refuse to deliver them to him until the lien is satisfied.

273 Mass. 293.

Lien not to
exclude other
remedies.
1907, 582, § 33.
245 Mass. 267.

SECTION 37. Whether a warehouseman has a lien upon the goods or not, he is entitled to all remedies allowed by law to a creditor against his debtor, for the collection from the depositor of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay.

Enforcement
of lien
1887, 277,
§§ 1-3.
1895, 348, § 6.
R. L. 69,
§§ 12-13.
1907, 582, § 34.

SECTION 38. A warehouseman's lien for a claim which has become due may be satisfied as follows:

He shall give a written notice to the person on whose account the goods are held, and to any other person known by him to claim an interest in the goods by delivery in hand or by registered letter addressed to the last known place of business or abode of the person to be notified. The notice shall contain —

(a) An itemized statement of the warehouseman's claim, showing the sum due at the time of the notice and the date when it became due;

(b) A brief description of the goods against which the lien exists;

(c) A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days after the delivery of the notice if it is personally delivered, or after the time when the notice should reach its destination, according to the due course of post, if the notice is sent by mail; and

(d) A statement that unless the claim is paid within the time specified the goods will be advertised for sale and sold by auction at a specified time and place.

In accordance with the terms of a notice so given, a sale of the goods by auction may be had to satisfy any valid claim of the warehouseman for which he has a lien. The sale shall be had in the place where the lien was acquired, or, if such place is manifestly unsuitable, at the nearest suitable place. After the time for the payment of the claim specified in the notice to the depositor has elapsed, an advertisement of the sale, describing the goods to be sold, and stating the name of the owner or person on whose account the goods are held and the time and place of the sale, shall be published once a week for two consecutive weeks in a newspaper published in the place where such sale is to be held. The sale shall be held not less than fifteen days after the time of the first publication. If there is no newspaper published in such place, the advertisement shall be posted at least ten days before such sale in not less than six conspicuous places therein.

From the proceeds of such sale the warehouseman shall satisfy his lien, including the reasonable charges of notice, advertisement and sale. The balance, if any, of such proceeds shall be held by the warehouseman, and delivered on demand to the person to whom he would have been bound to deliver or justified in delivering the goods.

At any time before the goods are so sold, any person claiming a right of property or possession therein may pay the warehouseman the amount necessary to satisfy his lien and to pay the reasonable expenses and liabilities incurred in serving notices and advertising and preparing for the sale up to the time of such payment. The warehouseman shall deliver

44 the goods to the person making such payment, if he is a person entitled,
45 under this chapter, to their possession on payment of charges thereon;
46 otherwise, the warehouseman shall retain possession of the goods accord-
47 ing to the terms of the original contract of deposit.

1 SECTION 39. If goods are perishable, or by keeping will deteriorate
2 greatly in value, or by their odor, leakage, inflammability or explosive
3 nature will be likely to injure other property, the warehouseman may
4 give such notice to the owner, or to the person in whose name the goods
5 are stored, as is reasonable and possible under the circumstances, to sat-
6 isfy the lien upon such goods and to remove them from the warehouse;
7 and in the event of the failure of such person to satisfy the lien and to
8 remove the goods within the time so specified, the warehouseman may
9 sell the goods at public or private sale without advertising. If after a
10 reasonable effort he is unable to sell such goods, he may dispose of them
11 in any lawful manner, and shall incur no liability by reason thereof.
12 The proceeds of any sale made under this section shall be disposed
13 of in the same way as the proceeds of sales made under the preceding
14 section.

Perishable
and hazardous
goods.
1895, 348,
§ § 3, 4.
R. L. 69, § 9.
1907, 582, § 35.

1 SECTION 40. The remedy for enforcing a lien herein provided shall
2 not preclude any other remedies allowed by law for the enforcement of
3 a lien against personal property, nor bar the right to recover so much
4 of the warehouseman's claim as shall not be satisfied from the proceeds
5 of the sale of the property.

Other methods
of enforcing
lien available.
1895, 348, § 5.
R. L. 69, § 10.
1907, 582, § 36.

1 SECTION 41. After goods have been lawfully sold to satisfy a ware-
2 houseman's lien, or have been lawfully sold or disposed of because of
3 their perishable or hazardous nature, the warehouseman shall not there-
4 after be liable for failure to deliver the goods to their depositor or owner,
5 or to a holder of the receipt given for them when they were deposited,
6 even if such receipt is negotiable.

Effect of sale
on liability
to deliver.
1907, 582, § 37.

NEGOTIATION AND TRANSFER OF RECEIPTS.

1 SECTION 42. A negotiable receipt may be negotiated by delivery —
2 (a) If, by its terms, the warehouseman undertakes to deliver the
3 goods to the bearer; or
4 (b) If, by its terms, the warehouseman undertakes to deliver the
5 goods to the order of a specified person, and such person or a subsequent
6 endorsee of the receipt has endorsed it in blank or to bearer.
7 If, by the terms of a negotiable receipt, the goods are deliverable to
8 bearer, or if a negotiable receipt has been endorsed in blank or to bearer,
9 any holder may endorse the same to himself or to any other specified
10 person; and in such case the receipt shall thereafter be negotiated only
11 by the endorsement of such endorsee.

Negotiation.
1907, 582, § 38.

1 SECTION 43. A negotiable receipt may be negotiated by the endorse-
2 ment of the person to whose order the goods are, by its terms, deliverable.
3 Such endorsement may be in blank, to bearer or to a specified person. If
4 endorsed to a specified person, it may be again negotiated by the endorse-
5 ment of such person in blank, to bearer or to another specified person.
6 Subsequent negotiation may be made in like manner.

Same subject.
1907, 582, § 39.

Same subject.
1907, 582, § 40.

SECTION 44. A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee.

A non-negotiable receipt may not be negotiated, and the endorsement of such a receipt gives the transferee no additional right.

By whom negotiable.
1907, 582, § 41.
1918, 257, § 271
1919, 5.
1920, 2.

SECTION 45. A negotiable receipt may be negotiated by any person in possession of the same, however such possession may have been acquired if, by its terms, the warehouseman undertakes to deliver the goods to the order of such person, or if at the time of the negotiation the receipt is in such form that it may be negotiated by delivery.

Title of endorsement.
1907, 582, § 42.
249 Mass. 1.
250 Mass. 543.

SECTION 46. A person to whom a negotiable receipt has been duly negotiated acquires thereby —

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value; and

(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him.

Title of transferee.
1860, 206, § 4.
1873, 210, § 2.
1878, 93, § 1.
P. S. 72, § 6.
1886, 258.
R. L. 69, § 5.
1907, 582, § 43.
135 Mass. 1.
234 Mass. 477.

SECTION 47. A person to whom a receipt has been transferred, but not negotiated, acquires thereby, as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor.

If the receipt is non-negotiable, such person also acquires the right to notify the warehouseman of the transfer, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt.

Prior to the notification of the warehouseman by the transferor or transferee of a non-negotiable receipt, the title of the transferee to the goods and the right to acquire the obligation of the warehouseman may be defeated by attachment by trustee process or otherwise or by execution upon the goods by a creditor of the transferor, or by a notification to the warehouseman by the transferor or a subsequent purchaser from him of a subsequent sale of the goods by him.

Transferee's right to an endorsement.
1907, 582, § 44.
1918, 257, § 272
1919, 5.
1920, 2.

SECTION 48. If a negotiable receipt is transferred for value by delivery, and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears. The negotiation shall take effect as of the time when the endorsement is actually made. This obligation may be specifically enforced.

Warranties of endorser or transferor.
1907, 582, § 45.

SECTION 49. A person who for value negotiates or transfers a receipt by endorsement or delivery, including one who assigns for value a claim secured by a receipt, unless a contrary intention appears, warrants —

(a) That the receipt is genuine;
(b) That he has a legal right to negotiate or transfer it;
(c) That he has knowledge of no fact which would impair the validity or worth of the receipt; and
(d) That he has a right to transfer the title to the goods, and that they are merchantable or fit for a particular purpose whenever such

10 warranties would have been implied, if the contract of the parties had
11 been to transfer without a receipt the goods represented thereby.

1 SECTION 50. The endorsement of a receipt shall not make the en- Not liable
2 dorser liable for any failure on the part of the warehouseman or pre- for certain
3 vious endorsers of the receipt to fulfil their respective obligations. defaults.
1907, 582, § 46.

1 SECTION 51. A mortgagee, pledgee or holder for security of a receipt, Holder for
2 who in good faith demands or receives payment of the debt for which such security not a
3 receipt is security, whether from a party to a draft drawn for such debt warrantor in
4 or from any other person, shall not by so doing be deemed to represent or certain cases.
5 to warrant the genuineness of such receipt, or the quantity or quality of 1907, 582, § 47.
6 the goods therein described.

1 SECTION 52. The validity of the negotiation of a receipt is not im- Validity of
2 paired by the fact that such negotiation was a breach of duty on the negotiation not
3 part of the person making the negotiation, or that the owner of the re- affected by
4 ceipt was induced by fraud, mistake or duress to intrust its possession certain facts.
5 or custody to such person, if the person to whom the receipt was negoti- 1907, 582, § 48
6 ated, or a person to whom the receipt was subsequently negotiated, paid
7 value therefor, without notice of the breach of duty, or fraud, mistake
8 or duress.

1 SECTION 53. If a person having sold, mortgaged or pledged goods Subsequent
2 which are in a warehouse, for which a negotiable receipt has been issued, negotiation by
3 or having sold, mortgaged or pledged the negotiable receipt representing one retaining
4 such goods, continues in possession of the negotiable receipt, the sub- possession of
5 sequent negotiation thereof by that person under any sale or other dis- receipt.
6 position thereof to any person receiving it in good faith, for value, and 1907, 582, § 49.
7 without notice of the previous sale, mortgage or pledge, shall have the
8 same effect as if the first purchaser of the goods or receipt had expressly
9 authorized the subsequent negotiation.

1 SECTION 54. If a negotiable receipt has been issued for goods, no Vendor's lien
2 seller's lien or right of stoppage in transit shall defeat the rights of any subject to
3 purchaser for value in good faith to whom such receipt has been negoti- rights of
4 ated, whether such negotiation is prior or subsequent to the notification endorsee
5 to the warehouseman who issued such receipt of the seller's claim to a § 50.
6 lien or right of stoppage in transit. Nor shall the warehouseman be 1907, 237, § 62.
7 obliged to deliver or be justified in delivering the goods to an unpaid 250 Mass. 543.
8 seller unless the receipt is first surrendered for cancellation.

PENALTIES.

1 SECTION 55. A warehouseman, or any officer, agent or servant of a Penalty for
2 warehouseman, who issues or aids in issuing a receipt, knowing that the issue of receipt
3 goods for which such receipt is issued have not been actually received for goods not
4 by such warehouseman, or are not under his actual control at the time received
5 of issuing such receipt, shall be punished by a fine of not more than five 1907, 582, § 51.
6 thousand dollars or by imprisonment in the state prison for not more 1914, 635.
7 than five years, or in a jail or house of correction for not more than 1918, 237,
8 and one half years, or both. § 464.
1919, 5.
1920, 2.

Penalty for issue of receipt containing false statement
1907, 582, § 52

SECTION 56. A warehouseman, or any officer, agent or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods, knowing that it contains any false statement, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

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Penalty for issue of duplicate receipts not so marked.
1907, 582, § 53.
1914, 635.
1918, 257,
§ 464
1919, 5.
1920, 2.

SECTION 57. A warehouseman, or any officer, agent or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods, knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate", except in the case of a lost or destroyed receipt after proceedings as provided for in section twenty-one, shall be punished by a fine of not more than five thousand dollars or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one half years, or both.

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Penalty for issue of warehouseman's goods receipts which do not state the fact of ownership.
1907, 582, § 54.

SECTION 58. If there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents or servants, who, knowing such ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

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Penalty for delivery of goods with negotiable receipt outstanding.
1907, 582, § 55

SECTION 59. A warehouseman, or any officer, agent or servant of a warehouseman, who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except as provided in sections twenty-one and forty-one, be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

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Penalty for negotiation of receipt for mortgaged goods
1907, 582, § 56.

SECTION 60. Whoever deposits goods to which he has no title, or upon which there is a lien or mortgage, and takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive, and without disclosing his want of title or the existence of the lien or mortgage, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

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Penalty for fraudulent negotiation or transfer of receipt
1914, 635.
1918, 257,
§§ 273, 464.
1919, 5.
1920, 2.

SECTION 61. Whoever, with intent to deceive, negotiates or transfers for value a receipt, knowing that any or all of the goods which by the terms thereof appear to have been received for storage by the warehouseman issuing the receipt, are not in the possession or control of such warehouseman, without disclosing this fact, shall be punished by a fine of not more than five thousand dollars or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and a half years, or both.

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Penalty for selling, etc., property deposited
1860, 296, § 8

SECTION 62. Whoever, with intent to injure or defraud, unlawfully sells, pledges, lends or in any other way disposes of, or permits or is a party to the unlawful selling, pledging, lending or other disposition of,

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4 any property stored in a public warehouse, without the authority of the
 5 person in whose name the same is stored, shall be punished by a fine of
 6 not more than five thousand dollars and by imprisonment in the state
 7 prison for not more than three years.

P. S. 72, § 10
 1895, 348, § 2.
 R. L. 69, § 14.

1 SECTION 63. Whoever falsely makes, utters, forges or counterfeits,
 2 or whoever permits or is a party to the false making, uttering, forging
 3 or counterfeiting of, a warehouse receipt, certificate or other instrument,
 4 or of the signature of a warehouseman or of an endorser or other person
 5 to an instrument used to pass or to give title to property stored in a
 6 public warehouse, shall be punished by a fine of not more than five
 7 thousand dollars and by imprisonment in the state prison for not more
 8 than three years.

Penalty for
 forging, etc.,
 warehouse
 receipt, etc.
 1860, 206,
 § 9, 10.
 P. S. 72,
 §§ 11, 12.
 R. L. 69, § 15.

1 SECTION 64. Whoever, knowing that his interest in the property
 2 described in a warehouse receipt has been attached, endorses, assigns
 3 or otherwise disposes of such receipt without disclosing such attach-
 4 ment to the person to whom such receipt is endorsed, assigned or dis-
 5 posed of, shall be punished by a fine of not more than five thousand dol-
 6 lars and by imprisonment in the state prison for not more than three
 7 years, or by imprisonment in a jail or house of correction for not more
 8 than one year.

Penalty for
 disposing of
 receipt after
 attachment,
 etc.
 1860, 206, § 12.
 P. S. 72, § 14.
 R. L. 69, § 16.

INTERPRETATION.

1 SECTION 65. In any case not provided for in this chapter, the rules of
 2 law and equity, including the law merchant, and in particular the rules
 3 relating to the law of principal and agent, and to the effect of fraud,
 4 misrepresentation, duress or coercion, mistake, bankruptcy or other in-
 5 validating cause, shall govern.

Rules of law
 and equity to
 govern cases
 not provided
 for in this
 chapter
 1907, 582, § 57.

1 SECTION 66. Sections seven to sixty-five, inclusive, of this chapter
 2 may be cited as the warehouse receipts act, and shall be so interpreted
 3 and construed as to accomplish its general purpose to make uniform
 4 the law of those states enacting like laws.

Warehouse
 receipts act.
 Interpretation.
 1907, 582,
 §§ 58, 60.

CHAPTER 106.

SALES OF PERSONAL PROPERTY.

SECT.

1. Sales of merchandise in bulk in fraud of creditors.
2. Application of preceding section.

FORMATION OF THE CONTRACT.

3. Contract to sell goods.
4. Capacity to buy and sell. Necessaries.

FORMALITIES OF THE CONTRACT.

5. Contract may be written or oral, etc.
6. Statute of frauds.

SECT.

SUBJECT MATTER OF CONTRACT.

7. Goods which may form the subject of a contract to sell.
8. Sale of an undivided share of goods; fungible goods.
9. Destruction or deterioration of specific goods sold.
10. Destruction or deterioration of specific goods contracted to be sold.

THE PRICE.

11. Price, amount and how constituted.
12. Failure of third person to fix price.

- SECT.
CONDITIONS AND WARRANTIES.
13. Effect of non-performance of conditions.
 14. Affirmation of fact or promise as an express warranty.
 15. Implied warranty.
 16. Sale of goods by description.
 17. Implied warranty or condition of quality or fitness.
- SALE BY SAMPLE.
18. Implied warranty in sales by sample.
- TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER.
19. Unascertained goods.
 20. Specific or ascertained goods.
 21. Rules for ascertaining intention of parties as to passing of title.
 22. Reservation of title or right of possession.
 23. Sales by auction.
 24. Risk of loss.
- TRANSFER OF TITLE.
25. Buyer acquires seller's title. Exceptions.
 26. Where seller has voidable title.
 27. Sale by vendor retaining possession.
 28. Fraudulent retention of possession by vendor.
 29. Negotiable documents of title. Bills of lading, warehouse receipts, etc., subject to other chapters.
- PERFORMANCE OF THE CONTRACT.
30. Duty of seller and buyer.
 31. Delivery of goods and payment of price concurrent conditions.
 32. Taking possession or delivery of goods.
 33. Delivery of goods in quantities larger or smaller than stipulated.
 34. Delivery by instalments.
 35. Delivery of goods to a carrier.
 36. Buyer's right to examine.
 37. Acceptance by buyer.
 38. Acceptance of goods by buyer as affecting seller's liability on warranty.
 39. Buyer having right to reject not bound to return goods.
 40. Buyer's failure to take delivery.

- SECT.
RIGHTS OF UNPAID SELLER AGAINST THE GOODS.
41. Seller of goods deemed an unpaid seller, when.
 42. Rights of unpaid seller.
- UNPAID SELLER'S LIEN.
43. Unpaid seller may retain possession until payment or tender of price.
 44. Unpaid seller may assert lien in certain cases of partial delivery.
 45. Loss of lien by unpaid seller.
- STOPPAGE IN TRANSIT.
46. Unpaid seller may stop goods in transit, when.
 47. Transit defined.
 48. Right of stoppage, how exercised.
- RE-SALE BY THE SELLER.
49. When unpaid seller may re-sell.
- RESCISSION BY THE SELLER.
50. Unpaid seller may rescind, when.
 51. Unpaid seller's right not affected by certain acts of buyer.
- ACTIONS FOR BREACH OF THE CONTRACT.
52. Seller's right to recover price.
 53. Right to damages.
 54. Seller may totally rescind in certain cases.
 55. Remedies of buyer based on ownership.
 56. Remedy of buyer for damages.
 57. Specific performance by seller.
 58. Rights of buyer in case of breach of warranty.
 59. Certain rights of buyer or seller not affected.
- INTERPRETATION.
60. Certain rights or duties, etc., may be negatived, etc.
 61. Certain rights or duties, etc., may be enforced by action.
 62. Rules of law and equity to continue to apply in certain cases.
 63. Interpretation and construction.
 64. Not to apply to certain transactions.
 65. Certain terms defined.

Sales of merchandise in bulk in fraud of creditors.
1903, 415, § 1.
185 Mass. 18
189 Mass. 598.
190 Mass. 326
193 Mass. 106.
195 Mass. 585.
200 Mass. 588.
221 Mass. 249
222 Mass. 587.
243 Mass. 85.
565.
265 Mass. 10.

SECTION 1. The sale in bulk of any part or the whole of a stock of merchandise, otherwise than in the ordinary course of trade and in the regular and usual prosecution of the seller's business, shall be fraudulent and void as against the creditors of the seller, unless the seller and purchaser, at least five days before the sale, make a full, detailed inventory, showing the quantity and, so far as possible with the exercise of reasonable diligence, the cost price to the seller of each article to be included in the sale; and unless the purchaser demands and receives from the seller a written list of names and addresses of creditors of the seller, 1
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10 with the amount of indebtedness due or owing to each and certified by
 11 the seller, on oath, to be, to the best of his knowledge and belief, a full,
 12 accurate and complete list of his creditors and of his indebtedness; and
 13 unless the purchaser, at least five days before taking possession of such
 14 merchandise, or paying therefor, notifies personally, or by registered
 15 mail, every creditor whose name and address are stated in said list, of
 16 the proposed sale and of the price, terms and conditions thereof.

266 Mass. 583.
 272 Mass. 277.
 211 U. S. 489.
 4 Op. A. G.
 519.
 [Definitions,
 § 65]

1 SECTION 2. The words "seller" and "purchaser" as used in section
 2 one shall include a corporation, association and a co-partnership, but
 3 said section shall not apply to a sale by an executor, administrator,
 4 receiver, assignee under a voluntary assignment for the benefit of credi-
 5 tors, trustee in bankruptcy or any public officer under judicial process.

Application
 of preceding
 section
 1903, 415, § 2

FORMATION OF THE CONTRACT.

1 SECTION 3. (1) A contract to sell goods is one whereby the seller
 2 agrees to transfer the property in goods to the buyer for a consideration
 3 called the price.
 4 (2) A sale of goods is an agreement whereby the seller transfers the
 5 property in goods to the buyer for a consideration called the price.
 6 (3) A contract to sell or a sale may be absolute or conditional.
 7 (4) There may be a contract to sell or a sale between one part owner
 8 and another.

Contract to
 sell goods
 1908, 237, § 1
 232 Mass. 196
 249 Mass. 531.
 268 Mass. 10.

1 SECTION 4. Capacity to buy and sell shall be determined by the gen-
 2 eral law concerning capacity to contract and to transfer and acquire
 3 property.
 4 Where necessaries are sold and delivered to an infant, or to a person
 5 who by reason of mental incapacity or drunkenness is incompetent to
 6 contract, he shall pay a reasonable price therefor.
 7 Necessaries in this section mean goods suitable to the condition in
 8 life of such infant or other person, and to his actual requirements at the
 9 time of delivery.

Capacity to
 buy and sell.
 Necessaries
 1908, 237, § 2.

FORMALITIES OF THE CONTRACT.

1 SECTION 5. A contract to sell or a sale may be in writing, either
 2 with or without seal, or by word of mouth, or partly in writing and
 3 partly by word of mouth, or may be inferred from the conduct of the
 4 parties.

Contract may
 be written or
 oral, etc.
 1908, 237, § 3.
 242 Mass. 464.

1 SECTION 6. (1) A contract to sell or a sale of any goods or choses
 2 in action of the value of five hundred dollars or more shall not be en-
 3 forceable by action unless the buyer shall accept part of the goods or
 4 choses in action so contracted to be sold, or sold, and actually receive
 5 the same, or give something in earnest to bind the contract, or in part
 6 payment, or unless some note or memorandum in writing of the con-
 7 tract or sale be signed by the party to be charged or his agent in that
 8 behalf.
 9 (2) This section shall apply to every such contract or sale, notwith-
 10 standing that the goods may be intended to be delivered at some future
 11 time, or may not at the time of such contract or sale be actually made,
 12 procured, or provided, or fit or ready for delivery, or some act may be

Statute of
 frauds.
 29 Car. II,
 c. 3, § 17.
 1692-3, 15, § 7
 1788, 16, § 2.
 R. S. 74, § 4.
 G. S. 105, § 5.
 P. S. 78, § 5.
 R. L. 74, § 5.
 1908, 237, § 4.
 1 Pick. 476.
 20 Pick. 9
 21 Pick. 205,
 384.
 1 Met. 283.
 3 Met. 365
 9 Met. 177
 10 Met. 132.
 12 Met. 553.
 4 Cusb. 497.

6 Cush. 508.
9 Cush. 115.
3 Gray, 331
7 Gray, 554
10 Gray, 212.
11 Gray, 235.
15 Gray, 289.
16 Gray, 426.
1 Allen, 422.
5 Allen, 1.
8 Allen, 565.
9 Allen, 412,
474
13 Allen, 299,
353.

requisite for the making or completing thereof, or rendering the same fit for delivery; but if the goods are to be manufactured by the seller especially for the buyer and are not suitable for sale to others in the ordinary course of the seller's business, this section shall not apply.

(3) There is an acceptance of goods within the meaning of this section when the buyer, either before or after delivery of the goods, expresses by words or conduct his assent to becoming the owner of those specific goods.

96 Mass. 185	151 Mass. 564.	226 Mass. 598.
105 Mass. 447	165 Mass. 328.	234 Mass. 125
107 Mass. 547	170 Mass. 380.	241 Mass. 541.
108 Mass. 54	172 Mass. 581.	242 Mass. 15, 17, 464.
115 Mass. 150	173 Mass. 304.	243 Mass. 210.
118 Mass. 143, 279, 325.	177 Mass. 212.	244 Mass. 10
120 Mass. 219, 290, 369.	179 Mass. 404.	248 Mass. 269.
123 Mass. 141	180 Mass. 283.	249 Mass. 381.
124 Mass. 19, 478.	186 Mass. 346.	250 Mass. 345.
125 Mass. 43	193 Mass. 500.	254 Mass. 76.
127 Mass. 476	201 Mass. 596.	255 Mass. 594.
128 Mass. 288	203 Mass. 467.	256 Mass. 167, 397.
129 Mass. 185, 420.	214 Mass. 494	257 Mass. 269.
132 Mass. 129.	215 Mass. 528.	263 Mass. 288.
134 Mass. 127	220 Mass. 112.	266 Mass. 583.
139 Mass. 492.	223 Mass. 423.	267 Mass. 98, 103.

SUBJECT MATTER OF CONTRACT.

Goods which may form the subject of a contract to sell
1908, 237, § 5
228 Mass. 126.

SECTION 7. (1) The goods which form the subject of a contract to sell may be either existing goods, owned or possessed by the seller, or goods to be manufactured or acquired by the seller after the making of the contract to sell, in this chapter called "future goods."

(2) There may be a contract to sell goods, the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where the parties purport to effect a present sale of future goods, the agreement operates as a contract to sell the goods.

Sale of an undivided share of goods; fungible goods—
1908, 237, § 6

SECTION 8. (1) There may be a contract to sell or a sale of an undivided share of goods. If the parties intend to effect a present sale, the buyer, by force of the agreement, becomes an owner in common with the owners of the remaining shares.

(2) In case of fungible goods, there may be a sale of an undivided share of a specific mass, though the seller purports to sell and the buyer to buy a definite number, weight or measure of the goods in the mass, and though the number, weight or measure thereof is undetermined. By such a sale the buyer becomes owner in common of such a share of the mass as the number, weight or measure bought bears to the number, weight or measure of the mass. If the mass contains less than the number, weight or measure bought, the buyer becomes the owner of the whole mass and the seller is bound to make good the deficiency from similar goods unless a contrary intent appears.

Destruction or deterioration of specific goods sold.
1908, 237, § 7.

SECTION 9. (1) Where the parties purport to sell specific goods, and the goods without the knowledge of the seller have wholly perished at the time when the agreement is made, the agreement is void.

(2) Where the parties purport to sell specific goods, and the goods without the knowledge of the seller have perished in part or have wholly or in a material part so deteriorated in quality as to be substantially changed in character, the buyer may at his option treat the sale —

(a) As avoided, or

(b) As transferring the property in all of the existing goods or in so much thereof as have not deteriorated, and as binding the buyer to pay

11 the full agreed price if the sale was indivisible or to pay the agreed price
12 for the goods in which the property passes if the sale was divisible.

1 SECTION 10. (1) If the contract is to sell specific goods, and subse-
2 quently, but before the risk passes to the buyer, without any fault on the
3 part of the seller or the buyer, the goods wholly perish, the contract is
4 thereby avoided. Destruction or
deterioration
of specific
goods con-
tracted to be
sold
1908, 237, § 8.

5 (2) If the contract is to sell specific goods, and subsequently, but
6 before the risk passes to the buyer, without any fault of the seller or the
7 buyer part of the goods perish or the whole or a material part of the
8 goods so deteriorate in quality as to be substantially changed in char-
9 acter, the buyer may at his option treat the contract —

10 (a) As avoided, or
11 (b) As binding the seller to transfer the property in all of the existing
12 goods or in so much thereof as have not deteriorated, and as binding the
13 buyer to pay the full agreed price if the contract was indivisible, or to
14 pay the agreed price for so much of the goods as the seller, at the buyer's
15 option, is bound to transfer if the contract was divisible.

THE PRICE.

1 SECTION 11. (1) The price may be fixed by the contract, or may be
2 left to be fixed in such manner as may be agreed, or may be determined
3 by the course of dealing between the parties. Price, amount
and how con-
stituted.
1908, 237, § 9.
208 Mass. 270.

4 (2) The price may be made payable in any personal property.

5 (3) Where transferring or promising to transfer any interest in real
6 estate constitutes the whole or part of the consideration for transferring
7 or for promising to transfer the property in goods, sections three to sixty-
8 five, inclusive, shall not apply.

9 (4) Where the price is not determined under paragraphs (1) or (2) of
10 this section the buyer must pay a reasonable price. What is a reason-
11 able price is a question of fact dependent on the circumstances of each
12 particular case.

1 SECTION 12. (1) Where there is a contract to sell or a sale of goods at
2 a price or on terms to be fixed by a third person, and such person, without
3 fault of the seller or the buyer, can not or does not fix the price or terms,
4 the contract or the sale is thereby avoided; but if the goods or any part
5 thereof have been delivered to and appropriated by the buyer he must
6 pay a reasonable price therefor. Failure of third
person to fix
price.
1908, 237, § 10.

7 (2) Where such third person is prevented from fixing the price or
8 terms by fault of the seller or the buyer, the party not in fault may have
9 such remedies against the party in fault as are allowed by sections forty-
10 one to fifty-nine, inclusive.

CONDITIONS AND WARRANTIES.

1 SECTION 13. (1) Where the obligation of either party to a contract
2 to sell or a sale is subject to any condition which is not performed, such
3 party may refuse to proceed with the contract or sale or he may waive
4 performance of the condition. If the other party has promised that the
5 condition should happen or be performed, such first mentioned party
Effect of non-
performance of
conditions
1908, 237, § 11.

may also treat the non-performance of the condition as a breach of warranty. 6

(2) Where the property in the goods has not passed, the buyer may treat the fulfilment by the seller of his obligation to furnish goods as described and as warranted expressly or by implication in the contract to sell as a condition of the obligation of the buyer to perform his promise to accept and pay for the goods. 7
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Affirmation of fact or promise as an express warranty.
1908, 237, § 12.
217 Mass. 302.
226 Mass. 316.
242 Mass. 297.
243 Mass. 243.
251 Mass. 517.
254 Mass. 411.

SECTION 14. Any affirmation of fact or any promise by the seller relating to the goods is an express warranty if the natural tendency of such affirmation or promise is to induce the buyer to purchase the goods, and if he purchases the goods relying thereon. No affirmation of the value of the goods, nor any statement purporting to be a statement of the seller's opinion only, shall be construed as a warranty. 1
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255 Mass. 189.

Implied warranty.
1908, 237, § 13.
200 Mass. 372.

SECTION 15. In a contract to sell or a sale, unless a contrary intention appears, there is — 1
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(1) An implied warranty on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of a contract to sell he will have a right to sell the goods at the time when the property is to pass. 3
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(2) An implied warranty that the buyer shall have and enjoy quiet possession of the goods as against any lawful claims existing at the time of the sale. 7
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(3) An implied warranty that the goods shall be free at the time of the sale from any charge or encumbrance in favor of any third person not declared or known to the buyer before or at the time when the contract or sale is made. 10
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(4) This section shall not, however, render liable a sheriff, auctioneer, mortgagee or other person professing to sell by virtue of authority in fact or law goods in which a third person has a legal or equitable interest. 14
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Sale of goods by description.
1908, 237, § 14
212 Mass. 423.
252 Mass. 135.
258 Mass. 483.
263 Mass. 391.

SECTION 16. Where there is a contract to sell or a sale of goods by description, there is an implied warranty that the goods shall correspond with the description and if the contract or sale be by sample, as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if they do not also correspond with the description. 1
2
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Implied warranty or condition of quality or fitness.

SECTION 17. There is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract to sell or a sale, except as follows: 1
2
3

1908, 237, § 15.
223 Mass. 257.
231 Mass. 65, 90.

237 Mass. 565.
242 Mass. 446, 450.

256 Mass. 183.
258 Mass. 483.

242 Mass. 594.
243 Mass. 243.
244 Mass. 19.
262 Mass. 261.
269 Mass. 464.

(1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, and it appears that the buyer relies on the seller's skill or judgment, whether he be the grower or manufacturer or not, there is an implied warranty that the goods shall be reasonably fit for such purpose. 4
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6
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245 Mass. 461.
251 Mass. 251.
263 Mass. 147.

(2) Where the goods are bought by description from a seller who deals in goods of that description, whether he be the grower or manufacturer or not, there is an implied warranty that they shall be of merchantable quality. 9
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12

13 (3) If the buyer has examined the goods, there is no implied warranty 242 Mass. 297.
 14 as regards defects which such examination ought to have revealed. 250 Mass. 521.

15 (4) In the case of a contract to sell or a sale of a specified article under 243 Mass. 243.
 16 its patent or other trade name, there is no implied warranty as to its 244 Mass. 19.
 17 fitness for any particular purpose. 250 Mass. 550,
 553.

263 Mass. 147.

270 Mass. 501.

18 (5) An implied warranty or condition as to quality or fitness for a 208 Mass. 351.
 19 particular purpose may be annexed by the usage of trade.

20 (6) An express warranty or condition does not negative a warranty or
 21 condition implied under this chapter unless inconsistent therewith.

SALE BY SAMPLE.

1 SECTION 18. In the case of a contract to sell or a sale by sample — Implied war-
 2 (a) There is an implied warranty that the bulk shall correspond with ranty in sales
 3 the sample in quality. by sample.
 4 (b) There is an implied warranty that the buyer shall have a reason- 1908, 237, § 16.
 5 able opportunity of comparing the bulk with the sample, except as 212 Mass. 425.
 6 otherwise provided in section thirty-six (3). 217 Mass. 302.
 7 (c) If the seller is a dealer in goods of that kind, there is an implied 226 Mass. 181.
 8 warranty that the goods shall be free from any defect, rendering them 244 Mass. 19.
 9 unmerchantable, which would not be apparent on reasonable exami- 252 Mass. 135.
 10 nation of the sample.

TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER.

1 SECTION 19. If the contract is to sell unascertained goods no prop- Unascertained
 2 erty therein passes to the buyer unless and until the goods are ascer- goods.
 3 tained, but property in an undivided share of ascertained goods may 1908, 237, § 17.
 4 pass as provided in section eight. 214 Mass. 487
 264 Mass. 524.

1 SECTION 20. (1) If the contract is to sell specific or ascertained Specific or
 2 goods, the property therein passes to the buyer at such time as the parties ascertained
 3 to the contract intend. goods.
 4 (2) For the purpose of ascertaining the intention of the parties, regard 1908, 237, § 18
 5 shall be had to the terms of the contract, the conduct of the parties, 216 Mass. 44.
 6 usages of trade, and the circumstances of the case. 247 Mass. 142.
 239 Mass. 1
 250 Mass. 543.
 264 Mass. 524.

1 SECTION 21. Unless a different intention appears, the following rules Rules for ascer-
 2 for ascertaining the intention of the parties as to the time when the taining inten-
 3 property in the goods is to pass to the buyer shall govern: tion of parties
 4 as to passing of
 5 title.

1 Rule 1. If there is an unconditional contract to sell specific goods, in 1908, 237, § 19
 2 a deliverable state, the property in the goods passes to the buyer when 216 Mass. 44
 3 the contract is made, and it is immaterial whether the time of payment 220 Mass. 397
 4 or the time of delivery, or both, be postponed. 239 Mass. 10
 245 Mass. 524
 249 Mass. 1
 269 Mass. 209.

1 Rule 2. If there is a contract to sell specific goods and the seller is 208 Mass. 252
 2 bound to do something to the goods for the purpose of putting them into
 3 a deliverable state, the property does not pass until such thing be done.

1 Rule 3. (1) When goods are delivered to the buyer "on sale or re- 225 Mass. 303.
 2 turn", or on other terms indicating an intention to make a present sale 249 Mass. 531.
 3 but to give the buyer an option to return the goods instead of paying the 260 Mass. 532.
 4 price, the property passes to the buyer on delivery, but he may revert
 5 the property in the seller by returning or tendering the goods within the
 6 time fixed in the contract, or if no time has been fixed, within a reasonable
 7 time.

(2) When goods are delivered to the buyer on approval or on trial 18
or on satisfaction, or other similar terms, the property therein passes to 19
the buyer — 20

(a) When he signifies his approval or acceptance to the seller or does 21
any other act adopting the transaction. 22

214 Mass. 487.

(b) If he does not signify his approval or acceptance to the seller, but 23
retains the goods without giving notice of rejection, then, if a time has 24
been fixed for the return of the goods, on the expiration of such time, or, 25
if no time has been fixed, on the expiration of a reasonable time. What 26
is a reasonable time is a question of fact. 27

252 Mass. 7.
267 Mass. 28

Rule 4. (1) If there is a contract to sell unascertained or future goods 28
by description, and goods of that description and in a deliverable state 29
are unconditionally appropriated to the contract, either by the seller 30
with the assent of the buyer, or by the buyer with the assent of the 31
seller, the property in the goods thereupon passes to the buyer. Such 32
assent may be expressed or implied, and may be given either before or 33
after the appropriation is made. 34

233 Mass. 29.
253 Mass. 383.

(2) Where, in pursuance of a contract to sell, the seller delivers the 35
goods to the buyer, or to a carrier or other bailee, whether named by the 36
buyer or not, for the purpose of transmission to or holding for the buyer, 37
he is presumed to have unconditionally appropriated the goods to the 38
contract, except in the cases provided for in rule five and in the follow- 39
ing section. This presumption is applicable, although by the terms 40
of the contract, the buyer is to pay the price before receiving delivery 41
of the goods, and they are marked with the words "collect on delivery" 42
or their equivalent. 43

Property does
not pass in
certain cases
until goods are
delivered
229 Mass. 115.
233 Mass. 29
242 Mass. 464
253 Mass. 383.

Rule 5. If a contract to sell requires the seller to deliver the goods to 44
the buyer, or at a particular place, or to pay the freight or cost of trans- 45
portation to the buyer, or to a particular place, the property does not 46
pass until the goods have been delivered to the buyer or have reached 47
the place agreed upon. 48

Reservation of
title or right
of possession.
1908, 237, § 20.

SECTION 22. If there is a contract to sell specific goods, or if goods 1
are subsequently appropriated to the contract, the seller may, by the 2
terms of the contract or appropriation, reserve the right of possession 3
or property in the goods until certain conditions have been fulfilled. 4
The right of possession or property may thus be reserved notwithstanding 5
the delivery of the goods to the buyer, or to a carrier or other bailee 6
for the purpose of transmission to the buyer. 7

Sales by
auction.
1908, 237, § 21
253 Mass. 60.

SECTION 23. In a sale by auction — 1
(1) Where goods are put up in lots, each lot is the subject of a separate 2
contract of sale. 3

(2) Such sale is complete when the auctioneer announces its comple- 4
tion by the fall of the hammer, or in other customary manner. Until 5
such announcement is made any bidder may retract; and the auc- 6
tioneer may withdraw the goods from sale unless the auction has been 7
announced to be without reserve. 8

(3) A right to bid may be reserved expressly by or on behalf of the 9
seller. 10

(4) If notice has not been given that such sale is subject to a right to 11
bid on behalf of the seller, it shall be unlawful for the seller to bid him- 12
self or to employ or induce any person to bid on his behalf, or for the 13

14 auctioneer to employ or induce any person to bid on behalf of the seller
 15 or knowingly to take any bid from the seller or any person employed by
 16 him. Any sale contravening this paragraph may be treated as fraudulent
 17 by the buyer.

1 SECTION 24. Unless otherwise agreed, the goods remain at the seller's
 2 risk until the property therein passes to the buyer, but when the prop-
 3 erty therein has so passed the goods are at the buyer's risk whether
 4 delivery has been made or not, except that —
 5 (a) If delivery of the goods has been made to the buyer, or to a bailee
 6 for the buyer, in pursuance of the contract and the property in the goods
 7 has been retained by the seller merely to secure performance by the
 8 buyer of his obligations under the contract, the goods are at the buyer's
 9 risk from the time of such delivery.
 10 (b) If delivery has been delayed through the fault of either buyer or
 11 seller, the goods are at the risk of the party in fault as regards any loss
 12 which might not have occurred but for such fault.

Risk of loss.
 1908, 237, § 22
 220 Mass. 397
 257 Mass. 135

TRANSFER OF TITLE.

1 SECTION 25. (1) If goods are sold by a person who is not the owner
 2 thereof, and who does not sell them under the authority or with the con-
 3 sent of the owner, the buyer acquires no better title to the goods than
 4 the seller had, unless the owner of the goods is by his conduct precluded
 5 from denying the seller's authority to sell.
 6 (2) Nothing in this chapter, however, shall affect —
 7 (a) Any law relating to factors or the recording of instruments, or
 8 enabling the apparent owner of goods to dispose of them as if he were
 9 the true owner thereof.
 10 (b) The validity of any contract to sell or sale under any special com-
 11 mon law or statutory power of sale or under the order of a court of
 12 competent jurisdiction.

Buyer acquires
 seller's title.
 Exceptions.
 1908, 237, § 23.

1 SECTION 26. If the seller of goods has a voidable title thereto, but
 2 his title has not been avoided at the time of the sale, the buyer ac-
 3 quires a good title to the goods; provided, that he buys them in good
 4 faith, for value, and without notice of the seller's defect of title.

Where seller
 has voidable
 title.
 1908, 237, § 24.
 247 Mass. 133
 253 Mass. 383.

1 SECTION 27. If a person having sold goods continues in possession
 2 thereof, or of negotiable documents of title thereto, the delivery or
 3 transfer by such person, or by an agent acting for him, of the goods or
 4 documents of title under any sale, pledge, or other disposition thereof,
 5 to any person receiving and paying value for the same in good faith and
 6 without notice of the previous sale, shall have the same effect as if the
 7 person making the delivery or transfer were expressly authorized by the
 8 owner of the goods to make the same.

Sale by vendor
 retaining
 possession.
 1908, 237, § 25.
 254 Mass. 438.
 263 Mass. 505.
 264 Mass. 524.
 267 Mass. 28.

1 SECTION 28. If a person having sold goods continues in possession
 2 thereof, or of negotiable documents of title thereto, and such retention of
 3 possession is fraudulent in fact or is deemed fraudulent under any rule
 4 of law, a creditor of the seller may treat the sale as void.

Fraudulent
 retention of
 possession by
 vendor
 1908, 237, § 26.
 264 Mass. 524.

1 SECTION 29. A document of title in which it is stated that the goods
 2 designated therein will be delivered to the bearer, or to the order of any

Negotiable
 documents of
 title. Bills of

lading, ware-
house receipts,
etc., subject to
other chapters.
1908, 237,
§§ 27-35, 40.
1918, 257,
§§ 280, 281.
1919, 5.
1920, 2.
249 Mass. 1.
263 Mass. 543.

person named in such document, is a negotiable document of title. If 3
such a document is a bill of lading, it shall be subject to chapter one 4
hundred and eight; if a warehouse receipt, dock warrant, or however 5
otherwise described, it shall be subject to chapter one hundred and five, 6
and for the purposes of this section, the word, "receipt" as used in said 7
chapter shall mean document of title, and the word "warehouseman", 8
as so used, shall mean bailee. 9

PERFORMANCE OF THE CONTRACT.

Duty of seller
and buyer.
1908, 237, § 41.
245 Mass. 35.
250 Mass. 345.

SECTION 30. It shall be the duty of the seller to deliver the goods, 1
and of the buyer to accept and pay for them, in accordance with the 2
terms of the contract to sell or sale. 3

263 Mass. 391.

Delivery of
goods and pay-
ment of price
concurrent
conditions.
1908, 237, § 42.
245 Mass. 35.
250 Mass. 345.

SECTION 31. Unless otherwise agreed, delivery of the goods and 1
payment of the price are concurrent conditions; that is to say, the seller 2
must be ready and willing to give possession of the goods to the buyer in 3
exchange for the price, and the buyer must be ready and willing to pay 4
the price in exchange for possession of the goods. 5

Taking posses-
sion or delivery
of goods.
1908, 237, § 43.
234 Mass. 29.
239 Mass. 10.
242 Mass. 464.
245 Mass. 35.
248 Mass. 126.
257 Mass. 515.

SECTION 32. (1) Whether it is for the buyer to take possession of the 1
goods or for the seller to send them to the buyer, depends in each case on 2
the contract, express or implied, between the parties. Apart from any 3
such contract, express or implied, or usage of trade to the contrary, the 4
place of delivery is the seller's place of business, if he has one, and if not, 5
his residence; but in case of a contract to sell or a sale of specific goods, 6
which to the knowledge of the parties when the contract or the sale was 7
made were in some other place, then that place is the place of delivery. 8

(2) If by a contract to sell or a sale the seller is bound to send the 9
goods to the buyer, but no time for sending them is fixed, the seller is 10
bound to send them within a reasonable time. 11

(3) If the goods at the time of sale are in the possession of a third per- 12
son, the seller does not fulfil his obligation to deliver to the buyer unless 13
and until such third person acknowledges to the buyer that he holds the 14
goods on the buyer's behalf; but as against all others than the seller the 15
buyer shall be regarded as having received delivery from the time when 16
such third person first has notice of the sale. Nothing in this section, 17
however, shall affect the operation of the issue or transfer of any docu- 18
ment of title to goods. 19

(4) Demand or tender of delivery may be treated as ineffectual unless 20
made at a reasonable hour. What is a reasonable hour is a question of 21
fact. 22

(5) Unless otherwise agreed, the expenses of and incident to putting 23
the goods into a deliverable state shall be borne by the seller. 24

Delivery of
goods in quan-
tities larger
or smaller
than stipu-
lated.
1908, 237, § 44.
245 Mass. 461.

SECTION 33. (1) If the seller delivers to the buyer a quantity of 1
goods less than he contracted to sell, the buyer may reject them, but if 2
the buyer accepts or retains the goods so delivered, knowing that the 3
seller will not perform the contract in full, he shall pay for them at the 4
contract rate. If, however, the buyer has used or disposed of the goods 5
delivered before he knows that the seller will not so perform, the buyer 6
shall not be liable for more than the fair value to him of the goods so 7
received. 8

9 (2) If the seller delivers to the buyer a quantity of goods larger than he 229 Mass. 115.
 10 contracted to sell, the buyer may accept the goods included in the con-
 11 tract and reject the rest, or he may reject the whole. If the buyer accepts
 12 the whole of the goods so delivered he shall pay for them at the contract
 13 rate.

14 (3) If the seller delivers to the buyer the goods which he contracted 229 Mass. 115.
 15 to sell mixed with goods of a different description not included in the 240 Mass. 427.
 16 contract, the buyer may accept the goods which are in accordance with
 17 the contract and reject the rest, or he may reject the whole.

18 (4) The provisions of this section are subject to any usage of trade,
 19 special agreement, or course of dealing between the parties.

1 SECTION 34. (1) Unless otherwise agreed, the buyer of goods is not 2
 2 bound to accept delivery thereof by instalments. Delivery by
instalments.
1908, 237, § 45.
226 Mass. 598.
242 Mass. 594.
248 Mass. 518.

3 (2) If there is a contract to sell goods to be delivered by stated instal-
 4 ments, which are to be separately paid for, and the seller makes defective
 5 deliveries in respect of one or more instalments, or the buyer neglects or
 6 refuses to take delivery of or pay for one or more instalments, it depends
 7 in each case on the terms of the contract and the circumstances of the
 8 case whether the breach of contract is so material as to justify the injured
 9 party in refusing to proceed further and suing for damages for breach
 10 of the entire contract, or whether the breach is severable, giving rise to
 11 a claim for compensation, but not to a right to treat the whole contract
 12 as broken.

1 SECTION 35. (1) If, in pursuance of a contract to sell or a sale, the 2
 2 seller is authorized or required to send the goods to the buyer, delivery 3
 3 of the goods to a carrier, whether named by the buyer or not, for the 4
 4 purpose of transmission to the buyer, is deemed a delivery of the goods 5
 5 to the buyer, except in the cases provided for in rule five of section 6
 6 twenty-one, or unless a contrary intent appears. Delivery of
goods to a
carrier.
1908, 237, § 46.
243 Mass. 45.
267 Mass. 98.

7 (2) Unless otherwise authorized by the buyer, the seller shall make
 8 such contract with the carrier on behalf of the buyer as may be reason-
 9 able, having regard to the nature of the goods and the other circumstances
 10 of the case. If the seller omits so to do, and the goods are lost or dam-
 11 aged in course of transit, the buyer may decline to treat the delivery to
 12 the carrier as a delivery to himself, or may hold the seller responsible in
 13 damages.

14 (3) Unless otherwise agreed, if goods are sent by the seller to the
 15 buyer under circumstances wherein the seller knows or ought to know
 16 that it is usual to insure, the seller shall give such notice to the buyer as
 17 may enable him to insure them during their transit, and, if the seller fails
 18 so to do, the goods shall be deemed to be at his risk during such transit.

1 SECTION 36. (1) If goods which he has not previously examined are 2
 2 delivered to the buyer, he is not deemed to have accepted them unless 3
 3 and until he has had a reasonable opportunity of examining them for 4
 4 the purpose of ascertaining whether they conform to the contract. Buyer's right
to examine
1908, 237, § 47.
248 Mass. 553.

5 (2) Unless otherwise agreed, when the seller tenders delivery of goods 248 Mass. 553.
 6 to the buyer, he is bound, on request, to afford the buyer a reasonable
 7 opportunity of examining the goods for the purpose of ascertaining
 8 whether they conform to the contract.

9 (3) If goods are delivered to a carrier by the seller, in accordance with 226 Mass. 598.
 10 an order from or agreement with the buyer, upon the terms that they

shall not be delivered by the carrier to the buyer until he has paid the price, whether such terms are indicated by marking the goods with the words "collect on delivery", or otherwise, the buyer is not entitled to examine the goods before payment of the price in the absence of an agreement permitting such examination.

Acceptance
by buyer
1908, 237, § 48
245 Mass. 461.

SECTION 37. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation thereto which is inconsistent with the seller's ownership, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

Acceptance of
goods by buyer
as affecting
seller's liability
on warranty
1908, 237, § 49
212 Mass. 425,
217 Mass. 302,
229 Mass. 254,
242 Mass. 206,
594,
245 Mass. 461,
248 Mass. 232,
249 Mass. 365,
253 Mass. 200.

SECTION 38. In the absence of an express or implied agreement of the parties, acceptance of the goods by the buyer shall not discharge the seller from liability in damages or other legal remedy for breach of any promise or warranty in the contract to sell or the sale. But, if, after acceptance of the goods, the buyer fails to give notice to the seller of the breach of any promise or warranty within a reasonable time after the buyer knows, or ought to know of such breach, the seller shall not be liable therefor.

Buyer having
right to reject
not bound to
return goods.
1908, 237, § 50.
216 Mass. 367.

SECTION 39. Unless otherwise agreed, if goods are delivered to the buyer, and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he notifies the seller that he refuses to accept them.

Buyer's failure
to take
delivery.
1908, 237, § 51.

SECTION 40. When the seller is ready and willing to deliver the goods, and requests the buyer to take delivery, and the buyer does not do so within a reasonable time after such request, he is liable to the seller for any loss caused by his neglect or refusal so to do, and also for a reasonable charge for the care and custody of the goods. If the neglect or refusal of the buyer to take delivery amounts to a repudiation or breach of the entire contract, the seller shall have the rights against the goods and on the contract hereinafter provided in favor of the seller when the buyer is in default.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

Seller of goods
deemed an un-
paid seller,
when.
1908, 237, § 52.

SECTION 41. (1) The seller of goods is deemed to be an unpaid seller within the meaning of this chapter —

(a) When the whole of the price has not been paid or tendered.
(b) When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has been broken by reason of the dishonor of the instrument, the insolvency of the buyer, or otherwise.

(2) In sections forty-one to fifty-one, inclusive, the term "seller" includes an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price, or any other person who is in the position of a seller.

Rights of un-
paid seller.
1908, 237, § 53

SECTION 42. (1) Notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has —

- 3 (a) A lien on the goods or right to retain them for the price while in
4 possession of them.
- 5 (b) In case of the insolvency of the buyer, a right of stopping the
6 goods in transit after he has parted with their possession.
- 7 (c) A right of re-sale as hereinafter limited.
- 8 (d) A right to rescind the sale as hereinafter limited.
- 9 (2) If the property in goods has not passed to the buyer, the unpaid
10 seller has, in addition to his other remedies, a right to withhold de-
11 livery similar to and co-extensive with his rights of lien and stoppage in
12 transit where the property has passed to the buyer.

UNPAID SELLER'S LIEN.

1 SECTION 43. (1) The unpaid seller of goods in possession of them is
2 entitled to retain such possession until payment or tender of the price
3 in the following cases:

4 (a) If the goods have been sold without any stipulation as to credit.

5 (b) If the goods have been sold on credit, but the term of credit has
6 expired.

7 (c) If the buyer becomes insolvent.

8 (2) The seller may exercise his right of lien notwithstanding that he
9 is in possession of the goods as agent or bailee for the buyer.

Unpaid seller
may retain pos-
session until
payment or
tender of price
1908, 237, § 54
258 Mass. 215

1 SECTION 44. If an unpaid seller has made part delivery of the goods,
2 he may exercise his right of lien on the remainder, unless such part de-
3 livery was made under such circumstances as to show an intent to waive
4 the lien or right of retention.

Unpaid seller
may assert lien
in certain cases
of partial
delivery.
1908, 237, § 55

1 SECTION 45. (1) The unpaid seller of goods loses his lien thereon —
2 (a) When he delivers the goods to a carrier or other bailee for the
3 purpose of transmission to the buyer without reserving the property in
4 the goods or the right to the possession thereof.

5 (b) When the buyer or his agent lawfully obtains possession of the
6 goods.

7 (c) By waiver thereof.

8 (2) The unpaid seller of goods, having a lien thereon, does not lose
9 his lien by reason only that he has obtained a judgment or decree for
10 the price of the goods.

Loss of lien
by unpaid
seller.
1908, 237, § 56
258 Mass. 215.

STOPPAGE IN TRANSIT.

1 SECTION 46. When the buyer of goods is or becomes insolvent, the
2 unpaid seller who has parted with the possession of the goods has the
3 right of stopping them in transit; that is to say, he may resume pos-
4 session of the goods at any time while they are in transit, and he will
5 then become entitled to the same rights relative to the goods which he
6 would have had if he had never parted with the possession.

Unpaid seller
may stop
goods in tran-
sit, when
1908, 237, § 57.

1 SECTION 47. (1) Goods are in transit within the meaning of the
2 preceding section —

3 (a) From the time when delivered to a carrier by land or water, or
4 other bailee, for the purpose of transmission to the buyer, until the
5 buyer, or his agent in that behalf, takes delivery of them from such
6 carrier or other bailee.

Transit
defined
1908, 237, § 58.

(b) If the goods are rejected by the buyer, and the carrier or other bailee continues in possession of them, even if the seller has refused to receive them back. 7 8 9

(2) Goods are no longer in transit within the meaning of the preceding section — 10 11

(a) If the buyer, or his agent in that behalf, obtains delivery of the goods before their arrival at the appointed destination. 12 13

(b) If, after the arrival of the goods at such destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in their possession as bailee for the buyer or his agent; and it is immaterial that a further destination for the goods may have been indicated by the buyer. 14 15 16 17 18

(c) If the carrier or other bailee wrongfully refuses to deliver the goods to the buyer, or his agent in that behalf. 19 20

(3) If goods are delivered to a ship chartered by the buyer, it depends on the circumstances of the particular case whether they are in the possession of the master as a carrier, or as agent of the buyer. 21 22 23

(4) If part delivery of the goods has been made to the buyer, or his agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been made under such circumstances as to show an agreement with the buyer to give up possession of the whole of the goods. 24 25 26 27 28

Right of stoppage, how exercised, 1908, 237, § 59.

SECTION 48. (1) The unpaid seller may exercise his right of stoppage in transit either by obtaining actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in possession thereof. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, must be given at such time and under such circumstances that the principal, by the exercise of reasonable diligence, may prevent a delivery to the buyer. 1 2 3 4 5 6 7 8

(2) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he must re-deliver them to, or according to the direction of, the seller, at the latter's expense. If, however, a negotiable document of title representing the goods has been issued by the carrier or other bailee, he shall not be obliged to deliver, or be justified in delivering, the goods to the seller unless such document is first surrendered for cancellation. 9 10 11 12 13 14 15

RE-SALE BY THE SELLER.

When unpaid seller may re-sell, 1908, 237, § 60, 239 Mass. 53.

SECTION 49. (1) If the goods are perishable, or if the seller expressly reserves the right of re-sale in case the buyer makes default, or if the buyer has been in default in the payment of the price an unreasonable time, an unpaid seller having a right of lien or having stopped the goods in transit may re-sell the goods. He shall not thereafter be liable to the original buyer upon the contract to sell or upon the sale, or for any profit made by such re-sale, but may recover from the buyer damages for any loss occasioned by the buyer's breach. 1 2 3 4 5 6 7 8

(2) If a re-sale is made, as authorized by this section, the buyer acquires a good title as against the original buyer. 9 10

(3) It is not essential to the validity of a re-sale that notice of an intention to re-sell the goods be given by the seller to the original buyer. But if the right to re-sell is not based on the perishable nature of the 11 12 13

14 goods or upon an express provision of the contract or of the sale, the
 15 giving or failure to give such notice shall be relevant in any issue involving
 16 the question whether the buyer had been in default an unreasonable
 17 time.

18 (4) It is not essential to the validity of a re-sale that notice of the
 19 time and place thereof be given by the seller to the original buyer.

20 (5) The seller is bound to exercise reasonable care and judgment in
 21 making a re-sale, and subject to this requirement may make a re-sale
 22 either by public or private sale.

RESCISSION BY THE SELLER.

1 SECTION 50. (1) An unpaid seller having a right of lien or having
 2 stopped the goods in transit, may rescind the transfer of title and resume
 3 the property in the goods, if he expressly reserved the right to do so in case
 4 of the buyer's default, or if the buyer has been in default in the payment
 5 of the price an unreasonable time. The seller shall not thereafter be
 6 liable to the buyer upon the contract to sell or the sale, but may recover
 7 from the buyer damages for any loss occasioned by the buyer's breach.

Unpaid seller
 may rescind,
 when
 1908, 237, § 61.
 244 Mass. 210.

8 (2) The transfer of title shall not be held to have been rescinded by
 9 an unpaid seller until he has manifested by notice to the buyer or by
 10 some other overt act an intention to rescind. Such overt act need not
 11 be communicated to the buyer, but the giving or failure to give notice to
 12 the buyer of the intention to rescind shall be relevant in any issue in-
 13 volving the question whether the buyer had been in default an unreason-
 14 able time.

1 SECTION 51. Subject to section fifty-four of chapter one hundred
 2 and five and section forty of chapter one hundred and eight, the unpaid
 3 seller's right of lien or stoppage in transit is not affected by any sale or
 4 other disposition of the goods which the buyer may have made, unless
 5 the seller has assented thereto.

Unpaid seller's
 right not
 affected by
 certain acts
 of buyer.
 1908, 237, § 62.

ACTIONS FOR BREACH OF THE CONTRACT.

1 SECTION 52. (1) If, under a contract to sell or a sale, the property in
 2 the goods has passed to the buyer, and the buyer wrongfully neglects or
 3 refuses to pay therefor according to the terms of the contract or the sale,
 4 the seller may maintain an action against him for the price.

Seller's right
 to recover
 price.
 1908, 237, § 63.
 241 Mass. 444
 243 Mass. 183.
 248 Mass. 126.
 252 Mass. 7
 267 Mass. 98.

5 (2) If, under a contract to sell or a sale, the price is payable on a day
 6 certain, irrespective of delivery or of transfer of title, and the buyer wrong-
 7 fully neglects or refuses to pay such price, the seller may maintain an
 8 action for the price, although the property in the goods has not passed,
 9 and the goods have not been appropriated to the contract. But it shall
 10 be a defence to such an action that the seller at any time before judgment
 11 in such action has manifested an inability to perform the contract or the
 12 sale on his part or an intention not to perform it.

13 (3) Although the property in the goods has not passed, if they cannot
 14 readily be re-sold for a reasonable price, and if the provisions of paragraph
 15 (4) of the following section are not applicable, the seller may offer to
 16 deliver the goods to the buyer, and, if the buyer refuses to receive them,
 17 may notify the buyer that the goods are thereafter held by the seller as
 18 bailee for the buyer. Thereafter the seller shall treat the goods as the
 19 buyer's, and may maintain an action for the price.

Right to
damages.
1908, 237, § 64.
242 Mass. 594.
247 Mass. 153.
248 Mass. 126,
502.
249 Mass. 1.
252 Mass. 7.
270 Mass. 501.

SECTION 53. (1) If the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

(2) The measure of damages shall be the estimated loss directly and naturally resulting, in the ordinary course of events, from the buyer's breach of contract.

(3) If there is an available market for the goods in question, the measure of damages, in the absence of special circumstances showing proximate damage of a greater amount, shall be the difference between the contract price and the market or current price at the time when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept.

(4) If, while labor or expense of material amount are necessary on the part of the seller to enable him to fulfil his obligations under the contract to sell or the sale, the buyer repudiates the contract or the sale, or notifies the seller to proceed no further therewith, the buyer shall be liable to the seller for no greater damages than the seller would have suffered if he did nothing toward carrying out the contract or the sale after receiving notice of the buyer's repudiation or countermand. The profit which the seller would have made if the contract or the sale had been fully performed shall be considered in estimating such damages.

Seller may
totally rescind
in certain
cases.
1908, 237, § 65.

SECTION 54. If the goods have not been delivered to the buyer, and the buyer has repudiated the contract to sell or sale, or has manifested his inability to perform his obligations thereunder, or has committed a material breach thereof, the seller may totally rescind the contract or the sale by giving notice of his election so to do to the buyer.

Remedies of
buyer based
on ownership.
1908, 237, § 66.

SECTION 55. If the property in the goods has passed to the buyer and the seller wrongfully neglects or refuses to deliver them, the buyer may maintain any action allowed by law to the owner of goods of similar kind wrongfully converted or withheld.

Remedy of
buyer for
damages.
1908, 237, § 67.
249 Mass. 373.

SECTION 56. (1) If the property in the goods has not passed to the buyer, and the seller wrongfully neglects or refuses to deliver them, the buyer may maintain an action against the seller for damages for non-delivery.

(2) The measure of damages shall be the loss directly and naturally resulting, in the ordinary course of events, from the seller's breach of contract.

(3) If there is an available market for the goods, the measure of damages, in the absence of special circumstances showing proximate damages of a greater amount, shall be the difference between the contract price and the market or current price of the goods at the time when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver.

Specific per-
formance by
seller.
1908, 237, § 68.

SECTION 57. If the seller has broken a contract to deliver specific or ascertained goods, a court having the powers of a court of equity may, if it thinks fit, on the application of the buyer, by its judgment or decree direct that the contract shall be performed specifically, without giving the seller the option of retaining the goods on payment of damages. The judgment or decree may be unconditional, or upon such

7 terms and conditions as to damages, payment of the price and other-
8 wise, as the court may deem just.

1 SECTION 58. (1) If there is a breach of warranty by the seller, the
2 buyer may, at his election —

Rights of
buyer in case
of breach of
warranty.
1908, 237, § 69
212 Mass. 594
245 Mass. 461.
263 Mass. 391.
268 Mass. 10
272 Mass. 177.

3 (a) Accept or keep the goods and set up against the seller the breach
4 of warranty by way of recoupment in diminution or extinction of the
5 price.

6 (b) Accept or keep the goods and maintain an action against the
7 seller for damages for such breach.

8 (c) Refuse to accept the goods, if the property therein has not passed,
9 and maintain an action against the seller for damages for such breach.

10 (d) Rescind the contract to sell or the sale and refuse to receive the
11 goods, or if they have already been received, return them or offer to re-
12 turn them to the seller and recover the price or any part thereof which
13 has been paid.

14 (2) When the buyer has claimed and has been granted a remedy in
15 any one of these ways, no other remedy shall thereafter be granted. 268 Mass. 10.

16 (3) If the goods have been delivered to the buyer, he cannot rescind
17 the sale if he knew of the breach of warranty when he accepted them, or
18 if he fails to notify the seller within a reasonable time of the election
19 to rescind, or if he fails to return or to offer to return the goods to the
20 seller in substantially as good condition as they were in at the time when
21 the property passed. But if deterioration or injury of the goods is due
22 to the breach of warranty, such deterioration or injury shall not pre-
23 vent the buyer from returning or offering to return the goods to the
24 seller and rescinding the sale.

224 Mass. 275
242 Mass. 594
245 Mass. 461
250 Mass. 460
256 Mass. 195.
268 Mass. 10.

25 (4) If the buyer is entitled to rescind the sale and elects so to do, the
26 buyer shall cease to be liable for the price upon returning or offering to
27 return the goods. If the price or any part thereof has already been
28 paid, the seller shall be liable to repay so much thereof as has been paid,
29 concurrently with the return of the goods, or immediately after an offer
30 to return them in exchange for repayment of the price.

224 Mass. 275.
252 Mass. 135.
268 Mass. 10.

31 (5) If the buyer is entitled to rescind the sale and elects so to do, and
32 the seller refuses to accept an offer of the buyer to return the goods, the
33 buyer shall thereafter be deemed to hold the goods as bailee for the
34 seller, but subject to a lien to secure the repayment of any portion of
35 the price which has been paid, and with the remedies for the enforce-
36 ment of such lien allowed to an unpaid seller by section forty-two.

252 Mass. 135
268 Mass. 10.

37 (6) The measure of damages for breach of warranty shall be the loss
38 directly and naturally resulting, in the ordinary course of events, from
39 such breach.

40 (7) In case of breach of warranty of quality, such loss, in the absence
41 of special circumstances showing proximate damage of a greater amount,
42 shall be the difference between the value of the goods at the time of de-
43 livery to the buyer and the value they would have had if answering to
44 the warranty.

253 Mass. 200
255 Mass. 189

1 SECTION 59. Nothing in this chapter shall affect the right of the
2 buyer or of the seller to recover interest or special damages in any case
3 where by law recoverable, or to recover money paid where the consider-
4 ation for the payment has failed.

Certain rights
of buyer or
seller not
affected.
1908, 237, § 70
247 Mass. 153.

INTERPRETATION.

Certain rights or duties, etc., may be negatived, etc. 1908, 237, § 71.	SECTION 60. If any right, duty or liability would arise under a contract to sell or a sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by custom, if the custom is such as to bind both parties to the contract or sale.	1 2 3 4 5
Certain rights or duties, etc., may be enforced by action.	SECTION 61. If any right, duty or liability is declared by sections three to fifty-nine, inclusive, it may, unless otherwise herein provided, be enforced by action.	1 2 3
Rules of law and equity to continue to apply in certain cases. 1908, 237, § 73.	SECTION 62. In any case not provided for in said sections, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy, or other invalidating cause, shall continue to apply to contracts to sell and to sales of goods.	1 2 3 4 5 6
Interpretation and construction. 1908, 237, §§ 74, 77.	SECTION 63. Said sections shall be so interpreted and construed, if possible, as to effectuate their general purpose to make uniform the law of those states which enact them, and may be cited as the sales act.	1 2 3
Not to apply to certain transactions. 1908, 237, § 75.	SECTION 64. The provisions of said sections relating to contracts to sell and to sales shall not apply, unless so stated, to any transaction in the form of a contract to sell or a sale which is intended to operate by way of mortgage, pledge, charge or other security.	1 2 3 4
Certain terms defined. 1908, 237, § 76. 241 Mass. 211. 245 Mass. 449. 257 Mass. 135. 267 Mass. 28.	SECTION 65. (1) The following words, as used in sections three to sixty-four, inclusive, unless the context or subject matter otherwise requires, shall have the following meaning: "Action" includes counter-claim, set-off and suit in equity. "Buyer", a person who buys or agrees to buy goods, or any legal successor in interest of such person. "Defendant" includes a plaintiff against whom a right of set-off or counter-claim is asserted. "Delivery", voluntary transfer of possession from one person to another. "Divisible contract to sell" or "divisible sale", a contract to sell or a sale wherein by its terms the price for a portion or portions of the goods less than the whole is fixed or ascertainable by computation. "Document of title to goods" includes any dock warrant, or order for the delivery of goods, or any other document used in the ordinary course of business in the sale or transfer of goods as proof of the possession or control of the goods, or authorizing or purporting to authorize the possessor of the document to transfer or receive, either by endorsement or by delivery, goods represented by such document. "Fault", wrongful act or default. "Fungible goods", goods of which any unit is from its nature or by mercantile usage treated as the equivalent of any other unit. "Future goods", goods to be manufactured or acquired by the seller after the making of the contract of sale.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

- 25 "Goods" include all chattels personal other than things in action and ^{226 Mass. 64.}
 26 money, emblements, industrial growing crops, and things attached to or
 27 forming part of the land which are agreed to be severed before sale or
 28 under the contract of sale.
- 29 "Order" in such of said sections as relate to documents of title means
 30 an order by endorsement on the document.
- 31 "Person" includes a corporation or partnership or two or more persons
 32 having a joint or common interest.
- 33 "Plaintiff" includes defendant asserting a right of set-off or counter-
 34 claim.
- 35 "Property", the general property in goods, and not merely a special
 36 property.
- 37 "Purchaser" includes mortgagee and pledgee.
- 38 "Purchases" includes taking as a mortgagee or as a pledgee.
- 39 "Quality of goods" includes their state or condition.
- 40 "Sale" includes a bargain and sale as well as a sale and delivery.
- 41 "Seller", a person who sells or agrees to sell goods, or any legal suc-
 42 cessor in interest of such person.
- 43 "Specific goods", goods identified and agreed upon at the time a con-
 44 tract to sell or a sale is made.
- 45 "Value", any consideration sufficient to support a simple contract.
- 46 An antecedent or pre-existing claim, whether for money or not, consti-
 47 tutes value where goods or documents of title are taken either in satis-
 48 faction thereof or as security therefor.
- 49 (2) A thing is done "in good faith" when it is in fact done honestly,
 50 whether it be done negligently or not.
- 51 (3) A person is insolvent who either has ceased to pay his debts in the
 52 ordinary course of business or cannot pay his debts as they become due,
 53 whether he has committed an act of bankruptcy or not, and whether he
 54 is insolvent within the meaning of the federal bankruptcy law or not.
- 55 (4) Goods are in a "deliverable state" when they are in such a state
 56 that the buyer would, under the contract, be bound to take delivery of
 57 them.

CHAPTER 107.

MONEY AND NEGOTIABLE INSTRUMENTS.

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10. Damages on other contracts.
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28. Same subject.
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49. Holder for value.
50. Holder for value to extent of lien.
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55. Endorsement of entire instrument.
56. Endorsement special or in blank.
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58. Holder may convert blank to special, when.
59. Restrictive endorsement.
60. Rights of endorsee thereunder.
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68. Endorsement dated after maturity; effect.
69. Place of endorsement.
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71. Holder may strike out endorsement.
72. Transfer of instrument.
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74. Rights of holder.
75. Holder in due course.
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80. Holder in due course free from equities.
81. Rights of holder other than holder in due course.
82. Holder to prove title.

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83. Liability of maker.
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87. Liability of such endorser.
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90. Liability of the endorser.
91. Endorsers liable in order of endorsements.
92. Liability of broker or agent.

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93. Presentment for payment.
94. Time of presentment.
95. Presentment, by whom.
96. Place of presentment.
97. Instrument to be delivered to party paying.
98. Presentment at bank.
99. Where person liable is dead.
100. Where persons are liable as partners.
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102. Presentment not required, when.
103. Same subject.
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- 107. Right of recourse accrues, when.
- 108. Time of payment of negotiable instruments.
- 109. Computation of time.
- 110. If payable at a bank.
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- 112. Notice of dishonor.
- 113. Notice, how given.
- 114. Who to give notice of dishonor.
- 115. Effect of notice given on behalf of holder.
- 116. Effect of notice.
- 117. Notice, to whom given when instrument is dishonored in hands of agent.
- 118. Written notice need not be signed and may be supplemented, etc.
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- 121. Notice in case of death.
- 122. Notice to partners.
- 123. Notice to parties not partners.
- 124. Notice if party is bankrupt, etc.
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- 132. Notice may be waived.
- 133. Waiver binds whom.
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- 138. Same subject.
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- 155. Acceptance of bill.
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- 157. Written acceptance binding, when.
- 158. Unconditional promise.
- 159. Time allowed drawee.
- 160. Destruction of bill, etc., an acceptance.
- 161. Incomplete bill accepted.
- 162. Acceptance general or qualified.
- 163. General acceptance.
- 164. Qualified acceptance.
- 165. Holder may refuse qualified acceptance.

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- 166. Presentment for acceptance.
- 167. Presentment within reasonable time.
- 168. Presentment at a reasonable hour, on a business day, etc.
- 169. Presentment for acceptance same as presentment of negotiable instrument for payment.
- 170. Necessary delay excused.
- 171. Presentment excused, when.
- 172. Bill dishonored, when.
- 173. Right of recourse lost, when.
- 174. Right of recourse accrues to holder, when.

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- 175. Foreign bill protested, when.
- 176. Protest made by whom.
- 177. Protest annexed to bill.
- 178. Protest to be made on day of dishonor.
- 179. Protest at place where dishonored.
- 180. Protest for non-payment after protest for non-acceptance.
- 181. Protest for better security, when.
- 182. Protest unnecessary, when.
- 183. Protest made on copy, etc.

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- 184. Acceptance for honor.
- 185. Acceptance for honor must be in writing.
- 186. Acceptance for honor of drawer.
- 187. Liability of acceptor for honor.
- 188. Same subject.
- 189. Maturity of bill accepted for honor.
- 190. Bill accepted for honor protested, when.
- 191. Presentment for payment to acceptor for honor.
- 192. Certain provisions to apply.
- 193. Effect of dishonor of bill by acceptor for honor.

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194. Payment for honor.
 195. Such payment to be attested by notarial act of honor.
 196. Notarial act of honor.
 197. Preference.
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201. Bills in a set.
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207. Promissory note defined.
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 209. Time for presentation of check.
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 211. Endorsers discharged, when.
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MONEY OF ACCOUNT.

Money of account.

- 1794, 42, § 1.
 R. S. 35, § 5.
 G. S. 53, § 1.
 P. S. 77, § 1.
 R. L. 73, § 1.

SECTION 1. The money of account of the commonwealth shall be the dollar, cent and mill. Proceedings in court, accounts in the public offices and other public accounts shall be had and kept in accordance herewith.

U. S. Rev. Sts. § 3563.

Accounts, etc., expressed in other moneys.

- 1794, 42, § 2.
 R. S. 35, § 6.
 G. S. 53, § 2.
 P. S. 77, § 2.

SECTION 2. The preceding section shall not vitiate or affect an account, charge or entry made, or a note, bond or other instrument expressed in any other money of account; but in a suit thereon such other money shall be reduced to dollars and fractions thereof.

R. L. 73, § 2.

262 Mass. 362.

INTEREST.

Rate of interest.

- C. L. 153, § 3.
 1693, 1.
 1749-50, 23, § 1.
 1783, 55.
 1825, 143.
 1826, 27.
 R. S. 35, §§ 1-4.
 1846, 189.
 G. S. 53, §§ 3-5.
 1863, 242.
 1867, 56, §§ 1, 2.

SECTION 3. If there is no agreement or provision of law for a different rate, the interest of money shall be at the rate of six dollars on each hundred for a year, but, except as provided in sections seventy-eight, ninety, ninety-two, ninety-six and one hundred of chapter one hundred and forty, it shall be lawful to pay, reserve or contract for any rate of interest or discount. No greater rate than that before mentioned shall be recovered in a suit unless the agreement to pay it is in writing.

- 1870, 292.
 P. S. 77, § 3.
 R. L. 73, § 3.
 112 Mass. 63.
 125 Mass. 562.

- 129 Mass. 82, 425.
 139 Mass. 360, 407.
 148 Mass. 251.
 152 Mass. 74, 316.
 176 Mass. 38.

- 218 Mass. 91.
 229 Mass. 429.
 255 Mass. 359.
 270 Mass. 565.
 2 Op. A. G. 442.

REGISTRATION OF BONDS AND OTHER SECURITIES.

Issue of registered bonds.

- 1876, 239, § 1.
 P. S. 77, § 5.
 R. L. 73, § 4.
 1915, 121, § 1.

SECTION 4. A county, city, town or district or any corporation organized under the laws of the commonwealth may, at the request of the owner or holder of a bond, promissory note or certificate of indebtedness issued by it payable to bearer, at any time more than one year before maturity thereof, issue in exchange therefor a bond, note or certificate of the same effect, payable to the owner or holder by name. Coupon or registered bonds, notes or certificates of a city, town or district may be surrendered to the city, town or district treasurer for cancellation and in exchange therefor one or more registered bonds, notes or certificates having the same maturity and rate of interest, may be issued to the same or to a new owner or owners. In cities, such new bonds, notes or certificates shall be signed by the treasurer and countersigned by the

13 city auditor or comptroller and the mayor, or their successors in office.
 14 In towns, such new bonds, notes or certificates shall be signed by the
 15 treasurer and countersigned by a majority of the selectmen. In districts,
 16 such new bonds, notes or certificates shall be signed by the treasurer and
 17 countersigned by the prudential committee or other body exercising
 18 similar powers. The expense involved in surrendering and in making
 19 the cancellation and reissue of any bond, promissory note or certificate
 20 of indebtedness under this section or under any other law applicable
 21 thereto shall be borne by the party requesting such cancellation and
 22 reissue.

1 SECTION 5. A person to whom a bond, note or certificate issued
 2 under the preceding section is transferred by operation of law or by
 3 assignment acknowledged before an officer authorized to take acknowl-
 4 edgments of deeds conveying real property in this commonwealth, shall
 5 be entitled in exchange therefor to a new bond, note or certificate of
 6 the same effect, payable to him by name.

Issue of new
 registered
 bonds
 1876, 238, § 2.
 P. S. 77, § 6.
 R. L. 73, § 5.

1 SECTION 6. Such county, city, town, district or corporation shall
 2 keep a register showing the number, date, amount and rate of interest
 3 of each bond, promissory note or certificate of indebtedness issued by
 4 it under the two preceding sections; of the time when payable and the
 5 name of the payee; and of the bonds, notes or certificates, if any, re-
 6 ceived in exchange therefor; and shall be entitled to a fee of fifty cents
 7 for each bond, note or certificate so registered.

Cities, etc., to
 keep registers
 of bonds.
 1876, 238, § 3.
 P. S. 77, § 7.
 R. L. 73, § 6.

OBLIGATIONS NOT TO BE ISSUED OR REDEEMED IN NUMERICAL ORDER.

1 SECTION 7. No person shall issue, negotiate or sell any bonds,
 2 certificates or obligations of any kind, which are by the terms thereof
 3 to be redeemed in numerical order or in any arbitrary order of prece-
 4 dence without reference to the amount previously paid thereon by
 5 the holder thereof, whether they are sold on the instalment plan or
 6 otherwise, nor shall any person redeem any bonds, certificates or obliga-
 7 tions in such order, whether they are sold on the instalment plan or
 8 otherwise.

Bonds, etc., re-
 deemable in
 numerical
 order, etc., not
 to be issued.
 1891, 382, § 1.
 R. L. 73, § 7.
 1905, 454, § 1.
 183 Mass. 513.
 187 Mass. 516.
 246 Mass. 235.
 2 Op. A. G. 401.

1 SECTION 8. Violations of the preceding section shall be punished by
 2 a fine of not more than two thousand dollars or by imprisonment for
 3 not more than one year. Any such violation, if by a domestic corpo-
 4 ration, shall operate as a forfeiture of its franchise and, if by a foreign
 5 corporation, association or organization, as a discontinuance of its
 6 right to do business in the commonwealth; and the supreme judicial
 7 or superior court, upon the application of the commissioner of corpo-
 8 rations and taxation, may enjoin such foreign corporation, association
 9 or organization from further continuing its business in the common-
 10 wealth. The court may appoint a receiver to take possession of the
 11 property of such corporation, association or organization, and to close
 12 up the business, subject to the order of the court.

Penalties.
 1891, 382,
 §§ 2-4.
 R. L. 73, § 8.
 1905, 454, § 2.
 1919, 350, § 53.
 183 Mass. 513.
 187 Mass. 516.
 246 Mass. 235.
 2 Op. A. G. 401.

BILLS OF EXCHANGE AND OTHER CONTRACTS.

1 SECTION 9. When a bill of exchange, drawn or endorsed within this
 2 commonwealth and payable beyond the limits of the United States, is
 3 duly protested for non-acceptance or non-payment, the party liable

Damages on
 bills payable
 outside the
 United States.
 1825, 177, § 1.

R. S. 33, § 1. thereon shall, on due notice and demand, pay it at the current rate of 4
 G. S. 53, § 11. exchange on the date of the demand, with interest from the date of the 5
 1863, 201, § 2. protest and damages at the rate of five per cent upon the principal 6
 P. S. 77, § 18. thereof; and the amount of principal, interest and damages shall be in 7
 R. L. 73, § 9. satisfaction of all charges, expenses and damages. 8
 239 Mass. 249.
 240 Mass. 413.
 245 Mass. 511.

Damages on other contracts. SECTION 10. In an action on a contract, other than a bill of ex- 1
 change, for the payment of money beyond the limits of the United 2
 States, the amount to be recovered by the creditor shall be determined 3
 by the current rate of exchange on the date when such contract becomes 4
 due, with interest from such date. 5

Damages on bills payable outside the commonwealth, but within the United States. SECTION 11. The rates of damages to be allowed upon a bill of 1
 exchange duly protested for non-acceptance or non-payment, if drawn 2
 or endorsed within this commonwealth and payable at a place beyond 3
 its limits but within the United States, shall, in addition to the principal 4
 thereof with interest and costs, be as follows: if payable in Maine, 5
 New Hampshire, Vermont, Rhode Island, Connecticut or New York, 6
 two per cent; in New Jersey, Pennsylvania, Maryland or Delaware, 7
 three per cent; in Virginia, West Virginia, North Carolina, South 8
 Carolina or Georgia, or in the District of Columbia, four per cent; 9
 and in any other of the United States or in any territory thereof, five 10
 per cent. 11

Damages on bills payable within the commonwealth. SECTION 12. The rate of damages upon a bill of exchange or order 1
 for the payment of not less than one hundred dollars, drawn or endorsed 2
 within the commonwealth and payable therein at a place not less than 3
 seventy-five miles distant from the place where it is drawn or endorsed, 4
 when such bill or order is not duly accepted or paid, shall be one per cent 5
 in addition to the principal thereof, with interest thereon. 6

GENERAL PROVISIONS.

Protest prima facie evidence. SECTION 13. The protest of a bill of exchange, promissory note or 1
 order for the payment of money certified by a notary public under his 2
 hand and official seal shall be prima facie evidence of the facts stated 3
 in such protest, and of the giving of notice to the drawer or endorser. 4

201 Mass. 341. 249 Mass. 184. 255 Mass. 569. 262 Mass. 152.
 245 Mass. 325. 252 Mass. 326. 259 Mass. 229.

Non-negotiable instruments. SECTION 14. A non-negotiable order or draft for money payable 1
 within the commonwealth in which no time of payment is expressed, 2
 shall be payable on demand. Section one hundred and eight shall 3
 apply to all non-negotiable instruments and contracts, except that non- 4
 negotiable contracts other than non-negotiable bills of exchange, drafts, 5
 promissory notes, checks and orders for the payment of money shall 6
 be payable or performable on Saturday when they fall due on that day, 7
 unless it is a holiday. Section one hundred and fifty-nine shall apply 8
 to non-negotiable bills of exchange and drafts. 9

Negotiable instruments. SECTION 15. Except as provided in the preceding section, sections 1
 eighteen to two hundred and twelve, inclusive, shall apply to negotiable 2
 instruments only. 3

1 SECTION 16. A person becoming a party to a non-negotiable promissory note payable on time, by a signature in blank on the back thereof, shall be entitled to notice of non-payment the same as an endorser.

Notice to party signing on back 1874, 404.

P S. 77, § 15. R L 73, § 16. 168 Mass. 537. 173 Mass. 436

1 SECTION 17. A depository of funds subject to withdrawal by check or demand draft may pay a check or demand draft drawn on it by a depositor having funds on deposit to pay the same, notwithstanding his death, upon presentation within ten days after its date.

Payment of check after death of drawer 1885, 210, § 1. R L 73, § 17.

DEFINITIONS AND RULES.

1 SECTION 18. In sections eighteen to two hundred and twelve, inclusive, the following words, unless the context otherwise requires, shall have the following meanings:

Definitions. 1898, 533, § 191. R L 73, § 207. 1912, 277, § 3. 108 Mass. 509. 152 Mass. 34. 165 Mass. 384. 187 Mass. 159. 244 Mass. 528. 245 Mass. 377. 249 Mass. 45. 271 Mass. 292. 3 Op A. G. 342.

4 "Acceptance", an acceptance completed by delivery or written notification.

6 "Action" includes counter-claim and set-off.

7 "Bank" includes any person carrying on the business of banking, whether incorporated or not.

9 "Bearer", the person in possession of a bill or note payable to bearer.

10 "Bill", a bill of exchange, and "note", a negotiable promissory note.

12 "Delivery", transfer of possession, actual or constructive, from one person to another.

14 "Endorsement", an endorsement completed by delivery.

15 "Holder", the payee or endorsee of a bill or note, who is in possession of it, or the bearer thereof.

17 "Instrument" and "negotiable instrument" shall have the same meaning and shall not include a bill of lading, warehouse receipt or certificate of stock.

20 "Issue", the first delivery of the instrument, complete in form, to a person who takes it as a holder.

22 "Value", valuable consideration.

23 "Written" includes printed, and "writing" includes print.

1 SECTION 19. The person "primarily" liable on an instrument is the person who by the terms thereof is absolutely required to pay the same. All other parties are "secondarily" liable.

Primary and secondary liability.

1898, 533, § 192. R. L. 73, § 208. 212 Mass. 205. 266 Mass. 413.

1 SECTION 20. In determining what is a "reasonable time" or an "unreasonable time" regard is to be had to the nature of the instrument, the usage of trade or business, if any, with respect to such instruments, and the facts of the particular case.

Reasonable time defined. 1898, 533, § 193. R L 73, § 209. 181 Mass. 69.

194 Mass. 418. 227 Mass. 71.

1 SECTION 21. Unless otherwise provided, where the day, or the last day, for doing any act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

Instruments falling due, etc., on Sunday, etc. 1898, 533, § 194. R. L. 73, § 210.

1 SECTION 22. In any case not provided for in sections eighteen to twenty-one and twenty-three to two hundred and twelve, both inclusive, the rules of the law merchant shall govern.

Rules of law merchant to govern, when.

1898, 533, § 196. R. L. 73, § 212. 247 Mass. 366. 249 Mass. 45.

NEGOTIABLE INSTRUMENTS IN GENERAL.

Form and Interpretation.

Negotiable instruments, form, etc.

SECTION 23. An instrument to be negotiable must conform to the following requirements: 1
2

1898, 533, § 1.	243 Mass. 218.	256 Mass. 281.	266 Mass. 239.
R. L. 73, § 18.	248 Mass. 480.	262 Mass. 242.	271 Mass. 292.
239 Mass. 590.			

124 Mass. 149.

1. It must be in writing and signed by the maker or drawer; 3
266 Mass. 583.15 Mass. 387.
22 Pick. 83.
4 Met. 230.
11 Gray, 502.2. Must contain an unconditional promise or order to pay a sum certain in money; 4
5

2 Allen, 236	122 Mass. 67.	134 Mass. 343.	201 Mass. 172
7 Allen, 343.	124 Mass. 149.	151 Mass. 115	230 Mass. 256.
12 Allen, 454	126 Mass. 342	167 Mass. 74	236 Mass. 453.
111 Mass. 523.	127 Mass. 293.	181 Mass. 307.	258 Mass. 124.
119 Mass. 137.			

4 Met. 230.
111 Mass. 523.
119 Mass. 437.
133 Mass. 151.3. Must be payable on demand or at a fixed or determinable future time; 6
7

140 Mass. 218.

218 Mass. 30.

4. Must be payable to order or to bearer; and 8
5. Where the instrument is addressed to a drawee he must be named or otherwise indicated therein with reasonable certainty. 9
10Sum payable.
1898, 533, § 2.
R. L. 73, § 19.
248 Mass. 480.
266 Mass. 239.
122 Mass. 67.
134 Mass. 343.SECTION 24. The sum payable is a sum certain within the meaning of sections eighteen to two hundred and twelve, inclusive, although it is to be paid: 1
2
31. With interest; or 4
2. By stated instalments; or 5
3. By stated instalments, with a provision that, upon default in payment of any instalment or of interest, the whole shall become due; or 6
4. With exchange, whether at a fixed rate or at a current rate; or 7
5. With costs of collection or an attorney's fee, in case payment shall not be made at maturity. 8
9
10Unconditional order or promise to pay.
1898, 533, § 3.
R. L. 73, § 20.SECTION 25. An unqualified order or promise to pay is unconditional within the meaning of sections eighteen to two hundred and twelve, inclusive, though coupled with: 1
2
3

266 Mass. 239.

4 Cush. 606.
137 Mass. 351.1. An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or 4
5
2. A statement of the transaction which gives rise to the instrument. 6
But, except as otherwise expressly provided by law, an order or promise to pay only out of a particular fund is not unconditional. 7
814 Pick. 268.
6 Cush. 6.
169 Mass. 36.
134 Mass. 245.Time of payment.
1898, 329.
1898, 533, § 4.
R. L. 73, § 21.SECTION 26. An instrument is payable at a determinable future time, within the meaning of sections eighteen to two hundred and twelve, inclusive, which is expressed to be payable: 1
2
3

243 Mass. 218.

266 Mass. 239.

10 Pick. 228.
4 Met. 230.1. At a fixed period after date or sight; or 4
125 Mass. 365. 164 Mass. 116.
2. On or before a fixed or determinable future time specified therein; 5
6

or

7 3. On or at a fixed period after the occurrence of a specified event, 8 Met. 12.
 8 which is certain to happen, though the time of happening is uncertain. 16 Gray, 592.
 9 An instrument payable upon a contingency is not negotiable, and the
 10 happening of the event does not cure the defect.

1 SECTION 27. An instrument which contains an order or promise to 7
 2 do any act in addition to the payment of money is not negotiable. But Negotiable
 3 the negotiable character of an instrument otherwise negotiable is not character not
 4 affected by a provision which: affected by cer-
 1898, 533, § 5.

R. L. 73, § 22. 266 Mass. 239. 271 Mass. 186.

5 1. Authorizes the sale of collateral securities in case the instrument is 122 Mass. 67.
 6 not paid at maturity; or 128 Mass. 129.

7 2. Authorizes a confession of judgment if the instrument is not paid 140 Mass. 218.
 8 at maturity; or

9 3. Waives the benefit of any law intended for the advantage or pro-
 10 tection of the obligor; or

11 4. Gives the holder an election to require something to be done in 230 Mass. 256.
 12 lieu of payment of money.

13 But nothing in this section shall validate any provision or stipulation
 14 otherwise illegal.

1 SECTION 28. The validity and negotiable character of an instru- Same subject.
 2 ment are not affected by the fact that: 1852, 76.
 G. S. 53, § 6.

P. S. 77, § 4. 1898, 533, § 6. R. L. 73, § 23. 149 Mass. 492.

3 1. It is not dated; or

4 2. Does not specify the value given, or that any value has been given 3 Met. 363.
 5 therefor; or 236 Mass. 453.

6 3. Does not specify the place where it is drawn or the place where it
 7 is payable; or

8 4. Bears a seal; or 8 Gray, 575.
 215 Mass. 552.

9 5. Designates a particular kind of current money in which payment 4 Mass. 245.
 10 is to be made. 103 Mass. 316.

11 But subdivision two shall not apply in cases where by statute the
 12 nature of the consideration is required to be stated in the instrument.

1 SECTION 29. An instrument is payable on demand: Payable on
 2 demand.

1862, 130, § 2. 1898, 533, § 7. 245 Mass. 511. 265 Mass. 182.
 P. S. 77, § 41. R. L. 73, § 24. 256 Mass. 125.

2 1. Where it is expressed to be payable on demand, at sight, or on 10 Pick. 228.
 3 presentation; or 13 Pick. 418.

4 Gray, 316. 125 Mass. 365. 133 Mass. 151. 146 Mass. 20, 118.

4 2. In which no time for payment is expressed. 164 Mass. 116.

5 Where an instrument is issued, accepted or endorsed, when overdue, 18 Pick. 260.
 6 it is, as regards the person so issuing, accepting or endorsing it, payable
 7 on demand.

1 SECTION 30. The instrument is payable to order where it is drawn Payable to
 2 payable to the order of a specified person or to him or his order. It order.
 3 may be drawn payable to the order of: 1898, 533, § 8.

R. L. 73, § 25. 118 Mass. 541. 173 Mass. 517.

4 1. A payee who is not maker, drawer or drawee; or

5 2. The drawer or maker; or

	3. The drawee; or	6
	4. Two or more payees jointly; or	7
	5. One or some of several payees; or	8
3 Pick. 321.	6. The holder of an office for the time being.	9
	106 Mass. 561.	150 Mass. 166.
220 Mass. 429.	Where the instrument is payable to order the payee must be named or otherwise indicated therein with reasonable certainty.	10 11
Payable to bearer.	SECTION 31. The instrument is payable to bearer:	1
	1898, 533, § 9.	R. L. 73, § 26.
		243 Mass. 174.
	1. When it is expressed to be so payable; or	2
5 Pick. 526. 3 Gray, 502.	2. When it is payable to a person named therein or bearer; or	3
19 Pick. 99 201 Mass. 103, 397.	3. When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or	4 5
	245 Mass. 347.	259 Mass. 100.
	4. When the name of the payee does not purport to be the name of any person; or	6 7
234 Mass. 248.	5. When the only or last endorsement is an endorsement in blank.	8
	240 Mass. 447.	243 Mass. 174.
Terms sufficient, when.	SECTION 32. The instrument need not follow the language of this chapter, but any terms are sufficient which clearly indicate an intention to conform to the requirements hereof.	1 2 3
1898, 533, § 10. R. L. 73, § 27. 243 Mass. 218.		
Date of making, etc.	SECTION 33. Where the instrument or an acceptance or any endorsement thereon is dated such date is deemed prima facie to be the true date of the making, drawing, acceptance or endorsement, as the case may be.	1 2 3 4
1898, 533, § 11. R. L. 73, § 28. 5 Mass. 286. 7 Gray, 543 266 Mass. 239.		
Not invalid if ante-dated, etc.	SECTION 34. The instrument is not invalid for the reason only that it is ante-dated or post-dated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered acquires the title thereto as of the date of delivery.	1 2 3 4
1898, 533, § 12. R. L. 73, § 29. 11 Met. 276 156 Mass. 508.		
Holder may insert date, when.	SECTION 35. Where an instrument expressed to be payable at a fixed period after date is issued undated, or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance, and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him the date so inserted is to be regarded as the true date.	1 2 3 4 5 6 7 8
1898, 533, § 13. R. L. 73, § 30. 10 Cush. 373.		
When the holder may complete.	SECTION 36. Where the instrument is wanting in any material particular the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature, in order that the paper may be converted into a negotiable instrument, operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion,	1 2 3 4 5 6 7 8
1898, 533, § 14. R. L. 73, § 31. 10 Cush. 373. 2 Allen, 236. 125 Mass. 196. 150 Mass. 574 183 Mass. 140. 217 Mass. 462. 220 Mass. 429, 438, 445		

9 it must be filled up strictly in accordance with the authority given, and
 10 within a reasonable time. But if any such instrument, after completion,
 11 is negotiated to a holder in due course, it is valid and effectual for all
 12 purposes in his hands, and he may enforce it as if it had been filled up
 13 strictly in accordance with the authority given, and within a reasonable
 14 time.

1 SECTION 37. Where an incomplete instrument has not been deliv-
 2 ered it will not, if completed and negotiated without authority, be a
 3 valid contract in the hands of any holder, as against any person whose
 4 signature was placed thereon before delivery.

Incomplete
 in amount not
 valid con-
 tract in hands
 1898, 2, § 15
 R. L. 73, § 2

1 SECTION 38. Every contract on a negotiable instrument is incom-
 2 plete and revocable until delivery of the instrument for the purpose of
 3 giving effect thereto. As between immediate parties, and as regards
 4 a remote party other than a holder in due course, the delivery, in order
 5 to be effectual, must be made either by or under the authority of the
 6 party making, drawing, accepting or endorsing, as the case may be; and
 7 in such case the delivery may be shown to have been conditional, or
 8 for a special purpose only, and not for the purpose of transferring the
 9 property in the instrument. But where the instrument is in the hands
 10 of a holder in due course a valid delivery thereof by all parties prior to
 11 him so as to make them liable to him is conclusively presumed. Where
 12 the instrument is no longer in the possession of a party whose signature
 13 appears thereon a valid and intentional delivery by him is presumed
 14 until the contrary is proved.

Contract in-
 complete until
 delivery
 1898, 533, § 16.
 R. L. 73, § 23
 9 Mass. 427
 13 Pick. 499
 16 Pick. 574
 1 Met. 123.
 4 Cush. 604.
 6 Cush. 233.
 3 Gray, 562
 16 Gray, 74
 3 Allen, 192
 5 Allen, 140
 116 Mass. 310
 119 Mass. 383.
 129 Mass. 52.
 152 Mass. 34.
 158 Mass. 79.
 187 Mass. 159.
 217 Mass. 462.
 222 Mass. 433.
 243 Mass. 47.

214 Mass. 528.

251 Mass. 296.

264 Mass. 208.

1 SECTION 39. Where the language of the instrument is ambiguous,
 2 or there are omissions therein, the following rules of construction apply:

Rules of con-
 struction when
 language is
 ambiguous.

1874, 404.

P. S. 77, § 15.

1898, 533, § 17.

R. L. 73, § 34.

3 1. Where the sum payable is expressed in words and also in figures
 4 and there is a discrepancy between the two the sum denoted by the
 5 words is the sum payable; but if the words are ambiguous or uncertain
 6 reference may be had to the figures to fix the amount;

13 Met. 262.
 1 Gray, 496.

7 2. Where the instrument provides for the payment of interest, with-
 8 out specifying the date from which interest is to run, the interest runs
 9 from the date of the instrument, and if the instrument is undated, from
 10 the issue thereof;

11 3. Where the instrument is not dated it will be considered to be
 12 dated as of the time it was issued;

13 4. Where there is a conflict between the written and printed provi-
 14 sions of the instrument the written provisions prevail;

15 5. Where the instrument is so ambiguous that there is doubt whether
 16 it is a bill or note the holder may treat it as either at his election;

100 Mass. 12.
 126 Mass. 342.

17 6. Where a signature is so placed upon the instrument that it is not
 18 clear in what capacity the person making the same intended to sign he
 19 is to be deemed an endorser;

125 Mass. 134.
 127 Mass. 37,
 72
 128 Mass. 363.

133 Mass. 284

168 Mass. 537.

173 Mass. 122.

216 Mass. 521.

20 7. Where an instrument containing the words "I promise to pay"
 21 is signed by two or more persons they are deemed to be jointly and
 22 severally liable thereon.

7 Mass. 58.
 223 Mass. 325
 267 Mass. 361.

Liability of certain persons.
1898, 533, § 18.
R. L. 73, § 35.
10 Mass. 360.
3 Pick. 297.
322.

SECTION 40. No person is liable on the instrument whose signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

8 Pick. 56.	5 Gray, 567.	7 Allen, 337.	106 Mass. 561.
2 Met. 47.	16 Gray, 77.	8 Allen, 460.	111 Mass. 368.
6 Cush. 233.	4 Allen, 403.	98 Mass. 101.	213 Mass. 414.
7 Cush. 111.	5 Allen, 338, 340.	104 Mass. 536.	

Signature by agent.
1898, 533, § 19.
R. L. 73, § 36.

SECTION 41. The signature of any party may be made by a duly authorized agent. No particular form of appointment is necessary for this purpose; and the authority of the agent may be established as in other cases of agency.

Person signing not liable.
1898, 533, § 20.
R. L. 73, § 37.
11 Mass. 288.
22 Pick. 158.
1 Cush. 228.
3 Cush. 339.
12 Gray, 474.
16 Gray, 77.
5 Allen, 338.

SECTION 42. Where the instrument contains, or a person adds to his signature, words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

8 Allen, 460.	119 Mass. 189.	141 Mass. 587.	234 Mass. 584.
98 Mass. 101.	120 Mass. 92.	172 Mass. 513.	237 Mass. 89.
106 Mass. 561.	122 Mass. 67.	218 Mass. 324.	256 Mass. 19.
111 Mass. 368.	126 Mass. 119.		

Signature by "procuration".
1898, 533, § 21.
R. L. 73, § 38.

SECTION 43. A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

Endorsement, etc., by corporation or infant.
1898, 533, § 22.
R. L. 73, § 39.
3 Gray, 215.

SECTION 44. The endorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

Forged signature inoperative.
1898, 533, § 23.
R. L. 73, § 40.
4 Allen, 447.
97 Mass. 498.
121 Mass. 157.
123 Mass. 393.
167 Mass. 315.
171 Mass. 516, 534.
249 Mass. 45.

SECTION 45. Where a signature is forged or made without authority of the person whose signature it purports to be it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

Liability of bank for payment of certain negotiable instruments, etc.
1912, 277, § 1.

SECTION 46. No bank shall be liable to a depositor, or to the drawer of a bill of exchange upon the bank, for an amount charged to or collected from him on account of the payment by such bank of a negotiable instrument upon which the signature of any party is forged, or which is made, drawn, accepted or endorsed without authority, or which is materially altered; unless within one year after the return of such negotiable instrument to such depositor or drawer, he shall notify the bank in writing, by mail or otherwise, that, as the case may be, the signature of a party to the instrument is forged, or that the instrument was made, drawn, accepted or endorsed without authority, or that it has been materially altered.

Consideration.

1 SECTION 47. Every negotiable instrument is deemed prima facie to
 2 have been issued for a valuable consideration, and every person whose
 3 signature appears thereon to have become a party thereto for value.

Valuable con-
 sideration pre-
 sumed.
 1898, 533, § 24.
 R. L. 73, § 41.

3 Met. 363.	144 Mass. 104.	212 Mass. 525.	259 Mass. 232.
1 Cush. 168.	145 Mass. 156.	228 Mass. 549.	261 Mass. 221.
6 Cush. 364.	167 Mass. 529.	234 Mass. 453.	266 Mass. 310.
1 Gray, 496.	180 Mass. 371.	248 Mass. 496.	267 Mass. 483.
8 Gray, 589.			

1 SECTION 48. Value is any consideration sufficient to support a
 2 simple contract. An antecedent or pre-existing debt constitutes value,
 3 and is deemed such whether the instrument is payable on demand or at
 4 a future time.

Value.
 1898, 533, § 25.
 R. L. 73, § 42.
 9 Pick. 163.
 3 Cush. 162.

163 Mass. 383.	201 Mass. 543.	244 Mass. 421.	259 Mass. 232.
165 Mass. 218, 503.	212 Mass. 525.	245 Mass. 440.	260 Mass. 449.
168 Mass. 86, 570.	222 Mass. 453.	248 Mass. 496.	272 Mass. 321.
183 Mass. 140.	242 Mass. 375.	251 Mass. 372.	

1 SECTION 49. Where value has at any time been given for the instru-
 2 ment the holder is deemed a holder for value in respect to all parties
 3 who became such prior to that time.

Holder for
 value.
 1898, 533, § 26.
 R. L. 73, § 43.

1 SECTION 50. Where the holder has a lien on the instrument, arising
 2 either from contract or by implication of law, he is deemed a holder for
 3 value to the extent of his lien.

Holder for
 value to extent
 of lien.
 1898, 533, § 27.

R. L. 73, § 44.	8 Met. 40.	98 Mass. 303.	218 Mass. 300.
9 Pick. 163.	1 Allen, 436, 502.	166 Mass. 42.	243 Mass. 218.

1 SECTION 51. Absence or failure of consideration is matter of defence
 2 as against any person not a holder in due course; and partial failure of
 3 consideration is a defence pro tanto, whether the failure is an ascer-
 4 tained and liquidated amount or otherwise.

Absence of con-
 sideration a
 defence.
 1898, 533, § 28.
 R. L. 73, § 45.
 14 Pick. 198.

1 Allen, 436.	139 Mass. 379.	236 Mass. 90.	249 Mass. 294.
97 Mass. 166.	163 Mass. 134.	243 Mass. 77.	264 Mass. 392.
131 Mass. 80.	165 Mass. 218.	246 Mass. 197.	266 Mass. 310.
132 Mass. 185.	503, 518.	247 Mass. 225.	272 Mass. 223.

1 SECTION 52. An accommodation party is one who has signed the
 2 instrument as maker, drawer, acceptor or endorser, without receiving
 3 value therefor, and for the purpose of lending his name to some other
 4 person. Such a person is liable on the instrument to a holder in due
 5 course, notwithstanding such holder at the time of taking the instru-
 6 ment knew him to be only an accommodation party.

Accommoda-
 tion party.
 1898, 533, § 29.
 R. L. 73, § 46.
 1918, 257,
 § 282.
 1919, 5.
 1920, 2.
 3 Pick. 5.

9 Pick. 547.	97 Mass. 494	201 Mass. 543.	244 Mass. 528.
9 Met. 297.	101 Mass. 57.	207 Mass. 323.	245 Mass. 317.
12 Met. 311.	105 Mass. 216.	212 Mass. 205.	249 Mass. 373.
4 Cush. 604.	115 Mass. 547.	213 Mass. 336.	258 Mass. 306.
7 Cush. 224.	158 Mass. 94.	220 Mass. 600.	259 Mass. 232.
11 Gray, 125.	166 Mass. 27.	226 Mass. 330.	260 Mass. 449.
1 Allen, 499.	169 Mass. 297.	242 Mass. 375.	267 Mass. 483.
5 Allen, 330.	171 Mass. 514.		

Negotiation.

1 SECTION 53. An instrument is negotiated when it is transferred from
 2 one person to another in such manner as to constitute the transferee the
 3 holder thereof. If payable to bearer it is negotiated by delivery; if
 4 payable to order it is negotiated by the endorsement of the holder com-
 5 pleted by delivery.

Negotiation of
 instruments.
 1898, 533, § 30.
 R. L. 73, § 47.
 16 Mass. 451.
 3 Pick. 297.
 5 Pick. 526.

19 Pick. 99.	12 Met. 452.	6 Allen, 34.	217 Mass. 462.
21 Pick. 140.	7 Cush. 482.	100 Mass. 18.	243 Mass. 174.
5 Met. 201.	6 Gray, 570.	113 Mass. 323.	266 Mass. 239.

4 of similar import. Such an endorsement does not impair the negotiable
5 character of the instrument.

2 Allen, 434.

218 Mass. 376.

11 Pick. 268.
5 Met. 201.

1 SECTION 62. Where an endorsement is conditional a party required
2 to pay the instrument may disregard the condition and make payment
3 to the endorsee or his transferee, whether the condition has been ful-
4 filled or not. But any person to whom an instrument so endorsed is
5 negotiated will hold the same, or the proceeds thereof, subject to the
6 rights of the person endorsing conditionally.

Conditional
endorsement.
1898, 533, § 39.
R. L. 73, § 56.

1 SECTION 63. Where an instrument payable to bearer is endorsed
2 specially it may nevertheless be further negotiated by delivery; but
3 the person endorsing specially is liable as endorser only to such holders
4 as make title through his endorsement.

Special en-
dorsement of
instrument
payable to
bearer.

1898, 533, § 40.

R. L. 73, § 57.

4 Allen, 356.

1 SECTION 64. Where an instrument is payable to the order of two or
2 more payees or endorsees who are not partners, all must endorse, unless
3 the one endorsing has authority to endorse for the others.

Endorsement
by payees, etc.,
not partners.

1898, 533, § 41.
R. L. 73, § 58.
9 Mass. 334

16 Mass. 314
14 Pick. 268

6 Gray, 570
256 Mass. 281.

1 SECTION 65. Where an instrument is drawn or endorsed to a person
2 as "cashier", or other fiscal officer of a bank or corporation, it is deemed
3 prima facie to be payable to the bank or corporation of which he is such
4 officer, and may be negotiated either by the endorsement of the bank
5 or corporation, or by the endorsement of the officer.

Instrument
payable to
bank, when.
1898, 533, § 42.
R. L. 73, § 59.
11 Mass. 94,
287.

17 Mass. 94.
18 Pick. 61.
21 Pick. 486

1 Cush. 228.
9 Cush. 46.

212 Mass. 92.
217 Mass. 370.

1 SECTION 66. Where the name of a payee or endorsee is wrongly
2 designated or misspelled he may endorse the instrument as therein
3 described, adding, if he thinks fit, his proper signature.

Misspelled
name.
1898, 533, § 43.

R. L. 73, § 60.

11 Cush. 320.

141 Mass. 231.

1 SECTION 67. Where any person is under obligation to endorse in a
2 representative capacity he may endorse in such terms as to negative
3 personal liability.

Endorser in a
representative
capacity.

1898, 533, § 44.
R. L. 73, § 61.

6 Mass. 58.
12 Gray, 474.

172 Mass. 513.

1 SECTION 68. Except where an endorsement bears date after the
2 maturity of the instrument every negotiation is deemed prima facie to
3 have been effected before the instrument was overdue.

Endorsement
dated after
maturity;
effect.

1898, 533, § 45.
R. L. 73, § 62.

1 Met. 369
10 Gray, 343.

3 Allen, 233.

1 SECTION 69. Except where the contrary appears every endorsement
2 is presumed to have been made at the place where the instrument is
3 dated.

Place of
endorsement.
1898, 533, § 46.

R. L. 73, § 63.

238 Mass. 62.

1 SECTION 70. An instrument negotiable in its origin continues to be
2 negotiable until it has been restrictively endorsed or discharged by pay-
3 ment or otherwise.

Limit of nego-
tiability.
1898, 533, § 47.

R. L. 73, § 64

Holder may strike out endorsement
1898, 533, § 48.
R. L. 73, § 65.
8 Pick. 47.
234 Mass. 248.

SECTION 71. The holder may strike out any endorsement which is not necessary to his title. The endorser whose endorsement is struck out and all endorsers subsequent to him are thereby relieved from liability on the instrument.

243 Mass. 174.

245 Mass. 402.

Transfer of instrument.
1898, 533, § 49.
R. L. 73, § 66.
13 Mass. 304.
24 Pick. 261.
1 Met. 369.
1 Cush. 300.
7 Cush. 595.
100 Mass. 18.
153 Mass. 536.
270 Mass. 565.

SECTION 72. Where the holder of an instrument payable to his order transfers it for value without endorsing it the transfer vests in the transferee such title as the transferor had therein, and the transferee acquires, in addition, the right to have the endorsement of the transferor. But for the purpose of determining whether the transferee is a holder in due course the negotiation takes effect as of the time when the endorsement is actually made.

Reissue of instrument.
1898, 533, § 50.
R. L. 73, § 67.
12 Mass. 77.
124 Mass. 506.
190 Mass. 211.

SECTION 73. Where an instrument is negotiated back to a prior party, such party may, subject to sections eighteen to two hundred and twelve, inclusive, reissue and further negotiate the same. But he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

Rights of the Holder.

Rights of holder.
1898, 533, § 51.
R. L. 73, § 68.
14 Pick. 172.

SECTION 74. The holder of a negotiable instrument may sue thereon in his own name, and payment to him in due course discharges the instrument.

12 Met. 565.	9 Allen, 408.	127 Mass. 75.	234 Mass. 161.
10 Cush. 488.	112 Mass. 450.	128 Mass. 517.	246 Mass. 229.
3 Gray, 412.	113 Mass. 323.	129 Mass. 52, 438.	252 Mass. 552.
9 Gray, 376.	117 Mass. 290.	166 Mass. 42.	260 Mass. 449.
4 Allen, 356.	125 Mass. 333.	225 Mass. 563.	269 Mass. 161.
5 Allen, 331.	126 Mass. 533.		

Holder in due course.
1898, 533, § 52.

SECTION 75. A holder in due course is a holder who has taken the instrument under the following conditions:

R. L. 73, § 69.	246 Mass. 197, 229.	261 Mass. 116.	261 Mass. 392.
238 Mass. 73.	249 Mass. 373.	262 Mass. 170.	267 Mass. 483.
243 Mass. 218.	250 Mass. 372.	263 Mass. 525.	269 Mass. 161.
245 Mass. 402.	254 Mass. 261.		

218 Mass. 30.
11 Gray, 38.
4 Allen, 562.
168 Mass. 425.
8 Gray, 254.
168 Mass. 425.

1. That it is complete and regular upon its face;
2. That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact;
3. That he took it in good faith and for value;

153 Mass. 140.	187 Mass. 449.	227 Mass. 12.
185 Mass. 245.	225 Mass. 563.	

187 Mass. 159.
205 Mass. 86.
213 Mass. 432.
220 Mass. 247.
221 Mass. 103.

4. That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

222 Mass. 453.

270 Mass. 280.

Negotiation of instrument payable on demand.
1839, 121, § 1.

SECTION 76. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue the holder is not deemed a holder in due course.

1845, 68.	1898, 533, § 53.	1 Met. 369.	168 Mass. 425.
1857, 192.	R. L. 73, § 70.	2 Met. 288.	258 Mass. 7.
1858, 70.	6 Pick. 259.	98 Mass. 294.	266 Mass. 239.
G. S. 53, § 10.	15 Pick. 92.	136 Mass. 487.	269 Mass. 161.
P. S. 77, § 14.	21 Pick. 193.		

1 SECTION 77. Where the transferee receives notice of any infirmity in
 2 the instrument or defect in the title of the person negotiating the same
 3 before he has paid the full amount agreed to be paid therefor he will be
 4 deemed a holder in due course only to the extent of the amount there-
 5 tofore paid by him.

Defect in title.
 1898, 533, § 54.
 R. L. 73, § 74.
 2 Allen, 328.
 269 Mass. 161.

1 SECTION 78. The title of a person who negotiates an instrument is
 2 defective within the meaning of sections eighteen to two hundred and
 3 twelve, inclusive, when he obtained the instrument, or any signature
 4 thereto, by fraud, duress, or force and fear, or other unlawful means,
 5 or for an illegal consideration, or when he negotiates it in breach of
 6 faith, or under such circumstances as amount to a fraud.

Same subject.
 1898, 533, § 55.
 R. L. 73, § 72.
 4 Miss. 370.
 114 Cosh. 55.
 9 Allen, 39.
 146 Mass. 460.
 161 Mass. 130.

213 Mass. 432. 226 Mass. 73. 246 Mass. 197. 269 Mass. 161.
 225 Mass. 563. 230 Mass. 238. 264 Mass. 208. 273 Mass. 573.

1 SECTION 79. To constitute notice of an infirmity in the instrument
 2 or defect in the title of the person negotiating the same the person to
 3 whom it is negotiated must have had actual knowledge of the infirmity
 4 or defect, or knowledge of such facts that his action in taking the in-
 5 strument amounted to bad faith.

Notice of defect
 in title
 1898, 533, § 56.
 R. L. 73, § 73.
 * Pick. 452.
 12 Pick. 545.
 14 Pick. 268.

5 Met. 201. 108 Mass. 497. 197 Mass. 596. 245 Mass. 377.
 7 Met. 529. 123 Mass. 60. 201 Mass. 341. 246 Mass. 229.
 6 Cush. 233. 127 Mass. 75. 220 Mass. 247. 260 Mass. 485.
 10 Gray, 341. 149 Mass. 447. 225 Mass. 563. 262 Mass. 170.
 15 Gray, 354. 187 Mass. 159. 230 Mass. 238. 269 Mass. 161.
 1 Allen, 412, 502. 190 Mass. 472. 243 Mass. 47. 272 Mass. 321.
 102 Mass. 503.

1 SECTION 80. A holder in due course holds the instrument free from
 2 any defect of title of prior parties, and free from defences available to
 3 prior parties among themselves, and may enforce payment of the in-
 4 strument for the full amount thereof against all parties liable thereon.

Holder in due
 course free
 from equities.
 1898, 533, § 57.
 R. L. 73, § 74.
 20 Pick. 545.
 3 Gray, 215.

9 Gray, 329. 107 Mass. 439. 167 Mass. 161. 238 Mass. 73.
 16 Gray, 389. 118 Mass. 541. 168 Mass. 71. 243 Mass. 218.
 1 Allen, 436, 502. 156 Mass. 508. 86, 570. 255 Mass. 569.
 101 Mass. 57. 161 Mass. 96. 187 Mass. 449. 262 Mass. 422.
 105 Mass. 216. 166 Mass. 42. 235 Mass. 195. 269 Mass. 161.

1 SECTION 81. In the hands of any holder other than a holder in due
 2 course a negotiable instrument is subject to the same defences as if it
 3 were non-negotiable. But a holder who derives his title through a holder
 4 in due course, and who is not himself a party to any fraud or illegality
 5 affecting the instrument, has all the rights of such former holder in
 6 respect of all parties prior to the latter.

Rights of
 holder other
 than holder in
 due course.
 1839, 121, § 1.
 1845, 68.
 1858, 70.
 G. S. 53, § 10.
 P. S. 77, § 14.

1898, 533, § 58. 11 Met. 398. 4 Allen, 562. 218 Mass. 300.
 R. L. 73, § 75. 4 Cush. 456. 6 Allen, 34. 225 Mass. 563.
 1 Met. 423. 6 Cush. 19. 13 Allen, 123. 262 Mass. 362.
 2 Met. 58, 288. 4 Gray, 89. 104 Mass. 253. 264 Mass. 208.
 6 Met. 7. 11 Gray, 38. 171 Mass. 514. 269 Mass. 161.
 9 Met. 278. 12 Gray, 216. 205 Mass. 86.

1 SECTION 82. Every holder is deemed prima facie to be a holder in
 2 due course; but when it is shown that the title of any person who has
 3 negotiated the instrument was defective the burden is on the holder to
 4 prove that he or some person under whom he claims acquired the title
 5 as holder in due course. But the last mentioned rule does not apply in
 6 favor of a party who became bound on the instrument prior to the
 7 acquisition of such defective title.

Holder to
 prove title.
 1898, 533, § 59.
 R. L. 73, § 76.
 11 Cush. 51.
 10 Gray, 343.
 1 Allen, 412.
 111 Mass. 342.
 131 Mass. 147.
 156 Mass. 508.
 159 Mass. 158.

163 Mass. 383. 226 Mass. 73. 246 Mass. 197. 264 Mass. 208.
 168 Mass. 570. 243 Mass. 47, 174. 255 Mass. 569. 267 Mass. 483.
 187 Mass. 159. 244 Mass. 411. 260 Mass. 449. 269 Mass. 161.
 213 Mass. 432. 245 Mass. 377. 263 Mass. 76. 273 Mass. 573.

Liabilities of Parties.

Liability of maker SECTION 83. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor; and admits the existence of the payee and his then capacity to endorse.

- 1898, 533, § 60.
- R. L. 73, § 77.
- 15 Mass. 435.
- 3 Pick 297.
- 1 Met. 423.
- 6 Cush 19.
- 11 Cush. 274.
- 9 Gray, 376.
- 13 Gray, 97.
- 16 Gray, 589.
- 4 Allen, 356, 353.
- 119 Mass. 383, 487.
- 121 Mass. 436.
- 125 Mass. 333.
- 128 Mass 517.
- 140 Mass. 254.
- 146 Mass. 623.
- 154 Mass. 385.
- 160 Mass. 286.
- 164 Mass 313.
- 165 Mass. 563.
- 166 Mass. 136.
- 212 Mass. 205.
- 255 Mass. 569.

Liability of drawer SECTION 84. The drawer, by drawing the instrument, admits the existence of the payee and his then capacity to endorse; and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it is dishonored, and the necessary proceedings on dishonor are duly taken, he will pay the amount thereof to the holder, or to any subsequent endorser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negating or limiting his own liability to the holder.

- 1898, 533, § 61.
- R. L. 73, § 78.
- 14 Mass. 116.
- 3 Pick 414.
- 3 Pick 79.
- 16 Pick. 553.
- 19 Pick 117.
- 21 Pick. 327.
- 5 Gray, 108.
- 131 Mass 281.
- 141 Mass 231.
- 156 Mass. 395.
- 265 Mass. 182.

Liability of acceptor SECTION 85. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance; and admits:

- 1898, 533, § 62.
- R. L. 73, § 79.
- 249 Mass. 45.
- 2 Met. 53.
- 7 Allen, 361.
- 106 Mass. 441.

1. The existence of the drawer, the genuineness of his signature, and his capacity and authority to draw the instrument; and

- 115 Mass. 547.
- 132 Mass 156.
- 134 Mass 331.
- 140 Mass. 144.
- 151 Mass. 280.
- 152 Mass. 34.

2. The existence of the payee and his then capacity to endorse.

When a person is an endorser. SECTION 86. A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor is deemed to be an endorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

- 1874, 404.
- P. S. 77, § 15.
- 1898, 533, § 63.
- R. L. 73, § 80.
- 125 Mass. 134.
- 127 Mass 37, 72.
- 128 Mass 363.
- 133 Mass 284.
- 148 Mass. 596.
- 162 Mass 156.
- 168 Mass. 537.
- 173 Mass 122, 436.
- 190 Mass 211.
- 193 Mass 110.
- 216 Mass. 521.
- 217 Mass. 98.
- 218 Mass. 376.
- 235 Mass 249.
- 244 Mass 528.
- 246 Mass. 170.
- 259 Mass 229.
- 266 Mass 413.
- 267 Mass 483.
- 271 Mass 292.
- 272 Mass 78.

Liability of such endorser. SECTION 87. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as endorser in accordance with the following rules:

- 187 Mass. 536.
- 190 Mass. 211.
- 217 Mass. 462.
- 217 Mass 98.
- 246 Mass 170.
- 267 Mass 483.

1. If the instrument is payable to the order of a third person he is liable to the payee and to all subsequent parties;

2. If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer;

3. If he signs for the accommodation of the payee he is liable to all parties subsequent to the payee.

Instrument negotiated by delivery, etc. SECTION 88. Every person negotiating an instrument by delivery or by qualified endorsement warrants:

- 1898, 533, § 65.
- R. L. 73, § 82.
- 254 Mass. 605.
- 259 Mass. 232.
- 270 Mass. 267.

3 1. That the instrument is genuine and in all respects what it purports
4 to be;

4 Gray, 156. 100 Mass. 487. 191 Mass. 168.
3 Allen, 258. 112 Mass. 30. 217 Mass. 98.

5 2. That he has a good title to it;

6 3. That all prior parties had capacity to contract; 1 Met. 193.

7 4. That he has no knowledge of any fact which would impair the
8 validity of the instrument or render it valueless.

9 But when the negotiation is by delivery only the warranty extends
10 in favor of no holder other than the immediate transferee.

11 Subdivision three does not apply to persons negotiating public or cor-
12 porate securities, other than bills and notes.

1 SECTION 89. Every endorser who endorses without qualification war- Endorser with-
2 rants to all subsequent holders in due course: out qualifica-
tion.

1839, 121, § 3. 1898, 533, § 66. 249 Mass. 45. 259 Mass. 232.
G. S. 53, § 9. R. L. 73, § 83. 254 Mass. 605. 267 Mass. 422.
P. S. 77, § 13.

3 1. The matters and things mentioned in subdivisions one, two and 7 Pick. 291
4 three of the preceding section; and 16 Pick. 533

5 Met. 68. 7 Gray, 217. 107 Mass. 486.

5 2. That the instrument is at the time of his endorsement valid and 1 Met. 82
6 subsisting. 11 Met. 398.

6 Gray, 90. 124 Mass. 506. 157 Mass. 548. 191 Mass. 168.
16 Gray, 389. 130 Mass. 153. 187 Mass. 536. 217 Mass. 98.

7 And, in addition, he engages that on due presentment it shall be
8 accepted or paid, or both, as the case may be, according to its tenor,
9 and that if it is dishonored, and the necessary proceedings on dishonor
10 are duly taken, he will pay the amount thereof to the holder or to any
11 subsequent endorser who may be compelled to pay it.

1 SECTION 90. Where a person places his endorsement on an instru- Liability of the
2 ment negotiable by delivery he incurs all the liability of an endorser. endorser.
1898, 533, § 67.

R. L. 73, § 84. 187 Mass. 536.

1 SECTION 91. As respects one another endorsers are liable prima Endorsers liable
2 facie in the order in which they endorse; but evidence is admissible to in order of en-
3 show that as between or among themselves they have agreed otherwise. dorsments.
1898, 533, § 68
R. L. 73, § 85

4 Joint payees or joint endorsees who endorse are deemed to endorse 9 Pick. 247
5 jointly and severally. 7 Cush. 551

7 Allen, 340. 162 Mass. 594. 263 Mass. 327. 271 Mass. 292.
8 Allen, 41. 173 Mass. 122. 267 Mass. 432. 272 Mass. 78.
98 Mass. 214. 244 Mass. 256

1 SECTION 92. Where a broker or other agent negotiates an instru- Liability of
2 ment without endorsement he incurs all the liabilities prescribed by broker or agent.
3 section eighty-eight, unless he discloses the name of his principal and 1898, 533, § 69.
4 the fact that he is acting only as agent. R. L. 73, § 86.
1 Met. 193.

4 Gray, 156. 3 Allen, 258. 100 Mass. 487. 112 Mass. 30.

Presentment for Payment.

1 SECTION 93. Presentment for payment is not necessary to charge Presentment
2 the person primarily liable on the instrument; but if the instrument is for payment.
3 by its terms payable at a special place, and he is able and willing to pay 1898, 533, § 70.
4 it there at maturity, such ability and willingness are equivalent to a R. L. 73, § 87.
3 Pick. 414
15 Pick. 214
9 Cush. 321.

1 Gray, 496.
163 Mass. 255.
198 Mass. 458.
239 Mass. 390.
247 Mass. 399.

tender of payment upon his part. But except as otherwise provided 5
in this chapter presentment for payment is necessary to charge the 6
drawer and endorsers. 7

249 Mass. 14.

265 Mass. 182.

Time of presentment.
1839, 121, § 2.
G. S. 53, § 8.
P. S. 77, § 12.
1898, 533, § 71.
R. L. 73, § 88.

SECTION 94. Where the instrument is not payable on demand present 1
ment must be made on the day it falls due. Where it is payable on 2
demand presentment must be made within a reasonable time after its 3
issue. 4

1818, 257, § 283.	9 Pick. 420	1 Gray, 496	196 Mass. 397.
1919, 5.	18 Pick. 260	8 Gray, 221	227 Mass. 71.
1920, 2.	21 Pick. 267.	170 Mass. 356.	265 Mass. 182.
13 Mass. 131.	6 Met. 15	181 Mass. 69.	267 Mass. 181.
3 Pick. 414.	11 Met. 400.		

Presentment, by whom.
1839, 121, § 2.
G. S. 53, § 8.

SECTION 95. Presentment for payment, to be sufficient, must be 1
made: 2

P. S. 77, § 12	R. L. 73, § 89.
1898, 533, § 72.	247 Mass. 366.

1 Pick. 401.
12 Pick. 390.
4 Met. 252.

1. By the holder, or by some person authorized to receive payment 3
on his behalf; 4

102 Mass. 141.

4 Gray, 453.

2. At a reasonable hour on a business day; 5

3. At a proper place as defined in this chapter; 6

227 Mass. 29.

4. To the person primarily liable on the instrument, or, if he is absent 7
or inaccessible, to any person found at the place where the presentment 8
is made. 9

Place of presentment.

SECTION 96. Presentment for payment is made at the proper place: 1

1898, 533, § 73.	R. L. 73, § 90.	247 Mass. 366.
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13 Mass. 556.
12 Pick. 132.
18 Pick. 63.

1. Where a place of payment is specified in the instrument and it is 2
there presented; 3

6 Met. 308.	133 Mass. 339.
13 Gray, 154.	165 Mass. 384.

2. Where no place of payment is specified, but the address of the 4
person to make payment is given in the instrument and it is there pre- 5
sented; 6

6 Mass. 449.
3 Pick. 414.
16 Pick. 392.
10 Gray, 252.
227 Mass. 29.

3. Where no place of payment is specified and no address is given 7
and the instrument is presented at the usual place of business or resi- 8
dence of the person to make payment; 9

8 Mass. 259.
12 Mass. 171.
3 Met. 495.
6 Met. 290
12 Gray, 469.

4. In any other case, if presented to the person to make payment 10
wherever found, or if presented at his last known place of business or 11
residence. 12

13 Gray, 503.	129 Mass. 67.	158 Mass. 90.
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Instrument to be delivered to party paying.
1898, 533, § 74.
R. L. 73, § 91.

SECTION 97. The instrument must be exhibited to the person from 1
whom payment is demanded, and when it is paid must be delivered to 2
the party paying it. 3

8 Allen, 435	245 Mass. 325.	266 Mass. 248.
165 Mass. 555.	247 Mass. 366.	

Presentment at bank.
1898, 533, § 75.
R. L. 73, § 92.
8 Gray, 225.
245 Mass. 325.
247 Mass. 366.

SECTION 98. Where the instrument is payable at a bank present- 1
ment for payment must be made during banking hours, unless the 2
person to make payment has no funds there to meet it at any time 3
during the day, in which case presentment at any hour before the bank 4
is closed on that day is sufficient. 5

1 SECTION 99. Where the person primarily liable on the instrument is
 2 dead, and no place of payment is specified, presentment for payment
 3 must be made to his personal representative, if there is any such, and
 4 if, with the exercise of reasonable diligence, he can be found.

Where person
 liable is dead,
 1898, 533, § 76.
 R. L. 73, § 93.
 12 Mass. 86.
 7 Pick. 291.

1 SECTION 100. Where the persons primarily liable on the instrument
 2 are liable as partners, and no place of payment is specified, presentment
 3 for payment may be made to any one of them, even though there has
 4 been a dissolution of the firm.

Where persons
 are liable as
 partners.
 1898, 533, § 77.
 R. L. 73, § 94.
 1 Pick. 401.

1 SECTION 101. Where there are several persons, not partners, prima-
 2 rily liable on the instrument, and no place of payment is specified, pre-
 3 sentment must be made to them all.

Where there are
 several persons,
 not partners.

1898, 533, § 78 R. L. 73, § 95 8 Met. 504. 8 Allen, 435.

1 SECTION 102. Presentment for payment is not required in order to
 2 charge the drawer where he has no right to expect or require that the
 3 drawee or acceptor will pay the instrument.

Presentment
 not required,
 when.

1898, 533, § 79. R. L. 73, § 96. 1 Cush. 228.

1 SECTION 103. Presentment for payment is not required in order to
 2 charge an endorser where the instrument was made or accepted for his
 3 accommodation, and he has no reason to expect that the instrument
 4 will be paid if presented.

Same subject.
 1898, 533, § 80.
 R. L. 73, § 97.

1 SECTION 104. Delay in making presentment for payment is excused
 2 when the delay is caused by circumstances beyond the control of the
 3 holder, and not imputable to his default, misconduct or negligence.
 4 When the cause of delay ceases to operate presentment must be made
 5 with reasonable diligence.

Delay excused,
 when.
 1898, 533, § 81.
 R. L. 73, § 98.
 7 Mass. 483.
 6 Pick. 80.
 11 Gray, 258.
 170 Mass. 356.

1 SECTION 105. Presentment for payment is dispensed with:

Presentment
 dispensed with,
 when.

1898, 533, § 82. R. L. 73, § 99. 272 Mass. 78.

2 1. Where after the exercise of reasonable diligence presentment
 3 cannot be made;

6 Mass. 449.
 7 Pick. 291.
 6 Met. 290.

12 Cush. 190, 210. 1 Gray, 175. 133 Mass. 339. 164 Mass. 112.

4 2. Where the drawee is a fictitious person;

5 3. By waiver of presentment, express or implied.

6 Met. 308. 5 Gray, 108. 8 Allen, 435. 155 Mass. 26.

9 Mass. 332,
 408.

1 SECTION 106. The instrument is dishonored by non-payment when:

Instrument dish-
 onored, when.

1898, 533, § 83. R. L. 73, § 100. 265 Mass. 182.

2 1. It is duly presented for payment and payment is refused or cannot
 3 be obtained; or

1 Pick. 401.
 3 Pick. 414.

1 Met. 43. 15 Gray, 413. 102 Mass. 65.

4 2. Presentment is excused and the instrument is overdue and unpaid.

1 SECTION 107. Subject to sections eighteen to two hundred and
 2 twelve, inclusive, when the instrument is dishonored by non-payment,
 3 an immediate right of recourse to all parties secondarily liable thereon
 4 accrues to the holder.

Right of re-
 course accrues,
 when.
 1898, 533, § 84.
 R. L. 73, § 101.
 226 Mass. 330.

Time of pay-
ment of nego-
tiable instru-
ments.

1824, 130.
R L 8, 35.
§ 5, 6.
1838, 182.
1875, 91.
1898, 113.
§ 1, 2.
G 8, 53, § 7.
15, 16.
1862, 130.
1863, 182.
1884, 71.
P 8, 77.
§ 8-10.
1894, 333; 427.
1895, 201;
415, § 3.
1896, 228; 496.
1898, 533, § 85.
1899, 130.
R L 73, § 102.

SECTION 108. Every negotiable instrument is payable at the time 1
fixed therein without grace, except that three days of grace shall be 2
allowed upon a draft or bill of exchange made payable within the com- 3
monwealth at sight, unless there is an express stipulation to the con- 4
trary. When the day of maturity falls upon Saturday, Sunday or a 5
holiday, the instrument is payable on the next succeeding business day 6
which is not a Saturday. Instruments payable on demand may, at 7
the option of the holder, be presented for payment before twelve o'clock 8
noon on Saturday when the entire day is not a holiday; provided, 9
that no person receiving any check, draft, bill of exchange or promissory 10
note payable on demand shall be charged with any neglect or omission 11
of duty, or incur any liability, for not presenting it for payment or 12
collection on a Saturday; provided, also, that it shall be duly presented 13
for payment or collection on the next succeeding business day. 14

1907, 204	23 Pick. 473.	4 Allen, 562.
1910, 417, §§ 1, 2	2 Met. 468	146 Mass. 118, 221.
15 Mass. 193	12 Cush. 190	259 Mass. 232.
21 Pick. 310.	13 Gray, 597	

Computation

of time.
1898, 533, § 86
R L 73, § 103.
9 Gray, 199
132 Mass. 338.
193 Mass. 588.

SECTION 109. Where the instrument is payable at a fixed period 1
after date, after sight or after the happening of a specified event, the 2
time of payment is determined by excluding the day from which the 3
time is to begin to run, and by including the date of payment. 4

253 Mass. 528. 270 Mass. 559.

It payable at
a bank.

1898, 533, § 87.
R L 73, § 104.
247 Mass. 366.

SECTION 110. Where the instrument is made payable at a bank it is 1
equivalent to an order to the bank to pay the same for the account of 2
the principal debtor thereon. 3

249 Mass. 14

Payment in

due course.
1898, 533, § 88.
R L 73, § 105.
11 Mass. 334.

SECTION 111. Payment is made in due course when it is made at or 1
after the maturity of the instrument to the holder thereof in good faith 2
and without notice that his title is defective. 3

19 Pick. 117. 20 Pick. 545. 161 Mass. 96.

Notice of Dishonor.

Notice of
dishonor.

1839, 121, § 2.
G 8, 53, § 8.
P 8, 77, § 12.
1898, 533, § 89.
R L 73, § 106.
14 Mass. 116.
3 Pick. 414

SECTION 112. Except as otherwise provided in this chapter, when a 1
negotiable instrument has been dishonored by non-acceptance or non- 2
payment, notice of dishonor must be given to the drawer and to each 3
endorser, and any drawer or endorser to whom such notice is not given 4
is discharged. 5

8 Pick. 79, 423.	3 Gray, 334	163 Mass. 255.	243 Mass. 190.
18 Pick. 538	121 Mass. 121.	165 Mass. 555.	245 Mass. 325.
21 Pick. 327.	159 Mass. 404.	213 Mass. 326.	265 Mass. 182.
23 Pick. 305.			

Notice, how
given.

1898, 533, § 90.
R L 73, § 107.
11 Mass. 116.
10 Allen, 522.

SECTION 113. The notice may be given by or on behalf of the holder, 1
or by or on behalf of any party to the instrument who might be com- 2
pelled to pay it to the holder, and who, upon taking it up, would have 3
a right to reimbursement from the party to whom the notice is given. 4

Who to give
notice of dis-
honor.

1898, 533, § 91.
R L 73, § 108

SECTION 114. Notice of dishonor may be given by an agent either 1
in his own name or in the name of any party entitled to give notice, 2
whether that party is his principal or not. 3

270 Mass. 559.

1 SECTION 115. Where notice is given by or on behalf of the holder it
 2 enures for the benefit of all subsequent holders and all prior parties
 3 who have a right of recourse against the party to whom it is given.

Effect of notice
 given on behalf
 of holder
 1898, 533, § 92.
 R. L. 73, § 109.

1 SECTION 116. Where notice is given by or on behalf of a party
 2 entitled to give notice it enures for the benefit of the holder and all
 3 parties subsequent to the party to whom notice is given.

Effect of notice
 1898, 533, § 93.
 R. L. 73, § 110.

1 SECTION 117. Where the instrument has been dishonored in the
 2 hands of an agent he may give notice to the parties liable thereon or to
 3 his principal. If he gives notice to his principal he must do so within
 4 the same time as if he were the holder, and the principal upon the receipt
 5 of such notice has himself the same time for giving notice as if the agent
 6 had been an independent holder.

Notice, to
 whom given
 when instru-
 ment is dish-
 onored in
 hands of agent
 1898, 533, § 94
 R. L. 73, § 111.

8 Pick. 51. 8 Met. 79. 132 Mass. 227.

1 SECTION 118. A written notice need not be signed and an insuffi-
 2 cient written notice may be supplemented and validated by verbal com-
 3 munication. A misdescription of the instrument does not vitiate the
 4 notice unless the party to whom it is given is in fact misled thereby.

Written notice
 need not be
 signed and may
 be supple-
 mented, etc.
 1898, 533, § 95.

R. L. 73, § 112 12 Mass. 6. 10 Allen, 522.

1 SECTION 119. The notice may be in writing or merely oral, and may
 2 be given in any terms which sufficiently identify the instrument and
 3 indicate that it has been dishonored by non-acceptance or non-payment.
 4 It may in all cases be given by delivering it personally or through the
 5 mails.

Form and
 manner of giv-
 ing notice
 1898, 265
 1871, 239
 P. 8, 77, § 16
 1898, 533, § 96

R. L. 73, § 113. 13 Met. 96, 422. 144 Mass. 406 165 Mass. 555.
 8 Mass. 260. 5 Cush. 546 148 Mass. 181. 267 Mass. 361.
 1 Pick. 401 3 Allen, 438 149 Mass. 212. 270 Mass. 559
 16 Pick. 392. 121 Mass. 121. 151 Mass. 348.

1 SECTION 120. Notice of dishonor may be given either to the party
 2 himself or to his agent in that behalf.

Notice, to
 whom given.

1898, 533, § 97. 142 Mass. 290 267 Mass. 361.
 R. L. 73, § 114. 144 Mass. 421.

1 SECTION 121. When any party is dead, and his death is known to
 2 the party giving notice, the notice must be given to a personal repre-
 3 sentative, if there is one, and if with reasonable diligence he can be
 4 found. If there is no personal representative notice may be sent to
 5 the last residence or last place of business of the deceased.

Notice in case
 of death
 1898, 533, § 98
 R. L. 73, § 115.
 22 Pick. 206
 10 Cush. 557.
 122 Mass. 79.

1 SECTION 122. Where the parties to be notified are partners notice
 2 to any one partner is notice to the firm, even though there has been a
 3 dissolution.

Notice to
 partners.
 1898, 533, § 99.

R. L. 73, § 116. 12 Allen, 443. 201 Mass. 341.

1 SECTION 123. Notice to joint parties who are not partners must be
 2 given to each of them, unless one of them has authority to receive such
 3 notice for the others.

Notice to
 parties not
 partners

1898, 533, § 100. R. L. 73, § 117.

1 SECTION 124. Where a party has been adjudged a bankrupt or an
 2 insolvent, or has made a general assignment for the benefit of creditors,
 3 notice may be given to the party himself or to his trustee or assignee.

Notice if party
 is bankrupt, etc.
 1898, 533,
 § 101.

R. L. 73, § 118. 142 Mass. 290. 144 Mass. 421.

- Notice on dishonor.
1898, 533, § 102.
R. L. 73, § 119.
14 Mass. 303.
1 Pick. 401.
- SECTION 125.** Notice may be given as soon as the instrument is dishonored; and unless delay is excused as hereinafter provided must be given within the times fixed by sections eighteen to two hundred and twelve, inclusive.
- 3 Pick. 414. 9 Pick. 420. 12 Cush. 190. 121 Mass. 121.
- Time of giving notice in certain cases.
1898, 533, § 103.
R. L. 73, § 120.
- SECTION 126.** Where the person giving and the person to receive notice reside in the same place notice must be given within the following times:
- 270 Mass. 559.
- 23 Pick. 305.
1. If given at the place of business of the person to receive notice it must be given before the close of business hours on the day following;
 2. If given at his residence it must be given before the usual hours of rest on the day following;
 3. If sent by mail it must be deposited in the post office in time to reach him in usual course on the day following.
- 17 Mass. 449.
- Same subject.
1898, 533, § 104.
R. L. 73, § 121.
- SECTION 127.** Where the person giving and the person to receive notice reside in different places the notice must be given within the following times:
1. If sent by mail it must be deposited in the post office in time to go by mail the day following the day of dishonor, or if there is no mail at a convenient hour on that day, by the next mail thereafter;
 2. If given otherwise than by mail, then within the time that notice would have been received in due course of mail if it had been deposited in the post office within the time specified in the preceding subdivision.
- 8 Allen, 38.
226 Mass. 113.
- Notice deposited in post office sufficient.
1868, 265.
1871. 239.
- SECTION 128.** Where notice of dishonor is duly addressed and deposited in the post office the sender is deemed to have given due notice, notwithstanding any miscarriage in the mails.
- P. S. 77, § 16 4 Met. 203. 3 Allen, 438. 144 Mass. 406.
1898, 533, § 105. 10 Cush. 557. 107 Mass. 444. 262 Mass. 152.
R. L. 73, § 122. 11 Gray, 387.
- Same subject.
1898, 533, § 106.
R. L. 73, § 123.
154 Mass. 105.
- SECTION 129.** Notice is deemed to have been deposited in the post office when deposited in any branch post office or in any letter box under the control of the post office department.
- Time given to payee receiving notice.
1898, 533, § 107.
R. L. 73, § 124.
5 Met. 212.
- SECTION 130.** A party receiving notice of dishonor has, after receipt thereof, the same time for giving notice to antecedent parties that the holder has after the dishonor.
- 9 Met. 581. 3 Allen, 438. 102 Mass. 177. 226 Mass. 113.
2 Allen, 433. 8 Allen, 38. 120 Mass. 92.
- Notice sent to special address.
1898, 533, § 108.
R. L. 73, § 125.
- SECTION 131.** Where a party has added an address to his signature notice of dishonor must be sent to that address; but if he has not given such address then the notice must be sent as follows:
1. Either to the post office nearest to his place of residence, or to the post office where he is accustomed to receive his letters; or
 2. If he lives in one place, and has his place of business in another, to either place; or
 3. If he is sojourning in another place, to the place where he is so sojourning.
- 8 Cush. 425.
4 Gray, 167.
15 Gray, 264.
- 4 Allen, 351. 107 Mass. 414. 120 Mass. 169. 128 Mass. 125.
- 5 Met. 352.
247 Mass. 98.
- 16 Pick. 392.

10 But where the notice is actually received by the party within the
 11 time specified in sections eighteen to two hundred and twelve, inclusive,
 12 it will be sufficient, though not sent in accordance with the requirements
 13 of this section.

1 SECTION 132. Notice of dishonor may be waived, either before the
 2 time of giving notice has arrived, or after the omission to give due
 3 notice, and the waiver may be express or implied.

Notice may
 be waived.
 1898, 533, § 109.

R. L. 73, § 126.	19 Pick. 373.	149 Mass. 212.	245 Mass. 511.
4 Mass. 341.	8 Allen, 38.	153 Mass. 26.	256 Mass. 23.
5 Mass. 179.	124 Mass. 209.	167 Mass. 486.	271 Mass. 292.
9 Mass. 332.	127 Mass. 156.	196 Mass. 397.	272 Mass. 78.
10 Mass. 84.	138 Mass. 446.	243 Mass. 190.	

1 SECTION 133. Where the waiver is embodied in the instrument
 2 itself it is binding upon all parties; but where it is written above the
 3 signature of an endorser it binds him only.

Waiver binds
 whom.
 1898, 533, § 110.

R. L. 73, § 127.	8 Cush. 157.	271 Mass. 292.
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1 SECTION 134. A waiver of protest, whether in the case of a foreign
 2 bill of exchange or other negotiable instrument, is deemed to be a waiver
 3 not only of a formal protest but also of presentment and notice of dis-
 4 honor.

Waiver of
 protest
 1898, 533, § 111.
 R. L. 73, § 128.
 112 Mass. 63.

140 Mass. 173.	245 Mass. 511.	256 Mass. 23.
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1 SECTION 135. Notice of dishonor is dispensed with when, after the
 2 exercise of reasonable diligence, it cannot be given to or does not reach
 3 the parties sought to be charged.

When notice is
 dispensed with.
 1898, 533, § 112.

R. L. 73, § 129.	8 Pick. 251.	144 Mass. 406.	149 Mass. 212.
3 Pick. 180.	5 Met. 352.	148 Mass. 181.	150 Mass. 45.

1 SECTION 136. Delay in giving notice of dishonor is excused when the
 2 delay is caused by circumstances beyond the control of the holder and
 3 not imputable to his default, misconduct or negligence. When the
 4 cause of delay ceases to operate notice must be given with reasonable
 5 diligence.

When delay is
 excused.
 1898, 533, § 113.
 R. L. 73, § 130.
 5 Mass. 167.
 7 Mass. 483.
 10 Mass. 84.

12 Mass. 450.	9 Pick. 547.	11 Gray, 258.
8 Pick. 1, 51.	23 Pick. 305.	70 Mass. 356.

1 SECTION 137. Notice of dishonor is not required to be given to the
 2 drawer in any one of the following cases:

When notice is
 not required.

1898, 533, § 114.	R. L. 73, § 131.
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- 3 1. Where the drawer and drawee are the same person;
- 4 2. Where the drawee is a fictitious person or a person not having
- 5 capacity to contract;
- 6 3. Where the drawer is the person to whom the instrument is pre-
- 7 sented for payment;
- 8 4. Where the drawer has no right to expect or require that the drawee
- 9 or acceptor will honor the instrument;
- 10 5. Where the drawer has countermanded payment.

3 Gray, 334.

21 Pick. 327.
 3 Gray, 334.

1 SECTION 138. Notice of dishonor is not required to be given to an
 2 endorser in any one of the following cases:

Same subject.
 1898, 533, § 115.
 R. L. 73, § 132.

- 3 1. Where the drawee is a fictitious person or a person not having
- 4 capacity to contract, and the endorser was aware of the fact when he
- 5 endorsed the instrument;

1 SECTION 144. Where the instrument is paid by a party secondarily
 2 liable thereon it is not discharged; but the party so paying it is remitted
 3 to his former rights as regards all prior parties, and he may strike out
 4 his own and all subsequent endorsements, and again negotiate the in-
 5 strument, except:

Effect of pay-
 ment by party
 secondarily
 liable.
 1808, 533, § 121
 R. L. 73, § 138
 8 Pick. 48
 19 Pick. 117.
 9 Gray, 292.
 10 Gray, 339.
 7 Allen, 340,
 456.
 98 Mass. 214
 102 Mass. 186.
 107 Mass. 543,
 552.

6 1. Where it is payable to the order of a third person, and has been
 7 paid by the drawer; and

8 2. Where it was made or accepted for accommodation, and has been
 9 paid by the party accommodated.

124 Mass. 506.

145 Mass. 567.

157 Mass. 175.

190 Mass. 211.

1 SECTION 145. The holder may expressly renounce his rights against
 2 any party to the instrument, before, at, or after its maturity. An
 3 absolute and unconditional renunciation of his rights against the prin-
 4 cipal debtor made at or after the maturity of the instrument discharges
 5 the instrument. But a renunciation does not affect the rights of a holder
 6 in due course without notice. A renunciation must be in writing, unless
 7 the instrument is delivered up to the person primarily liable thereon.

Holder may
 renounce rights
 1808, 533,
 § 122
 R. L. 73, § 139
 21 Pick. 155.
 22 Pick. 305.
 1 Met. 276.
 141 Mass. 195
 183 Mass. 66.

1 SECTION 146. A cancellation made unintentionally, or under a
 2 mistake, or without the authority of the holder, is inoperative; but
 3 where an instrument or any signature thereon appears to have been
 4 cancelled the burden of proof lies on the party who alleges that the
 5 cancellation was made unintentionally, or under a mistake or without
 6 authority.

Unintentional
 cancellation
 inoperative.
 1808, 533,
 § 123
 R. L. 73, § 140.

1 SECTION 147. Where a negotiable instrument is materially altered
 2 without the assent of all parties liable thereon it is avoided, except as
 3 against a party who has himself made, authorized or assented to the
 4 alteration, and subsequent endorsers. But when an instrument has been
 5 materially altered and is in the hands of a holder in due course, not a
 6 party to the alteration, he may enforce payment thereof according to
 7 its original tenor.

Effect of
 alteration.
 1808, 533, § 124.
 R. L. 73, § 141
 2 Met. 53
 1 Allen 561
 98 Mass. 12
 100 Mass. 376
 112 Mass. 315
 121 Mass. 110.
 123 Mass. 136

129 Mass. 596.
 133 Mass. 566.
 187 Mass. 159.

188 Mass. 333.
 220 Mass. 10.
 247, 429, 445.

222 Mass. 159.
 226 Mass. 505.
 249 Mass. 184.

1 SECTION 148. Any alteration which changes:

Material altera-
 tion defined.

1808, 533, § 125.
 R. L. 73, § 142.

142 Mass. 12
 183 Mass. 488.

226 Mass. 505
 249 Mass. 184.

2 1. The date;

3 2. The sum payable, either for principal or interest;

1 Allen, 477,
 561.

112 Mass. 315.
 121 Mass. 110

123 Mass. 196.
 131 Mass. 77.

220 Mass. 247.

4 3. The time or place of payment;

1 Met. 221
 2 Allen, 236.

119 Mass. 269

5 4. The number or the relations of the parties;

6 5. The medium or currency in which payment is to be made;

100 Mass. 376
 108 Mass. 366
 6 Mass. 519
 11 Mass. 308.

12 Pick. 399

13 Pick. 165.

98 Mass. 12

7 Or which adds a place of payment where no place of payment is
 8 specified, or any other change or addition which alters the effect of the
 9 instrument in any respect, is a material alteration.

BILLS OF EXCHANGE.

Form and Interpretation.

SECTION 149. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

Requisites of bill of exchange. 1898, 533, § 126. R. L. 73, § 143. 20 Pick. 132. 6 Cush. 6. 100 Mass. 12. 126 Mass. 342. 155 Mass. 374.

202 Mass. 413. 247 Mass. 225. 262 Mass. 242. 265 Mass. 182.

SECTION 150. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof and the drawee is not liable on the bill unless and until he accepts it.

Liability of drawee. 1898, 533, § 127. R. L. 73, § 144. 20 Pick. 15.

137 Mass. 351.

SECTION 151. A bill may be addressed to two or more drawees jointly whether they are partners or not; but not to two or more drawees in the alternative or in succession.

Address. 1898, 533, § 128. R. L. 73, § 145.

SECTION 152. An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this commonwealth. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill the holder may treat it as an inland bill.

Inland bill of exchange. 1898, 533, § 129. R. L. 73, § 146. 6 Mass. 157. 162. 12 Pick. 483.

120 Mass. 317. 202 Mass. 413. 245 Mass. 511. 265 Mass. 182.

SECTION 153. Where in a bill drawer and drawee are the same person, or the drawee is a fictitious person, or a person not having capacity to contract, the holder may treat the instrument, at his option, either as a bill of exchange or a promissory note.

If drawer and drawee are same. 1898, 533, § 130. R. L. 73, § 147. 100 Mass. 12.

SECTION 154. The drawer of a bill and any endorser may insert thereon the name of a person to whom the holder may resort in case of need, that is to say, if the bill is dishonored by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need, or not, as he may see fit.

Referee in case of need. 1898, 533, § 131. R. L. 73, § 148.

Acceptance.

SECTION 155. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the drawee. It must not express that the drawee will perform his promise by any other means than the payment of money.

Acceptance of bill. 1898, 533, § 132. R. L. 73, § 149. 7 Pick. 34. 2 Met. 53. 8 Met. 107. 115 Mass. 374. 118 Mass. 537.

120 Mass. 317. 172 Mass. 569. 201 Mass. 318. 254 Mass. 395.

SECTION 156. The holder of a bill presenting the same for acceptance may require the acceptance to be written on the bill and, if such request is refused, may treat the bill as dishonored.

Acceptance written on bill, when. 1898, 533, § 133. R. L. 73, § 150.

SECTION 157. Where an acceptance is written on a paper other than the bill itself it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

Written acceptance binding, when. 1898, 533, § 134. R. L. 73, § 151. 8 Met. 107.

1 SECTION 158. An unconditional promise in writing to accept a bill
 2 before it is drawn is deemed an actual acceptance in favor of every
 3 person who, upon the faith thereof, receives the bill for value.

9 Mass. 55. 11 Met. 5. 98 Mass. 288. 109 Mass. 413.
 2 Met. 381. 9 Cush. 46. 107 Mass. 37. 172 Mass. 569.

Unconditional
 promise
 1898, 533, § 135.
 R. L. 73, § 152.
 3 Mass. 1.

1 SECTION 159. The drawee is allowed twenty-four hours after pre-
 2 sentment in which to decide whether or not he will accept the bill;
 3 but the acceptance, if given, dates as of the day of presentation.

1898, 533, § 136. R. L. 73, § 153.

Time allowed
 drawee
 1860, 197.
 P. S. 77, § 17.
 1895, 415, § 1.

1 SECTION 160. Where a drawee to whom a bill is delivered for ac-
 2 ceptance destroys it, or refuses within twenty-four hours after such
 3 delivery, or within such other period as the holder may allow, to return
 4 it accepted or non-accepted to the holder, he shall be deemed to have
 5 accepted it.

Destruction of
 bill, etc., an
 acceptance
 1898, 533, § 137.
 R. L. 73, § 154.

1 SECTION 161. A bill may be accepted before it has been signed by
 2 the drawer, or while otherwise incomplete, or when it is overdue, or
 3 after it has been dishonored by a previous refusal to accept, or by non-
 4 payment. But when a bill payable after sight is dishonored by non-
 5 acceptance and the drawee subsequently accepts it, the holder, in the
 6 absence of any different agreement, is entitled to have the bill accepted
 7 as of the date of the first presentment.

Incomplete bill
 accepted.
 1898, 533, § 138.
 R. L. 73, § 155.

1 SECTION 162. An acceptance is either general or qualified. A general
 2 acceptance accepts without qualification to the order of the drawer. A
 3 qualified acceptance in express terms varies the effect of the bill as
 4 drawn.

Acceptance
 general or
 qualified
 1898, 533, § 139.
 R. L. 73, § 156.

1 SECTION 163. An acceptance to pay at a particular place is a general
 2 acceptance unless it expressly states that the bill is to be paid there
 3 only and not elsewhere.

General
 acceptance.
 1898, 533, § 140.
 R. L. 73, § 157.

1 SECTION 164. An acceptance is qualified which is:
 2 1. Conditional, that is to say, which makes payment by the acceptor
 3 dependent on the fulfilment of a condition therein stated;
 4 2. Partial, that is to say, an acceptance to pay part only of the amount
 5 for which the bill is drawn;
 6 3. Local, that is to say, an acceptance to pay only at a particular
 7 place;
 8 4. Qualified as to time;
 9 5. The acceptance of one or more of the drawees, but not of all.

Qualified
 acceptance.
 1898, 533, § 141.
 R. L. 73, § 158.
 9 Mass. 55.
 16 Mass. 341.
 24 Pick. 254.
 11 Met. 5.
 6 Cush. 6.
 7 Allen, 361.
 115 Mass. 547.
 134 Mass. 331.

1 SECTION 165. The holder may refuse to take a qualified acceptance,
 2 and, if he does not obtain an unqualified acceptance, he may treat the
 3 bill as dishonored by non-acceptance. Where a qualified acceptance is
 4 taken the drawer and endorsers are discharged from liability on the bill,
 5 unless they have expressly or impliedly authorized the holder to take a
 6 qualified acceptance, or subsequently assent thereto. When the drawer
 7 or an endorser receives notice of a qualified acceptance he must within
 8 a reasonable time express his dissent to the holder, or he will be deemed
 9 to have assented thereto.

Holder may
 refuse qualified
 acceptance.
 1898, 533, § 142.
 R. L. 73, § 159.

Presentment for Acceptance.

Presentment
for acceptance.
1898, 533, § 143.
R. L. 75, § 160.
7 Gray, 217.

SECTION 166. Presentment for acceptance must be made: 1
1. Where the bill is payable after sight, or in any other case where 2
presentment for acceptance is necessary in order to fix the maturity of 3
the instrument; or 4
2. Where the bill expressly stipulates that it shall be presented for 5
acceptance; or 6
3. Where the bill is drawn payable elsewhere than at the residence 7
or place of business of the drawee. 8
In no other case is presentment for acceptance necessary in order to 9
render any party to the bill liable. 10

Presentment
within reason-
able time.
1898, 533, § 144.
R. L. 75, § 161.
12 Pick. 399.
5 Met. 216.
4 Cush. 188.
7 Gray, 217.

SECTION 167. Except as otherwise provided in this chapter the 1
holder of a bill which is required by the preceding section to be pre- 2
sented for acceptance must either present it for acceptance or negotiate 3
it within a reasonable time. If he fails to do so the drawer and all en- 4
dorsers are discharged. 5

98 Mass. 101.

215 Mass. 511.

Presentment
at a reason-
able hour, on a
business day,
etc.
1898, 533, § 145.
R. L. 75, § 162.

SECTION 168. Presentment for acceptance must be made by or on 1
behalf of the holder at a reasonable hour, on a business day and before 2
the bill is overdue, to the drawee or some person authorized to accept 3
or refuse acceptance on his behalf: 4
1. Where a bill is addressed to two or more drawees not partners 5
presentment must be made to them all, unless one has authority to 6
accept or refuse acceptance for all, in which case presentment may be 7
made to him only; 8
2. Where the drawee is dead presentment may be made to his per- 9
sonal representative; 10
3. Where the drawee has been adjudged a bankrupt or an insolvent, 11
or has made a general assignment for the benefit of creditors, present- 12
ment may be made to him or to his trustee or assignee. 13

Presentment
for acceptance
same as pre-
sentment of
negotiable
instrument for
payment.
1895, 201.
1898, 533, § 146.
R. L. 75, § 163.
1910, 417, § 1.

SECTION 169. A bill may be presented for acceptance on any day 1
on which negotiable instruments may be presented for payment under 2
sections ninety-five and one hundred and eight, and no person receiving 3
any draft or bill of exchange payable on demand shall be charged with 4
any neglect or omission of duty, or incur any liability, for not presenting 5
it for acceptance on a Saturday, provided that it shall be duly presented 6
for acceptance on the next succeeding business day. 7

Necessary
delay excused.
1898, 533, § 147.
R. L. 75, § 164.

SECTION 170. Where the holder of a bill drawn payable elsewhere 1
than at the place of business or the residence of the drawee has not 2
time with the exercise of reasonable diligence to present the bill for ac- 3
ceptance before presenting it for payment on the day that it falls due, 4
the delay caused by presenting the bill for acceptance before present- 5
ing it for payment is excused and does not discharge the drawers and 6
endorsers. 7

Presentment
excused, when.
1898, 533, § 148.
R. L. 75, § 165.

SECTION 171. Presentment for acceptance is excused and a bill may 1
be treated as dishonored by non-acceptance, in any one of the following 2
cases: 3

- 4 1. Where the drawee is dead, or has absconded, or is a fictitious
5 person or a person not having capacity to contract by bill;
6 2. Where, after the exercise of reasonable diligence, presentment can-
7 not be made;
8 3. Where, although presentment has been irregular, acceptance has
9 been refused on some other ground.

1 SECTION 172. A bill is dishonored by non-acceptance: Bill dishonored,
when.
1898, 533, § 149. R. L. 73, § 166. 5 Met. 216.

2 1. When it is duly presented for acceptance and such an acceptance
3 as is prescribed by sections eighteen to two hundred and twelve, in-
4 clusive, is refused or cannot be obtained; or

5 2. When presentment for acceptance is excused and the bill is not 98 Mass. 101.
6 accepted.

1 SECTION 173. Where a bill is duly presented for acceptance and is Right of re-
course lost,
when.
2 not accepted within the prescribed time the person presenting it must
3 treat the bill as dishonored by non-acceptance or he loses the right of 1898, 533, § 150.
R. L. 73, § 167.
4 recourse against the drawer and the endorsers.

4 Mass. 341,
7 Mass. 449.

14 Mass. 116.
8 Pick. 50.

12 Pick. 398.
3 Gray, 354.

1 SECTION 174. When a bill is dishonored by non-acceptance an im- Right of re-
course accrues
to holder, when
2 mediate right of recourse against the drawers and endorsers accrues to
3 the holder and no presentment for payment is necessary.

1898, 533, § 151.

R. L. 73, § 168.

3 Mass. 557.

8 Mass. 460.

Protest.

1 SECTION 175. Where a foreign bill appearing on its face to be such Foreign bill
protested,
when.
2 is dishonored by non-acceptance it must be duly protested for non-
3 acceptance, and where such a bill which has not previously been dis-
4 honored by non-acceptance is dishonored by non-payment it must be 1898, 533, § 152.
R. L. 73, § 169.
6 Mass. 157.
10 Mass. 1
12 Pick. 483
265 Mass. 182.
5 duly protested for non-payment. If it is not so protested the drawer
6 and endorsers are discharged. Where a bill does not appear on its face
7 to be a foreign bill protest thereof in case of dishonor is unnecessary.

1 SECTION 176. Protest may be made by: Protest made
by whom.
1898, 533, § 154. R. L. 73, § 171.

2 1. A notary public; or 102 Mass. 111

3 2. By any respectable resident of the place where the bill is dis-
4 honored, in the presence of two or more credible witnesses.

1 SECTION 177. The protest must be annexed to the bill, or must Protest an-
nexed to bill.
2 contain a copy thereof, and must be under the hand and seal of the
3 notary making it, and must specify: 1898, 533, § 153.
R. L. 73, § 170.
6 Gray, 248.
102 Mass. 141.
154 Mass. 105.
163 Mass. 555

4 1. The time and place of presentment;

5 2. The fact that presentment was made and the manner thereof;

6 3. The cause or reason for protesting the bill;

7 4. The demand made and the answer given, if any, or the fact that
8 the drawee or acceptor could not be found.

SECTION 178. When a bill is protested such protest must be made on the day of its dishonor, unless delay is excused as provided in this chapter. When a bill has been duly noted the protest may be subsequently extended as of the date of the noting.

SECTION 179. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person other than the drawee has been dishonored by non-acceptance it must be protested for non-payment at the place where it is expressed to be payable, and no further presentment for payment to, or demand on, the drawee is necessary.

SECTION 180. A bill which has been protested for non-acceptance may be subsequently protested for non-payment.

SECTION 181. Where the acceptor has been adjudged a bankrupt or an insolvent, or has made a general assignment for the benefit of creditors, before the bill matures, the holder may cause the bill to be protested for better security against the drawer and endorsers.

SECTION 182. Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate the bill must be noted or protested with reasonable diligence.

SECTION 183. Where a bill is lost or destroyed or is wrongly detained from the person entitled to hold it protest may be made on a copy or written particulars thereof.

Acceptance for Honor.

SECTION 184. Where a bill of exchange has been protested for dishonor by non-acceptance or protested for better security and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon or for the honor of the person for whose account the bill is drawn. The acceptance for honor may be for part only of the sum for which the bill is drawn; and where there has been an acceptance for honor for one party there may be a further acceptance by a different person for the honor of another party.

SECTION 185. An acceptance for honor supra protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

SECTION 186. Where an acceptance for honor does not expressly state for whose honor it is made it is deemed to be an acceptance for the honor of the drawer.

- 1 SECTION 187. The acceptor for honor is liable to the holder and to
 2 all parties to the bill subsequent to the party for whose honor he has
 3 accepted. Liability of
acceptor for
honor.
 1898, 533, § 164. R. L. 73, § 181.
- 1 SECTION 188. The acceptor for honor by such acceptance engages
 2 that he will on due presentment pay the bill according to the terms of
 3 his acceptance, provided it shall not have been paid by the drawee, and
 4 provided also, that it shall have been duly presented for payment and
 5 protested for non-payment and notice of dishonor given to him. Same subject.
1898, 533, § 165.
R. L. 73, § 182.
19 Prob. 220.
- 1 SECTION 189. Where a bill payable after sight is accepted for honor
 2 its maturity is calculated from the date of the noting for non-acceptance
 3 and not from the date of the acceptance for honor. Maturity of
bill accepted for
honor.
 1898, 533, § 166. R. L. 73, § 183.
- 1 SECTION 190. Where a dishonored bill has been accepted for honor
 2 supra protest or contains a reference in case of need it must be protested
 3 for non-payment before it is presented for payment to the acceptor
 4 for honor or referee in case of need. Bill accepted
for honor pro-
tested, when
1898, 533, § 167.
R. L. 73, § 184.
- 1 SECTION 191. Presentment for payment to the acceptor for honor
 2 must be made as follows:
 3 1. If it is to be presented in the place where the protest for non-
 4 payment was made it must be presented not later than the day following
 5 its maturity;
 6 2. If it is to be presented in some other place than the place where
 7 it was protested it must be forwarded within the time specified in section
 8 one hundred and twenty-seven. Presentment
for payment
to acceptor
for honor.
1898, 533, § 168.
R. L. 73, § 185.
- 1 SECTION 192. Section one hundred and four shall apply when there
 2 is delay in making presentment to the acceptor for honor or referee in
 3 case of need. Certain pro-
visions to
apply.
 1898, 533, § 169. R. L. 73, § 186.
- 1 SECTION 193. When the bill is dishonored by the acceptor for honor
 2 it must be protested for non-payment by him. Effect of dis-
honor of bill
by acceptor
for honor.
 1898, 533, § 170. R. L. 73, § 187.
- Payment for Honor.*
- 1 SECTION 194. Where a bill has been protested for non-payment any
 2 person may intervene and pay it supra protest for the honor of any
 3 person liable thereon or for the honor of the person for whose account
 4 it was drawn. Payment for
honor
1898, 533, § 171.
R. L. 73, § 188.
- 1 SECTION 195. The payment for honor supra protest in order to
 2 operate as such and not as a mere voluntary payment must be attested
 3 by a notarial act of honor which may be appended to the protest or
 4 form an extension to it. Such payment
to be attested
by notarial act
of honor.
1898, 533, § 172.
R. L. 73, § 189.
- 1 SECTION 196. The notarial act of honor must be founded on a decla-
 2 ration made by the payer for honor or by his agent in that behalf de-
 3 claring his intention to pay the bill for honor and for whose honor he
 4 pays. Notarial act
of honor.
1898, 533, § 173.
R. L. 73, § 190.

Preference. SECTION 197. Where two or more persons offer to pay a bill for the honor of different parties the person whose payment will discharge most parties to the bill is to be given the preference.

When parties discharged. SECTION 198. Where a bill has been paid for honor all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties of the holder as regards the party for whose honor he pays and all parties liable to the latter.

When right of recourse lost. SECTION 199. Where the holder of a bill refuses to receive payment *supra protest* he loses his right of recourse against any party who would have been discharged by such payment.

Payer for honor entitled to bill and protest. SECTION 200. The payer for honor, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

Bills in a Set.

Bills in a set. SECTION 201. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitutes one bill.

True owner. SECTION 202. Where two or more parts of a set are negotiated to different holders in due course the holder whose title first accrues is as between such holders the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Liability of endorsers. SECTION 203. Where the holder of a set endorses two or more parts to different persons he is liable on every such part, and every endorser subsequent to him is liable on the part he has himself endorsed, as if such parts were separate bills.

Acceptance. SECTION 204. The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

Liability of acceptor. SECTION 205. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereon.

Set discharged, when. SECTION 206. Except as otherwise provided in this chapter, where any one part of a bill drawn in a set is discharged by payment or otherwise the whole bill is discharged.

PROMISSORY NOTES AND CHECKS.

1 SECTION 207. A negotiable promissory note within the meaning of Promissory
 2 sections eighteen to two hundred and twelve, inclusive, is an uncon- note defined
 3 ditional promise in writing made by one person to another signed by 1898, 533, § 187
 4 the maker, engaging to pay on demand, or at a fixed or determinable R. L. 73, § 201
 5 future time, a sum certain in money to order or to bearer. Where a 41 Cash 314
 6 note is drawn to the maker's own order it is not complete until endorsed 46 Gray, 389
 7 by him. 108 Mass. 371
 118 Mass. 541
 126 Mass. 312
 136 Mass. 187
 141 Mass. 515

148 Mass. 296.

240 Mass. 447.

1 SECTION 208. A check is a bill of exchange drawn on a bank payable Check defined
 2 on demand. Except as otherwise provided in this chapter, the pro- 1898, 533, § 185
 3 visions of sections eighteen to two hundred and twelve, inclusive, ap- R. L. 73, § 202
 4 plicable to a bill of exchange payable on demand, shall apply to a check. 155 Mass. 374
 194 Mass. 418.
 245 Mass. 541
 249 Mass. 45

256 Mass. 281.

265 Mass. 182.

1 SECTION 209. A check must be presented for payment within a Time for pre-
 2 reasonable time after its issue or the drawer will be discharged from sentation of
 3 liability thereon to the extent of the loss caused by the delay. check.

1898, 533, § 186.
 R. L. 73, § 203.
 108 Mass. 314.

156 Mass. 395.
 194 Mass. 418.
 208 Mass. 53.

245 Mass. 511.
 249 Mass. 14.
 265 Mass. 182.

1 SECTION 210. Where a check is certified by the bank on which it is Certification
 2 drawn the certification is equivalent to an acceptance. constitutes an
 acceptance

1898, 533, § 187.

R. L. 73, § 204.

249 Mass. 45

254 Mass. 173.

1 SECTION 211. Where the holder of a check procures it to be accepted Endorsers dis-
 2 or certified the drawer and all endorsers are discharged from liability charged, when
 3 thereon. 1898, 533, § 188.

R. L. 73, § 205.

156 Mass. 458.

160 Mass. 491.

1 SECTION 212. A check of itself does not operate as an assignment of Liability of
 2 any part of the funds to the credit of the drawer with the bank, and bank to holder
 3 the bank is not liable to the holder unless and until it accepts or certifies 1898, 533, § 189
 4 the check. R. L. 73, § 206
 16 Pick. 535.

1 Gray, 605.
 5 Gray, 108.

13 Allen, 445.
 107 Mass. 45.

156 Mass. 395.
 171 Mass. 531.

240 Mass. 485.
 254 Mass. 173

CHAPTER 108.

BILLS OF LADING.

SECT.

ISSUE OF BILLS OF LADING.

1. Scope of chapter.
2. Terms to be contained in bill.
3. Carriers may insert other terms.
4. Non-negotiable or straight bill.
5. Negotiable or order bill.
6. Certain negotiable bills not to be issued in parts or sets.
7. Duplicate bills to be so marked.
8. Non-negotiable bills to be so marked.
9. Effect of insertion of name of person to be notified.
10. Effect of failure to object to terms of a bill on receipt.

OBLIGATIONS AND RIGHTS OF CARRIERS UPON THEIR BILLS OF LADING.

11. Carrier's obligation to deliver.
12. Carrier justified in delivering.
13. Liability of carrier in certain cases.
14. Failure to cancel negotiable bill on delivery of goods.
15. Failure to cancel on part delivery.
16. Alterations, additions, etc., in bills without authority to be void.
17. Judicial relief in case bill is lost or destroyed.
18. Warranty as to duplicate bill.
19. Title not to be asserted by carrier.
20. Carrier excused from liability for refusal to deliver in certain cases.
21. Right or title of a third person as a defence in suits.
22. Liability of carrier based on recitals in bills of lading.
23. Attachment, etc., of negotiable bill.
24. Carrier's lien as affected by negotiable bill.
25. Carrier's liability as affected by lawful sale to satisfy lien.

NEGOTIATION AND TRANSFER OF BILLS.

26. Negotiation by delivery.
27. Negotiation by endorsement.

SECT.

28. Transfer.

29. By whom negotiable.

30. Title of endorsee.

31. Title of transferee.

32. Transferee's right to an endorsement.

33. Warranties of endorser or transferor.

34. Endorser not liable for certain defaults.

35. Holder of bill for security does not warrant in certain cases.

36. Validity of negotiation not impaired by certain facts.

37. Effect of subsequent negotiation by endorser retaining possession.

38. Form of bill as indicating state of title.

39. Transmission of draft and bill of lading.

40. Right of holder of negotiable bill superior to seller's lien, etc.

41. Rights and remedies of mortgagee or lien holder not limited in certain cases.

CRIMINAL OFFENCES.

42. Penalty for fraudulent issue of bill of lading.

43. Penalty for false statement in bill.

44. Penalty for issuing duplicate bill in certain cases.

45. Penalty for wrongful shipment under negotiable bill.

46. Penalty for fraudulent negotiation or transfer of bill.

47. Penalty for securing issue of a bill with intent to defraud.

48. Penalty for issuing a non-negotiable bill without the words "not negotiable".

INTERPRETATION.

49. Application of other laws.

50. Definition of terms.

51. Citation of chapter. Interpretation.

ISSUE OF BILLS OF LADING.

Scope of chapter.
1910, 214, § 1.

SECTION 1. Bills of lading issued by any common carrier shall be governed by this chapter, except as otherwise provided by federal law.
34 U. S. Sts. at L., 595. 38 U. S. Sts. at L., 1196. 39 U. S. Sts. at L., 441, 538.

Terms to be contained in bill.
1910, 214, § 2.
266 Mass., 583.
[Definitions, § 50.]

SECTION 2. Every bill shall contain in print or writing the following terms:
(a) The date of issue,
(b) The name of the person from whom the goods have been received,

- 5 (c) The place where the goods have been received,
- 6 (d) The place to which the goods are to be transported,
- 7 (e) A statement whether the goods received will be delivered to a spec-
- 8 ified person, or to the order of a specified person,
- 9 (f) A description of the goods or of the packages containing them
- 10 which may be in such general terms as are described in section twenty-
- 11 two, and
- 12 (g) The signature of the carrier.
- 13 A negotiable bill shall have the words "order of" printed thereon im-
- 14 mediately before the name of the person upon whose order the goods
- 15 received are deliverable.
- 16 A carrier shall be liable to any person suffering damage caused by the
- 17 omission from a negotiable bill of any provision required by this section.

1 SECTION 3. A carrier may insert in a bill, issued by him, any other

Carriers may
insert other
terms.
1910, 214, § 3.

- 2 terms and conditions, provided that they shall not
- 3 (a) Be contrary to law or public policy, or
- 4 (b) In any wise impair his obligation to exercise at least that degree
- 5 of care in the transportation and safe keeping of the goods intrusted to
- 6 him which a reasonably careful man would exercise relative to similar
- 7 goods of his own.

1 SECTION 4. A bill wherein it is stated that the goods are consigned

Non-negotiable
or straight bill.
1910, 214, § 4.

2 or destined to a specified person is a non-negotiable or straight bill.

211 Mass. 146.

223 Mass. 224.

1 SECTION 5. A bill stating that the goods are consigned or destined

Negotiable or
order bill.
1910, 214, § 5.
1918, 257, § 284.

2 to the order of any person named in such bill is a negotiable or order bill.

3 Any provision in such a bill that it is non-negotiable shall be void.

1919, 5.

1920, 2.

214 Mass. 196.

1 SECTION 6. Negotiable bills issued in this commonwealth for the

Certain
negotiable
bills not to be
issued in parts
or sets.
1910, 214, § 6.

- 2 transportation of goods to any place in the United States on the con-
- 3 tinent of North America, except Alaska, shall not be issued in parts or
- 4 sets.
- 5 If so issued, the carrier issuing them shall be liable for failure to de-
- 6 liver the goods described therein to any one who purchases a part for
- 7 value in good faith, even though the purchase be after the delivery of
- 8 the goods by the carrier to a holder of one of the other parts.

1 SECTION 7. When more than one negotiable bill is issued in this

Duplicate
bills to be so
marked.
1910, 214, § 7.

- 2 commonwealth for the same goods to be transported to any place in the
 - 3 United States on the continent of North America, except Alaska, the
 - 4 word "duplicate" or some other words indicating that the document
 - 5 is not an original, shall be placed plainly upon the face of every such
 - 6 bill, except the one first issued. A carrier shall be liable for all damage
 - 7 caused by his failure so to do to any one who has purchased the bill for
 - 8 value in good faith as an original, even though the purchase be after the
 - 9 delivery of the goods by the carrier to the holder of the original bill.
- 1 SECTION 8. A non-negotiable bill shall have placed plainly upon its

Non-negotiable
bills to be so
marked.
1910, 214, § 8.

2 face by the carrier issuing it "non-negotiable" or "not negotiable".

3 This section shall not apply to memoranda or acknowledgments of an

4 informal character.

Effect of insertion of name of person to be notified.
1910, 214, § 9.

SECTION 9. The insertion in a negotiable bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill, or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

Effect of failure to object to terms of a bill on receipt.
1910, 214, § 10.
223 Mass. 224.

SECTION 10. Except as otherwise provided in this chapter, if a consignor receives a bill and makes no objection to its terms or conditions at the time of receipt neither the consignor nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provision of the bill, shall be allowed to deny that he is bound by such terms and conditions, so far as they are not contrary to law or public policy.

OBLIGATIONS AND RIGHTS OF CARRIERS UPON THEIR BILLS OF LADING.

Carrier's obligation to deliver.
1910, 214, § 11.

SECTION 11. A carrier, in the absence of a lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods, or if the bill is negotiable, by the holder thereof, if such demand is accompanied by

(a) An offer in good faith to satisfy the carrier's lawful lien upon the goods,

216 Mass. 165.
232 Mass. 162.

(b) An offer in good faith to surrender, properly endorsed, the bill, if negotiable, and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

If the carrier refuses or fails to deliver the goods in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

Carrier justified in delivering.
1910, 214, § 12.

SECTION 12. A carrier is justified, subject to the three following sections, in delivering goods to one who is

(a) Lawfully entitled to their possession, or

(b) The consignee named in a non-negotiable bill for the goods, or

(c) A person in possession of a negotiable bill for the goods by the terms of which they are deliverable to his order, or which has been endorsed to him or in blank by the consignee or by the mediate or immediate endorsee of the consignee.

Liability of carrier in certain cases.
1910, 214, § 13.

SECTION 13. If a carrier delivers goods to one not lawfully entitled to their possession, the carrier shall be liable to any one having a right of property or possession therein if he delivered them otherwise than as authorized by paragraphs (b) or (c) of the preceding section; and, though he delivered the goods as authorized by either of said paragraphs, he shall so be liable if prior to such delivery he

(a) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(b) Had information at the time of the delivery that it was to a person not lawfully entitled to their possession.

A request or information to be effective under this section must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and in time to enable him, acting with reasonable diligence, to stop delivery.

1 SECTION 14. Except as provided in section twenty-five, and except
 2 when compelled by legal process, if a carrier delivers goods for which a
 3 negotiable bill has been issued, the negotiation of which would transfer
 4 the right to the possession of the goods, and fails to take up and cancel
 5 the bill, he shall be liable for failure to deliver the goods to any one who
 6 for value and in good faith purchases the bill, whether such purchaser
 7 acquired title to it before or after the delivery of the goods by the carrier,
 8 and notwithstanding delivery was made to the person entitled thereto.

Failure to
 cancel negoti-
 able bill on
 delivery of
 goods
 1910, 214, § 14.

1 SECTION 15. Except as provided in section twenty-five, and except
 2 when compelled by legal process, if a carrier delivers part of the goods
 3 for which a negotiable bill had been issued and fails either
 4 (a) To take up and cancel the bill, or
 5 (b) To place plainly upon it a statement that a portion of the goods
 6 has been delivered, with a description, which may be in general terms,
 7 either of the goods or packages that have so been delivered or of the
 8 goods or packages which still remain in the carrier's possession, he shall
 9 be liable for failure to deliver all the goods specified in the bill, to any
 10 one who for value and in good faith purchases it, whether such purchaser
 11 acquired title to it before or after the delivery of any portion of the goods
 12 by the carrier, and notwithstanding such delivery was made to the per-
 13 son entitled thereto.

Failure to
 cancel on part
 delivery
 1910, 214, § 15.

1 SECTION 16. Any alteration, addition or erasure in a bill after its
 2 issue, without authority from the carrier issuing it either in writing or
 3 noted on the bill, shall be void, whatever the nature or purpose of the
 4 change, and the bill shall be enforceable according to its original tenor.

Alterations,
 additions, etc.,
 in bills without
 authority to
 be void
 1910, 214, § 16.

1 SECTION 17. If a negotiable bill has been lost or destroyed, a court
 2 of competent jurisdiction may order the delivery of the goods upon satis-
 3 factory proof of such loss or destruction and upon the giving of a bond
 4 with sufficient surety, to be approved by the court, to protect the carrier
 5 or any person injured by such delivery from any liability or loss incurred
 6 by reason of the original bill remaining outstanding. The court may also
 7 in its discretion order the payment of the carrier's reasonable costs and
 8 counsel fees.
 9 The delivery of the goods under an order of the court as herein provided
 10 shall not relieve the carrier from liability to a person to whom the nego-
 11 tiable bill has been or may be negotiated for value without notice of the
 12 proceedings or of the delivery of the goods.

Judicial
 relief in case
 bill is lost or
 destroyed
 1910, 214, § 17.
 216 Mass. 165.

1 SECTION 18. A bill, upon the face of which the word "duplicate" or
 2 some other words indicating that the document is not an original bill are
 3 plainly placed, shall impose upon the carrier issuing the same the lia-
 4 bility of one who represents and warrants that such bill is an accurate
 5 copy of an original bill properly issued, but no other liability.

Warranty as
 to duplicate
 bill
 1910, 214, § 18.

1 SECTION 19. No title or right to the possession of the goods, asserted
 2 by a carrier for his own benefit, shall excuse him from liability for refus-
 3 ing to deliver the goods according to the terms of a bill issued for them,
 4 unless such title or right is derived directly or indirectly from a transfer
 5 made by the consignor or consignee after the shipment, or from the
 6 carrier's lien.

Title not to
 be asserted
 by carrier.
 1910, 214, § 19.

Carrier excused from liability for refusal to deliver in certain cases. 1910, 214, § 21.

SECTION 20. If another than the consignee or person in possession of the bill has a claim to the title or possession of the goods, and the carrier has information of such claim, he shall be excused from liability for refusing to deliver them either to the consignee or person in possession of the bill, or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

Right or title of a third person as a defence in suits. 1910, 214, § 22.

SECTION 21. Except as provided in section twelve or twenty of this chapter, or in section forty-one of chapter two hundred and thirty-one, no right or title of a third person, unless enforced by legal process, shall be a defence to an action brought by the consignee of a non-negotiable bill, or by the holder of a negotiable bill, against the carrier for failure to deliver the goods on demand.

Liability of carrier based on recitals in bills of lading. 1910, 214, § 23.

SECTION 22. If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing thereof, the carrier shall be liable to

(a) The consignee named in a non-negotiable bill, or

(b) The holder of a negotiable bill, either of whom has given value in good faith relying upon the description therein of the goods, for damages caused by the non-receipt by the carrier or a connecting carrier of all or part of the goods, or their failure to correspond with the description thereof in the bill at the time of its issue.

If, however, the goods are described in a bill merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or if it is stated in the bill that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages is unknown, or words of like purport are contained in the bill, such statements, if true, shall not make liable the carrier issuing the bill, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition in which they were said to be by the consignor. The carrier may, also, by inserting in the bill the words "shipper's load and count", or other words of like purport, indicate that the goods were loaded by the shipper and that the description of them was made by him; and if such statement is true, the carrier shall not be liable for damages caused by the improper loading or by the non-receipt or by the misdescription of the goods described in the bill.

Attachment, etc., of negotiable bill. 1910, 214, § 25. 244 Mass. 425.

SECTION 23. A creditor whose debtor is the owner of a negotiable bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching the bill, or in satisfying the claim by means thereof, as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

Carrier's lien as affected by negotiable bill. 1910, 214, § 26. 244 Mass. 425.

SECTION 24. If a negotiable bill is issued the carrier shall have no lien on the goods therein mentioned, except for charges thereon for freight, storage, demurrage and terminal charges, and expenses necessary for their preservation or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for

6 which a lien is claimed. In such case there shall also be a lien for the
7 charges enumerated so far as they are allowed by law and by the con-
8 tract between the consignor and the carrier.

1 SECTION 25. After goods have lawfully been sold to satisfy a carrier's
2 lien, or because unclaimed, or because perishable or hazardous, the
3 carrier shall not thereafter be liable for failure to deliver them to the
4 consignee or owner thereof, or to a holder of the bill given therefor when
5 they were shipped, even if such bill is negotiable.

Carrier's
liability as
affected by
lawful sale to
satisfy lien
1910, 214, § 27
244 Mass. 425.

NEGOTIATION AND TRANSFER OF BILLS.

1 SECTION 26. A negotiable bill may be negotiated by delivery if, by
2 its terms, the carrier undertakes to deliver the goods to the order of a
3 specified person, and such person or a subsequent endorsee has endorsed
4 it in blank.

Negotiation
by delivery
1910, 214, § 28.

1 SECTION 27. A negotiable bill may be negotiated by the endorsement
2 of the person to whose order the goods are deliverable by its tenor.
3 Such endorsement may be in blank or to a specified person. If to a
4 specified person, it may be negotiated again by the endorsement of such
5 person in blank or to another specified person. Subsequent negotiation
6 may be made in like manner.

Negotiation by
endorsement
1910, 214, § 29.
214 Mass. 196.

1 SECTION 28. A bill may be transferred by the holder by delivery,
2 accompanied by an agreement, express or implied, to transfer the title
3 to the bill or to the goods represented thereby.
4 A non-negotiable bill cannot be negotiated, and the endorsement of
5 such a bill gives the transferee no additional right.

Transfer
1910, 214, § 30.

1 SECTION 29. A negotiable bill may be negotiated by any person in
2 possession of the same, however such possession may have been acquired
3 if, by its terms, the carrier undertakes to deliver the goods to the order
4 of such person, or if at the time of negotiation the bill is in such form
5 that it may be negotiated by delivery.

By whom
negotiable.
1910, 214, § 31.

1 SECTION 30. A person to whom a negotiable bill has duly been nego-
2 tiated acquires thereby
3 (a) Such title to the goods as the person negotiating the bill to him
4 had, or had ability to convey to a purchaser in good faith for value, and
5 also such title to the goods as the consignee and consignor had, or had
6 power to convey to a purchaser in good faith for value, and
7 (b) The direct obligation of the carrier to hold possession of the goods
8 for him according to the terms of the bill as fully as if the carrier had
9 contracted directly with him.

Title of
endorsee.
1910, 214, § 32.
214 Mass. 196
263 Mass. 543.

1 SECTION 31. A person to whom a bill has been transferred but not
2 negotiated acquires thereby, as against the transferor, the title to the
3 goods, subject to the terms of any agreement with the transferor. If
4 the bill is non-negotiable, such person also acquires the right to notify
5 the carrier of the transfer to him of the bill, and thereby to become the
6 direct obligee of whatever obligations the carrier owed to the transferor
7 immediately before the notification.

Title of
transferee.
1910, 214, § 33.
211 Mass. 146.
263 Mass. 543.

Prior to the notification of the carrier by the transferor or transferee of a non-negotiable bill, the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by attachment by trustee process or otherwise, or by execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or by a subsequent purchaser from him, of a subsequent sale of the goods by him.

A carrier has not received notification under this section unless an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time with the exercise of reasonable diligence to communicate with the agent having actual possession or control of the goods.

Transferee's
right to an
endorsement.
1910, 214, § 34.

SECTION 32. If a negotiable bill is transferred for value by delivery, and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the endorsement is actually made. This obligation may be specifically enforced.

Warranties of
endorser or
transferor.
1910, 214, § 35.

SECTION 33. A person who negotiates or transfers for value a bill by endorsement or delivery, including one who assigns for value a claim secured by a bill, unless a contrary intention appears, warrants

(a) That the bill is genuine,

(b) That he has a legal right to transfer it,

(c) That he has knowledge of no fact which would impair the validity or worth of the bill, and

(d) That he has a right to transfer the title to the goods, and that they are merchantable or fit for a particular purpose, whenever such warranties would have been implied if the contract of the parties had been to transfer without a bill the goods represented thereby.

In the case of an assignment of a claim secured by a bill, the liability of the assignor shall not exceed the amount of the claim.

Endorser not
liable for cer-
tain defaults.
1910, 214, § 36.

SECTION 34. The endorsement of a bill shall not make the endorser liable for any failure on the part of the carrier or previous endorsers of the bill to fulfil their respective obligations.

Holder of bill
for security
does not war-
rant in certain
cases.
1910, 214, § 37.

SECTION 35. A mortgagee or pledgee, or other holder of a bill for security who in good faith demands or receives payment of the debt for which the bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or to warrant the genuineness of such bill or the quantity or quality of the goods therein described.

Validity of
negotiation not
impaired by
certain facts.
1910, 214, § 38.
214 Mass. 196.

SECTION 36. The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or that the owner of the bill was deprived of its possession by fraud, accident, mistake duress or conversion, if the person to whom the bill was negotiated, or a person to whom it was subsequently negotiated, gave value therefor, in good faith, without notice of the breach of duty, fraud, accident, mistake, duress or conversion.

1 SECTION 37. If a person having sold, mortgaged, or pledged goods
 2 in a carrier's possession for which a negotiable bill has been issued, or
 3 having sold, mortgaged, or pledged the negotiable bill representing such
 4 goods, continues in possession of the negotiable bill, the subsequent nego-
 5 tiation thereof by that person under any sale, pledge, or other disposition
 6 thereof to any person receiving it in good faith, for value and without
 7 notice of the previous sale, shall have the same effect as if the first pur-
 8 chaser of the goods or bill had expressly authorized the subsequent
 9 negotiation.

Effect of sub-
 sequent nego-
 tiation by
 endorser
 retaining
 possession.
 1910, 214, § 39.
 214 Mass. 196.

1 SECTION 38. If goods are shipped by the consignor in accordance
 2 with a contract or order for their purchase, the form in which the bill
 3 is taken by the consignor shall indicate the transfer or retention of the
 4 property or right to the possession of the goods as follows:

Form of bill
 as indicating
 state of title.
 1908, 237, § 20.
 1910, 214, § 40.

5 (a) If by the bill the goods are deliverable to the buyer or to his agent,
 6 or to the order of the buyer or of his agent, the consignor thereby trans-
 7 fers the property in the goods to the buyer.

8 (b) If by the bill the goods are deliverable to the seller or to his agent,
 9 or to the order of the seller or of his agent, the seller thereby reserves the
 10 property in the goods. But if, except for the form of the bill, the prop-
 11 erty would have passed to the buyer on shipment of the goods, the seller's
 12 property in the goods shall be deemed to be only for the purpose of secur-
 13 ing performance by the buyer of his obligations under the contract.

14 (c) If by the bill the goods are deliverable to the order of the buyer
 15 or of his agent, but possession of the bill is retained by the seller or his
 16 agent, the seller thereby reserves a right to the possession of the goods,
 17 as against the buyer.

18 (d) If the seller draws on the buyer for the price, and transmits the
 19 draft and bill together to the buyer to secure acceptance or payment
 20 of the draft, the buyer is bound to return the bill if he does not honor the
 21 draft, and if he wrongfully retains the bill he acquires no added right
 22 thereby. If, however, the bill provides that the goods are deliverable
 23 to the buyer, or to the order of the buyer, or is endorsed in blank or to
 24 the buyer by the consignee named therein, one who purchases in good
 25 faith, for value, the bill or goods from the buyer, obtains the title to the
 26 goods, although the draft has not been honored, if such purchaser has
 27 received delivery of the bill endorsed by the consignee named therein, or
 28 of the goods, without notice of the facts making the transfer wrongful.

1 SECTION 39. If the seller of goods draws on the buyer for the price of
 2 the goods, and transmits the draft and a bill of lading for the goods
 3 either directly to the buyer or through a bank or other agency, unless a
 4 different intention on the part of the seller appears, the buyer and all
 5 other parties interested are justified in assuming:

Transmission
 of draft and
 bill of lading.
 1910, 214, § 41.
 242 Mass. 265.

6 (a) If the draft is by its terms or legal effect payable on demand or
 7 presentation or at sight, or not more than three days thereafter, whether
 8 such three days be termed days of grace or not, that the seller intended
 9 to require payment of the draft before the buyer should be entitled to
 10 receive or retain the bill.

11 (b) If the draft is by its terms payable on time, extending beyond three
 12 days after demand, presentation or sight, whether such three days be
 13 termed days of grace or not, that the seller intended to require accept-
 14 ance, but not payment of the draft before the buyer should be entitled
 15 to receive or retain the bill.

This section shall apply whether by the terms of the bill the goods are consigned to the seller, or to his order, or to the buyer, or to his order, or to a third person, or to his order.

Right of holder of negotiable bill superior to seller's lien, etc.
1908, 237, § 62.
1910, 214, § 42.

SECTION 40. If a negotiable bill has been issued for goods, no seller's lien or right of stoppage in transit shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation is prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transit; nor shall the carrier be obliged to deliver, or be justified in delivering, the goods to an unpaid seller unless such bill is first surrendered for cancellation.

Rights and remedies of mortgagee or lien holder not limited in certain cases.
1910, 214, § 43.

SECTION 41. Except as provided in the preceding section, this chapter shall not limit the rights and remedies of a mortgagee or lien holder whose mortgage or lien on goods would be valid, apart from this chapter as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods subject to the mortgage or lien, and obtained possession thereof.

CRIMINAL OFFENCES.

Penalty for fraudulent issue of bill of lading.
1910, 214, § 44.
1914, 635.
1918, 237, § 464.
1919, 5.
1920, 2.

SECTION 42. An officer, agent, or servant of a carrier, who with intent to defraud issues, or aids in issuing, a bill knowing that all or any part of the goods for which it is issued have not been received by the carrier, or by an agent of such carrier or by a connecting carrier, or are not under the carrier's control at the time of issuing the same, shall be punished by a fine of not more than five thousand dollars or imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one half years, or both.

Penalty for false statement in bill.
1910, 214, § 45.

SECTION 43. An officer, agent, or servant of a carrier, who with intent to defraud issues, or aids in issuing, a bill for goods, knowing that it contains a false statement, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

Penalty for issuing duplicate bill in certain cases.
1910, 214, § 46.
1914, 635.
1918, 237, § 464.
1919, 5.
1920, 2.

SECTION 44. An officer, agent, or servant of a carrier, who with intent to defraud issues, or aids in issuing, a duplicate or additional negotiable bill for goods in violation of section seven, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncancelled, shall be punished by a fine of not more than five thousand dollars or by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one half years, or both.

Penalty for wrongful shipment under negotiable bill.
1910, 214, § 47.

SECTION 45. A person who ships goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable bill which he afterward negotiates for value with intent to deceive, and without disclosing his want of title or the existence of the lien or mortgage, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both.

1 SECTION 46. A person who with intent to deceive negotiates or trans-
 2 fers for value a bill, knowing that any or all of the goods which by its
 3 terms appear to have been received for transportation by the carrier
 4 which issued the bill, are not in the possession or control of such carrier,
 5 or of a connecting carrier, without disclosing this fact, shall be punished
 6 by a fine of not more than five thousand dollars or by imprisonment in
 7 the state prison for not more than five years or in a jail or house of cor-
 8 rection for not more than two and one half years, or both.

Penalty for
 fraudulent
 negotiation
 or transfer
 of bill
 1910, 214, § 48.
 1914, 635.
 1918, 257, § 464
 1919, 5.
 1920, 2.

1 SECTION 47. A person who with intent to defraud secures the issue
 2 by a carrier of a bill, knowing that at the time of such issue, any or all
 3 of the goods described in such bill as received for transportation have
 4 not been so received by such carrier, or by an agent of such carrier or a
 5 connecting carrier, or are not under the carrier's control, by inducing
 6 an officer, agent, or servant of such carrier falsely to believe that such
 7 goods have been so received or are under the carrier's control, shall be
 8 punished by a fine of not more than five thousand dollars or by imprison-
 9 ment in the state prison for not more than five years or in a jail or house
 10 of correction for not more than two and one half years, or both.

Penalty for
 securing issue
 of a bill with
 intent to
 defraud
 1910, 214, § 49
 1914, 635.
 1918, 257, § 464
 1919, 5.
 1920, 2.

1 SECTION 48. A person who with intent to defraud issues, or aids in
 2 issuing, a non-negotiable bill without the words "not negotiable" placed
 3 plainly upon the face thereof, shall be punished by a fine not exceeding
 4 five thousand dollars or by imprisonment in the state prison for not
 5 more than five years or in a jail or house of correction for not more than
 6 two and one half years, or both.

Penalty for
 issuing a non-
 negotiable bill
 without the
 words "not
 negotiable"
 1910, 214, § 50.
 1914, 635.
 1918, 257, § 464.
 1919, 5.

1919, 5

1920, 2.

INTERPRETATION.

1 SECTION 49. In any case not provided for in this chapter, the rules
 2 of law and equity including the law merchant, and in particular the rules
 3 relating to the law of principal and agent, executors, administrators and
 4 trustees, and to the effect of fraud, misrepresentation, duress or coercion,
 5 accident, mistake, bankruptcy, or other invalidating cause, shall govern.

Application of
 other laws
 1910, 214, § 51.

1 SECTION 50. The following words, as used in this chapter, unless the
 2 context otherwise requires shall have the following meanings:
 3 "Action" includes counter-claim, set-off and suit in equity.
 4 "Bill", bill of lading.
 5 "Consignee", the person named in the bill as the person to whom
 6 delivery of the goods is to be made.
 7 "Consignor", the person named in the bill as the person from whom
 8 the goods have been received for shipment.
 9 "Goods", merchandise or chattels in course of transportation, or
 10 which have been or are about to be transported.
 11 "Holder" of a bill, a person who has both actual possession of such
 12 bill and a right of property therein.
 13 "Order", an order by endorsement on the bill.
 14 "Owner" does not include mortgagee or pledgee.
 15 "Person" includes a corporation or partnership or two or more persons
 16 having a joint or common interest.
 17 To "purchase" includes to take as mortgagee and to take as pledgee.
 18 "Purchaser" includes mortgagee and pledgee.

Definition
 of terms.
 1910, 214, § 53.
 211 Mass. 146.

"Value", any consideration sufficient to support a simple contract. 19
 An antecedent or pre-existing obligation, whether for money or not, 20
 constitutes value where a bill is taken either in satisfaction thereof or 21
 as security therefor. 22

A thing is done "in good faith", within the meaning of this chapter, 23
 when it is in fact done honestly, whether or not it be done negligently. 24

Citation of
 chapter.
 Interpretation.
 1910, 214,
 §§ 52, 56.

SECTION 51. This chapter may be cited as the uniform bills of 1
 lading act, and shall be so interpreted and construed as to accomplish 2
 its general purpose to make uniform the laws of those states enacting 3
 like laws. 4

CHAPTER 108A.

PARTNERSHIPS.

SECT.

1. Citation of chapter.
2. Definitions.
3. Same subject.
4. Rules of construction, etc. Certain contracts, etc., not affected.
5. Rules of law and equity to govern.

NATURE OF PARTNERSHIP.

6. Partnership, term defined.
7. Rules for determining existence of partnership.
8. Partnership property defined. Acquisition and conveyance.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP.

9. Partner as agent. Limitation of authority to bind partnership.
10. Effect of certain conveyances of partnership real property.
11. Admissions and representations.
12. Notice.
13. Liability of partnership for certain wrongful acts, etc., of partners.
14. Liability of partnership for money, etc., misapplied.
15. Joint and several liability of partners.
16. Liability of persons representing themselves as partners, etc.
17. Liability of new partners.

RELATIONS OF PARTNERS TO ONE ANOTHER.

18. Rights and duties to one another.
19. Books.
20. Accountability.
21. Same subject. Profits.
22. Formal account, right to, when.
23. Continuation of partnership beyond time fixed for termination. Evidence.

SECT.

PROPERTY RIGHTS OF A PARTNER.

24. Property rights of a partner, in general.
25. Same subject. Specific property.
26. Same subject. Profits, etc.
27. Same subject. Conveyance of interest, effect. Rights of assignee.
28. Same subject. Proceedings by judgment creditor of partner.

DISSOLUTION AND WINDING UP.

29. Dissolution and winding up, terms distinguished.
30. Termination, when effected.
31. Dissolution, causes defined.
32. Same subject. Court decree.
33. Same subject. Effect on authority of partners.
34. Same subject. Effect when caused by act, death or bankruptcy of partner.
35. Same subject. When and how partner may subsequently bind partnership.
36. Same subject. Discharge from existing liabilities. Liability of individual property of deceased partner.
37. Same subject. Right to wind up affairs.
38. Same subject. Property, etc., rights of partners subsequent to.
39. Same subject. Rights of party entitled to rescind partnership contract.
40. Same subject. Settlement of accounts between partners.
41. Same subject. Continuation of business by new or surviving partners, rights of creditors.
42. Same subject. Rights of retiring partner and estate of deceased partner.
43. Same subject. Right to account, when to accrue.

GENERAL PROVISION.

44. Certain provisions of law not affected.

1 SECTION 1. This chapter may be cited as the Uniform Partnership Act. Citation of chapter.

1922, 486, § 1.

1 SECTION 2. In this chapter, "court" includes every court and judge Definitions.
2 having jurisdiction in the case. 1922, 486, § 1.

3 "Business" includes every trade, occupation, or profession.

4 "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or
5 insolvent under any state insolvent law.

6 "Conveyance" includes every assignment, lease, mortgage or encum-
7 brance.

8 "Real property" includes land and any interest or estate in land.

1 SECTION 3. (1) A person has "knowledge" of a fact within the mean- Same subject.
2 ing of this chapter, not only when he has actual knowledge thereof, but 1922, 486, § 1.
3 also when he has knowledge of such other facts as in the circumstances
4 show bad faith.

5 (2) A person has "notice" of a fact within the meaning of this chapter
6 when the person who claims the benefit of the notice

7 (a) States the fact to such person, or

8 (b) Delivers through the mail, or by other means of communication,
9 a written statement of the fact to such person or to a proper person at
10 his place of business or residence.

1 SECTION 4. (1) The rule that statutes in derogation of the common Rules of con-
2 law are to be strictly construed shall have no application to this chapter. struction, etc.

3 (2) The law of estoppel shall apply under this chapter.

4 (3) The law of agency shall apply under this chapter.

5 (4) This chapter shall be so interpreted and construed as to effect its Rules of con-
6 general purpose to make uniform the law of those states which enact it. struction, etc.

7 (5) This chapter shall not be construed so as to impair the obligations
8 of any contract existing on January first, nineteen hundred and twenty-
9 three, nor to affect any action or proceedings begun or right accrued
10 before said date.

1 SECTION 5. In any case not provided for in this chapter the rules of Rules of law
2 law and equity, including the law merchant, shall govern. and equity
to govern.

1922, 486, § 1.

NATURE OF PARTNERSHIP.

1 SECTION 6. (1) A partnership is an association of two or more per- Partnership,
2 sons to carry on as co-owners a business for profit. term defined
1922, 486, § 1.

3 (2) But any association formed under any other statute of this state, 260 Mass. 566.
4 or any statute adopted by authority, other than the authority of this 268 Mass. 365.
5 state, is not a partnership under this chapter, unless such association

6 would have been a partnership in this state prior to January first, nine-
7 teen hundred and twenty-three; but this chapter shall apply to limited
8 partnerships except in so far as the statutes relating to such partner-
9 ships are inconsistent herewith.

1 SECTION 7. In determining whether a partnership exists, these rules Rules for
2 shall apply: determining
existence of
partnership.

3 (1) Except as provided by section sixteen persons who are not part- 1922, 486, § 1.
4 ners as to each other are not partners as to third persons. 260 Mass. 566.
268 Mass. 365.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payment:

(a) Of a debt by instalments or otherwise,

(b) As wages of an employee or rent to a landlord,

(c) As an annuity to a widow or representative of a deceased partner,

(d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of the good will of a business or other property by instalments or otherwise.

Partnership property defined. Acquisition and conveyance. 1922, 486, § 1. 260 Mass. 566.

SECTION 8. (1) All property originally brought into the partnership stock or subsequently acquired, by purchase or otherwise, on account of the partnership is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears.

Partner as agent. Limitation of authority to bind partnership. 1922, 486, § 1. 243 Mass. 465.

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP.

SECTION 9. (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all the partners have no authority to:

(a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,

(b) Dispose of the good will of the business,

(c) Do any other act which would make it impossible to carry on the ordinary business of the partnership,

(d) Confess a judgment,

(e) Submit a partnership claim or liability to arbitration or reference.

22 (4) No act of a partner in contravention of a restriction on his author-
23 ity shall bind the partnership to persons having knowledge of the restric-
24 tion.

1 SECTION 10. (1) Where title to real property is in the partnership
2 name, any partner may convey title to such property by a conveyance
3 executed in the partnership name; but the partnership may recover
4 such property unless the partner's act binds the partnership under the
5 provisions of paragraph (1) of section nine, or unless such property has
6 been conveyed by the grantee or a person claiming through such grantee
7 to a holder for value without knowledge that the partner, in making the
8 conveyance, has exceeded his authority.

Effect of
certain con-
veyances of
partnership
real property.
1922, 486, § 1.

9 (2) Where title to real property is in the name of the partnership,
10 a conveyance executed by a partner, in his own name, passes the equi-
11 table interest of the partnership, provided the act is one within the
12 authority of the partner under the provisions of paragraph (1) of section
13 nine.

14 (3) Where title to real property is in the name of one or more but not
15 all the partners, and the record does not disclose the right of the part-
16 nership, the partners in whose name the title stands may convey title
17 to such property, but the partnership may recover such property if the
18 partners' act does not bind the partnership under the provisions of
19 paragraph (1) of section nine, unless the purchaser or his assignee is a
20 holder for value, without knowledge.

21 (4) Where the title to real property is in the name of one or more of
22 all the partners, or in a third person in trust for the partnership, a con-
23 veyance executed by a partner in the partnership name, or in his own
24 name, passes the equitable interest of the partnership, provided the
25 act is one within the authority of the partner under the provisions of
26 paragraph (1) of section nine.

27 (5) Where the title to real property is in the names of all the partners
28 a conveyance executed by all the partners passes all their rights in such
29 property.

1 SECTION 11. An admission or representation made by any partner
2 concerning partnership affairs within the scope of his authority as
3 conferred by this chapter is evidence against the partnership.

Admissions and
representations.
1922, 486, § 1.

1 SECTION 12. Notice to any partner of any matter relating to part-
2 nership affairs, and the knowledge of the partner acting in the particular
3 matter, acquired while a partner or then present to his mind, and the
4 knowledge of any other partner who reasonably could and should have
5 communicated it to the acting partner operate as notice to or knowledge
6 of the partnership, except in the case of a fraud on the partnership com-
7 mitted by or with the consent of that partner.

Notice
1922, 486, § 1.

1 SECTION 13. Where, by any wrongful act or omission of any partner
2 acting in the ordinary course of the business of the partnership, or
3 with the authority of his co-partners, loss or injury is caused to any
4 person, not being a partner in the partnership, or any penalty is incurred,
5 the partnership is liable therefor to the same extent as the partner so
6 acting or omitting to act.

Liability of
partnership for
certain wrong-
ful acts, etc.,
of partners.
1922, 486, § 1.

Liability of partnership for money, etc., misapplied. 1922, 486, § 1.

SECTION 14. The partnership is bound to make good the loss: 1
 (a) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; 2
 and 3
 (b) Where the partnership in the course of its business receives money 4
 or property of a third person and the money or property so received is 5
 misapplied by any partner while it is in the custody of the partnership. 6 7

Joint and several liability of partners. 1922, 486, § 1.

SECTION 15. All partners are liable: 1
 (a) Jointly and severally for everything chargeable to the partnership 2
 under sections thirteen and fourteen. 3
 (b) Jointly for all other debts and obligations of the partnership; but 4
 any partner may enter into a separate obligation to perform a partner- 5
 ship contract. 6

Liability of persons representing themselves as partners, etc. 1922, 486, § 1. 265 Mass. 322.

SECTION 16. (1) When a person, by words spoken or written or by 1
 conduct, represents himself, or consents to another representing him to 2
 any one, as a partner in an existing partnership or with one or more 3
 persons not actual partners, he is liable to any such person to whom 4
 such representation has been made, who has, on the faith of such rep- 5
 resentation, given credit to the actual or apparent partnership, and if 6
 he has made such representation or consented to its being made in a 7
 public manner he is liable to such person, whether the representation has 8
 or has not been made or communicated to such person so giving credit 9
 by or with the knowledge of the apparent partner making the represen- 10
 tation or consenting to its being made. 11
 (a) When a partnership liability results he is liable as though he were 12
 an actual member of the partnership. 13
 (b) When no partnership liability results he is liable jointly with the 14
 other persons, if any, so consenting to the contract or representation 15
 as to incur liability, otherwise separately. 16
 (2) When a person has been thus represented to be a partner in an 17
 existing partnership, or with one or more persons not actual partners, 18
 he is an agent of the persons consenting to such representation to bind 19
 them to the same extent and in the same manner as though he were a 20
 partner in fact, with respect to persons who rely upon the representa- 21
 tion. Where all the members of the existing partnership consent to the 22
 representation, a partnership act or obligation results; but in all other 23
 cases it is the joint act or obligation of the person acting and the per- 24
 sons consenting to the representation. 25

Liability of new partner. 1922, 486, § 1.

SECTION 17. A person admitted as a partner into an existing part- 1
 nership is liable for all the obligations of the partnership arising before 2
 his admission as though he had been a partner when such obligations 3
 were incurred, except that this liability shall be satisfied only out of 4
 partnership property. 5

RELATIONS OF PARTNERS TO ONE ANOTHER.

Rights and duties to one another. 1922, 486, § 1. 268 Mass. 365.

SECTION 18. The rights and duties of the partners in relation to the 1
 partnership shall be determined, subject to any agreement between 2
 them, by the following rules: 3
 (a) Each partner shall be repaid his contributions, whether by way of 4
 capital or advances to the partnership property, and share equally in 5

6 the profits and surplus remaining after all liabilities, including those to
7 partners, are satisfied; and must contribute towards the losses, whether
8 of capital or otherwise, sustained by the partnership according to his
9 share in the profits.

10 (b) The partnership must indemnify every partner in respect of pay-
11 ments made and personal liabilities reasonably incurred by him in the
12 ordinary and proper conduct of its business, or for the preservation of its
13 business or property.

14 (c) A partner, who in aid of the partnership makes any payment or
15 advance beyond the amount of capital which he agreed to contribute,
16 shall be paid interest from the date of the payment or advance.

17 (d) A partner shall receive interest on the capital contributed by him
18 only from the date when repayment should be made.

19 (e) All partners have equal rights in the management and conduct of
20 the partnership business.

21 (f) No partner is entitled to remuneration for acting in the partner-
22 ship business, except that a surviving partner is entitled to reasonable
23 compensation for his services in winding up the partnership affairs.

24 (g) No person can become a member of a partnership without the
25 consent of all the partners.

26 (h) Any difference arising as to ordinary matters connected with the
27 partnership business may be decided by a majority of the partners; but
28 no act in contravention of any agreement between the partners may be
29 done rightfully without the consent of all the partners.

1 SECTION 19. The partnership books shall be kept, subject to any Books.
2 agreement between the partners, at the principal place of business of 1922, 486, § 1.
3 the partnership, and every partner shall at all times have access to and
4 may inspect and copy any of them.

1 SECTION 20. Partners shall render on demand true and full infor- Accountability.
2 mation of all things affecting the partnership to any partner or the legal 1922, 486, § 1.
3 representative of any deceased partner or partner under legal disability.

1 SECTION 21. (1) Every partner must account to the partnership for Same subject.
2 any benefit, and hold as trustee for it any profits derived by him without Profits.
3 the consent of the other partners from any transaction connected with 1922, 486, § 1.
4 the formation, conduct or liquidation of the partnership or from any use
5 by him of its property.

6 (2) This section applies also to the representatives of a deceased partner
7 engaged in the liquidation of the affairs of the partnership as the personal
8 representatives of the last surviving partner.

1 SECTION 22. Any partner shall have the right to a formal account as Formal ac-
2 to partnership affairs: count, right

3 (a) If he is wrongfully excluded from the partnership business or pos- to, when.
4 session of its property by his co-partners, 1922, 486, § 1.

5 (b) If the right exists under the terms of any agreement,

6 (c) As provided by section twenty-one,

7 (d) Whenever other circumstances render it just and reasonable.

1 SECTION 23. (1) When a partnership for a fixed term or particular Continuation
2 undertaking is continued after the termination of such term or particular of partner-
ship beyond

time fixed for
termination.
Evidence.
1922, 486, § 1.

undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership.

PROPERTY RIGHTS OF A PARTNER.

Property rights
of a partner,
in general.
1922, 486, § 1.
256 Mass. 302.

SECTION 24. The property rights of a partner are (1) his rights in specific partnership property, (2) his interest in the partnership, and (3) his right to participate in the management.

Same subject.
Specific
property.
1922, 486, § 1.
256 Mass. 302.

SECTION 25. (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of the rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to widows, heirs, or next of kin.

Same subject.
Profits, etc.
1922, 486, § 1.
256 Mass. 302.

SECTION 26. A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property.

Same subject.
Conveyance
of interest,
effect. Rights
of assignee.
1922, 486, § 1.
256 Mass. 302.

SECTION 27. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and may require an account from the date only of the last account agreed to by all the partners.

1 SECTION 28. (1) On due application to the superior court by any
 2 judgment creditor of a partner, such court may charge the interest of the
 3 debtor partner with payment of the unsatisfied amount of such judgment
 4 debt with interest thereon; and may then or later appoint a receiver of
 5 his share of the profits, and of any other money due or to fall due to him
 6 in respect of the partnership, and make all other orders, directions, ac-
 7 counts and inquiries which the debtor partner might have made, or which
 8 the circumstances of the case may require.

Same subject.
 Proceedings by
 judgment
 creditor of
 partner.
 1922, 486, § 1.

10 (2) The interest charged may be redeemed at any time before fore-
 11 closure, or in case of a sale being directed by the court may be purchased
 12 without thereby causing a dissolution:

13 (a) With separate property, by any one or more of the partners, or
 14 (b) With partnership property, by any one or more of the partners with
 15 the consent of all the partners whose interests are not so charged or sold.

16 (3) Nothing in this chapter shall be held to deprive a partner of his
 17 right, if any, under the exemption laws, as regards his interest in the
 18 partnership.

DISSOLUTION AND WINDING UP.

1 SECTION 29. The dissolution of a partnership is the change in the
 2 relation of the partners caused by any partner ceasing to be associated in
 3 the carrying on as distinguished from the winding up of the business.

Dissolution
 and winding
 up, terms
 distinguished.
 1922, 486, § 1.

268 Mass. 365.

1 SECTION 30. On dissolution the partnership is not terminated, but
 2 continues until the winding up of partnership affairs is completed.

Termination,
 when effected.
 1922, 486, § 1.

268 Mass. 365.

1 SECTION 31. Dissolution is caused:

Dissolution,
 causes defined.
 1922, 486, § 1.
 268 Mass. 365.

2 (1) Without violation of the agreement between the partners,

3 (a) By the termination of the definite term or particular undertaking
 4 specified in the agreement,

5 (b) By the express will of any partner when no definite term or particu-
 6 lar undertaking is specified,

7 (c) By the express will of all the partners who have not assigned their
 8 interests or suffered them to be charged for their separate debts, either
 9 before or after the termination of any specified term or particular under-
 10 taking,

11 (d) By the expulsion of any partner from the business bona fide in ac-
 12 cordance with such a power conferred by the agreement between the
 13 partners;

14 (2) In contravention of the agreement between the partners, where the
 15 circumstances do not permit a dissolution under any other provision of
 16 this section, by the express will of any partner at any time;

17 (3) By any event which makes it unlawful for the business of the
 18 partnership to be carried on or for the members to carry it on in partner-
 19 ship;

20 (4) By the death of any partner;

21 (5) By the bankruptcy of any partner or the partnership;

22 (6) By decree of court under section thirty-two.

1 SECTION 32. (1) On application by or for a partner the court shall
 2 decree a dissolution whenever:

Same subject.
 Court decree.
 1922, 486, § 1.
 251 Mass. 124.

3 (a) A partner has been declared a lunatic in any judicial proceeding or
 4 is shown to be of unsound mind,

- (b) A partner becomes in any other way incapable of performing his part of the partnership contract, 5
6
- (c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business, 7
8
- (d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him, 9
10
11
12
- (e) The business of the partnership can only be carried on at a loss, 13
- (f) Other circumstances render a dissolution equitable. 14
- (2) On the application of the purchaser of a partner's interest under section twenty-seven or twenty-eight: 15
16
- (a) After the termination of the specified term or particular undertaking, 17
18
- (b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued. 19
20

Same subject.
Effect on
authority
of partners.
1922, 486, § 1.

- SECTION 33. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership, 1
2
3
- (1) With respect to the partners, 4
- (a) When the dissolution is not by the act, bankruptcy or death of a partner; or 5
6
- (b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where section thirty-four so requires; 7
8
- (2) With respect to persons not partners, as declared in section thirty-five. 9
10

Same subject.
Effect when
caused by act,
death or
bankruptcy
of partner.
1922, 486, § 1.

- SECTION 34. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his co-partners for his shares of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless 1
2
3
4
- (a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or 5
6
- (b) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy. 7
8
9

Same subject.
When and
how partner
may subse-
quently bind
partnership.
1922, 486, § 1.

- SECTION 35. (1) After dissolution a partner can bind the partnership except as provided in paragraph (3) 1
2
3
- (a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution; 4
5
- (b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction 6
7
- (I) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or 8
9
- (II) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution has not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on. 10
11
12
13
- (2) The liability of a partner under paragraph (1 b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution 14
15
16

17 (a) Unknown as a partner to the person with whom the contract is
18 made; and

19 (b) So far unknown and inactive in partnership affairs that the busi-
20 ness reputation of the partnership could not be said to have been in any
21 degree due to his connection with it.

22 (3) The partnership is in no case bound by any act of a partner after
23 dissolution

24 (a) Where the partnership is dissolved because it is unlawful to carry
25 on the business, unless the act is appropriate for winding up partnership
26 affairs; or

27 (b) Where the partner has become bankrupt; or

28 (c) Where the partner has no authority to wind up partnership affairs,
29 except by a transaction with one who

30 (I) Had extended credit to the partnership prior to dissolution and
31 had no knowledge or notice of his want of authority; or

32 (II) Had not extended credit to the partnership prior to dissolution,
33 and, having no knowledge or notice of his want of authority, the fact
34 of his want of authority has not been advertised in the manner provided
35 for advertising the fact of dissolution in paragraph (1 b II).

36 (4) Nothing in this section shall affect the liability under section
37 sixteen of any person who after dissolution represents himself or con-
38 sents to another representing him as a partner in a partnership engaged
39 in carrying on business.

1 SECTION 36. (1) The dissolution of the partnership does not of itself
2 discharge the existing liability of any partner.

Same subject.
Discharge
from existing
liabilities.
Liability of
individual
property of
deceased
partner.
1922, 486, § 1.

3 (2) A partner is discharged from any existing liability upon dissolution
4 of the partnership by an agreement to that effect between himself, the
5 partnership creditor and the person or partnership continuing the busi-
6 ness; and such agreement may be inferred from the course of dealing
7 between the creditor having knowledge of the dissolution and the person
8 or partnership continuing the business.

9 (3) Where a person agrees to assume the existing obligations of a dis-
10 solved partnership, the partners whose obligations have been assumed
11 shall be discharged from any liability to any creditor of the partnership
12 who, knowing of the agreement, consents to a material alteration in the
13 nature or time of payment of such obligations.

14 (4) The individual property of a deceased partner shall be liable for
15 all obligations of the partnership incurred while he was a partner but
16 subject to the prior payment of his separate debts.

1 SECTION 37. Unless otherwise agreed the partners who have not
2 wrongfully dissolved the partnership or the legal representative of the
3 last surviving partner, not bankrupt, has the right to wind up the part-
4 nership affairs; provided, that any partner, his legal representative, or
5 his assignee, upon cause shown, may obtain winding up by the court.

Same subject.
Right to
wind up
affairs.
1922, 486, § 1.

1 SECTION 38. (1) When dissolution is caused in any way, except in
2 contravention of the partnership agreement, each partner, as against his
3 co-partners and all persons claiming through them in respect of their
4 interests in the partnership, unless otherwise agreed, may have the part-
5 nership property applied to discharge its liabilities, and the surplus
6 applied to pay in cash the net amount owing to the respective partners.
7 But if dissolution is caused by expulsion of a partner bona fide under the

Same subject.
Property, etc.,
rights of
partners
subsequent to.
1922, 486, § 1.

partnership agreement, and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under section thirty-six (2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have —

I. All the rights specified in paragraph (1) of this section, and

II. The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so during the agreed term for the partnership, and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully the value of his interest in the partnership at the dissolution, less any damages recoverable under clause (2 a II) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have —

I. If the business is not continued under the provisions of paragraph (2 b), all the rights of a partner under paragraph (1), subject to clause (2 a II) of this section.

II. If the business is continued under paragraph (2 b) of this section, the right as against his co-partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damages caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered.

Same subject.
Rights of party
entitled to
rescind
partnership
contract.
1922, 486, § 1.

SECTION 39. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled —

(a) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(b) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(c) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

Same subject.
Settlement of
accounts
between
partners.
1922, 486, § 1.

SECTION 40. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are —

I. The partnership property.

II. The contributions of the partners necessary for the payment of all the liabilities specified in clause (b) of this section.

8 (b) The liabilities of the partnership shall rank in order of payment, as
9 follows:

10 I. Those owing to creditors other than partners.

11 II. Those owing to partners other than for capital and profits.

12 III. Those owing to partners in respect of capital.

13 IV. Those owing to partners in respect of profits.

14 (c) The assets shall be applied in the order of their declaration in clause
15 (a) of this section to the satisfaction of the liabilities.

16 (d) The partners shall contribute, as provided by section eighteen (a),
17 the amount necessary to satisfy the liabilities; but if any, but not all, of
18 the partners are insolvent, or, not being subject to process, refuse to
19 contribute, the other partners shall contribute their share of the liabili-
20 ties, and, in the relative proportions in which they share the profits, the
21 additional amount necessary to pay the liabilities.

22 (e) An assignee for the benefit of creditors or any person appointed by
23 the court shall have the right to enforce the contributions specified in
24 clause (d) of this section.

25 (f) Any partner or his legal representative shall have the right to
26 enforce the contributions specified in clause (d) of this section, to the
27 extent of the amount which he has paid in excess of his share of the
28 liability.

29 (g) The individual property of a deceased partner shall be liable for the
30 contributions specified in clause (d) of this section.

31 (h) When partnership property and the individual properties of the
32 partners are in the possession of a court for distribution, partnership
33 creditors shall have priority on partnership property and separate
34 creditors on individual property, saving the rights of lien or secured
35 creditors as heretofore.

36 (i) Where a partner has become bankrupt or his estate is insolvent,
37 the claims against his separate property shall rank in the following
38 order:

39 I. Those owing to separate creditors.

40 II. Those owing to partnership creditors.

41 III. Those owing to partners by way of contribution.

1 SECTION 41. (1) When any new partner is admitted into an existing
2 partnership, or when any partner retires and assigns, or dies and his
3 representative assigns, his rights in partnership property to two or more
4 of the partners, or to one or more of the partners, and one or more third
5 persons, if the business is continued without liquidation of the partnership
6 affairs, creditors of the first or dissolved partnership are also creditors of
7 the partnership so continuing the business.

8 (2) When all but one partner retire and assign, or die and their repre-
9 sentatives assign, their rights in partnership property to the remaining
10 partner, who continues the business without liquidation of partnership
11 affairs, either alone or with others, creditors of the dissolved partnership
12 are also creditors of the person or partnership so continuing the business.

13 (3) When any partner retires or dies and the business of the dissolved
14 partnership is continued as set forth in paragraph (1) or (2) of this sec-
15 tion, with the consent of the retired partners or the representative of the
16 deceased partner, but without any assignment of his right in partnership
17 property, rights of creditors of the dissolved partnership and of the
18 creditors of the person or partnership continuing the business shall be as
19 if such assignment had been made.

Same subject.
Continuation
of business
by new or
surviving
partners,
rights of
creditors.
1922, 486, § 1.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons, who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of section thirty-eight (2 *b*), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section, the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership.

Same subject.
Rights of
retiring partner
and estate of
deceased
partner
1922, 486, § 1.

SECTION 42. When any partner retires or dies, and the business is continued under any of the conditions set forth in section forty-one (1) (2) (3) (5) (6), or section thirty-eight (2 *b*), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnership may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership; provided, that the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section, as provided by section forty-one (8).

Same subject
Right to
account,
when to
accrue.
1922, 486, § 1.

SECTION 43. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

GENERAL PROVISION.

1 SECTION 44. Nothing in this chapter shall affect clause seven of Certain provisions of law not affected. 1922, 486, § 1.
 2 section three of chapter two hundred and fourteen.

CHAPTER 109.

LIMITED PARTNERSHIPS.

SECT.

1. Limited partnership. Definition. General and limited partners.
2. Same subject. Formation. Certificate; contents, filing, etc.
3. Same subject. Nature of business.
4. Limited partner, contributions.
5. Same subject. Surname in partnership name restricted, liability.
6. False certificate, liability.
7. Limited partner, when liable as general partner.
8. Same subject. Additional, admission.
9. General partner, rights, powers and liabilities.
10. Limited partner, rights.
11. Same subject. Person erroneously believing himself to be limited partner.
12. Same subject. Same person both general and limited partner, rights, etc.
13. Same subject. Transactions with partnership.
14. Same subject. Priority agreements.
15. Same subject. Share of profits, etc.

SECT.

16. Same subject. Withdrawal of contribution regulated.
17. Same subject. Liability to partnership.
18. Same subject. Nature of interest.
19. Same subject. Assignment of interest. Rights of assignee, etc.
20. General partner, effect of retirement, death or insanity.
21. Limited partner. Death, effect.
22. Same subject. Rights of creditor, etc.
23. Order of distribution after dissolution.
24. Cancellation and amendment of certificate.
25. Same subject. Formal requirements, etc.
26. Parties to actions.
27. Citation of chapter.
28. Rules of construction.
29. Rules for cases not provided for.
30. Existing limited partnerships.
31. Filing fees.

1 SECTION 1. A limited partnership is a partnership formed by two Limited partnership. Definition. General and limited partners 1923, 112, § 1.
 2 or more persons under the provisions of section two, having as members
 3 one or more general partners and one or more limited partners. The
 4 limited partners as such shall not be bound by the obligations of the
 5 partnership.

1 SECTION 2. (1) Two or more persons desiring to form a limited Same subject. Formation. Certificate; contents, filing, etc. 1923, 112, § 1. 1931, 394, § 161.
 2 partnership shall
 3 (a) Sign and swear to a certificate, which shall state
 4 I. The name of the partnership,
 5 II. The character of the business,
 6 III. The location of the principal place of business,
 7 IV. The name and place of residence of each member; general and
 8 limited partners being respectively designated,
 9 V. The term for which the partnership is to exist,
 10 VI. The amount of cash and a description and the agreed value of
 11 the other property contributed by each limited partner,
 12 VII. The additional contributions, if any, agreed to be made by each
 13 limited partner and the times at which or events on the happening of
 14 which they shall be made,

	VIII. The time, if agreed upon, when the contribution of each limited partner is to be returned.	15 16
	IX. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution.	17 18 19
	X. The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution.	20 21 22
	XI. The right, if given, of the partners to admit additional limited partners.	23 24
	XII. The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority.	25 26 27
	XIII. The right, if given, of the remaining general partner or partners to continue the business on the death, retirement or insanity of a general partner, and	28 29 30
	XIV. The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.	31 32
	(b) File the certificate in the office of the state secretary.	33
	(2) A limited partnership is formed if there has been substantial compliance in good faith with all requirements of paragraph (1).	34 35
Same subject. Nature of business.	SECTION 3. A limited partnership may carry on any business which a partnership without limited partners may carry on.	1 2
	1923, 112, § 1.	
Limited partner, contributions.	SECTION 4. The contributions of a limited partner may be cash or other property, but not services.	1 2
	1923, 112, § 1.	
Same subject. Surname in partnership name re- stricted, liability. 1923, 112, § 1.	SECTION 5. (1) The surname of a limited partner shall not appear in the partnership name, unless	1 2
	(a) It is also the surname of a general partner, or	3
	(b) Prior to the time when the limited partner became such the business had been carried on under a name in which his surname appeared.	4 5 6
	(2) A limited partner whose name appears in a partnership name contrary to the provisions of paragraph (1) is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner.	7 8 9 10
False certificate, liability. 1923, 112, § 1.	SECTION 6. If the certificate contains a false statement, one who suffers loss by reliance on such statement may hold liable any party to the certificate who knew the statement to be false	1 2 3
	(a) At the time he signed the certificate, or	4
	(b) Subsequently, but within a sufficient time before the statement was relied upon to enable him to cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in section twenty-five (3).	5 6 7 8
Limited partner, when liable as general partner.	SECTION 7. A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as a limited partner, he takes part in the control of the business.	1 2 3
	1923, 112, § 1.	

1 SECTION 8. After the formation of a limited partnership additional
2 limited partners may be admitted upon filing an amendment to the
3 original certificate in accordance with the requirements of section twenty-
4 five.

Same subject.
Additional,
admission.
1923, 112, § 1.

1 SECTION 9. (1) A general partner shall have all the rights and powers
2 and be subject to all the restrictions and liabilities of a partner in a
3 partnership without limited partners, except that without the written
4 consent or ratification of the specific act by all the limited partners, a
5 general partner or all of the general partners have no authority to
6 (a) Do any act in contravention of the certificate,
7 (b) Do any act which would make it impossible to carry on the ordi-
8 nary business of the partnership,
9 (c) Confess a judgment against the partnership,
10 (d) Possess partnership property, or assign their rights in specific
11 partnership property, for other than a partnership purpose,
12 (e) Admit a person as a general partner,
13 (f) Admit a person as a limited partner, unless the right so to do is
14 given in the certificate,
15 (g) Continue the business with partnership property on the death,
16 retirement or insanity of a general partner, unless the right so to do is
17 given in the certificate.

General part-
ner, rights,
powers and
liabilities.
1923, 112, § 1.

1 SECTION 10. (1) A limited partner shall have the same rights as a
2 general partner to
3 (a) Have the partnership books kept at the principal place of business
4 of the partnership, and at all times to inspect and copy any of them,
5 (b) Have on demand true and full information of all things affecting
6 the partnership, and a formal account of partnership affairs whenever
7 circumstances render it just and reasonable, and
8 (c) Have dissolution and winding up by decree of court.
9 (2) A limited partner shall have the right to receive a share of the
10 profits or other compensation by way of income, and to the return of
11 his contribution as provided in sections fifteen and sixteen.

Limited part-
ner, rights.
1923, 112, § 1.

1 SECTION 11. A person who has contributed to the capital of a busi-
2 ness conducted by a person or partnership erroneously believing that he
3 has become a limited partner in a limited partnership, is not, by reason
4 of his exercise of the rights of a limited partner, a general partner with
5 the person or in the partnership carrying on the business, or bound by the
6 obligations of such person or partnership; provided, that on ascertain-
7 ing the mistake he promptly renounces his interest in the profits of the
8 business, or other compensation by way of income.

Same subject.
Person erro-
neously
believing him-
self to be
limited
partner
1923, 112, § 1.

1 SECTION 12. (1) A person may be a general partner and a limited
2 partner in the same partnership at the same time.
3 (2) A person who is a general, and also at the same time a limited
4 partner, shall have all the rights and powers and be subject to all the
5 restrictions of a general partner; except that, in respect to his contribu-
6 tion, he shall have the rights against the other members which he would
7 have had if he were not also a general partner.

Same subject.
Same person
both general
and limited
partner,
rights, etc.
1923, 112, § 1.

Same subject.
Transactions
with part-
nership
1923, 112, § 1.

SECTION 13. (1) A limited partner also may loan money to and transact other business with the partnership, and, unless he is also a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets. No limited partner shall in respect to any such claim

(a) Receive or hold as collateral security any partnership property, or

(b) Receive from a general partner or the partnership any payment, conveyance, or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners.

(2) The receiving of collateral security, or a payment, conveyance or release in violation of the provisions of paragraph (1) is a fraud on the creditors of the partnership.

Same subject.
Priority
agreements.
1923, 112, § 1.

SECTION 14. Where there are several limited partners the members may agree that one or more of the limited partners shall have a priority over other limited partners as to the return of their contributions, as to their compensation by way of income, or as to any other matter. If such an agreement is made it shall be stated in the certificate, and in the absence of such a statement all the limited partners shall stand upon equal footing.

Same subject.
Share of
profits, etc.
1923, 112, § 1.

SECTION 15. A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated for in the certificate; provided, that after such payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions and to general partners.

Same subject.
Withdrawal
of contribution
regulated.
1923, 112, § 1.

SECTION 16. (1) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until

(a) All liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them,

(b) The consent of all members is had, unless the return of the contribution may be rightfully demanded under the provisions of paragraph (2), and

(c) The certificate is cancelled or so amended as to set forth the withdrawal or reduction.

(2) Subject to the provisions of paragraph (1) a limited partner may rightfully demand the return of his contribution

(a) On the dissolution of a partnership, or

(b) When the date specified in the certificate for its return has arrived, or

(c) After he has given six months' notice in writing to all other members, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the partnership.

(3) In the absence of any statement in the certificate to the contrary or the consent of all members, a limited partner, irrespective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.

(4) A limited partner may have the partnership dissolved and its affairs wound up when

- 25 (a) He rightfully but unsuccessfully demands the return of his con-
26 tribution, or
27 (b) The other liabilities of the partnership have not been paid, or the
28 partnership property is insufficient for their payment as required by
29 paragraph (1 a) and the limited partner would otherwise be entitled to
30 the return of his contribution.

1 SECTION 17. (1) A limited partner is liable to the partnership

Same subject.
Liability to
partnership.
1923, 112, § 1.

2 (a) For the difference between his contribution as actually made and
3 that stated in the certificate as having been made, and

4 (b) For any unpaid contribution which he agreed in the certificate to
5 make in the future at the time and on the conditions stated in the cer-
6 tificate.

7 (2) A limited partner holds as trustee for the partnership

8 (a) Specific property stated in the certificate as contributed by him,
9 but which was not contributed or which has been wrongfully returned,
10 and

11 (b) Money or other property wrongfully paid or conveyed to him on
12 account of his contribution.

13 (3) The liabilities of a limited partner as set forth in this section can
14 be waived or compromised only by the consent of all members; but a
15 waiver or compromise shall not affect the right of a creditor of a part-
16 nership, who extended credit or whose claim arose after the filing and
17 before a cancellation or amendment of the certificate, to enforce such
18 liabilities.

19 (4) When a contributor has rightfully received the return in whole or
20 in part of the capital of his contribution, he is nevertheless liable to the
21 partnership for any sum, not in excess of such return with interest,
22 necessary to discharge its liabilities to all creditors who extended credit
23 or whose claims arose before such return.

1 SECTION 18. A limited partner's interest in the partnership is personal
2 property.

Same subject.
Nature of
interest.

1923, 112, § 1.

1 SECTION 19. (1) A limited partner's interest is assignable.

Same subject.
Assignment of
interest.
Rights of
assignee, etc.
1923, 112, § 1.

2 (2) A substituted limited partner is a person admitted to all the rights
3 of a limited partner who has died or has assigned his interest in a part-
4 nership.

5 (3) An assignee, who does not become a substituted limited partner,
6 has no right to require any information or account of the partnership
7 transactions or to inspect the partnership books; he is only entitled to
8 receive the share of the profits or other compensation by way of income,
9 or the return of the contribution, to which his assignor would otherwise
10 be entitled.

11 (4) An assignee shall have the right to become a substituted limited
12 partner if all the members, except the assignor, consent thereto or if the
13 assignor, being thereunto empowered by the certificate, gives the as-
14 signee that right.

15 (5) An assignee becomes a substituted limited partner when the
16 certificate is appropriately amended in accordance with section twenty-
17 five.

18 (6) The substituted limited partner has all the rights and powers,
19 and is subject to all the restrictions and liabilities of his assignor, except

those liabilities of which he was ignorant at the time he became a limited partner and which could not be ascertained from the certificate. 20 21

(7) The substitution of the assignee as a limited partner does not release the assignor from liability to the partnership under sections six and seventeen. 22 23 24

General partner, effect of retirement, death or insanity. 1923, 112, § 1.

SECTION 20. The retirement, death or insanity of a general partner dissolves the partnership, unless the business is continued by the remaining general partners, (a) under a right so to do stated in the certificate, or (b) with the consent of all members. 1 2 3 4

Limited partner. Death, effect. 1923, 112, § 1.

SECTION 21. (1) On the death of a limited partner his executor or administrator shall have all the rights of a limited partner for the purpose of settling his estate, and such power as the deceased had to constitute his assignee a substituted limited partner. 1 2 3 4

(2) The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner. 5 6

Same subject. Rights of creditor, etc. 1923, 112, § 1.

SECTION 22. (1) On due application to the superior court by any creditor of a limited partner, the court may charge the interest of the indebted limited partner with payment of the unsatisfied amount of such claim; and may appoint a receiver, and make all other orders, directions, and inquiries which the circumstances of the case may require. 1 2 3 4 5

(2) The interest may be redeemed with the separate property of any general partner, but may not be redeemed with partnership property. 6 7

(3) The remedies conferred by paragraph (1) shall not be deemed exclusive of others which may exist. 8 9

(4) Nothing in this chapter shall be held to deprive a limited partner of his statutory exemption. 10 11

Order of distribution after dissolution. 1923, 112, § 1.

SECTION 23. (1) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order: 1 2

(a) Those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions and to general partners, 3 4 5

(b) Those to limited partners in respect to their share of the profits and other compensation by way of income on their contributions, 6 7

(c) Those to limited partners in respect to the capital of their contributions, 8 9

(d) Those to general partners other than for capital and profits, 10

(e) Those to general partners in respect to profits, 11

(f) Those to general partners in respect to capital. 12

(2) Subject to any statement in the certificate or to subsequent agreement, limited partners share in the partnership assets in respect to their claims for capital, and in respect to their claims for profits or for compensation by way of income on their contributions, respectively, in proportion to the respective amounts of such claims. 13 14 15 16 17

Cancellation and amendment of certificate. 1923, 112, § 1.

SECTION 24. (1) The certificate shall be cancelled when the partnership is dissolved or all limited partners cease to be such. 1 2

(2) A certificate shall be amended when 3

(a) There is a change in the name of the partnership or in the amount or character of the contribution of any limited partner, 4 5

- 6 (b) A person is substituted as a limited partner,
- 7 (c) An additional limited partner is admitted,
- 8 (d) A person is admitted as a general partner,
- 9 (e) A general partner retires, dies or becomes insane, and the business
- 10 is continued under section twenty,
- 11 (f) There is a change in the character of the business of the partner-
- 12 ship,
- 13 (g) There is a false or erroneous statement in the certificate,
- 14 (h) There is a change in the time as stated in the certificate for the
- 15 dissolution of the partnership or for the return of a contribution,
- 16 (i) A time is fixed for the dissolution of the partnership, or the return
- 17 of a contribution, no time having been specified in the certificate, or
- 18 (j) The members desire to make a change in any other statement in
- 19 the certificate in order that it shall accurately represent the agreement
- 20 between them.

1 SECTION 25. (1) The writing to amend a certificate shall

2 (a) Conform to the requirements of section two (1 a) as far as neces-

3 sary to set forth clearly the change in the certificate which it is desired to

4 make, and

5 (b) Be signed and sworn to by all members, and an amendment sub-

6 stituting a limited partner or adding a limited or general partner shall be

7 signed also by the member to be substituted or added, and when a limited

8 partner is to be substituted, the amendment shall also be signed by the

9 assigning limited partner.

10 (2) The writing to cancel a certificate shall be signed by all members.

11 (3) A person desiring the cancellation or amendment of a certificate,

12 if any person designated in paragraphs (1) and (2) as a person who must

13 execute the writing refuses to do so, may petition the superior court to

14 direct a cancellation or amendment thereof.

15 (4) If the court finds that the petitioner has a right to have the writing

16 executed by a person who refuses to do so, it shall order the cancellation

17 or amendment of the certificate, as the case may be, setting forth in its

18 order, in the case of an amendment, the terms thereof, and shall cause a

19 certified copy of such order of cancellation or amendment to be filed in the

20 office of the state secretary.

21 (5) A certificate is amended or cancelled when there is filed in the office

22 of the state secretary

23 (a) A writing in accordance with the provisions of paragraph (1) or

24 (2), or

25 (b) A certified copy of the order of court in accordance with the pro-

26 visions of paragraph (4).

27 (6) After the certificate is duly amended in accordance with this sec-

28 tion, the amended certificate shall thereafter be for all purposes the

29 certificate provided for by this chapter.

Same subject.
Formal re-
quirements, etc.
1923, 112, § 1.
1931, 426,
§ 216.

1 SECTION 26. A contributor, unless he is a general partner, is not a

2 proper party to proceedings by or against a partnership, except where

3 the object is to enforce a limited partner's right against or liability to

4 the partnership.

Parties to
actions.
1923, 112, § 1.

1 SECTION 27. This chapter may be cited as the Uniform Limited

2 Partnership Act.

Citation of
chapter.

Rules of construction.
1923, 112, § 1.

SECTION 28. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(3) This chapter shall not be so construed as to impair the obligations of any contract existing when said chapter goes into effect, nor to affect any action or proceedings begun or right accrued before said chapter takes effect.

Rules for cases not provided for.
1923, 112, § 1.

SECTION 29. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern.

Existing limited partnerships.
1923, 112, § 1.

SECTION 30. (1) A limited partnership formed under any statute of this commonwealth prior to January first, nineteen hundred and twenty-four, may become a limited partnership under this chapter by complying with the provisions of section two; provided, the certificate sets forth

(a) The amount of the original contribution of each limited partner, and the time when the contribution was made, and

(b) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

Filing fees.
1924, 231.
1925, 194,
1931, 394,
§ 162.

SECTION 31. The fee for the filing in the office of the state secretary of any original certificate or certificate of renewal or amendment, or certificate or notice of dissolution, or writing to cancel a certificate, provided for by this chapter shall be ten dollars.

CHAPTER 109A.

FRAUDULENT TRANSFERS OF REAL AND PERSONAL PROPERTY.

SECT.

1. Definitions.
2. Insolvency defined.
3. Fair consideration defined.
4. Conveyance, etc., without fair consideration declared fraudulent as to creditors. By insolvent person.
5. Same subject. By person about to engage in business, etc.
6. Same subject. By person about to incur certain debts.

SECT.

7. Same subject. Actual intent to defraud.
8. Same subject. Partnership property.
9. Same subject. Rights of creditor when claim has matured.
10. Same subject. Rights when claim has not matured.
11. Rules for cases not provided for.
12. Interpretation, etc.
13. Citation of chapter.

Definitions.
1924, 147, § 1.

SECTION 1. In this chapter "Assets" of a debtor means property not exempt from liability for his debts. To the extent that any property is liable for any debts of the debtor, such property shall be included in his assets.

5 "Conveyance" includes every payment of money, assignment, release,
6 transfer, lease, mortgage or pledge of tangible or intangible property,
7 and also the creation of any lien or incumbrance.

8 "Creditor" is a person having any claim, whether matured or un-
9 matured, liquidated or unliquidated, absolute, fixed or contingent.

10 "Debt" includes any legal liability, whether matured or unmatured,
11 liquidated or unliquidated, absolute, fixed or contingent.

1 SECTION 2. (1) A person is insolvent within the meaning of this
2 chapter when the present fair salable value of his assets is less than the
3 amount that will be required to pay his probable liability on his existing
4 debts as they become absolute and matured.

Insolvency
defined.
1924, 147, § 1.

5 (2) In determining whether a partnership is insolvent within the mean-
6 ing of this chapter there shall be added to the partnership property the
7 present fair salable value of the separate assets of each general partner
8 in excess of the amount probably sufficient to meet the claims of his
9 separate creditors, and also the amount of any unpaid subscription to
10 the partnership of each limited partner, provided the present fair salable
11 value of the assets of such limited partner is probably sufficient to pay
12 his debts, including such unpaid subscription.

1 SECTION 3. Fair consideration is given for property or obligation —
2 (a) When in exchange for such property or obligation, as a fair equi-
3 valent therefor, and in good faith, property is conveyed or an antecedent
4 debt is satisfied, or

Fair con-
sideration
defined.
1924, 147, § 1.

5 (b) When such property or obligation is received in good faith to
6 secure a present advance or antecedent debt in amount not dispropor-
7 tionately small as compared with the value of the property or obligation
8 obtained.

1 SECTION 4. Every conveyance made and every obligation incurred
2 by a person who is or will be thereby rendered insolvent is fraudulent as
3 to creditors without regard to his actual intent if the conveyance is made
4 or the obligation is incurred without a fair consideration.

Conveyance,
etc., without
fair considera-
tion declared
fraudulent as
to creditors.
By insolvent
person.

1924, 147, § 1.

265 Mass. 199.

268 Mass. 233.

272 Mass. 8.

1 SECTION 5. Every conveyance made without fair consideration when
2 the person making it is engaged or is about to engage in a business or
3 transaction, for which the property remaining in his hands after the
4 conveyance is an unreasonably small capital, is fraudulent as to creditors
5 and as to other persons who become creditors during the continuance of
6 such business or transaction, without regard to his actual intent.

Same subject.
By person
about to
engage in
business, etc.
1924, 147, § 1.

1 SECTION 6. Every conveyance made and every obligation incurred
2 without fair consideration when the person making the conveyance or
3 entering into the obligation intends or believes that he will incur debts
4 beyond his ability to pay as they mature is fraudulent as to both present
5 and future creditors.

Same subject.
By person
about to incur
certain debts.
1924, 147, § 1.

1 SECTION 7. Every conveyance made and every obligation incurred
2 with actual intent, as distinguished from intent presumed in law, to hin-
3 der, delay or defraud either present or future creditors, is fraudulent as
4 to both present and future creditors.

Same subject.
Actual intent
to defraud.
1924, 147, § 1.

Same subject.
Partnership
property.
1924, 147, § 1.

SECTION 8. Every conveyance of partnership property and every partnership obligation incurred when the partnership is or will be thereby rendered insolvent, is fraudulent as to partnership creditors, if the conveyance is made or obligation is incurred —

(a) To a partner, whether with or without a promise by him to pay partnership debts, or

(b) To a person not a partner without fair consideration to the partnership as distinguished from consideration to the individual partners.

Same subject.
Rights of
creditor when
claim has
matured.
1924, 147, § 1.
267 Mass. 442.

SECTION 9. (1) Where a conveyance or obligation is fraudulent as to a creditor, such creditor, when his claim has matured, may, as against any person except a purchaser for fair consideration without knowledge of the fraud at the time of the purchase, or one who has derived title immediately or mediately from such a purchaser —

(a) Have the conveyance set aside or obligation annulled to the extent necessary to satisfy his claim, or

(b) Disregard the conveyance and attach or levy execution upon the property conveyed.

(2) A purchaser who without actual fraudulent intent has given less than a fair consideration for the conveyance or obligation may retain the property or obligation as security for repayment.

Same subject.
Rights when
claim has not
matured.
1924, 147, § 1.
267 Mass. 442.

SECTION 10. Where a conveyance made or obligation incurred is fraudulent as to a creditor whose claim has not matured, he may proceed in the supreme judicial or superior court against any person against whom he could have proceeded had his claim matured, and the court may —

(a) Restrain the defendant from disposing of his property,

(b) Appoint a receiver to take charge of the property,

(c) Set aside the conveyance or annul the obligation, or

(d) Make any order which the circumstances of the case may require.

Rules for cases
not provided
for.
1924, 147, § 1.

SECTION 11. In any case not provided for in this chapter the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent, and the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy or other invalidating cause shall govern.

Interpreta-
tion, etc.
1924, 147, § 1.

SECTION 12. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Citation of
chapter
1924, 147, § 1.

SECTION 13. This chapter may be cited as the uniform fraudulent conveyance law.

CHAPTER 110.

LABELS, TRADE MARKS, NAMES AND REGISTRATION THEREOF.

SECT.	DEFINITIONS.
1.	Definitions.
LABELS, TRADE MARKS AND NAMES.	
2.	Use of trade marks regulated.
3.	Unlawful use penalized.
4.	Unlawful use of name prohibited.
4A.	"Corporation" or "incorporated", use in name or title restricted.
5.	Certificate stating real name of person transacting business to be filed. Index. Penalty.
6.	Certain corporations, etc., exempt from preceding section.
7.	Restraining use of unlawful names or labels.
8.	Recording labels. Certificates. Assignment of label; record, etc.
9.	Regulations and forms for filing labels. Application of this and preceding section.
10.	Restraining use of imitations of labels.
11.	Use of counterfeits prohibited.
12.	Use of false dies, etc., prohibited.
13.	Selling of falsely marked goods prohibited.
14.	Aiding and abetting.
15.	Defence of prior ownership.

SECT.	DRAMATIC OR MUSICAL COMPOSITIONS.
16.	Unauthorized performances of unpublished compositions prohibited.
REGISTERED BOTTLES.	
17.	Registering of bottles.
18.	Unlawful use, etc., of registered bottles penalized.
19.	Prima facie evidence of unlawful use, etc.
20.	Search warrant.
REGISTRATION OF MILK CANS AND ICE CREAM CANS, TUBS AND CABINETS.	
21.	Registering milk cans, etc.
22.	Illegal use of registered cans, etc.
23.	Mutilation prohibited.
24.	Defiling registered cans, etc. Penalty.
25.	Search warrant.
PENALTIES.	
26.	Penalty for unlawful use of certain words in name, making false trade marks, dies, etc., and for selling falsely marked goods.
27.	Penalty for abetting certain offences and for presenting unpublished composition.
28.	Penalty for illegal use or mutilation of registered cans, etc.

DEFINITIONS.

1 SECTION 1. The following words as used in this chapter, in addition
 2 to their ordinary meaning, shall, unless the context otherwise requires,
 3 have the meanings respectively given herein:
 4 "Beverage", milk, cream, soda water, mineral or aerated water, ale,
 5 beer, ginger ale or similar beverages;
 6 "Can", jug, bottle and jar;
 7 "Label", trade mark, stamp or form of advertisement;
 8 "Name", letter, mark, device and figure;
 9 "Vessel", can, jug, bottle, jar, siphon, fountain and box.

Definitions.
 R. L. 72, § 1.
 1918, 257,
 § 276
 1919, 5,
 1920, 2
 220 Mass. 42.

LABELS, TRADE MARKS AND NAMES.

1 SECTION 2. When a person uses any peculiar name upon or con-
 2 nected with an article manufactured or sold by him to designate it as
 3 an article of a peculiar kind or quality, or as manufactured by him, no
 4 other person shall without his consent use the same or any similar name
 5 for the purpose of representing an article to have been manufactured by

Use of trade
 marks regis-
 tered.
 1852, 197,
 1859, 234, § 1.
 G. S. 56, § 1.
 P. S. 76, § 1.
 R. L. 72, § 2
 1918, 257, § 277.

1919, 5.
1929, 2.
122 Mass. 139.

or to be of the same kind or quality as those manufactured or sold by the person rightfully using such name.

128 Mass. 477.
129 Mass. 325.

150 Mass. 583.
163 Mass. 191.

185 Mass. 458.
186 Mass. 376.

240 U. S. 403.

Unlawful use penalized.
1852, 197.
1859, 234, § 2.
G. S. 56, § 2.
P. S. 76, § 2.
R. L. 72, § 3.

SECTION 3. Whoever violates the preceding section, or knowingly sells or exposes for sale an article having a name upon or connected with it contrary thereto, shall be liable in tort to any party aggrieved thereby for all damages actually incurred.

Unlawful use of name prohibited.
1853, 156, § 1.
G. S. 56, § 3.
P. S. 76, § 6.
R. L. 72, § 5.
3 Allen, 76.
109 Mass. 409.
110 Mass. 29.
139 Mass. 499.

SECTION 4. A person who conducts business in the commonwealth shall not assume or continue to use in his business the name of a person formerly connected with him in partnership or the name of any other person, either alone or in connection with his own or with any other name or designation, without the consent in writing of such person or of his legal representatives.

163 Mass. 461.
169 Mass. 250.
191 Mass. 245.
199 Mass. 493.

207 Mass. 352.
220 Mass. 42.
227 Mass. 231.
231 Mass. 574.

240 Mass. 505.
247 Mass. 402.
251 Mass. 113.

"Corporation" or "incorporated", use in name of title restricted.
1927, 62, § 1.

SECTION 4A. No individual, unincorporated association or partnership shall assume or use in the name or title under which his or its business is transacted the word "corporation" or "incorporated" or any abbreviated form thereof.

[Penalty, § 26.]

Certificate stating real name of person transacting business to be filed, Index. Penalty.
1907, 539, § 1, 3.
216 Mass. 184.
227 Mass. 157.
232 Mass. 454.
234 Mass. 320.
267 Mass. 578.

SECTION 5. Any person conducting business in the commonwealth under any title other than the real name of the person conducting such business, whether individually or as a partnership, shall file in the office of the clerk of every town where an office of any such person or partnership may be situated a certificate stating the full name and residence of each person conducting such business. The clerk shall keep a record of such certificates and an index of the names of such persons and partnerships, entering in such index in alphabetical order the name of every person and the title under which he conducts business, and of every partnership with the names of the members thereof. Violations of this section shall be punished by a fine of not more than one hundred dollars for each month during which such violation continues.

Certain corporations, etc., exempt from preceding section.
1907, 539, § 2.
1908, 316.
1929, 6, § 2.

SECTION 6. The preceding section shall not apply to any corporation doing business under its true corporate name, nor to any partnership doing business under any title which includes the true surname of any partner; nor to any association which has complied with sections five and six of chapter one hundred and fifty-nine; nor to any partnership, joint stock company or association the business of which is conducted by trustees under a written instrument or declaration of trust, provided that the names of such trustees with a reference to such instrument or declaration of trust shall be filed as provided in section five.

Restraining use of unlawful names or labels.
1852, 197.
1853, 156, § 2.

SECTION 7. The supreme judicial or superior court shall have jurisdiction in equity to restrain the use of names or labels in violation of any provision of this chapter.

1859, 234, § 3.
G. S. 56, § 4.
P. S. 76, § 7.
R. L. 72, § 6.

2 Gray, 379.
3 Allen, 76.
127 Mass. 115.
128 Mass. 477.

147 Mass. 206.
231 Mass. 574.
240 Mass. 505.

1 SECTION 8. A person may adopt a label, not previously owned or
 2 adopted by any other person, and file such label for record, by deposit-
 3 ing two copies or facsimiles thereof in the office of the state secretary, one
 4 of which copies or facsimiles shall be attached by the secretary to the
 5 certificate of record hereinafter referred to. The applicant shall file
 6 with the label a certificate specifying the name of the person filing it,
 7 his residence or place of business, the kind of merchandise to which
 8 such label has been or is intended to be appropriated, and the length of
 9 time, if any, during which it has been in use. If such label has not been
 10 and is not intended to be used in connection with merchandise, the
 11 particular purpose or use for which it has been or is intended shall be
 12 stated in the certificate. Such certificate shall be accompanied by a
 13 written declaration, sworn to by the person or by a member of the firm
 14 or by an officer of the association, union or corporation by which it is
 15 filed, that the party so filing such label has a right to use the same, and
 16 that no other party has the right to such use, either in the identical
 17 form or in any such near resemblance thereto as may be calculated to
 18 deceive, and that the copies or facsimiles filed therewith are true. The
 19 secretary shall file the certificate in his office and issue to the party
 20 depositing it a certificate of record under the seal of the common-
 21 wealth. Such certificate of record or a certified copy of its record shall
 22 in all suits and prosecutions under this section and sections ten to fif-
 23 teen, inclusive, be sufficient proof of the recording of such label and of
 24 the existence of the person named in the certificate. The fee for filing
 25 the certificate and declaration and issuing the certificate of record shall
 26 be twenty-five dollars. No label shall be recorded which could reasonably
 27 be mistaken for a label already on record.
 28 If a label duly recorded as aforesaid is assigned by an instrument in
 29 writing under seal, such assignment may be filed. Upon the filing
 30 of an assignment the secretary shall issue to the assignee a certificate
 31 thereof. The fee for filing the assignment and issuing such certificate
 32 shall be twenty-five dollars.

Recording
 labels. Cer-
 tificates. As-
 signment of
 label; re-
 cord, etc.
 1893, 443,
 § 5. 4.
 1895, 462, § 1.
 1899, 359, § 1.
 R. L. 72, § 7.
 1918, 257,
 § 279.
 1919, 5.
 1920, 2, 618.
 1931, 426,
 § 217.
 152 Mass. 101.
 170 Mass. 266.
 176 Mass. 129.
 185 Mass. 458.
 191 Mass. 245.
 203 Mass. 75.
 271 Mass. 492.
 248 U. S. 90.
 1 Op. A. G.
 100, 601.

1 SECTION 9. The state secretary may make regulations, and pre-
 2 scribe forms for the filing of labels, under the preceding section. This
 3 and the preceding section, so far as applicable, shall apply to the insignia,
 4 ribbons, badges, rosettes, buttons and emblems of any society, associa-
 5 tion or labor union.

Regulations
 and forms for
 filing labels.
 Application of
 this and
 preceding
 section.

1893, 443, § 6. 1899, 359, § 2. 1903, 275, § 1. 1909, 514, § 31.
 1895, 462, § 2. R. L. 72, § 8. 1904, 335, § 1. 1 Op. A. G. 100.

1 SECTION 10. The supreme judicial or superior court shall have juris-
 2 diction in equity to restrain the manufacture, use or sale of counterfeits
 3 or imitations of a label, recorded as provided in section eight, shall
 4 award damages resulting from such wrongful manufacture, use or sale
 5 and shall require the defendant to pay the owner of such label the profits
 6 derived from such wrongful manufacture, use or sale; and may also
 7 order that all such counterfeits or imitations in his possession or control
 8 be delivered to an officer of the court or to the complainant, to be de-
 9 stroyed. If the complainant is not incorporated, suits under sections
 10 eight and ten to fourteen, inclusive, may be commenced and prosecuted
 11 by an officer thereof, on behalf of and for the use of the complainant.
 12 Every member of the complainant firm, association or union shall be
 13 liable for costs in any such proceeding.

Restraining
 use of imita-
 tions of labels.
 1893, 443, § 5.
 1895, 462, § 3.
 R. L. 72, § 9.
 170 Mass. 266.
 191 Mass. 245.
 203 Mass. 75.

Use of counter-
feits pro-
hibited.
1799, 63, § 3.
R. S. 28, § 132.
G. S. 49, § 117;
161, § 55.
P. S. 76, § 5;
203, § 63.

SECTION 11. No person shall knowingly make or use any counterfeit or imitation of any lawful name or label or cause the same to be made or used, or sell, offer for sale, deal in or have in his possession with intent so to do, or affix, impress or use such counterfeit or imitation upon any goods.

1890, 104. 1895, 462, § 4. R. L. 72, § 10.
1893, 443, § 2. 1899, 359, § 3.
[Penalty, § 26.]

Use of false
des., etc.,
prohibited.
1899, 359, § 4.
R. L. 72, § 11.
[Penalty, § 26.]

SECTION 12. No person shall knowingly, with intent to defraud, cast, engrave or manufacture, or have in his possession, or buy, sell, offer for sale or deal in, a die, plate, brand, mould, or engraving on wood, stone, metal or other substance, of a label recorded under section eight, or a printing press, or types or other tools, machines or materials provided or prepared for making a counterfeit or imitation of such label.

Selling of
falsely marked
goods pro-
hibited.
G. S. 161, § 56.

SECTION 13. No person shall knowingly sell or expose for sale goods upon which any lawful name or label or any counterfeit or imitation thereof is unlawfully affixed, impressed or used.

1870, 340. 1890, 104. 1895, 462, § 5.
P. S. 76, § 3; 1893, 443, § 3. R. L. 72, § 12.
203, § 64. 1894, 285.
[Penalty, § 26.]

Aiding and
abetting.
1899, 359, § 5.
R. L. 72, § 13.
[Penalty, § 27.]

SECTION 14. No person shall knowingly, with intent to defraud, aid or abet in the violation of any of the provisions of the three preceding sections.

Defence of
prior owner-
ship.
1893, 443, § 7.
1895, 462, § 6.
1899, 359, § 6.
R. L. 72, § 14.

SECTION 15. In any suit or prosecution under the five preceding sections, the defendant may show that he was the owner of such name or label prior to its being filed under section eight, and that it has been wrongfully filed by some other person.

DRAMATIC OR MUSICAL COMPOSITIONS.

Unauthorized
performances
of unpublished
compositions
prohibited.
1904, 183.
[Penalty, § 27.]

SECTION 16. No person with knowledge or notice that a dramatic or musical composition is unpublished or undedicated shall, without the consent of the proprietor thereof, cause it to be publicly performed or represented or permit a public performance or representation of it, in any public place of amusement, licensed or unlicensed, of which he is in control, or take part in any public performance or representation thereof.

REGISTERED BOTTLES.

Registering of
bottles.
1893, 449, § 1.
R. L. 72, § 15.
186 Mass. 376
273 Mass. 65.

SECTION 17. A person engaged in manufacturing, bottling or selling beverages in vessels, with his name and the word "registered" branded, engraved, blown or otherwise produced thereon, or on the boxes used by him, may have such vessels registered by filing in the office of the clerk of the town where his principal place of business is situated and in the office of the state secretary, a description of the name so used by him, and shall publish such description once in each of four successive weeks in a newspaper published in the town where the description has been filed.

1 SECTION 18. No person, without the written consent of the regis-
 2 tered owner thereof, shall fill with a beverage with intent to sell the same
 3 any vessel registered under the preceding section, or change in any way,
 4 or conceal any name or the word "registered" thereon, or buy, sell,
 5 traffic in or dispose of any such vessel. This section shall not apply to
 6 vessels purchased from the registered owner; provided, that making a
 7 money charge or requiring the deposit of a sum of money under an
 8 agreement to refund the same upon the redelivery of the vessel shall not
 9 constitute a purchase thereof, within the meaning of this section. Vio-
 10 lation of any provision of this section shall for the first offence be pun-
 11 ished by a fine of not less than fifty cents for each vessel in respect to
 12 which the violation occurs or by imprisonment for not less than ten days
 13 nor more than one year, or both, and for each subsequent offence by a
 14 fine of not less than one nor more than five dollars for each such vessel
 15 or by imprisonment for not less than twenty days nor more than one
 16 year.

Unlawful use,
 etc., of regis-
 tered bottles
 penalized
 1893, 440, § 2.
 R. L. 72, § 16
 1909, 496
 1930, 155
 186 Mass. 376,
 273 Mass. 35.

1 SECTION 19. The purchase, sale, traffic in, disposal or use of any
 2 such registered vessel by a person engaged in the manufacture, bottling
 3 or sale of beverages, without the written consent of the owner thereof,
 4 shall be prima facie evidence of a violation of the preceding section.
 5 Possession of any such registered vessel by a junk dealer or dealer in
 6 second hand articles, without the written consent of the owner, shall be
 7 prima facie evidence of such violation. This section shall not apply to
 8 vessels purchased from the owner.

Prima facie
 evidence of un-
 lawful use, etc.
 1893, 440, § 3.
 R. L. 72, § 17.
 273 Mass. 35:

1 SECTION 20. Upon complaint of a person who has complied with
 2 section seventeen, or his agent, to a district court or trial justice, that
 3 he has reason to believe and does believe that any of his registered
 4 vessels are being unlawfully used or filled by a person engaged in manu-
 5 facturing, bottling or selling beverages, or that a junk dealer or dealer
 6 in second hand articles or a vendor of cans or bottles has such vessels
 7 in his possession or secreted in any place, said court or justice may there-
 8 upon issue a search warrant; and may also cause the person in whose
 9 possession such vessels are found to be brought before him, and shall
 10 thereupon inquire into the circumstances of such possession; and
 11 shall award to the owner thereof possession of the property taken upon
 12 such search warrant.

Search warrant.
 1893, 440, § 4
 R. L. 72, § 18.
 186 Mass. 376.
 247 Mass. 580.

REGISTRATION OF MILK CANS AND ICE CREAM CANS, TUBS AND CABINETS.

1 SECTION 21. A person engaged in buying, selling or dealing in milk
 2 or cream in cans, or who uses cans, tubs or cabinets in the sale, trans-
 3 portation or storage of ice cream, with his name and the word "regis-
 4 tered" produced in a permanent manner in or upon such cans, tubs or
 5 cabinets, may register such articles by filing in the office of the clerk of
 6 the town where his principal place of business is situated, and also in the
 7 office of the state secretary, a description of the name so used by him,
 8 and shall publish such description once in each of four successive weeks
 9 in a newspaper published in the town where the description has been
 10 filed.

Registering
 milk cans, etc.
 1909, 459, § 1.
 R. L. 72, § 19.
 1923, 37, § 1.

1 SECTION 22. No person shall without the consent of the owner take,
 2 detain, use, buy, sell, traffic in or otherwise dispose of any registered can,

Illegal use
 of registered
 cans, etc.

1900, 359, § 2.
R. L. 72, § 20.
1924, 37, § 2.
249 Mass. 531.

tub or cabinet. Possession of any such registered can, tub or cabinet by a person in the transaction of his business shall be prima facie evidence of violation of this section.

[Penalty, § 28.]

Mutilation prohibited.
1900, 359, § 3.
R. L. 72, § 21;
208, § 118.
1924, 37, § 3.
[Penalty, § 28.]

SECTION 23. No person shall without the consent of an owner wilfully destroy, mutilate or deface any registered can, tub or cabinet bearing such owner's name, or wilfully erase, mar, cover or change any word or name branded, engraved, blown or otherwise produced in a permanent manner in or upon such can, tub or cabinet.

Defiling registered cans, etc. Penalty.
1900, 359, § 4.
R. L. 72, § 22.
1924, 37, § 4.

SECTION 24. Whoever puts an unclean or foul substance into any registered can, tub or cabinet shall for the first offence be punished by a fine of not less than fifty cents nor more than five dollars for each can, tub or cabinet with respect to which the violation occurs and for any subsequent offence by a fine of not less than two nor more than twenty dollars for each such can, tub or cabinet.

Search warrant.
1900, 359, § 5.
R. L. 72, § 23.
1924, 37, § 5.

SECTION 25. Upon complaint of a person who has complied with section twenty-one, or his agent, to a district court or trial justice that he has reason to believe and does believe that a person has wrongfully in his possession or is secreting any of his registered cans, tubs or cabinets, said court or justice may issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person or his agent or employee in whose possession such cans, tubs or cabinets are found, and shall thereupon inquire into the circumstances of such possession; and, if said court or justice finds that such person has been guilty of a wilful violation of any of the provisions of the three preceding sections, he shall impose the penalty prescribed therefor and shall also order the property taken upon such search warrant to be delivered to the owner.

PENALTIES.

Penalty for unlawful use of certain words in name, making false trade marks, dies, etc., and for selling falsely marked goods.

SECTION 26. Violations of any provision of section four A, eleven, twelve or thirteen shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or both.

1799, 63, § 3.	P. S. 76, §§ 3, 5;	1895, 462, §§ 4, 5.
R. S. 28, § 132.	203, §§ 63, 64.	1899, 359, §§ 3, 4.
G. S. 49, § 117;	1890, 104	R. L. 72, §§ 10-12.
161, §§ 53, 56.	1893, 443, §§ 2, 3.	1927, 62, § 2.
1870, 340.	1894, 283.	

Penalty for abetting certain offences and for presenting unpublished composition.

SECTION 27. Violations of any provision of section fourteen or sixteen shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both.

1899, 359, § 5.	R. L. 72, § 13.	1904, 183.
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Penalty for illegal use or mutilation of registered cans, etc.
1900, 359,
§§ 2, 3.
R. L. 72,
§§ 20, 21;
208, § 118.
1924, 37, § 6.

SECTION 28. Violation of any provision of section twenty-two or twenty-three shall be punished for the first offence by a fine of not more than five dollars or by imprisonment for not more than two months for each can, tub or cabinet in respect to which the violation occurs and for any subsequent offence by a fine of not more than ten dollars or by imprisonment for not more than six months for each such can, tub or cabinet.

CHAPTER 110A.

PROMOTION AND SALE OF SECURITIES.

SECT.

1. Citation of chapter.
2. Definitions.
3. Exempted securities and sales.
4. Statement: filing before sale of certain securities, contents.
5. Notice of intention to sell certain securities. Commission may forbid sale.
6. Statement or notice: commission may require additional information.
- 6A. Periodic statements of financial condition: authority of commission to require, effect of failure to file.
7. Public hearings. Court review of orders, etc., of commission.
8. Registration of brokers and salesmen. Applications, renewals, suspensions, revocations.
9. Same subject. Receipts, issuance to registrants. Register.
10. Fraudulent securities; financial statements, information, etc., open to

SECT.

- public inspection. Circulars, etc., issue regulated. Rights of action, etc., not limited by chapter.
11. Mailing addresses, filing by applicants for registration, etc. Advertisements, etc., regulated. Findings, etc., of commission, certificate as evidence. Complaints, investigation, etc.
12. Proceedings under this chapter subject to certain laws.
13. [Repealed.]
14. Witnesses, attendance and testimony before commission, immunity from prosecution, etc.
15. Perjury. General penalty. Arrest without warrant for offering securities for sale without receipt, etc. Records of convictions, abstracts to commission.
16. Invalidity of any provision, etc., effect.

1 SECTION 1. This chapter may be cited as the Sale of Securities Act. Citation of
chapter.
1921, 499, § 1.

1 SECTION 2. The following words and phrases, as used in this chap- Definitions.
1921, 499, § 1.
2 ter, shall have the following meanings, unless the context otherwise
3 requires:

4 (a) "Commission", the commission supervising and controlling the 1929, 287, § 2.
5 department of public utilities under chapter twenty-five and also, in
6 so far as determined by the commission under section twelve A of said
7 chapter, the securities division or its director, established by said section.

8 (b) "Person" shall include a natural person, a corporation created
9 under the laws of this commonwealth or of any other state, country or
10 sovereignty, a partnership, an association, a joint stock company, a
11 trust and a trustee or any beneficiary, agent or other person as herein
12 defined acting under a trust, and any unincorporated organization.

13 (c) "Security" shall include any bond, stock, certificate under a voting
14 trust agreement, treasury stock, note, debenture, certificate in or under
15 a profit sharing or participation agreement, subscription or reorgani-
16 zation certificate, oil, gas or mining lease or certificate of any interest in
17 or under the same, evidence of indebtedness, any form of commercial
18 paper, currency of any government other than the United States, or
19 any certificate or instrument representing or secured by an interest in
20 the capital, assets or property of any corporation, unincorporated organ-
21 ization, association, trust or public corporation or body.

22 (d) "Sale" or "sell" shall include the issuance of securities, an agree-
23 ment whereby a person transfers or agrees to transfer an interest in se-
24 curities, and an exchange, pledge, hypothecation, or any transfer in
25 trust or otherwise, by way of mortgage. Any security given or delivered

with, or as a bonus on account of, any purchase of securities or any other 26
 thing, shall be conclusively presumed to constitute a part of the subject 27
 of such purchase and to have been sold for value. "Sale" or "sell" 28
 shall also include an attempt to sell, an option of sale, a solicitation of a 29
 sale, a subscription or an offer to sell, directly or by an agent, or by a 30
 circular, letter, advertisement or otherwise. 31

(e) "Broker" shall include every person, other than a salesman, who 32
 in this commonwealth engages either for all or part of his time, directly 33
 or through an agent, in the business of selling any security issued by 34
 himself or another person, or of purchasing or otherwise acquiring such 35
 securities for another with the purpose of reselling them, or of offering 36
 them for sale to the public, for a commission or at a profit. 37

(f) "Salesman" shall include every person employed or appointed or 38
 authorized by a broker to sell in any manner, within this commonwealth. 39

1924, 487, § 1.

(g) "Fraud" and "fraudulent" shall include any misrepresentation 40
 in any manner of a relevant fact, such misrepresentation being inten- 41
 tionally dishonest or due to gross negligence, and any promise or rep- 42
 resentation or prediction as to the future not made honestly and in 43
 good faith, or an intentional failure to disclose a material fact: the 44
 gaining directly or indirectly, through the sale of any security of an un- 45
 derwriting or promotion fee or profit, selling or managing commission or 46
 profit, so gross and exorbitant as to be unconscionable, and any scheme, 47
 device or artifice to obtain such a profit, fee or commission; provided, 48
 however, that nothing herein shall limit or diminish the full meaning of 49
 the terms "fraud" and "fraudulent" as applied or accepted in courts 50
 of law or equity. 51

(h) "Par value", as applied to stock without par value, the average 52
 net amount per share actually received by the issuing corporation upon 53
 all such shares issued and outstanding at the date of any occasion for 54
 determining such value. 55

(i) Wherever in this chapter a sale by an owner, pledgee or mortgagee 56
 or by a person acting in a representative capacity is specified, such sale 57
 may be made through or by an agent, including a registered broker or 58
 salesman. 59

Exempted
 securities
 and sales,
 1924, 499, § 1.
 1930, 316.

SECTION 3. Except as hereinafter provided, the provisions of this 1
 chapter shall not apply to— 2

(a) Any isolated sale of any security by the owner thereof, or his 3
 representative, for the owner's account, such sale not being made in 4
 the course of repeated and successive transactions of a like character by 5
 such owner or on his account by such representative, and such owner or 6
 representative not being the underwriter of such securities. 7

(b) Commercial paper, notes or evidences of indebtedness maturing 8
 less than fourteen months from date of issuance thereof. 9

(c) Any security issued or guaranteed as to principal or interest by a 10
 government or governmental agency, or by any public body having 11
 power of taxation or assessment. 12

(d) Securities of, or guaranteed either as to principal, interest or 13
 dividend by, a corporation owning or operating a railroad, or any other 14
 public service utility, the issue or guarantee of such securities being regu- 15
 lated or controlled, or requiring approval by, public officials of this or of 16
 any other state or of the United States empowered to regulate and 17
 control or supervise public service utilities and the issue of securities 18
 thereby; and all securities senior thereto. 19

20 (e) Securities listed upon any stock exchange in Massachusetts which
21 has been doing business continuously for the last ten years prior to the
22 effective date of this chapter and all securities senior thereto, for six
23 months from the effective date of this chapter; and thereafter provided
24 that there has first been submitted to the commission a form of applica-
25 tion and set of rules adopted by such exchange for the listing of securities
26 which is acceptable to the commission, as indicating in substance that
27 the requirements of such exchange are adequate to guard against fraud,
28 and provided further that any subsequent change in the rules of such
29 exchange shall not affect the exemption of securities listed before said
30 change was adopted.

31 The commission may add to this exemption sales or securities listed
32 upon any other organized stock exchange.

33 (f) Securities which are a legal investment for any savings bank,
34 savings department of any trust company, insurance company or asso-
35 ciation under the supervision of the commissioner of banks or commis-
36 sioner of insurance of this commonwealth.

37 (g) Securities issued by, and representing an interest in, or direct ^{1930, 289.}
38 contract right against, any national bank or corporation created or
39 existing by virtue of the acts of the congress of the United States; or by
40 any state bank, trust company, co-operative bank, or credit union of
41 this commonwealth, or of any other state where the same is fully organ-
42 ized, doing business and is under the supervision of the public official
43 controlling banking in such state; or the securities of any corporation
44 under the supervision of the department of banking and insurance of this
45 commonwealth, other than corporations licensed to make small loans.

46 (h) The securities of any corporation organized under the provisions
47 of chapter one hundred and eighty.

48 (i) The securities of any corporation organized under the laws of this
49 commonwealth whose authorized capital stock, added to its other out-
50 standing securities, does not exceed twenty-five thousand dollars; and
51 the original issuance and sale by any corporation organized under the
52 laws of this commonwealth of its stock so long as the number of stock-
53 holders of said corporation does not exceed twenty-five.

54 (j) Any judicial sale; or the sale by an executor, administrator, con-
55 servator, guardian or trustee appointed by the decree of any court; any
56 sale by a receiver or trustee in insolvency or bankruptcy; or any sale by
57 a corporation of its stock for a delinquent assessment made in accord-
58 ance with the provisions of law whether or not any such sale described
59 in this subdivision is made directly by the owner or legal representative
60 of the owner or through an agent, whether or not a broker or salesman,
61 of such owner or legal representative.

62 (k) The distribution by a corporation of capital stock, bonds or other
63 securities to its stockholders or other security holders or their respective
64 assigns as a stock dividend or other distribution out of surplus; securities
65 issued under a corporate reorganization by a corporation, or corpora-
66 tions, entirely to its or their security holders or their assigns, directly or
67 through an agent, or increased capital stock of a corporation sold or
68 distributed by it, directly or through an agent, entirely among its stock-
69 holders or their assigns, without payment of any commission or expense
70 to any broker or salesman in connection with the distribution thereof.

71 (l) The sale, by a pledge holder or mortgagee selling, in the ordinary
72 course of business, of a security pledged with him in good faith as a
73 security for a bona fide debt.

(m) The sale of notes secured by mortgages on real or personal property where the legal title to the entire security for said notes is sold and transferred therewith. 74-76

(n) The sale of securities directly or through a representative to a registered broker. 77-78

(o) The commission may, on such terms as it deems advisable, exempt from the provisions of this chapter sales at public auction of securities not otherwise exempt under this chapter. 79-81

(p) In addition to the securities enumerated in section three as exempted from the provisions of this chapter, the commission may, from time to time, by order, in accordance with such rules and standards as it may prescribe, upon petition or upon its own motion, add to the list of exempted securities therein specified, other sales, securities and classes of securities. Any order of exemption adopted under this section may provide that the same shall not apply to any new and additional securities issued by the same enterprise or against the same property unless and until the commission adopts a like order in relation thereto. 82-90

If it shall appear to the commission that the sale of any security exempted under any provision of this section would be fraudulent or would be likely to result in fraud, the commission may require such full information concerning such security as it may deem necessary. 91-94

Statement:
filing before
sale of cer-
tain securi-
ties, contents.
1921, 499, § 1.

SECTION 4. No security not exempted from the provisions of this chapter under the preceding section, that has been sold in this commonwealth prior to June first, nineteen hundred and twenty-one, shall be sold after six months following the effective date of this chapter or after such further time as the commission may prescribe, unless and until there shall have been filed with the commission by a person offering the same for sale or by the directors or trustees of the corporation, association, trust or other body issuing the security or other officers holding a corresponding relation thereto, or by officers duly authorized by such directors or trustees to take such action, a statement on such forms as the commission may prescribe, duly dated and sworn to by the person or officers subscribing and filing the same, containing the following information and data relative to the security to be offered and the person, corporation, association or trust issuing such security, to wit: 1-14

(a) The names and addresses of the board of directors or other board of management, and of the president, treasurer, secretary, auditor, or corresponding officers of such corporation, association or trust; 15-17

(b) The state or other sovereign power, under the laws of which the corporation, association or trust was organized, and a reference to such laws; 18-20

(c) The purpose for which the corporation, association or trust was organized or formed and the general nature of the business to be transacted or in which it proposes to engage; 21-23

(d) The capitalization thereof, including the authorized amount of its capital stock, the number and classes of shares into which such capital stock is divided, a description of the respective voting rights, preferences, rights to dividends, profits or capital of each class with respect to each other class, the amount of capital stock of each class issued or included in the shares of stock to be offered, the amount of the funded debt, if any, with a brief description of the date, maturity and character of such debt, and the security, if any, therefor; 24-31

32 The commission may, to such extent as it deems reasonable, accept in
 33 lieu of such statement, a reference to recognized sources of information
 34 selected by the commission, containing such information and particulars
 35 as it deems sufficient.

1 SECTION 5. No security not exempted under section three and to
 2 which the preceding section does not apply shall be sold unless and until
 3 there shall have been filed with the commission by a person offering the
 4 same for sale or by the directors or trustees of the corporation, associa-
 5 tion, trust, or other body issuing the security, or by other officers holding
 6 a corresponding relation thereto, or by officers duly authorized by such
 7 directors or trustees to take such action, a notice of intention to offer for
 8 sale the security named and specified in the notice; but within seven
 9 days, or such further period as in any special case the commission may
 10 authorize, after filing said notice, the person or officers, or some one in
 11 their behalf, shall file with the commission a statement containing the
 12 information and data relative to the security offered and the issuing
 13 corporation, association or trust, specified in subdivisions (a), (b), (c)
 14 and (d) of section four, and in addition thereto a statement of the pur-
 15 poses to which the proceeds of the proposed issue are to be applied. Upon
 16 and after the filing of such notice the said security may be sold and offered
 17 for sale by any broker or salesman registered under the provisions of this
 18 chapter, subject, however, to the provisions of the following section and
 19 subject to the right of the commission in its discretion to forbid its sale
 20 until the information required by this and the following section is filed
 21 with it and the commission has revoked its action in forbidding its sale.

Notice of
 intention to
 sell certain
 securities.
 Commission
 may forbid
 sale.
 1921, 499, § 1.
 1924, 47.
 1924, 487, § 2.

1 SECTION 6. If, upon receipt and examination of the notice or of any
 2 statement required by the two preceding sections the commission deems
 3 the information inadequate it shall make such further investigation as it
 4 shall deem necessary or advisable, and may require from the person filing
 5 such statement or from any person or persons issuing such security such
 6 further information under oath, including examinations and reports by
 7 reputable accountants, engineers and other experts, at the expense of the
 8 person or persons aforesaid, as may in its judgment be necessary to enable
 9 it to ascertain whether the sale of such security would be fraudulent or
 10 would result in fraud. The failure to submit the information required by
 11 the commission within such reasonable time as it may specify shall in the
 12 absence of satisfactory explanation or of extension by the commission of
 13 the time for filing such information, be deemed prima facie evidence of
 14 fraud. Whenever the commission is of opinion from the information
 15 disclosed or in its possession that the sale of any security under section
 16 four or five or of any security exempted under any provision of section
 17 three, is fraudulent or would result in fraud, it shall make a finding to that
 18 effect. Upon the making of such finding, such security shall not be sold
 19 or offered for sale until, and except in accordance with, further action by
 20 the commission or by the court as provided in this chapter.

Statement or
 notice; com-
 mission may
 require
 additional
 information.
 1921, 499, § 1.
 1922, 435, § 1.
 1924, 487, § 3.

1 SECTION 6A. The commission may also require any person offering
 2 any security for sale, or the directors, trustees or corresponding officers of
 3 the corporation, association, trust, or other body issuing the security,
 4 the sale of which is otherwise lawful under this chapter, to file, in such
 5 form as it may from time to time prescribe, periodic statements verified
 6 by oath of the person or officers subscribing and filing the same and of a

Periodic
 statements
 of financial
 condition;
 authority of
 commission
 to require,
 effect of failure
 to file.
 1929, 287, § 3.

reputable accountant, or, in lieu of such oath, verified by the written declaration of such person or officers and accountant that such statements are made under the penalties of perjury, showing the financial condition of such person, corporation, association, trust or other body and such further information and data as the commission may deem advisable. Failure to file such statements or to submit such information and data within the time specified shall be just cause for the making by the commission of a finding to the effect that the sale of such securities is fraudulent or would result in fraud. Such a finding shall have the same effect as if made under section six.

Public hearings
Court
review of
orders, etc.,
of commission
1921, 499, § 1
1922, 435, § 2.

SECTION 7. Any interested person aggrieved by any order or finding of the commission under any provision of this chapter, or by any refusal or failure of the commission to make an order under any of said provisions, shall be entitled to a public hearing thereon before a majority of the members thereof, at which he may be represented by counsel, and may submit any relevant evidence. When so requested by any such person, the commission shall rule upon any question of law properly arising in the course of such hearing. Any failure or refusal of the commission to rule upon such a question within ten days after such request shall be taken and recorded as a ruling adverse to the person requesting the same. At the conclusion of such hearing, the commission shall reconsider and review the subject matter of such appeal, and shall, within twenty days thereafter, affirm, modify or rescind the order or refusal appealed from. The supreme judicial and superior courts shall have jurisdiction in equity to review, modify, amend or annul any ruling, finding of fact, or order of the commission, and the procedure before said court in relation thereto shall conform to the provisions of section five of chapter twenty-five, so far as applicable.

Registration
of brokers
and salesmen.
Applications,
renewals,
suspensions,
revocations
1921, 499, § 1.
1922, 317, § 1;
435, § 3.
1923, 48
1924, 487, § 4.
1926, 211.

SECTION 8. No person shall sell securities within this commonwealth, whether exempted under section three or not, as broker or salesman, except as provided in paragraph (b) of section ten, unless he has been registered by the commission. An original application for such registration shall state the applicant's name and residence, and the place where the registered business is to be conducted, shall be accompanied by a certificate of two citizens of the commonwealth that the applicant is, in their opinion, honest and of good repute, or, in case the applicant is a partnership, corporation, trust or voluntary association, that the reputation of its members, officers or trustees for honesty and fair dealing is good. When required by the commission, each application for such registration as a salesman or for renewal thereof shall also be accompanied by a photograph, of the type known as a passport photograph, of the applicant which photograph shall become a part of the records of the department and shall remain permanently in its files. Every registration under this section shall expire on the thirty-first day of December in each year, but the same may be renewed. Any person registered as broker or salesman prior to October first, nineteen hundred and twenty-four, shall be entitled to renewals thereof merely by payment of the lawful fee, unless his registration has been or shall be cancelled or revoked by order of the commission. Any person applying for registration as broker or salesman after said date shall furnish under oath such information as the commission

23 may require, and shall be registered if it appears to the commission that
24 the applicant is of good moral character and of sufficient requirements
25 and qualifications. The fee for such registration and for each annual
26 renewal thereof shall be fifty dollars in case of brokers and two dollars in
27 case of salesmen. Said fees shall be paid into the state treasury. No non-
28 resident person not having a usual place of business in the commonwealth
29 shall be so registered unless and until he has filed with the commission a
30 writing, in a form to be approved by the attorney general, appointing the
31 secretary of the commission or his successor in office to be his true and
32 lawful attorney upon whom all lawful processes in any action or proceed-
33 ing against him relative to or connected with an act or acts done as such
34 salesman or broker may be served, and in such writing shall agree that
35 any lawful process against him which is served on said attorney shall be
36 of the same legal force and validity as if in fact served on the applicant,
37 and that the authority shall continue in force so long as any liability
38 remains outstanding against the applicant in this commonwealth. No
39 person registered as a broker or salesman shall sell any security or securi-
40 ties, whether exempted under section three or not, which are to be paid
41 for in accordance with the terms of an instalment or partial payment plan
42 contract except as such plan is approved by the commission. No person
43 shall be entitled to registration hereunder if he, or, in case of a partnership,
44 any member of the firm, or, in case of a corporation, any officer thereof,
45 or, in case of a trust or other unincorporated association, any trustee or
46 officer thereof, has been convicted of a felony or of a violation of any
47 provision of this chapter. Conviction of such an offense shall render void
48 the registration of the person convicted or of the firm of which he is a
49 member in case of a partnership, or of the corporation of which he is an
50 officer, or of the trust or other unincorporated association of which he is a
51 trustee or officer, but the commission may, after hearing, restore such
52 registration. The commission may at any time in the case of any broker
53 or salesman, the conduct of whose business it has reason to believe has
54 been fraudulent or if continued would result in fraud, require such infor-
55 mation under oath as in its judgment may be necessary to enable it to
56 ascertain whether such broker or salesman is conducting his business
57 in a fraudulent manner or wilfully and purposely evading or seeking to
58 nullify the provisions of this chapter. The failure to supply the informa-
59 tion required within such reasonable time as the commission may specify
60 shall, in the absence of satisfactory explanation or of extension by the
61 commission of the time for filing such information, be deemed prima facie
62 evidence of fraud. If it appears to the commission that any registrant
63 is or has been conducting business as a broker or salesman in a fraudulent
64 manner or is or has been wilfully and purposely evading or seeking to
65 nullify the provisions of this chapter, whether under his present registra-
66 tion or prior thereto, the commission, upon notice to the registrant, may
67 suspend or revoke his registration either as broker or salesman or both.
68 Upon the suspension or revocation of his registration, a broker or sales-
69 man shall not be regarded as registered nor be entitled thereafter to regis-
70 tration as either a broker or salesman, nor shall any firm of which he is a
71 member, nor any corporation, trust or other unincorporated association
72 of which he is an officer, trustee, manager or agent, be regarded as regis-
73 tered or be entitled to registration under the provisions of this chapter
74 unless and until such suspension or revocation shall be modified or
75 annulled by the commission or by the court.

Same subject
Receipts,
issuance to
registrants
Register
1921, 499, § 1.
1924, 487, § 5

SECTION 9. The commission shall not issue any certificate or written evidence to any person registered as a broker or salesman other than a receipt in such form as it may approve. Every salesman so registered shall have said receipt upon his person and said receipt shall be shown upon demand to an officer authorized to make arrests but to no other person; violation of this provision by a salesman so registered shall be ground for the cancellation by the commission of his registration. The finding of the commission that a person may act as a broker or salesman within the commonwealth shall, except as aforesaid, take the form solely of entering his name on the register of brokers or salesmen properly indexed and open to the public; but the finding of the commission that the registration of a person to act as a broker or salesman should be cancelled on the register, shall be in the form of an order to that effect. Where the registration of a person as salesman or broker is cancelled under the provisions of this chapter, the commission shall so note upon the register.

Fraudulent
securities;
financial
statements,
information,
etc. open to
public
inspection.
Circulars,
etc. issue
regulated.
Rights of
action, etc.,
not limited
by chapter,
1921, 499, § 1.

SECTION 10. (a) All information received by the commission under this chapter concerning securities found by it to be fraudulent and all financial statements so received concerning any securities shall be kept open by the commission to public inspection at reasonable hours, and the commission shall supply to the public copies of summaries of such information at charges equaling the cost of typing or printing, and shall supply to the police or other persons aiding in the enforcement of the law lists of persons registered as brokers or salesmen; provided, however, that the commission shall have power to place on a separate file not open to the public, except on its special order, any information which it deems, in justice to the person filing the same, should not be made public.

1922, 317, § 2
1924, 487, § 6

(b) A broker registered under this chapter shall place the name under which he is registered and his address upon all circulars, pamphlets or advertisements issued by him concerning any security. No person, other than a broker registered under this chapter, shall issue any circular or pamphlet or procure the publication of any advertisement concerning securities not exempted under section three within the commonwealth, unless such circular, pamphlet or advertisement is signed by such person and all the persons contributing to the cost thereof with their respective addresses and a statement of their respective interests in such securities, or unless the circular, pamphlet or advertisement is signed or its issuance procured or paid for by a so-called syndicate or group of persons at least one of whom is a broker registered under this chapter. The commission may at any time require information showing the compliance of any one so advertising or so issuing circulars or pamphlets with the provisions of this section; and may also, at any time, require in the case of any security the sale of which it has reason to believe has been fraudulent or if continued would result in a fraud, information as to the amount of such security sold to any person, and the person or persons to whom any such security has been sold and the terms and nature of such sale.

(c) Nothing in this chapter shall limit any statutory or common law right of any person to bring any action in any court for any act involved in the sale of securities, or the right of the commonwealth to punish any person for any violation of any law.

Mailing
addresses,
filing by
applicants

SECTION 11. (a) Every person applying for registration as a broker or salesman or filing any lists or information or applying for an order of the

3 commission permitting the sale of securities, or for any other cause, shall
 4 file with the commission his mailing address and any change therein.
 5 Notice sent by mail to such person to such address by said commission
 6 shall be deemed sufficient notice to such person. The commission shall
 7 not cancel or suspend the registration of any broker or salesman except
 8 upon notice to the registrant, provided he has complied with this sub-
 9 division.
 10 (b) No person shall in issuing or publishing any circular or advertise-
 11 ment make any reference whatsoever to the fact that the provisions of this
 12 chapter have been complied with. The violation of this provision shall be
 13 ground for the cancellation of the registration of such person as broker or
 14 salesman or for forbidding the sale of the securities so referred to.
 15 (c) The certificate of the commission over the signature of its secretary
 16 or assistant secretary shall be competent evidence, where otherwise admis-
 17 sible, in any court as to any act or finding of the commission.
 18 (d) The commission shall investigate all such complaints as to the sale
 19 of fraudulent securities or the fraudulent sale of securities or the violation
 20 of any of the provisions of this chapter as shall be referred to it, and shall
 21 report such violations to the attorney general if it considers the public
 22 interest so requires. The attorney general shall report to the commission
 23 in writing on or before the first Wednesday of each year as to the dis-
 24 position of all such cases so reported to him by the commission.

for registra-
 tion, etc.
 Advertis-
 ments, etc.,
 regulated.
 Findings,
 etc., of com-
 mission, cer-
 tificate as
 evidence.
 Complaints,
 investiga-
 tion, etc.
 1921, 499, § 1.

1 SECTION 12. The provisions of section four of chapter twenty-five,
 2 so far as applicable, shall apply to the proceedings under this chapter,
 3 except as otherwise provided.

1921, 499, § 1.

Proceedings
 under this
 chapter sub-
 ject to cer-
 tain laws.

1 SECTION 13. [INSERTED, 1921, 499, § 1; REPEALED, 1922, 259, § 2.]

1 SECTION 14. A person shall not be excused from attending and testify-
 2 ing before the commission, acting under the provisions of this chapter, on
 3 the ground that his testimony or evidence, documentary or otherwise,
 4 may tend to criminate him or subject him to a penalty or forfeiture; but
 5 he shall not be prosecuted or subject to a penalty or forfeiture for, or on
 6 account of, any action, matter or thing concerning which he may be re-
 7 quired to so testify or produce evidence except for perjury committed in
 8 such testimony.

Witnesses,
 attendance
 and testimony
 before com-
 mission,
 immunity
 from prose-
 cution, etc.
 1921, 499, § 1.

1 SECTION 15. Whoever, being required under any section of this
 2 chapter to furnish information under oath, wilfully swears or affirms
 3 falsely in a matter relative to which such oath or affirmation is required,
 4 shall be guilty of perjury. Whoever violates any provision of this chapter
 5 shall be punished by a fine of not more than five thousand dollars or by
 6 imprisonment for not more than two and one half years, or both. Any
 7 officer authorized to make arrests may arrest without a warrant and keep
 8 in custody until he can be taken before a court having jurisdiction of such
 9 offense, any salesman offering securities for sale who does not have in his
 10 possession and who does not exhibit upon demand to such officer a receipt
 11 issued to him by the commission under the provisions of section nine of
 12 this chapter. Record shall be kept by every court and trial justice of
 13 every case in which a person is convicted of a violation of any provision
 14 of this act, and of every case in which a person registered as a broker or

Perjury.
 General
 penalty.
 Arrest with-
 out warrant
 for offering
 securities for
 sale without
 receipt, etc.
 Records of
 convictions,
 abstracts to
 commission.
 1921, 499, § 1
 1924, 487, § 7

salesman is convicted of a felony, and an abstract of such record shall be 15
sent forthwith by the clerk of the court or the trial justice to the com- 16
mission. 17

Invalidity of
any provision,
etc., effect,
1921, 499, § 1.

SECTION 16. If any provision of this chapter, or the application of 1
such provision to any person or circumstances, shall be held invalid, the 2
remainder of this chapter, or the application of such provision to persons 3
or circumstances other than those as to which it is held invalid, shall not 4
be affected thereby. 5

TITLE XVI.

PUBLIC HEALTH.

- CHAPTER 111. Public Health.
 CHAPTER 112. Registration of Certain Professions and Occupations.
 CHAPTER 113. Promotion of Anatomical Science.
 CHAPTER 114. Cemeteries and Burials.

CHAPTER 111.

PUBLIC HEALTH.

SECT.

DEFINITIONS.

1. Definitions.
- DUTIES OF THE DEPARTMENT OF PUBLIC HEALTH.
2. Commissioner of public health. Certain duties, etc.
3. Certain duties of the public health council.
4. Health districts. District health officers.
5. Powers and duties of the department, in general.
6. To define diseases deemed dangerous to public health.
7. Investigation of contagious diseases. Notice. Penalty.
8. May prohibit use of common drinking cups and towels. Penalty.
9. May appoint analysts, inspectors, etc., to make investigations. Penalty for hindering, etc.
10. Analyses of paint, turpentine, etc.
11. Analyses of intoxicating liquors.
12. Analyses of drugs and poisons.
13. To furnish certificates of results of analyses.
14. To furnish remedies for ophthalmia neonatorum.
15. Tests for division of animal industry.
16. To report unsanitary condition of barns, etc., to director of animal industry.
17. Advice as to disposal of sewage. Definitions.
18. Powers and duties of district health officer.

SECT.

19. Annual report of district health officer.
20. Examination of police stations, etc.
21. Department to make rules for police stations, etc.
22. Approval of plans for police station houses.
23. Annual report of commissioner. Recommendations.
24. Department may publish certain information.
25. Department to publish results of analyses, etc.

CITY AND TOWN BOARDS OF HEALTH.

26. Local boards of health. Number, appointment, etc.
27. Organization, physicians, etc.
- 27A. Appointment of health officers by union of two or more towns. Exception. Duties, salary, etc.
28. Annual reports.
29. Weekly reports of deaths from certain diseases.
30. Agents.
31. Health regulations. Notice.
- 31A. Removal, etc., of garbage, etc., regulated.
32. Retention of cases.

SANITARY STATIONS.

33. Construction of sanitary stations, etc.

BAKERIES.

34. Construction of bake rooms.
35. Sleeping places regulated.

SECT.

- 36. Compulsory alteration of premises.
- 37. Regulations.
- 38. Penalty for violation of four preceding sections.
- 39. Rules and regulations for bakeries. Enforcement. "Bakery" defined.
- 40. Construction of bakeries.
- 41. Employees' clothing, rooms for hanging, etc.
- 42. Regulations for sale, etc., of bakery products.
- 43. Cleanliness of employees.
- 44. [Repealed.]
- 45. [Repealed.]
- 46. Changes in bakeries.
- 47. Closing of unfit bakery. Hearing. Appeal.
- 48. Approval of new bakeries.
- 49. Penalty.

DISPENSARIES.

- 50. Cities and towns may maintain clinics, etc.
- 51. Definition of "dispensary".
- 52. Maintenance of unlicensed dispensaries prohibited.
- 53. License.
- 54. Rules and regulations.
- 55. Inspection. Revocation of license.
- 56. Penalties.
- 57. Establishment and maintenance of tuberculosis dispensaries. Penalty.

DAY NURSERIES.

- 58. Definition.
- 59. Licenses.
- 60. Rules and regulations.
- 61. Inspection. Revocation of license.
- 62. Penalties.

CHILDREN'S HEALTH CAMPS.

- 62A. Establishment in certain cities and towns.
- 62B. Commission on children's health camps.
- 62C. Powers and duties of commission.
- 62D. City, etc., treasurer to invest, etc., money, etc., received from commission. Bond.
- 62E. Records, annual report, etc.
- 62F. Union children's health camp districts.
- 62G. Approval of department required. Inspection.
- 62H. Certain contracts for care, etc., of school children deemed compliance with §§ 62A to 62G.

STATE SANATORIA.

- 63. Sanatoria, duties of commissioner relative to.

SECT.

- 64. Annual inventory, etc.
- 65. Admissions to the Rutland state sanatorium.
- 65A. Treatment of extra-pulmonary tuberculosis at Lakeville state sanatorium.
- 66. Charges for support of inmates of state sanatoria. Exceptions. Certain statements as evidence.
- 67. Trust funds for sanatoria.
- 68. [Repealed.]
- 69. [Repealed.]

FONDVILLE HOSPITAL.

- 69A. Admissions for treatment for cancer.
- 69B. Notice of admissions.
- 69C. Charges for support. Recovery. Certain statements as evidence.
- 69D. Cause of action deemed to have accrued, when.

HOSPITALS.

- 70. Certain hospitals to keep records of cases. Inspection, copies.
- 71. Maternity hospitals. Licensing.
- 72. Same subject. Rules. Inspection.
- 73. Same subject. Keeping, etc., unlicensed hospital penalized.
- 74. Certain towns may appropriate money to be paid to hospitals for the reception, etc., of certain persons.
- 75. Unlawful use of buildings for hospitals penalized.
- 76. Cities and towns to receive subsidies for certain consumptive patients.
- 77. Payments of claims.
- 78. Counties to provide hospital care for certain persons suffering from tuberculosis.
- 79. Contracts for supplying hospital facilities for consumptives.
- 80. "Adequate" hospital provision, term defined.
- 81. County commissioners to erect one or more hospitals. Exceptions. Capacity.
- 82. To borrow money, etc.
- 83. To apportion cost to cities and towns, etc.
- 84. [Repealed.]
- 85. Apportionment of maintenance of hospitals and preventoria.
- 85A. Temporary loans for care, etc., of hospitals.
- 85B. Preventoria.
- 85C. Diagnostic service in respect to tuberculosis, etc.
- 86. County commissioners may take land.
- 87. County commissioners to be trustees, etc.
- 88. Admission of patients, etc. Payment by cities and towns, etc.

SECT.	
89.	Situation, plans, etc., to be approved by state department.
90.	Certain officials to act for Chelsea, Revere and Winthrop.
91.	Exemptions. Certain cities and towns to become members of hospital districts, when. Proportionate payments of cost of hospitals required.
DANGEROUS DISEASES.	
92.	Maintenance of isolation hospitals, etc. Exceptions.
93.	Physicians, nurses, etc., subject to regulations.
94.	Cities and towns having isolation hospitals may receive persons from adjoining towns.
95.	Powers and duties of boards in cases of infectious diseases.
96.	Warrants to remove sick persons, etc.
97.	Limitation of two preceding sections.
98.	Removal of infected articles, persons, etc.
99.	Warrant to secure infected articles, etc.
100.	Warrants to take houses for safe keeping of goods.
101.	Officers may command aid. Penalty.
102.	Payment of expenses.
103.	Compensation for houses, etc., impressed.
104.	Notice of infected places. Penalty for removal, etc.
105.	Penalty for violation of regulations.
106.	Travelers from infected places outside commonwealth. License, etc. Penalty.
107.	Transportation of infected dead bodies regulated. Penalty.
108.	Removal of sick prisoners.
109.	Householder to give notice of dangerous diseases. Penalty.
110.	Diseases of the eyes of infants to be reported. Penalty.
111.	Physicians to report names of persons infected with certain diseases. Penalty.
112.	Local board to notify department.
113.	Records and reporting of dangerous diseases. Penalty.
114.	Forfeiture of claim.
115.	Recovery of expenses.
116.	Payment of certain expenses regulated.
VENEREAL DISEASES.	
117.	Treatment of venereal diseases.
118.	Discrimination against treatment of venereal diseases, when forbidden.

SECT.	
119.	Records, etc., of venereal diseases not public records. Penalty.
120.	Certain records, etc., to be destroyed.
121.	Treatment of venereal diseases and tuberculosis in certain institutions. Payment of expense.
NUISANCES.	
122.	Nuisances. Examination, regulation, etc.
123.	To be abated by owner.
124.	Service of order for abatement.
125.	Removal by board.
126.	Location of privy vaults regulated.
127.	Regulations relative to house drainage.
128.	Eviction from unfit dwelling. Penalty for further occupation.
129.	Removal or destruction of nuisance on conviction of owner, etc.
130.	Enjoining nuisance.
131.	Compulsory examination of premises.
132.	Certain land deemed nuisance.
133.	Application for abatement.
134.	Proceedings on application for abatement.
135.	Form of notice and service thereof.
136.	Abatement of nuisance. Damages.
137.	Appeal from adjudication of nuisance.
138.	Appeal from assessment.
139.	Board to make return.
140.	Appointment of commissioners.
141.	Application to county commissioners.
142.	Costs and expenses. Award, payment.
NOISOME TRADES.	
143.	Assignment of places for offensive trades.
144.	Revocation by court.
145.	Damages.
146.	Orders of prohibition. Penalty.
147.	Appeal from order.
148.	Trade not to be exercised meanwhile.
149.	Verdict. Effect.
150.	Damages and costs.
151.	Slaughter houses, etc., regulated. Exceptions.
152.	Prohibition of offensive trades. Penalty.
153.	Restraint of offensive trades.
154.	Killing and rendering of horses, etc., regulated. Penalty.
STABLES.	
155.	Licenses for stables in cities and certain towns.
156.	Stables in vicinity of churches regulated.

- SECT.
157. Penalty.
158. Licenses for stables in small towns.

WATER SUPPLY.

159. Supervision of inland waters.
160. Examination of water supply
Rules. Penalty for violation.
161. Effect of publication of rule, etc.
162. Removal of causes of pollution.
Damages. Penalty for violation
of order.
163. Appeal from order.
164. Enforcement of law.
165. Entry on premises. Compensation,
how apportioned, etc.
166. Application of preceding sections
limited.
167. Protection of sources of water
supply.
168. Prescriptive rights, etc., unaffected.
Application of preceding section
limited.
169. Injunction against pollution of water
supply.
170. Defilement of spring or source of
water, etc., penalized.
171. Wilful corrupting of sources of water
supply penalized.
172. Bathing in sources of water supply
penalized.
173. Protection of domestic water supply.
174. Driving on ice on ponds used for
water supply penalized.

- SECT.
174A. Prevention of defilement by gulls or
terns of waters used for domestic
water supply.

PROTECTION OF CHARLES RIVER.

175. Protection of Charles river from
pollution.

QUARANTINE.

176. Quarantine grounds.
177. Quarantine regulations.
178. Quarantine of suspected vessels.
179. Person refusing to answer questions
relating to infections, etc., penal-
ized.
180. Payment of quarantine expenses.

VACCINATION.

181. Boards of health to enforce vaccina-
tion. Penalty.
182. Inmates of factories, etc., to be
vaccinated.
183. Exemptions.

MISCELLANEOUS PROVISIONS.

184. County bacteriological laboratories.
185. Certain apparatus to be disinfected,
etc.
186. Use of certain machines penalized.
187. Enforcement of provisions of chap-
ter.
188. Disposition of fines and forfeitures.
189. Chapter, when applicable to cities.

DEFINITIONS.

Definition—
[For additional
definitions
see §§ 17, 39,
51, 58, 80.]

SECTION 1. The following words as used in this chapter, unless a different meaning is required by the context or is specifically prescribed, shall have the following meanings:

“Board of health” shall include the board or officer having like powers and duties in towns where there is no board of health.

“Commissioner”, the commissioner of public health.

“Council”, the public health council of the department of public health.

“Department”, the department of public health.

DUTIES OF THE DEPARTMENT OF PUBLIC HEALTH.

Commissioner
of public
health—(Certain
duties, etc.,
1869, 420, 335,
1886, 101, 333,
R. L. 75, § 3,
1911, 792,
38, 2, 8,
1919, 359,
§ 96, 97,
1 Op. A. G.
16, 100, 403.)

SECTION 2. The commissioner shall administer the laws relative to health and sanitation and the regulations of the department, and shall prepare rules and regulations for the consideration of the council. He may direct any executive officer or employee of the department to assist in the study, suppression or prevention of disease in any part of the commonwealth. He shall submit annually to the council a report containing recommendations in regard to health legislation.

Certain duties
of the public
health council

SECTION 3. The council shall make and promulgate rules and regulations, take evidence in appeals, consider plans and appointments re-

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3 quired by law, hold hearings, and discharge other duties required by 1869, 420,
4 law; but it shall have no administrative or executive functions. § 1-3, 5.

1879, 291, §§ 2, 7,
P. S. 79, §§ 1, 3.

1886, 101, §§ 1-3,
1889, 379

R. L. 75, §§ 1-3,
1914, 792, §§ 3, 8.

1 SECTION 4. The commissioner, with the approval of the council, shall Health
2 from time to time divide the state into not more than eight health dis- district
3 tricts. He may from time to time order two or more district health officers health
4 to work in one district, in order to study, suppress or prevent disease. officers
5 Each district health officer shall act as the representative of the commis- 1907, 537,
6 sioner, and under his direction shall secure the enforcement within his § 1, 4
7 district of the laws and regulations relating to public health. He shall 1910, 523, § 1,
8 have the powers and perform the duties set forth in this chapter, and 1911, 792, § 5
9 under the direction of the commissioner, shall perform such other duties 1919, 350, § 97,
10 as he may prescribe. 1920, 435.

1 SECTION 5. The department shall take cognizance of the interests of Powers and
2 health and life among the citizens of the commonwealth, make sanitary duties of the
3 investigations and inquiries relative to the causes of disease, and es- department,
4 pecially of epidemics, the sources of mortality and the effects of localities, in general
5 employments, conditions and circumstances on the public health, and 1869, 420, § 2,
6 relative to the sale of drugs and food and adulterations thereof; and shall 1879, 291, § 3,
7 gather and disseminate such information relating thereto as it considers P. S. 80, § 1,
8 proper for diffusion among the people. It shall advise the government 1882, 263, § 5,
9 concerning the location and other sanitary condition of any public insti- 1886, 101, § 4,
10 tution; and shall have oversight of inland waters, sources of water supply 1888, 375, § 1,
11 and vaccine institutions; and may, for the use of the people of the com- 1894, 355,
12 monwealth, produce and distribute antitoxin and vaccine lymph and such 1897, 510, § 1,
13 specific material for protective inoculation, diagnosis or treatment against 1901, 104
14 typhoid fever and other diseases as said department may from time to 1903, 481,
15 time deem it advisable to produce and distribute; and may sell, under R. L. 75, § 4,
16 such rules, regulations or restrictions as the council may establish, such 1912, 104,
17 amounts of the various biologic products prepared or manufactured in 1914, 792, § 1,
18 the laboratories of the department, as constitute an excess over the 1917, 190,
19 amounts required for the diagnosis, prevention and treatment of infectious 1919, 350, § 96,
20 diseases within the commonwealth. It shall annually examine all main 1921, 522
21 outlets of sewers and drainage of towns of the commonwealth, and the 1920, 151,
22 effect of sewage disposal. 125 Mass. 182.

1 SECTION 6. It shall define what diseases shall be deemed to be dan- To define
2 gerous to the public health. diseases deemed
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1907, 183, § 1.

1914, 792, § 1.

1919, 350, § 96.

1 SECTION 7. If smallpox or any other contagious or infectious disease Investiga-
2 declared by the department to be dangerous to the public health exists tion of
3 or is likely to exist in any place within the commonwealth, the depart- contagious
4 ment shall make an investigation thereof and of the means of preventing diseases.
5 the spread of the disease, and shall consult thereon with the local authori- Notice
6 ties. It shall have co-ordinate powers as a board of health, in every town, Penalty
7 with the board of health thereof. It may require the officers in charge of 1879, 291, § 6,
8 any city or state institution, charitable institution, public or private P. S. 80, § 2,
9 hospital, dispensary or maternity hospital, or any board of health, or the R. L. 75, § 8,
10 physicians in any town to give notice of cases of any disease declared by 1913, 679,
11 the said department to be dangerous to the public health. Such notice 1914, 792, § 1,
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1919, 350, § 96
1931, 213, § 3.
3 Op. A. G. 81.

shall be given in such manner as the department may deem advisable. 12
If any such officer, board or physician refuses or neglects to give such 13
notice, he or they shall forfeit not less than fifty nor more than two hun- 14
dred dollars. 15

May prohibit
use of common
drinking cups
and towels.
Penalty
1910, 428,
§ 1, 2
1912, 59,
§ 1, 2
1914, 792, § 1.
1919, 350, § 96

SECTION 8. In order to prevent the spread of communicable diseases, 1
the department may prohibit in hotels and in such public places, vehicles 2
or buildings as it may designate the providing of a common drinking cup 3
or a common towel, and may establish rules and regulations for this pur- 4
pose. Whoever violates any such rule or regulation shall be punished by 5
a fine of not more than twenty-five dollars. 6

Op A G (1920) 126.

May appoint
analysts, in-
spectors, etc.,
to make in-
vestigations.
Penalty for
hinderling, etc.
1882, 263,
§ 5, 7
1884, 289, § 3.
1885, 352, § 5.
R. L. 75, § 5.
1910, 394
1914, 792, § 1.
1919, 350, § 97.
203 Mass. 602.

SECTION 9. In the performance of the duties relative to the sale of 1
drugs and food the commissioner may appoint and remove inspectors, 2
analysts and chemists. Such inspectors shall, in addition to the powers 3
given by sections one hundred and twenty-one to one hundred and twenty- 4
three, inclusive, of chapter ninety-four, have the same power and author- 5
ity relative to drugs, food and milk as is given inspectors of milk 6
by sections thirty-five and sixty of said chapter. Whoever hinders, ob- 7
structs or in any way interferes with any such inspector, analyst or 8
chemist in the performance of his official duty shall for the first offence 9
be punished by a fine of not more than fifty dollars, and for a subsequent 10
offence by a fine of not more than one hundred dollars. 11

Analyses of
paint, tur-
pentine, etc.
1911, 218.
266, § 3.
1914, 792, § 1.
1919, 350,
§ 96, 99, 102.

SECTION 10. The department shall make, free of charge, a chemical 1
analysis of paint, turpentine, linseed oil, or any synthetic substitute 2
for them, or any preparation containing the same, when submitted to 3
it by the commissioner of public safety; and the department shall 4
furnish to the said commissioner a certificate of the analysis, which 5
shall be prima facie evidence of the composition and quality of the 6
material so analyzed. 7

Analyses of
intoxicating
liquors.
1869, 415, § 25.
1872, 266, § 2.
1875, 99, § 21
P. S. 100, § 29.
1882, 221, § 1.
R. L. 100, § 67.

SECTION 11. It shall analyze, in accordance with sections fifty-four 1
to fifty-seven, inclusive, of chapter one hundred and thirty-eight, all 2
samples of intoxicating liquors submitted to it for that purpose by 3
any licensing authority, board of health or police department of any 4
town if satisfied that the analysis is to be used in enforcing the laws. 5

1902, 110. 1919, 350, § 96.
1914, 484, 792, § 1. 1920, 29.

Analyses of
drugs and
poisons
1910, 495, § 1
1914, 792, § 1
1919, 350, § 96.

SECTION 12. It shall make, free of charge, a chemical analysis of 1
cocaine, alpha or beta eucaine, or any synthetic substitute for them, 2
or any preparation containing the same, or any salt or compound 3
thereof, and of any poison, drug, medicine or chemical, when submitted 4
to it by police authorities or by such incorporated charitable organi- 5
zations in the commonwealth, as the department shall approve for this 6
purpose; provided, that it is satisfied that the analysis is to be used 7
for the enforcement of law. 8

To furnish
certificates of
results of
analyses.
1910, 495, § 2
1914, 792, § 1.
1915, 104
1919, 350, § 96.

SECTION 13. The analyst or an assistant analyst of the depart- 1
ment shall upon request furnish a signed certificate, on oath, of the re- 2
sult of the analysis provided for in the preceding section to any police 3
officer or any agent of such incorporated charitable organization, and 4
the presentation of such certificate to the court by any police officer 5

6 or agent of any such organization shall be prima facie evidence that all
 7 the requirements and provisions of the preceding section have been
 8 complied with. This certificate shall be sworn to before a justice of
 9 the peace or notary public, and the jurat shall contain a statement
 10 that the subscriber is the analyst or an assistant analyst of the depart-
 11 ment. When properly executed it shall be prima facie evidence of the
 12 composition and quality of the drugs analyzed, and the court shall
 13 take judicial notice of the signature of the analyst or assistant analyst,
 14 and of the fact that he is such.

1 SECTION 14. It shall furnish, free of cost, to registered physicians
 2 such prophylactic remedies as it may deem best for the prevention of
 3 ophthalmia neonatorum. To furnish
remedies for
ophthalmia
neonatorum.
 1910, 158. 1914, 792, § 1. 1919, 350, § 96.

1 SECTION 15. It may perform for the division of animal industry,
 2 upon such terms and conditions as may be agreed upon, such services
 3 in its laboratory as may be necessary in the examination of materials
 4 from animals suspected of being infected with glanders, tuberculosis,
 5 rabies or other diseases of domestic animals. Tests for
division of
animal
industry.
1916, 155,
1919, 350,
§§ 39, 40, 96.

1 SECTION 16. It shall report to the director of animal industry all
 2 cases brought to its attention where barns, stables or other enclosures,
 3 in which neat cattle, other ruminants or swine are kept, are in an un-
 4 sanitary condition. To report
unsanitary
condition of
barns, etc., to
director of
animal
industry.
 1911, 381, § 2. 1914, 792, § 1.
 1912, 608, §§ 1, 2, 4. 1919, 350, §§ 44, 96.

1 SECTION 17. The department shall consult with and advise the offi-
 2 cers of towns and persons having or about to have systems of water
 3 supply, drainage or sewerage as to the most appropriate source of water
 4 supply and the best method of assuring its purity, or as to the best method
 5 of disposing of their drainage or sewage with reference to the existing
 6 and future needs of other towns or persons which may be affected there-
 7 by. It shall also consult with and advise persons engaged or intending to
 8 engage in any manufacturing or other business whose drainage or sewage
 9 may tend to pollute any inland water as to the best method of preventing
 10 such pollution, and it may conduct experiments to determine the best
 11 methods of the purification or disposal of drainage or sewage. No person
 12 shall be required to bear the expense of such consultation, advice or ex-
 13 periments. Towns and persons shall submit to said department for its
 14 advice their proposed system of water supply or of the disposal of drainage
 15 or sewage, and all petitions to the general court for authority to intro-
 16 duce a system of water supply, drainage or sewerage shall be accom-
 17 panied by a copy of the recommendation and advice of said department
 18 thereon. In this section the term "drainage" means rainfall, surface and
 19 subsoil water only, and "sewage" means domestic and manufacturing
 20 filth and refuse. Advice as to
disposal of
sewage.
Definitions.
1886, 274,
§§ 2, 3,
1888, 375,
§§ 2-4.
R. L. 75, § 117.
1914, 792, § 1.
1919, 350, § 96.

1 SECTION 18. Every district health officer shall inform himself re-
 2 specting the sanitary condition of his district and concerning all in-
 3 fluences dangerous to the public health or threatening to affect the
 4 same; he shall gather all information possible concerning the prevalence
 5 of tuberculosis and other diseases dangerous to the public health within
Powers and
duties of dis-
trict health
officer
1907, 537, § 3.
1914, 792,
§§ 1, 5.
1919, 350, § 96.

his district, shall disseminate knowledge as to the best methods of preventing the spread of such diseases, and shall take such steps as, after consultation with the department and the local authorities, shall be deemed advisable for their eradication.

SECTION 19. Every such officer shall keep a record of his proceedings and observations, shall annually on or before December first make a report thereof to the department, shall from time to time furnish the department with such information as it may require of circumstances affecting the public health in his district, and shall in every instance where a written suggestion is made by him to the local authorities send a copy of such suggestion to said department.

SECTION 20. District health officers shall annually make such examination of police station houses, lockups, houses of detention, and, except in the county of Suffolk, jails, houses of correction, prisons and reformatories as in the opinion of the department may be necessary to ascertain their sanitary condition.

SECTION 21. The department shall make rules for police station houses, lockups, houses of detention, jails, houses of correction, prisons and reformatories, regarding the care and use of drinking cups and of dishes used for food, the care and use of bedding, and the ventilation of the buildings. Such rules may be general or applicable to a single building. A copy of such rules as are applicable to station houses, houses of detention or lockups shall be sent by the said department to the mayor of every city and to the selectmen of every town to which the rules apply; and a copy of such rules as are applicable to jails, houses of correction, prisons or reformatories shall be sent by the department to the proper authorities. Said officials shall enforce said rules.

SECTION 22. No station house, house of detention or lockup shall be built until the department has approved in writing the plans, the provisions for lighting, heating and ventilation and for the disposal of sewage, and the dimensions and form of construction of the cells.

SECTION 23. The commissioner shall make an annual report, including the results of the examination of main outlets of sewers and drainage of towns and the effect of sewage disposal, with such recommendations for the preservation of the interest of persons and property and for the prevention of offensive odors and objectionable conditions as he considers expedient, together with recommendations for the prevention of the pollution of waters used for ice or water supply and for the removal of polluting substances, in order to protect and develop the rights and property of the commonwealth therein and protect public health; and he may recommend any legislation or plans for systems of main sewers necessary for the preservation of the public health and for the purification and prevention of pollution of ponds, streams and inland waters of the commonwealth. The commissioner shall include in his annual report the number of prosecutions by the department under chapter ninety-four and an itemized account of the money expended by it in enforcing said chapter.

1 SECTION 24. The said department may publish for general distribu-
 2 tion such parts of its annual report and such other matter as it may
 3 deem adapted to promote the interests of the public health in the com-
 4 monwealth; provided, that the expense of such publication is paid out
 5 of the appropriation for the general expenses of the department and does
 6 not exceed in any one year the sum of five hundred dollars. The depart-
 7 ment may also publish for distribution among the boards of health
 8 throughout the commonwealth, not oftener than once in three years, a
 9 manual of the laws relating to boards of health in the commonwealth,
 10 together with such information upon the same subject as it may deem
 11 expedient. The cost of such publications shall not exceed one thousand
 12 dollars for each edition, and shall be paid out of the appropriation for
 13 general expenses of the department.

Department
 may publish
 certain in-
 formation.
 1902, 230,
 1913, 622,
 1914, 792, § 1.
 1919, 350, § 96.

1 SECTION 25. The department shall publish in each issue of its official
 2 departmental publication, and also, if in its opinion the public health
 3 can be served thereby, may publish in one or more newspapers in the
 4 commonwealth, a certificate of the examination or analysis made under
 5 its authority during the preceding months of any article of food manu-
 6 factured or offered for sale in the commonwealth which is adulterated
 7 within the meaning of chapter ninety-four; and it shall also publish, with
 8 such certificate of examination, a statement of the trade mark, brand
 9 mark or name, with the name and place of business of the manufacturer,
 10 appearing upon the package or box containing such adulterated article,
 11 or with the name and place of business of the wholesale dealer of whom
 12 the goods were obtained.

Department
 to publish
 results of
 analysis, etc.
 1902, 272, § 1.
 1914, 792, § 1.
 1919, 350, § 96.
 1922, 200.

CITY AND TOWN BOARDS OF HEALTH.

1 SECTION 26. In each city, except Boston, the board of health shall
 2 consist of three persons, one of whom shall be a physician. No one of
 3 them shall be a member of the city council. One member shall be ap-
 4 pointed in January of each year for three years from the first Monday of
 5 the following February. Unless a different mode of appointment or
 6 election is provided in the city charter, the members shall be appointed
 7 by the mayor, subject to confirmation by the board of aldermen, and
 8 may be removed by the mayor for cause, and vacancies shall be filled
 9 by appointment for the residue of the unexpired term. Members of the
 10 board shall receive such compensation as the city council may determine.
 11 Boards of health in towns shall be chosen as provided in chapter forty-
 12 one.

Local boards
 of health
 Number, ap-
 pointment, etc.
 1849, 211,
 §§ 1, 2.
 G. S. 26, § 2.
 1877, 133, § 1.
 P. S. 80,
 §§ 4, 8.
 1894, 174,
 1895, 332,
 R. L. 75, § 9.
 172 Mass. 417.
 173 Mass. 348.
 194 Mass. 51.
 195 Mass. 173.

1 SECTION 27. Every such board shall organize annually by the choice
 2 of one of its number as chairman. It may make rules and regulations for
 3 its own government and for the government of its officers, agents and
 4 assistants. It may appoint a physician to the board, who shall hold his
 5 office during its pleasure, may choose a clerk, who in a city shall not be a
 6 member of the board, and may employ the necessary officers, agents and
 7 assistants to execute the health laws and its regulations. It may fix the
 8 salary or other compensation of such physician and its clerk and other
 9 agents and assistants.

Organization,
 physicians, etc.
 1819, 44, § 7.
 R. S. 21,
 §§ 3, 4.
 G. S. 26,
 §§ 3, 4.
 1877, 133,
 §§ 2, 3.
 P. S. 80,
 §§ 5, 6, 9, 10.
 R. L. 75, § 10.
 195 Mass. 173.
 257 Mass. 580.

1 SECTION 27A. Two or more towns may, by vote of each, form a dis-
 2 trict for the purpose of employing a health officer therein who shall an-

Appointment
 of health
 officers by

union of two or more towns. Exception. Duties, salary, etc. 1929, 77.

nually be appointed by a joint committee composed of the chairman and secretary of the board of health of each of the said towns and shall perform such duties as said joint committee may prescribe. The committee shall determine the relative amount of service to be performed by him in each town, fix his salary, apportion the amount thereof to be paid by each town and certify the same to each town treasurer. Such a health officer insofar as his duties in a given town are concerned shall be the employe of and responsible to the regularly constituted board of health of said town. This section shall not apply to the county of Barnstable.

Annual reports. 1877, 133, § 4. P. S. 80, § 11. R. L. 75, § 11.

SECTION 28. In each city such board shall annually in January make a full and comprehensive report to the city council of its acts during the preceding year and of the sanitary condition of the city. It shall also, if the city council or the standing committee on finance thereof so requires, send to the city auditor a detailed estimate of the appropriation required by its department for the next financial year.

Weekly reports of deaths from certain diseases. 1897, 428, § 2. R. L. 75, § 12. 1913, 210.

SECTION 29. Boards of health shall send to the department every week, upon forms to be prescribed by it, a report of deaths in their towns for the week ending Saturday noon, from all diseases declared by the department to be dangerous to the public health.

1914, 792, § 1. 1916, 53. 1919, 350, § 96.

Agents 1866, 271. 1879, 75. P. S. 80, § 16. R. L. 75, § 13. 143 Mass. 113.

SECTION 30. Boards of health may appoint agents to act for them in cases of emergency or if they cannot conveniently assemble, and any such agent shall have all the authority which the board appointing him had; but he shall in each case within two days report his action to the board for its approval, and shall be directly responsible to it and under its direction and control. An agent appointed to make sanitary inspections may make complaint of violations of any law, ordinance or by-law relative to the public health.

Health regulations. Notice. 1846, 44. §§ 3, 11. R. S. 21, § 8. G. S. 26, § 6.

SECTION 31. Boards of health may make reasonable health regulations. All regulations made by boards of health under this chapter shall be published once in a newspaper published in the town, and such publication shall be notice to all persons.

P. S. 80, § 19. 1920, 591, § 17. 265 Mass. 520. R. L. 75, § 14. 1924, 180. 273 Mass. 177. 1914, 90. 260 Mass. 544.

Removal, etc., of garbage, etc., regulated. 1921, 358.

SECTION 31A. Any person may remove or transport garbage, offal or other offensive substances through the streets; provided that he shall first register with the local board of health, the fee for which registration shall not exceed two dollars; and provided, further, that he shall remove and transport the material herein mentioned in accordance with such reasonable rules and regulations as may be established by the said board.

Retention of cases 1874, 121, § 1. P. S. 80, § 17. R. L. 75, § 15.

SECTION 32. A board of health shall retain charge, to the exclusion of the board of public welfare, of any case arising under this chapter in which it has acted.

1931, 394, § 116.

SANITARY STATIONS.

1 SECTION 33. In every city, and in every town having a population
 2 of over ten thousand, when, in the opinion of the board of health, pub-
 3 lic necessity requires it, there shall be established and maintained by the
 4 town in some convenient places, at or near the business centre, one or
 5 more sanitary stations, with separate water closets for the use of each
 6 sex. Their number and location shall be determined by the board of
 7 health.

Construction
 of sanitary
 stations, etc.
 1911, 596, § 1.

BAKERIES.

1 SECTION 34. Every room used for the manufacture of flour or meal
 2 food products shall, if required by the board of health, have an im-
 3 permeable floor constructed of cement or tiles laid in cement, and an
 4 additional floor of wood properly saturated with linseed oil. The walls
 5 and ceiling of such room shall be plastered or wainscoted, and, if re-
 6 quired by the board of health, shall be whitewashed at least once in
 7 three months. The furniture and utensils therein shall be so arranged
 8 that they and the floor may at all times be kept clean and in good sani-
 9 tary condition.

Construction
 of bake rooms.
 1896, 418, § 2.
 R. L. 75, § 29.

1 SECTION 35. The sleeping places for persons employed in a bakery
 2 shall be separate from the rooms where flour or meal food products are
 3 manufactured or stored.

Sleeping places
 regulated.
 1896, 418, § 5.
 R. L. 75, § 30.

1 SECTION 36. The owner, agent or lessee of any property affected
 2 by section thirty-four shall, within sixty days after service of written
 3 notice requiring any alterations to be made in such property, comply
 4 therewith. Such notice may be served upon such owner, agent or lessee
 5 personally or by mail directed to his last known address.

Compulsory
 alteration of
 premises.
 1896, 418, § 7.
 R. L. 75, § 32.

1 SECTION 37. Except as provided in section thirty-nine, boards of
 2 health may make such further regulations as the public health may re-
 3 quire, and shall cause such regulations, together with sections thirty-four
 4 to thirty-eight, inclusive, to be printed and posted in all such bakeries
 5 and places of business.

Regulations.
 1896, 418, § 8.
 R. L. 75, § 34.
 1902, 403.

1 SECTION 38. Whoever violates any provision of sections thirty-four
 2 to thirty-six, inclusive, or refuses to comply with any requirement of the
 3 board of health authorized therein or in the preceding section shall be
 4 punished for a first offence by a fine of not less than twenty nor more
 5 than fifty dollars; for the second offence by a fine of not less than fifty
 6 nor more than one hundred dollars or by imprisonment for not more
 7 than ten days; and for any subsequent offence by a fine of not less than
 8 two hundred and fifty dollars or by imprisonment for not more than one
 9 month, or both.

Penalty for
 violation of
 four preceding
 sections.
 1896, 418, § 6.
 R. L. 75, § 33.

1 SECTION 39. The department may make rules and regulations to
 2 carry out sections forty to forty-nine, inclusive. Said sections and the
 3 rules and regulations shall be enforced by the department and by the
 4 local boards of health acting under the supervision of the department;
 5 provided, that the provisions of sections forty and forty-one relating
 6 to the health of employees shall be enforced by the department of labor
 7 and industries in accordance with such rules and regulations as it may

Rules and
 regulations
 for bakeries.
 Enforcement.
 "Bakery"
 defined.
 1920, 418,
 § 1, 2.
 1921, 515, § 1.
 1931, 426, § 34.
 Op. A. G.
 (1919) 27.

prescribe. The word "bakery", as used in sections forty to forty-eight, 8
inclusive, shall mean a building or part thereof wherein is carried on 9
the production, preparation, packing, storing, display or sale of bakery 10
products, including any separate room used for the convenience or 11
accommodation of the workers, except that sections forty, forty-one, 12
forty-three and forty-eight shall not apply to retail stores where bakery 13
products are sold but not produced. 14

Construction
of bakeries.
1896, 418,
§§ 1, 4.
R. L. 75, § 28.
1920, 418, § 3.

SECTION 40. Every bakery shall be constructed, drained, lighted, 1
ventilated and maintained in a clean and sanitary condition, and when 2
and where necessary screened against flies, shall have plumbing and 3
drainage facilities, together with suitable wash basins, wash sinks and 4
toilets or water closets, which shall be kept in a clean and sanitary con- 5
dition. The said toilets or water closets shall be in rooms having no direct 6
connection with any room in which bakery products or ingredients are 7
prepared, stored, handled or displayed. 8

Employees'
clothing
rooms for
hanging, etc.
1920, 418, § 4.

SECTION 41. In connection with every bakery suitable rooms shall 1
be provided for the changing and hanging of the wearing apparel of the 2
workers or employees, which shall be separate and apart from the work, 3
storage and sales rooms, and shall be kept in a clean and sanitary 4
condition. 5

Regulations
for sale, etc.,
of bakery
products.
1920, 418,
§§ 1, 5.

SECTION 42. No person shall sit, lie or lounge or be permitted to sit, 1
lie or lounge upon any of the tables, shelves, boxes or other equipment 2
or accessories used in connection with the production, preparation, pack- 3
ing, storing, display or sale of bakery products. No animals or fowls 4
shall be kept in or permitted to enter any building or part thereof used 5
for such production, preparation, packing, storing, display or sale. 6

Cleanliness of
employees
1920, 418, § 6.

SECTION 43. Before beginning the work of preparing, mixing or 1
handling any ingredients used in the production of bakery products, 2
every person engaged in such work shall wash the hands and arms, and 3
after using toilets or water closets, every person therein engaged shall 4
wash the hands and arms thoroughly and then rinse in clean water; and 5
for this purpose the owner or operator of the bakery shall provide suffi- 6
cient facilities. 7

SECTION 44. [REPEALED, 1928, 229, § 2.] 1

SECTION 45. [REPEALED, 1928, 229, § 2.] 1

Changes in
bakeries.
1920, 418, § 18

SECTION 46. If, after inspection, it is found that a bakery is not 1
constructed, maintained, operated or the distribution of its products 2
not conducted in accordance with sections thirty-nine to forty-five, in- 3
clusive, and sections two to six, inclusive, of chapter ninety-four, written 4
notice shall be given to the owner or manager, stating the delinquency, 5
and fixing a reasonable time within which the same shall be remedied 6
and for hearing any party in interest. 7

Closing of
unit bakery.
Hearing.
Appeal
1920, 418, § 19.

SECTION 47. If a bakery is unfit for the production or handling of 1
food or dangerous to the health of its employees, the department or local 2
board may order it closed; provided, that any person aggrieved may be 3
heard before said department or board and may also appeal before or 4

5 after the execution of the order, but within thirty days after its issue, to
6 the superior court.

1 SECTION 48. No new bakeries shall be established unless the building
2 plans and equipment proposed to be used have been approved by the
3 local board of health. The board shall refuse a permit for such bakery
4 if the building and equipment do not comply with sections thirty-nine
5 to forty-five, inclusive, and sections two to six, inclusive, of chapter
6 ninety-four and rules and regulations made thereunder, provided that
7 any party in interest may appeal to the department or to the superior
8 court. Said department or court may affirm, reject or modify the find-
9 ings of the board, and the said board shall thereupon proceed in accord-
10 ance with the order of the court or department.

Approval of
new bakeries
1920, 418, § 21.
1921, 315, § 1.

1 SECTION 49. Violation of any provision of sections thirty-nine to
2 forty-eight, inclusive, or any rule or regulation adopted thereunder shall
3 be punished by a fine of not more than one hundred dollars.

Penalty.
1920, 418, § 22

DISPENSARIES.

1 SECTION 50. Towns may establish and maintain dental, medical
2 and health clinics, and in connection therewith may conduct campaigns
3 of general education relative to matters of public health. Acting through
4 their respective boards of health, they may unite and co-operate for the
5 foregoing purposes and may provide for the maintenance of clinics as
6 aforesaid in one or more of the towns so uniting.

Cities and
towns may
maintain
clinics, etc.
1914, 677.
1920, 100.

7 All appropriations made for the purposes of this section shall be ex-
8 pended under the direction of the local board of health, and clinics estab-
9 lished hereunder shall be conducted subject to such rules and regulations
10 as said board may establish.

1 SECTION 51. In sections fifty-two to fifty-six, inclusive, "dispen-
2 sary" shall mean any place or establishment, not conducted for profit,
3 where medical or surgical advice or treatment, medicine or medical
4 apparatus, is furnished to persons not residing therein; or any place or
5 establishment, whether conducted for charitable purposes or for profit,
6 advertised, announced, conducted or maintained under the name "dis-
7 pensary" or "clinic", or other designation of like import.

Definition of
"dispensary".
1918, 131, § 1.

1 SECTION 52. No person, except the regularly constituted authorities
2 of the United States or of the commonwealth, shall establish, conduct,
3 manage or maintain any dispensary without first obtaining a license as
4 provided in the following section.

Maintenance
of unlicensed
dispensaries
prohibited.
1918, 131, § 2.

1 SECTION 53. Any person desiring to conduct a dispensary shall apply
2 in writing to the department for a license. The application shall be
3 in such form as the department shall prescribe, and shall be uniform for
4 all schools of medicine. There shall be attached thereto a statement
5 of the applicant on oath, containing such information as may be required
6 by the department. If in its judgment the statement filed and other
7 evidence submitted in relation to the application indicate that the oper-
8 ation of the proposed dispensary will be for the public benefit, a license,
9 in such form as it shall prescribe, shall be issued to the applicant. Li-
10 censes shall expire at the end of the year in which they are issued, but

License
1918, 131, § 3.
1919, 350,
§§ 87, 90.

may be renewed annually on application as above provided. No license shall be transferred except with the approval of the department. For the issue or renewal of each license a fee of five dollars shall be charged, except to incorporated charitable organizations which conduct dispensaries without charge and which report, as required by law, to the department of public welfare.

Rules and regulations
1918, 131, § 4
1919, 350, § 96.

SECTION 54. The council shall make rules and regulations, and may revise or change them, in accordance with which dispensaries shall be licensed and conducted, but no such rule or regulation shall specify any particular school of medicine in accordance with which a dispensary shall be conducted.

Inspection.
Revocation of license.
1918, 131, § 5.
1919, 350, § 96, 97.

SECTION 55. The commissioner and his authorized agent may visit and inspect any dispensary at any time to ascertain whether it is licensed and conducted in compliance with sections fifty-one to fifty-six, inclusive, and with the rules and regulations established under the preceding section. After thirty days' notice to a licensed dispensary and opportunity to be heard, the department may, if in its judgment the public interest so demands, revoke its license.

Penalties.
1918, 131, § 7.
1919, 350, § 96, 97.

SECTION 56. Whoever advertises, conducts, manages or maintains a dispensary, unless it is duly licensed under section fifty-three, and whoever wilfully violates any rule or regulation made under section fifty-four, shall be punished by a fine of not less than ten nor more than one hundred dollars. A separate and distinct offence shall be deemed to have been committed on every day during which the violation continues after written notice thereof by the department to the authorities of the dispensary concerned. The commissioner shall report to the attorney general any violation of sections fifty-one to fifty-six, inclusive.

Establishment and maintenance of tuberculosis dispensaries.
Penalty.
1911, 576
1914, 408.
1924, 256.

SECTION 57. Every city having a population of fifty thousand or more, as determined by the last national census, shall establish and maintain within its limits a dispensary for the discovery, treatment and supervision of needy persons resident within its limits and afflicted with tuberculosis, unless there already exists in such city a dispensary satisfactory to the department. Every city having a population of less than fifty thousand, as determined as aforesaid, and every town may, and at the request of the department shall, establish and maintain a similar dispensary. Such dispensaries shall be subject to the regulation of the boards of health of the cities and towns where they are respectively situated, and shall be inspected by and be satisfactory to the department. A city or town which, upon the request of the department, refuses or neglects to comply with the provisions hereof shall forfeit not more than five hundred dollars.

DAY NURSERIES.

Definition.
1919, 195,
§ 1, 7.

SECTION 58. In sections fifty-eight to sixty-two, inclusive, "day nursery" shall mean any institution, establishment or place not conducted by the commonwealth or any town in which are commonly received, with or without charge, at one time, three or more children not of common parentage, under the age of fourteen, for periods exceed-

ing four but not exceeding twelve hours, for the purpose of nursing and care apart from their parents or guardians.

SECTION 59. No person shall conduct a day nursery without obtaining a license from the board of health. An application therefor shall be in a form prescribed by the said board, and shall be uniform for all day nurseries within the board's jurisdiction. There shall be attached to the application a statement, sworn to by the applicant, or by an officer thereof duly authorized thereto, containing such information as may be required by the board. If in the judgment of the said board the said statement or any other evidence submitted in relation to the application indicates that the operation of the proposed day nursery will be for the public benefit and welfare, a license, in such form as the board may prescribe, shall be issued to the applicant. All licenses shall expire at the end of the year in which they are issued, but may be renewed annually on application as above provided. No license shall be transferred except with the approval of the said board. For the issue or renewal of each license a fee of one dollar shall be charged. All fees shall be paid to the town where the nursery is situated.

Licenses.
1919, 195, § 2.

SECTION 60. Boards of health shall make rules and regulations, and may revise or change them, in accordance with which day nurseries shall be licensed and conducted; and failure to comply with any such rule or regulation shall be sufficient cause for revocation of the license in the manner provided in the following section.

Rules and regulations
1919, 195, § 3.

SECTION 61. Boards of health by their authorized agents may visit and inspect any day nursery at any time to ascertain whether it is licensed and conducted in compliance with law and with the rules and regulations made under the preceding section. Every day nursery shall so be visited and inspected at least once in each year. After thirty days' notice to a licensed day nursery and opportunity to be heard, the board of health may, if in its judgment the public interest so demands, revoke its license. Every day nursery shall furnish to the said board such reports, information and other data as it may require.

Inspection.
Revocation
of license.
1919, 195, § 4.

SECTION 62. Whoever establishes, conducts, manages or maintains a day nursery without first obtaining a license therefor, or after the revocation of the license, or in violation of any provision of sections fifty-eight to sixty-two, inclusive, or of any rule or regulation made under section sixty shall be punished by a fine of not less than ten nor more than two hundred dollars. If any person conducting a day nursery shall be found guilty of a violation of any provision of sections fifty-eight to sixty-two, inclusive, or of any rule or regulation, in any particular relating to the safety of or the accommodations for the children, the board of health shall issue an order directing that such nursery be closed, and remain closed until such provision, rule or regulation has been complied with.

Penalties.
1919, 195, § 6.

CHILDREN'S HEALTH CAMPS.

SECTION 62A. In each city and town which accepts this and the six following sections, in a city by vote of its city council subject to the provisions of its charter, or in a town by vote of its inhabitants, there shall, except as provided by section sixty-two F, be established, without un-

Establishment
in certain
cities and
towns.
1924, 248, § 2.

reasonable delay, one or more children's health camps for the care and treatment of children of school age in said city or town who upon examination are found to be in need of such care and treatment, but no child shall be given care or medical treatment whose parent or guardian objects thereto.

Commission on children's health camps 1924, 248, § 2.

SECTION 62B. In each such city and town there shall be an unpaid commission, called the commission on children's health camps, to consist of the mayor or chairman of the board of selectmen, who shall have no vote, the superintendent of schools, the members of the board of health, all to serve ex officio, and also seven residents of such city or town to be appointed by the mayor or the chairman of the board of selectmen. One member of said board shall be designated as chairman by the mayor or the chairman of the board of selectmen. Of the seven persons first appointed after such acceptance, two shall be appointed for terms of one year each, two for terms of two years each, and three for terms of three years each, and thereafter as the term of each member expires his successor shall be appointed for the term of three years. Each appointment made to fill a vacancy in said commission shall be for the balance of the unexpired term.

Powers and duties of commission 1924, 248, § 2.

SECTION 62C. Said commission shall establish, maintain and have control of all children's health camps for the purposes named in section sixty-two A, and in addition shall have the management of all sums appropriated by the city or town for the maintenance of such children's health camps. Said commission may receive in trust for the aforesaid purposes any gift or bequest of money or securities and shall forthwith transfer any money or securities so received to the city or town treasurer, who shall administer the same as provided by the following section.

City, etc., treasurer to invest, etc., money, etc., received from commission Bond 1924, 248, § 2.

SECTION 62D. The city or town treasurer shall invest, reinvest and hold in the name of said commission any money or securities, or the proceeds thereof, received from said commission under the preceding section, and shall disburse the income or principal thereof on its order; provided, that no disposition of either income or principal shall be made which is inconsistent with the terms of the trust on which the property is held. The treasurer shall furnish a bond satisfactory to the commission for the faithful performance of his duties relative to such property.

Records, annual report, etc. 1924, 248, § 2.

SECTION 62E. The commission shall keep a record of its doings and at the close of each financial year shall make a report to the city or town, showing the total amount of such funds and other receipts, together with investments, receipts and disbursements on account of the same, setting forth in detail the sources of the receipts and the purposes of the expenditures.

Union children's health camp districts. 1924, 248, § 2.

SECTION 62F. Any two or more such cities or towns may vote to form, for such period of time not exceeding five years as such cities or towns may from time to time determine, a union children's health camp district for the purpose of establishing therein one or more union children's health camps. The management of such union children's health camps in such district shall be vested in an unpaid commission, called the commission on union children's health camps, to consist of the following persons from each of the cities or towns constituting

9 such union, namely, the mayor or chairman of the board of select-
 10 men, who shall have no vote, the superintendent of schools, the mem-
 11 bers of the board of health, all to serve, ex officio, and also not ex-
 12 ceeding ten members, residents of the cities and towns comprising the
 13 district, to be elected by the ex officio members of the commission
 14 for terms commensurate with the duration of the agreement forming or
 15 continuing the union. The term of each person elected to fill a va-
 16 cancy among the members not serving ex officio shall be for the balance
 17 of the unexpired term. The treasurer of said commission shall be the
 18 treasurer for the time being of such city or town within the district as
 19 is determined by the members of the commission. The provisions of
 20 sections sixty-two C to sixty-two E, inclusive, so far as applicable, shall
 21 apply to such commission.

1 SECTION 62G. No children's health camp shall be established under
 2 section sixty-two C or sixty-two F unless the location and construc-
 3 tion plans of such camp have been approved by the department, which
 4 may inspect any camp at any time.

Approval of
 department
 required
 inspection.
 1924, 248, § 2.

1 SECTION 62H. A contract for the care and treatment of children
 2 coming within the provisions of section sixty-two A, entered into by
 3 the commission on children's health camps of a city or town which
 4 accepts or has accepted sections sixty-two A to sixty-two G, inclusive,
 5 or by a commission on union children's health camps established or
 6 to be established under section sixty-two F, with the persons having
 7 control of any institution approved by the department in or near said
 8 city or town, shall, while such contract remains in force and effective,
 9 be deemed satisfactory compliance on the part of such city or town or
 10 union with the provisions of said sections sixty-two A to sixty-two G,
 11 inclusive, relative to the establishment and maintenance of children's
 12 health camps. No such contract shall become effective until it has
 13 been approved by the department.

Certain con-
 tracts for
 care, etc., of
 school children
 deemed com-
 pliance with
 §§ 62A-62G.
 1925, 17, § 2.

STATE SANATORIA.

1 SECTION 63. The commissioner shall have general supervision
 2 and control of the sanatoria at Rutland, North Reading, Lakeville
 3 and Westfield, and shall see that the affairs of such institutions are
 4 conducted according to law, and to the by-laws and regulations estab-
 5 lished by the council in respect thereto. He may also establish out-
 6 patient departments, and may disseminate information as to the best
 7 methods of combating tuberculosis.

Sanatoria,
 duties of
 commissioner
 relative to.
 1895, 503, § 2.
 R. L. 88, § 4.
 1907, 474,
 §§ 6, 9, 14.
 1919, 350,
 §§ 96, 97.
 1924, 477, § 3.

1 SECTION 64. The commissioner shall annually cause to be made an
 2 accurate inventory of the stock and supplies on hand and the amount
 3 and value thereof at the end of the fiscal year at each sanatorium under
 4 the department; shall make a full and detailed annual report of the con-
 5 dition of each such sanatorium, and all its affairs, with a copy of the in-
 6 ventory required herein; shall receive and audit the annual report of the
 7 treasurer of each sanatorium and deposit the same, with said annual
 8 report, with the state secretary.

Annual
 inventory, etc.
 1832, 163, § 2.
 1834, 150, § 2.
 R. L. 48, § 5.
 1858, 12.
 1859, 177, § 2.
 G. S. 5, § 11;
 73, § 6.
 P. S. 79, § 7;
 87, § 9.
 1887, 170.
 1889, 414, § 18.

1895, 503, §§ 5, 10.
 R. L. 84, § 7; 87, § 29;
 88, §§ 4, 8.

1905, 211, § 11.
 1907, 474, § 6.

1911, 151.
 1919, 350, §§ 96, 97.

Admissions
to the Rutland
state sana-
torium
1907, 222.
1912, 468.
1919, 350.
§ 96, 97.

SECTION 65. Unless the commissioner considers that an exception should be made, citizens of the commonwealth shall be given preference in the admission of persons to the Rutland state sanatorium, and no person shall be admitted thereto who has not been a resident of the commonwealth for at least six months preceding the date of his application for admission.

Treatment
of extra-
pulmonary
tuberculosis
at Lakeville
state sana-
torium.
1924, 508, § 1.

SECTION 65A. The department may admit to the Lakeville state sanatorium persons suffering from extra-pulmonary tuberculosis; provided, that no person shall be admitted who has not been a resident of the commonwealth for at least twelve months preceding the date of his application for admission, and that preference shall be given to citizens of the commonwealth.

Charges for
support of
inmates of
state sanatoria
Exceptions.
Certain state-
ments as
evidence.
1895, 503, § 9.
R. L. 88, § 7.
1907, 474, § 10.
1909, 378.
1911, 396.
1912, 17.
1919, 350.
§ 96, 97.
1924, 460, § 11;
500, § 3.
1927, 139.
227 Mass 88.
237 Mass 359.
255 Mass 499.
Op. A. G.
(1920) 102.

SECTION 66. The charges for the support of each inmate in a state sanatorium shall be seven dollars a week, and shall be paid quarterly. Such charges for those not having known settlements in the commonwealth shall be paid by it, and may afterward be recovered by the state treasurer of the inmates, if they are able to pay, or of any person or kindred bound by law to maintain them, or of the place of their settlement subsequently ascertained; but for those having known settlements in the commonwealth, the charges shall be paid either by the persons bound to pay them or by the town where such inmates had their settlement, unless security to the satisfaction of the commissioner is given for their support. If any person or town refuses or neglects to pay such charges the state treasurer may recover the same to the use of the sanatorium. A town which pays the charges for the support of an inmate of a state sanatorium shall have like rights and remedies to recover the amount thereof, with interest and costs, from the town of his settlement or from such person of sufficient ability, or from any person bound by law to maintain him, as if such charges had been incurred in the ordinary support of such inmate. If in any case the charges, as established by this section, for the support of an adult inmate are not paid in accordance with this section by the inmate or by the persons bound to pay them and a town becomes liable to pay them, such town shall be liable to pay such sum, in addition to such charges, as shall be fixed by the department, but the total amount including such charges shall not be less than the cost to the commonwealth for the support of such adult inmate. In such a case, the provisions of this section relative to the recovery of charges by the state treasurer, and by a town from the town of settlement, shall apply to the recovery of such total amount. This section shall not apply to patients received under any contract made under authority of section seventy-nine. In all proceedings under this section, the sworn written statement of a person that he is the superintendent of a state sanatorium or that he keeps or has custody of records of accounts of inmates thereof, and that a certain person has been an inmate therein during a certain period at a certain charge and that no satisfactory security was given shall be prima facie evidence of the said facts.

Trust funds
for sanatoria
1895, 503, § 3.
R. L. 88, § 3.
1907, 474, § 4.
1919, 350, § 96.

SECTION 67. The department may take and hold in trust gifts or bequests for the use of any sanatorium under its charge, and shall succeed to and retain the rights, powers and duties formerly held or acquired by the trustees of hospitals for consumptives.

1 SECTION 68. [REPEALED, 1924, 477, § 4.]

1 SECTION 69. [REPEALED, 1931, 426, § 14.]

PONDVILLE HOSPITAL.

1 SECTION 69A. Upon written application of a registered physician,
2 the department may admit as a patient to the Pondville hospital, for
3 treatment for cancer, subject to such rules and regulations as the de-
4 partment may prescribe, any person residing in the commonwealth for
5 at least two years within the period of three years immediately prior to
6 the date of such application. Any such patient may be discharged from
7 said hospital either upon his own request or upon determination of the
8 department, but not otherwise.

Admissions
for treatment
for cancer.
1927, 236.
1928, 336.

1 SECTION 69B. Notice of the admission of each such patient shall be
2 given within thirty days by the department to the board of public wel-
3 fare of the town whence he is admitted. The department shall ascertain
4 whether or not each such patient has a legal settlement in any town in
5 the commonwealth. If he has such a settlement, the department shall
6 also send written notice of his admission as aforesaid to the board of
7 public welfare of such town. Such notice shall be sent within thirty
8 days after the date of such admission, if his settlement was then known
9 to the department; otherwise within thirty days after his settlement is
10 ascertained by the department.

Notice of
admissions.
1927, 236.
1928, 336.

1 SECTION 69C. The charges for the support of the patients at said
2 hospital shall be at a rate determined from time to time by the depart-
3 ment and shall be payable at least quarterly. The commissioner may
4 accept security satisfactory to him for the payment of such charges for
5 any period of time. Such charges for those not having known settle-
6 ments in the commonwealth shall be borne by it, and may afterwards
7 be recovered by the state treasurer of the patients, if they are able to
8 pay, or of any person or kindred bound by law to maintain them, or of
9 the place of their settlement subsequently ascertained; but recovery of
10 such charges for any such patient having a known settlement in the
11 commonwealth may be had, at the election of the department, either
12 from the person or persons bound to pay them or from the town where
13 such patient had his settlement, unless security to the satisfaction of the
14 commissioner is given for his support. Any suit to recover such charges
15 shall be brought by the state treasurer to the use of the hospital. The
16 attorney general and district attorneys shall upon request bring action
17 to recover said charges in the name of the state treasurer. A town
18 which pays the charges or any other sum for the support of a patient at
19 the hospital shall have like rights and remedies to recover the amount
20 thereof, with interest and costs, from the town of his settlement or from
21 such person of sufficient ability, or from any person bound by law to
22 maintain him, as if such charges had been incurred in the ordinary
23 support of such patient. In any case where the department elects to
24 recover the charges, as established by this section, for the support of a
25 patient, from a town of settlement, such town shall be liable to pay such
26 sum, not exceeding the cost to the commonwealth, as may be deter-
27 mined by the department. Sums paid as aforesaid by the commonwealth
28 or by any town shall not be deemed to have been paid as state aid or
29 public relief, and no person shall be deemed to be in receipt of public

Charges for
support.
Recovery.
Certain state-
ments as
evidence.
1927, 236.
1928, 336.

relief because of his inability to pay for his support in said hospital, but while receiving such support he shall not acquire or lose, or be in the process of acquiring or losing, a settlement. In all proceedings under this section, the sworn written statement of a person that he is the superintendent of said hospital or that he keeps or has custody of records relating to inmates thereof, and that a certain person has been a duly admitted patient therein during a certain period at a certain charge, and that said charge has not been paid in whole or in part, and the sworn written statement of the commissioner or of a member of the department that notice of admission of a certain person was given upon a certain date to the board of public welfare of the place of settlement of said person known to or ascertained by said department, that said date was within thirty days after the place of settlement became known to or was ascertained by the department, that the charges for support of such person were determined pursuant to the provisions of this section, and that no satisfactory security was given for his support, shall be prima facie evidence of the said facts.

Cause of action deemed to have accrued, when.
1927, 236.
1928, 336.

SECTION 69D. In an action for the recovery of charges against a patient or person or kindred or place of settlement known at time of admission the cause of action shall be deemed to have accrued upon the last day of the period for which such charges are made. In an action against a place of settlement subsequently ascertained the cause of action shall be deemed to have accrued on the date of sending the notice under section sixty-nine B to said place. In an action by any town for recovery of a payment made by it under section sixty-nine C the cause of action shall be deemed to have accrued on the date of such payment.

HOSPITALS.

Certain hospitals to keep records of cases. Inspection, copies.
1905, 330,
§§ 1, 2.
1908, 269.
1912, 442,
§§ 1, 2.
1923, 337
1926, 149
202 Mass. 350
225 Mass. 321
234 Mass. 480
261 Mass. 40
270 Mass. 189.

SECTION 70. Hospitals supported in whole or in part by contributions from the commonwealth or from any town, incorporated hospitals offering treatment to patients free of charge, and incorporated hospitals conducted as public charities shall keep records of the treatment of the cases under their care and the medical history of the same. Such records and similar records kept prior to April twenty-fifth, nineteen hundred and five, shall be in the custody of the person in charge of the hospital. Section ten of chapter sixty-six shall not apply to such records; provided, that upon proper judicial order, whether in connection with pending judicial proceedings or otherwise, or, except in the case of records of hospitals under the control of the department of mental diseases, upon order of the head of the state department having supervision of such hospital, and in compliance with the terms of said order, such records may be inspected and copies furnished on payment of a reasonable fee.

Maternity hospitals. Licensing.
1897, 137,
§§ 1, 2.
P. S. 80,
§§ 56, 57.
R. L. 75, § 62.
1910, 569
1911, 264
1919, 350, § 87.
1931, 213, § 1

SECTION 71. The department of public welfare may issue a license, subject to revocation by it, to any person whom it deems suitable and responsible to establish or keep for two years a maternity hospital, hospital ward or other place for the reception, care and treatment of women during pregnancy, delivery, or while recovering from delivery, if the local board of health shall first certify to said department that, from its inspection and examination of such hospital, hospital ward or other place aforesaid, the same is suitable therefor.

1 SECTION 72. The department of public welfare shall have super-
 2 vision of all such hospitals, hospital wards or other places, may make
 3 necessary rules for their regulation, and may visit and inspect the same.
 4 The said hospitals, hospital wards and other places shall also be sub-
 5 ject to visitation and inspection at any time by the head of the police
 6 department, or his authorized agent, or the board of health of a city,
 7 or by the chief of police, selectmen or the board of health of a town,
 8 and, if during the year it receives more than six patients, by the de-
 9 partment of public health.

Same subject.
 Rules.
 Inspection.
 1876, 157, § 3.
 P. S. 80, § 55.
 1886, 101, § 4.
 R. L. 75, § 63.
 1910, 309.
 1919, 350, § 87.

1 SECTION 73. Whoever establishes or keeps or is concerned in estab-
 2 lishing or keeping a maternity hospital, hospital ward or other place
 3 for the purpose mentioned in section seventy-one or is engaged in any
 4 such business without such license, shall for a first offence be punished
 5 by a fine of not more than five hundred dollars, and for a subsequent
 6 offence by imprisonment for not more than two years.

Same subject.
 Keeping, etc.,
 unlicensed
 hospital
 penalized.
 1876, 157, § 4.
 P. S. 80, § 59.
 R. L. 75, § 64.
 1910, 360.
 1931, 213, § 2

1 SECTION 74. Any town not maintaining or managing a hospital may
 2 annually appropriate a sum not exceeding five hundred dollars, to be
 3 paid to a hospital established in such town or in the vicinity thereof,
 4 for the establishment and maintenance of a free bed in the hospital
 5 for the care and treatment of persons certified by the selectmen to be
 6 residents of the town and unable to pay for such care and treatment.
 7 This section shall not apply to cities.

Certain towns
 may appro-
 priate money
 to be paid to
 hospitals for
 the reception,
 etc., of certain
 persons.
 1915, 44.

1 SECTION 75. Whoever occupies or uses a building for a hospital in
 2 a part of a town prohibited by the aldermen or selectmen shall forfeit
 3 not more than fifty dollars for every month of such occupancy or use and
 4 in like proportion for a shorter time. The supreme judicial or superior
 5 court may restrain such occupancy or use.

Unlawful use
 of buildings
 for hospitals
 penalized.
 1870, 306.
 P. S. 80, § 73.
 R. L. 75, § 38.
 1906, 365, § 1.

1 SECTION 76. Every town placing its patients suffering from tubercu-
 2 losis in a county, municipal or incorporated tuberculosis hospital in the
 3 commonwealth, or in a building or ward set apart for such patients by
 4 a county, municipal or incorporated hospital therein, shall be entitled
 5 to receive from the commonwealth a subsidy of five dollars a week for
 6 each patient who has a legal settlement therein, provided that such pa-
 7 tient is unable to pay for his support, and that his kindred bound by
 8 law to maintain him are unable to pay for the same; but a town shall
 9 not become entitled to this subsidy unless, upon examination authorized
 10 by the department, the sputum of such patient be found to contain
 11 bacilli of tuberculosis, nor unless the hospital building or ward be ap-
 12 proved by it, and it shall not give such approval unless it has by authority
 13 of law, or by permission of the hospital, full authority to inspect the
 14 same at all times. The department may at any time withdraw its
 15 approval. In the case of hospitals having a bed capacity which, in the
 16 opinion of the department, is in excess of the number of beds needed
 17 for the localities which these institutions serve for patients exhibiting
 18 tubercle bacilli in their sputum, the subsidy above provided shall be
 19 allowed for such patients not exhibiting tubercle bacilli in their sputum
 20 as, in the joint opinion of the superintendent or medical director of the
 21 institution and of a member of the department designated by the com-
 22 missioner, are bona fide cases of pulmonary tuberculosis and have been
 23 in the institution more than thirty days.

Cities and
 towns to receive
 subsidies for
 certain con-
 sumptive
 patients.
 1911, 597, § 1.
 1912, 637, § 1.
 1916, 57, 197.
 1917, 290.
 1919, 350, § 96.
 1920, 238, § 1.
 1926, 284.

Payments of claims.
1911, 367, § 2.
1912, 637, § 2.
1915, 559, § 96.
1920, 248, §§ 2, 3.

SECTION 77. The department shall certify, in the case of each hospital, building or ward approved by it, as provided in the preceding section, the number of patients for whom the town is entitled to the subsidy, and upon such certification the subsidy shall be paid by the commonwealth. No claim shall be allowed for a subsidy covering more than ten days prior to the date when notice of the claim is received by the department.

Counties to provide hospital care for certain persons suffering from tuberculosis.
1916, 286, §§ 1, 15.
1918, 187, § 1.
1919, 32, § 1.
1920, 552, § 1.
1924, 443; 500; 501, § 1.

SECTION 78. The county commissioners of each county in the commonwealth shall before September first, nineteen hundred and twenty-five, provide, as required by sections seventy-eight to ninety, inclusive, adequate hospital care for all persons residing in towns having less than one hundred thousand population as determined by the last national census, within the boundaries of their respective counties and suffering from tuberculosis, who need such hospital care and for whom adequate hospital provision does not already exist.

Contracts for supplying hospital facilities for consumptives.
1916, 286, § 2.
1917, 251, § 1.
1918, 187, § 2.
1919, 32, § 1;
350, § 96.
1924, 443.
500, § 1; 501.
Op. A. G.
(1920) 192.

SECTION 79. A contract, entered into before September first, nineteen hundred and twenty-five, and approved by the department after a petition made to it and a public hearing thereon, between the county commissioners of any two or more counties for the express purpose of supplying within a reasonable time, as provided in the conditions of approval of the department, and guaranteeing adequate hospital provision for tubercular patients coming under section seventy-eight, shall be deemed satisfactory compliance with said section for such counties or sections of counties as are designated in the contract; and such contracts shall, subject to the approval of the department, be renewable upon terms satisfactory to the contracting parties; provided, that the term of any such contract entered into by the county commissioners of the counties of Hampshire, Hampden, Berkshire or Franklin shall be not less than five nor more than ten years and that the term of any such contract entered into by the county commissioners of any other county shall not exceed three years; and provided, further, that if such contracts are not renewed and approved by the department at least six months before they expire, or if the contracts are renewed and the department shall refuse approval on the ground that by reason of changed circumstances the contract will be inadequate properly to protect the public health of the communities affected by it, and the contracting parties fail, within three months before the time when the previous contract expires, to agree to a renewal of the contract upon terms approved by the said department, the duties and obligations relative to supplying adequate hospital care for such counties or sections of counties imposed upon county commissioners by sections seventy-eight to ninety, inclusive, shall be in full force and effect. The county commissioners of any county may in like manner and subject to the foregoing provisions relative to renewal contract with the department, for a term of not more than three years, for suitable hospital provision at not less than the actual cost to the commonwealth for tubercular patients from such county at any state sanatorium designated by the department, except that no such contract shall require or permit the treatment of an adult at the Westfield state sanatorium; and no such contract shall be made by the department unless in its opinion suitable accommodations can be furnished at such sanatorium for the treatment and care of such patients with-

38 out interfering with other functions of such sanatorium. Any such
 39 contract with the department shall be deemed satisfactory compliance
 40 with section seventy-eight.

1 SECTION 80. "Adequate" hospital provision for tubercular patients
 2 within the meaning of sections seventy-eight to ninety-one, inclusive,
 3 shall be held to mean at least one such hospital bed for each four deaths
 4 from tuberculosis in the district served by such hospitals, as deter-
 5 mined by computing the average number of deaths from tuberculosis
 6 per annum for the years nineteen hundred and sixteen to nineteen
 7 hundred and twenty, inclusive, in the communities served by such
 8 hospitals, and by a similar quinquennial computation by the department
 9 thereafter.

"Adequate"
 hospital pro-
 vision, term
 defined.
 1916, 286, § 3.
 1919, 32, § 2;
 350, § 96
 1921, 143,
 500, 501.

1 SECTION 81. Except as otherwise provided in sections seventy-eight
 2 to ninety, inclusive, or unless a contract has been entered into under
 3 section seventy-nine and approved by the department or made with
 4 said department, county commissioners shall, subject to the approval
 5 of the department, erect one or more tuberculosis hospitals within their
 6 respective counties. No new tuberculosis hospital shall be erected
 7 under sections seventy-eight to ninety, inclusive, having a total capac-
 8 ity of less than fifty beds; provided, that in the county of Berkshire,
 9 a hospital may be constructed having a capacity of as many less
 10 than fifty beds as the department shall approve.

County com-
 missioners to
 erect one or
 more hospitals.
 Exceptions.
 Capacity.
 1916, 286, § 5.
 1917, 103
 1919, 350, § 96.
 1924, 443;
 500, § 21; 501;
 Op. A. G.
 (1920) 192.

1 SECTION 82. County commissioners shall, in carrying out sections
 2 seventy-eight to ninety, inclusive, raise and expend such sums of money
 3 for acquiring land and constructing and equipping hospitals, and for
 4 the purchase, alteration and enlargement of existing buildings, and
 5 for all other purposes, except for care, maintenance and repair as pro-
 6 vided in section eighty-five A, as may be authorized by the general
 7 court. They may borrow, on the credit of the county, when so au-
 8 thorized by the general court, the said sums, and issue notes of the
 9 county therefor, with such interest as may be fixed under section thirty-
 10 nine of chapter thirty-five, payable semi-annually, or without interest,
 11 in which case they may sell such notes at such discount as they deem
 12 proper. The notes shall be signed by the county treasurer and counter-
 13 signed by the county commissioners. The county may sell the said
 14 securities, at public or private sale, on terms and conditions deemed
 15 proper, but the proceeds shall be used only for the purposes for which
 16 such securities are issued. Said notes may be renewed from time to
 17 time without specific authorization from the general court until all
 18 the towns liable have paid to the county treasurer the amounts as-
 19 sessed under section eighty-three. Any amount of interest paid or due
 20 on said notes and renewals thereof may be similarly borrowed. All
 21 reimbursement from towns under said section eighty-three shall be
 22 applied to the payment of temporary debt incurred under this section.

To borrow
 money, etc.
 1916, 286, § 6.
 1918, 80
 1920, 87, 336.
 1922, 393, § 1.
 1923, 113, § 1.
 1924, 443;
 500, 501.

1 SECTION 83. When the hospital is completed and equipped, the
 2 county commissioners shall determine the cost of the same, together
 3 with the interest paid or due on the bonds or notes issued therefor, and
 4 shall apportion the same to the several towns liable, in accordance with
 5 their valuation used in assessing county taxes. And each town liable to
 6 contribute to the construction and equipment of said hospital shall pay

To apportion
 cost to cities
 and towns, etc.
 1916, 286, § 7.
 1924, 443;
 500, 501.
 250 Mass. 261.

its proportion of said expenses into the county treasury in such manner 7
and in such instalments as the county commissioners by special order 8
shall direct; and if any town shall neglect or refuse to pay its proportion 9
as required by said order, the county commissioners shall, after notice 10
to the town and unless sufficient cause is shown to the contrary, issue 11
a warrant against it for the sum which it was ordered to pay, with inter- 12
est, and the costs of the notice and warrant; and the same shall be 13
collected and paid into the county treasury, to be applied in payment 14
of the expenses aforesaid. 15

SECTION 84. [REPEALED, 1931, 426, § 218.]

Apportionment
of maintenance
of hospitals and
preventoria.
1916, 286, § 9.
1917, 251, § 2.
1923, 113, § 2.
1924, 443;
500; 501.
1927, 73, § 2.
1928, 354, § 2.
1931, 36, § 2.
250 Mass. 261.

SECTION 85. The county shall provide for the care, maintenance and 1
repair of said hospital, which shall, for the purposes of this section and 2
section eighty-five A, include the care, maintenance and repair of any 3
preventorium erected by said county in accordance with section eighty- 4
five B and also the cost of its construction and original equipment except 5
when the cost of its construction, original equipment, care, maintenance 6
or repair is provided under said section eighty-five B to be paid from 7
appropriations, and shall for said purposes include the establishment and 8
maintenance of out-patient departments and the furnishing of supple- 9
mentary diagnostic service under section eighty-five C. The county 10
commissioners shall annually in January apportion the cost thereof, 11
including interest paid or due on temporary notes issued therefor, for the 12
previous year to the towns liable, in the same proportion in which the cost 13
of the construction was assessed, and shall issue their warrant against 14
the towns for the amount or percentage for which they are severally 15
assessed to pay for the maintenance, care and repair of said hospital. The 16
county may, thirty days after a written demand for payment, recover in 17
contract against any town liable to pay any part of the cost of construc- 18
tion, maintenance or repair of said hospital the amount for which it may 19
be liable. County commissioners of counties whose patients are cared for 20
by contract under section seventy-nine may raise and expend the sums 21
necessary to carry out the provisions thereof, and may borrow the same 22
on the credit of the county, and issue therefor notes of the county, payable, 23
in not more than eighteen months from their respective dates of issue, 24
from the reimbursements received from the said towns. They shall 25
annually in January determine the total amount already expended by or 26
due from the county under such contracts during the previous year, and 27
shall apportion the same to and may collect the same from the several 28
towns liable, in like manner as the cost of construction and equipment of 29
hospitals is apportioned under section eighty-three, and the same shall 30
be applied to the payment of the temporary debt incurred by said 31
counties. 32

Temporary
loans for
care, etc.,
of hospitals.
1923, 113, § 3.
1924, 443;
500; 501.
1930, 400, § 4.
1931, 301,
§ 17A.

SECTION 85A. To provide such funds as may be necessary to meet the 1
cost of the care, maintenance and repair of a county tuberculosis hospital 2
in compliance with section eighty-five, the county commissioners may in 3
any year borrow money on the credit of the county by temporary loans 4
without specific authorization by the general court, and for such purposes, 5
the county treasurer may, with the approval of the county commissioners, 6
issue notes of the county therefor, maturing in not more than twelve 7
months from their dates, and may from time to time renew the same, 8

9 until all the towns liable to assessment under said section eighty-five
10 have paid to the county treasurer the sums so assessed against them for
11 the aforesaid cost for said year. Receipts of said hospital shall be paid
12 to the county treasurer at such times as the county commissioners may
13 determine. Receipts of said hospital for said year and payments to the
14 county of the assessments made under section eighty-five to meet the
15 aforesaid cost for said year shall be applied to the payment of such tem-
16 porary loans.

1 SECTION 85B. The county commissioners of any county having a
2 tuberculosis hospital established under sections seventy-eight to ninety,
3 inclusive, may provide, with the approval of the department, proper and
4 necessary buildings and other equipment for a preventorium for the treat-
5 ment of children predisposed or susceptible to tuberculosis, at a cost not
6 to exceed three thousand dollars in any calendar year and any sum so
7 expended, unless provided to be paid from sums appropriated therefor as
8 hereinafter provided, shall be included in the cost of the care, maintenance
9 and repair of said hospital as provided in section eighty-five. The county
10 commissioners of any county may provide for the construction of such a
11 preventorium and/or for its care, maintenance and repair, out of sums
12 appropriated therefor; provided, that not more than three thousand
13 dollars shall be so appropriated in any one calendar year. The county
14 commissioners of any county not having a tuberculosis hospital estab-
15 lished as aforesaid may contract with a privately controlled preventorium,
16 approved by the department, for the care and treatment of children in
17 such county predisposed or susceptible to tuberculosis whose parents or
18 guardians are unable to support or care for them, at a cost to the county
19 of such sum as may be appropriated therefor, not exceeding three thou-
20 sand dollars in any one calendar year; provided, that not more than the
21 ordinary and reasonable compensation for care or support actually ren-
22 dered or furnished by it shall be paid by the county under any such con-
23 tract. At any time when the cost of the care, maintenance and repair
24 of a preventorium is provided to be paid from an appropriation, said
25 preventorium shall be available for the treatment of children as aforesaid
26 throughout the county. No such child shall be admitted to a preven-
27 torium, whether publicly or privately controlled, except with the approval
28 of the county commissioners.

Preventoria.
1927, 73, § 1.
1928, 354, § 1.

1 SECTION 85C. The county commissioners of each county, in making
2 adequate hospital provision for tubercular patients, as required by sec-
3 tions seventy-eight to ninety-one, inclusive, may provide such adequate
4 out-patient departments as they deem proper to afford to persons entitled
5 thereto diagnostic service in respect to tuberculosis and to furnish advice
6 as to their care and treatment, and the county commissioners of any
7 county may, on request of the board of health of a town in their tubercu-
8 losis hospital district, supplement local facilities in such town in furnish-
9 ing such diagnostic service.

Diagnostic
service in
respect to tu-
berculosis, etc.
1931, 36, § 1.

1 SECTION 86. Subject to section eighty-two, county commissioners
2 may purchase, lease, or take by eminent domain under chapter seventy-
3 nine, such land, not exceeding five hundred acres, as they may deem neces-
4 sary or convenient for the purposes set forth in sections seventy-eight to
5 ninety, inclusive.

County com-
missioners may
take land.
1916, 286, § 10.
1922, 393, § 2.
1924, 443;
500; 501.

SECTION 87. County commissioners shall be trustees of the hospitals erected under sections seventy-eight to ninety, inclusive, shall make suitable regulations for their government, and shall appoint superintendents and other officers and employees necessary for the proper conduct thereof. The superintendents and other physicians employed shall be appointed subject to the approval of the department.

SECTION 88. Patients shall be admitted to the said hospitals through application by the boards of health of the towns served by the hospitals. The charges for the support of patients shall be based on the actual cost of their care and treatment, exclusive of all interest or other expenses pertaining to the construction, equipment or permanent upkeep of the institution. Patients paying for their care in whole or in part, or for whom such payment in whole or in part is made by others, may be admitted on terms fixed by the trustees; but all patients shall be admitted in the order of their application, and no preference shall be given to paying patients over others. The charge for the support of a patient in any hospital established under sections seventy-eight to ninety, inclusive, so far as the same or any part thereof is not paid by the patient or in his behalf, as aforesaid, shall be paid by the town sending him to the hospital. If the patient has no known settlement in the commonwealth the charge shall be paid by it, upon the approval of the bills by the department of public welfare, in the manner provided by section one hundred and sixteen. Such charges may afterward be recovered by the town or by the state treasurer, as the case may be, from the patient, if he is able to pay, or from any person or kindred bound by law to maintain him, in the manner provided by section sixty-six, for the recovery of unpaid charges for the support of inmates of the state sanatoria. All towns paying for the support of patients an amount exceeding fifty per cent of the actual cost of maintaining them in hospitals erected, or utilized by contract, under sections seventy-eight to ninety, inclusive, shall be entitled to any payment or repayments in like manner and subject to like conditions applicable to the support of tubercular patients in a town tuberculosis hospital.

SECTION 89. The situation, plans for construction and actual construction of new hospitals, or additions to existing hospitals, provided for carrying out sections seventy-eight to ninety, inclusive, shall be subject to the approval of the department.

1919, 350, § 96.

1924, 443; 500; 501.

SECTION 90. The mayors of Chelsea and Revere and the chairman of the selectmen of Winthrop shall have and exercise, for the purposes of sections seventy-eight to eighty-nine, inclusive, the powers given to county commissioners, and they are hereby designated as a board of trustees for the tuberculosis hospital district comprising Chelsea, Revere and Winthrop, and they shall provide adequate hospital care for persons residing therein suffering from tuberculosis who need such hospital care in like manner as required of county commissioners by section seventy-eight.

SECTION 91. Cities having one hundred thousand or more inhabitants as determined by the last national census, and cities and towns having less than one hundred thousand inhabitants as determined as

County commissioners to be trustees, etc. 1916, 286, § 11. 1919, 350, § 96. 1924, 443; 500, 501. 250 Mass. 261.

Admission of patients, etc. Payment by cities and towns, etc. 1916, 286, § 12. 1919, 350, § 87. 1924, 443; 500, 501. 254 Mass. 232.

Situation, plans, etc., to be approved by state department. 1916, 286, § 13. 1917, 251, § 3.

Certain officials to act for Chelsea, Revere and Winthrop. 1916, 286, § 14. 1924, 443; 500, 501.

Exemptions. Certain cities and towns to become members of

4 aforesaid and already possessing and continuing to furnish satisfactory
 5 tuberculosis hospital provision, shall be exempt from the provisions of
 6 sections seventy-eight to ninety, inclusive; provided, that no city
 7 included within a tuberculosis hospital district shall become entitled to
 8 such exemption by reason of any change in the number of inhabitants
 9 of such city, and provided, further, that each city or town of less than
 10 one hundred thousand inhabitants as aforesaid, which on July first,
 11 nineteen hundred and twenty-seven or at any time thereafter shall have
 12 failed to furnish tuberculosis hospital provision to the satisfaction of the
 13 department in a tuberculosis hospital maintained by said city or town
 14 or in a building or ward of a hospital set apart by it for its tubercular
 15 patients, shall, upon receipt of written notification from the department
 16 of such failure, become and be a part of the district of the tuberculosis
 17 hospital for the county or section thereof in which such city or town is
 18 situated; and provided, further, that any city or town may, at any
 19 time upon application and payment of its proportionate share of the
 20 actual construction costs, as hereinafter provided, of said county tubereu-
 21 losis hospital, if any, become a part of the hospital district of the county
 22 or section thereof in which it is situated. Each city or town becoming,
 23 by reason of its failure to comply with this section or upon application
 24 as aforesaid, a part of a county hospital district shall pay to the district
 25 treasurer its proportionate share of the actual construction costs of said
 26 county tuberculosis hospital, if any, including land, buildings and equip-
 27 ment, computed as of the date of such failure or such application. In
 28 case the city council of such city or the selectmen of such town and the
 29 trustees of such county tuberculosis hospital do not agree on the amount
 30 of such proportionate share within three months after the receipt by
 31 said city or town of written notification from the department of failure
 32 as aforesaid or within three months after application as aforesaid, the
 33 amount of such share shall be determined by a valuation board consist-
 34 ing of the mayor of the city or the chairman of the board of selectmen of
 35 the town, a person to be selected forthwith after the expiration of said
 36 three months' period by the county commissioners of the county in
 37 which such city or town is situated, and a third person to be selected by
 38 the other two. If the representatives of the city or town and the county
 39 do not, within thirty days after the selection of the county representa-
 40 tive on said board, agree upon a third member thereof, such third mem-
 41 ber shall, on petition therefor by any party in interest to the supreme
 42 judicial court, be appointed by a justice thereof. The decision of a
 43 majority of said valuation board shall be final.

hospital dis-
 tricts, when
 Proportionate
 payments of
 cost of hos-
 pitals required.
 1916, 286, § 4
 1924, 443, § 2;
 500, 501, § 2.
 1930, 339.

1 DANGEROUS DISEASES.

1 SECTION 92. Each city, except Brockton, shall, and each town may,
 2 and upon request of the department shall, establish and maintain con-
 3 stantly within its limits one or more hospitals for the reception of persons
 4 having smallpox, diphtheria, scarlet fever, tuberculosis or other diseases
 5 dangerous to the public health as defined by the department, unless there
 6 already exists therein a hospital satisfactory to the department for the
 7 reception of persons ill with such diseases, or unless some arrangement
 8 satisfactory to the department is made between neighboring municipali-
 9 ties for the care of such persons. All such hospitals established and main-
 10 tained by cities and towns shall be subject to the orders and regulations of
 11 the boards of health thereof. Plans for construction of such hospitals

Maintenance of
 isolation
 hospitals, etc.
 Exceptions
 1792, 58, § 2.
 R. S. 21,
 §§ 35, 36.
 G. S. 26,
 §§ 40, 41.
 F. S. 89,
 §§ 70, 71.
 1901, 171.
 R. L. 75,
 §§ 35, 40
 1905, 365, § 1.
 1911, 613.
 1912, 151.
 1914, 647
 1916, 286, § 15.

1919, 350, § 96.
1920, 108, § 1.
1924, 501, § 3.
184 Mass. 282.
187 Mass. 150.

shall be approved by the department before they are constructed, and the district health officers shall annually make such examination of said hospitals, and of all other hospitals, sanatoria, asylums, homes, prisons and dispensaries, both public and private, caring for diseases dangerous to the public health, as in the opinion of the department may be necessary, and report as to their condition and needs to those responsible for their management. A city or town which, upon the request of the department, refuses or neglects to establish and maintain such a hospital shall forfeit not more than five hundred dollars; provided, that if, in the opinion of the boards of health of two or more adjoining municipalities, such hospitals can advantageously be established and maintained in common, the authorities of the said cities or towns may, subject to the approval of the department, enter into any agreements deemed necessary to establish and maintain the same. Cities and towns having a population of less than one hundred thousand inhabitants according to the last national census shall not be required by this section to make hospital provisions for tubercular patients.

Physicians, nurses, etc., subject to regulations
1792, 58, § 4.
R. S. 21, § 39.
G. S. 26, § 43.

SECTION 93. Physicians, nurses, attendants, patients and all persons approaching or coming within the limits of such hospitals, and all furniture and other articles used or brought there, shall be subject to the regulations of the board of health.

P. S. 80, § 74.

R. L. 75, § 36.

1906, 365, § 1.

Cities and towns having isolation hospitals may receive persons from adjoining towns.
1902, 206, § 1.
1906, 365, § 4.

SECTION 94. The board of health of any town which has established or which may hereafter establish within its limits a hospital for the reception of persons having smallpox or any other disease dangerous to the public health may receive for care and treatment in such hospital persons from an adjoining town who are infected with any of said diseases.

187 Mass. 150.

Powers and duties of boards in cases of infectious diseases
1701-2, 9, §§ 1, 2.
1792, 58, § 5.
1797, 16, § 1.
R. S. 21, §§ 16, 17, 40.
1837, 244, §§ 1, 2.
1838, 158.
1848, 119.
G. S. 26, §§ 16, 17, 44.
P. S. 80, §§ 40, 41, 75.
R. L. 75, § 42.
1906, 2257, 365, § 1.
1907, 445.
137 Mass. 554.
140 Mass. 314.
187 Mass. 150.
191 Mass. 78.

SECTION 95. If a disease dangerous to the public health breaks out in a town, or if a person is infected or lately has been infected therewith, the board of health shall immediately provide such hospital or place of reception and such nurses and other assistance and necessaries as is judged best for his accommodation and for the safety of the inhabitants, and the same shall be subject to the regulations of the board. The board may cause any sick or infected person to be removed to such hospital or place, if it can be done without danger to his health; otherwise the house or place in which he remains shall be considered as a hospital, and all persons residing in or in any way connected therewith shall be subject to the regulations of the board, and, if necessary, persons in the neighborhood may be removed. When the board of health of a town shall deem it necessary, in the interest of the public health, to require a resident wage earner to remain within such house or place or otherwise to interfere with the following of his employment, he shall receive from such town during the period of his restraint compensation to the extent of three fourths of his regular wages; provided, that the amount so received shall not exceed two dollars for each working day.

Warrants to remove sick persons, etc.
1701-2, 9, § 3.
1742-3, 17, § 1.
1797, 16, § 4.
R. S. 21, § 19.

SECTION 96. A magistrate authorized to issue warrants may issue a warrant directed to the sheriff of the county or his deputy, or to any constable or police officer, requiring him, under the direction of the board of health, to remove any person infected with a contagious disease, or to

5 take up and impress convenient houses, lodging, nurses, attendants and
6 other necessaries. The removal authorized by this section may be made
7 to a hospital in any town established for the reception of persons having
8 smallpox or other disease dangerous to the public health, provided that
9 the assent of the board of health of the town to which such removal is to
10 be made shall first have been obtained.

G. S. 26, § 19.
1877, 211, § 1.
P. S. 80, § 43.
R. L. 75, § 46.
1902, 206, § 2.
1906, 365, § 2.
1915, 12.
162 Mass. 176.
191 Mass. 78.
206 Mass. 365.

1 SECTION 97. The two preceding sections, so far as they confer au-
2 thority for the removal of patients from their homes, shall apply only to
3 persons residing in boarding houses or hotels, or to two or more families
4 occupying the same dwelling, or in other eases where, in the opinion of the
5 board, the patient cannot properly be isolated.

Limitation of
two preceding
sections
1838, 158
1840, 39
1848, 119.
G. S. 26, § 51.

1872, 189. R. L. 75, § 56. 140 Mass. 314.
P. S. 80, § 82. 1906, 365, § 3.

1 SECTION 98. Boards of health may grant permits for the removal of
2 any nuisance, infected articles or sick person within the limits of their
3 towns.

Removal of
infected
articles,
persons, etc.

1816, 44, § 12. G. S. 26, § 15. R. L. 75, § 86.
R. S. 21, § 15. P. S. 80, § 39.

1 SECTION 99. If upon application of the board it appears to a magis-
2 trate authorized to issue warrants that there is just cause to suspect that
3 baggage, clothing or goods found within the town are infected with any
4 disease dangerous to the public health, he shall, by warrant directed to the
5 sheriff or his deputy or to any constable, require him to impress as many
6 men as said magistrate may judge necessary to secure such baggage,
7 clothing or goods, and to post said men as a guard over the house or place
8 containing such articles to prevent persons from removing or coming near
9 the same until due inquiry is made into the circumstances.

Warrant to
secure infected
articles, etc.
1751-2, 12, § 1.
1797, 16, § 5.
R. S. 21, § 20.
G. S. 26, § 20.
1877, 211, § 1.
P. S. 80, § 44.
R. L. 75, § 87.

1 SECTION 100. The magistrate may, by the same warrant, require the
2 officers, under the direction of the board, to impress and take up con-
3 venient houses or stores for the safe keeping of such articles; and the
4 board may remove them thereto or otherwise detain them until, in its
5 opinion, they are freed from infection.

Warrants to
take houses for
safe keeping of
goods.
1751-2, 12, § 3.
1797, 16, § 5.
R. S. 21, § 21.

G. S. 26, § 21. 1877, 211, § 1. P. S. 80, § 45. R. L. 75, § 88.

1 SECTION 101. The officers, in executing the warrant, may command
2 aid and may break open any house, shop or other place mentioned in
3 the warrant. Whoever, being commanded by said officers to assist in
4 the execution of the warrant, neglects or refuses so to do shall forfeit not
5 more than ten dollars.

Officers may
command aid.
1751-2, 12,
§ 1, 2
1797, 16, § 5.
R. S. 21, § 22.

G. S. 26, § 22. P. S. 80, § 46. R. L. 75, § 89.

1 SECTION 102. The expense of securing, transporting and purifying
2 such articles as fixed by the board shall be paid by the owners or by
3 the town, as the board may determine. For any article of furniture or
4 wearing apparel ordered destroyed by the board the town may recom-
5 pense the owner to an amount not exceeding fifty dollars.

Payment of
expenses.
1751-2, 12, § 2.
1797, 16, § 5.
R. S. 21, § 23.
G. S. 26, § 23.
P. S. 80, § 47.

R. L. 75, § 90. 1903, 306.

1 SECTION 103. If a sheriff or other officer impresses or takes up any
2 houses, stores, lodging or other necessaries, or impresses men, the town
3 where such persons or property are so impressed shall pay a just com-
4 pensation to the persons entitled thereto. Compensation for taking or
5 impressing property may be recovered under chapter seventy-nine.

Compensation
for houses, etc.,
impressed.
R. S. 21, § 24.
G. S. 26, § 24.
P. S. 80, § 48.
R. L. 75, § 58.

Notice of infected places.
Penalty for removal, etc.
1792, 58, § 6.
R. S. 21, § 41.
INS, 158.
G. S. 26, § 45.
1873, 2, § 2.
P. S. 80, § 76.
R. L. 75, § 43.

SECTION 104. If a disease dangerous to the public health exists in a town, the selectmen and board of health shall use all possible care to prevent the spread of the infection, and shall give public notice of infected places to travelers by displaying red flags at proper distances and by all other means which, in their judgment, may be most effectual for the common safety. Whoever obstructs the selectmen, board of health or its agent in using such means, or wilfully removes, obliterates, defaces or handles such red flags or other signals, shall forfeit not less than ten nor more than one hundred dollars.

Penalty for violation of regulations.
1792, 58, § 6.
R. S. 21, § 42.
INS, 158.
G. S. 26, § 46.
P. S. 80, § 77.
R. L. 75, § 44.

SECTION 105. If a physician or other person who is in any of the hospitals or places of reception mentioned in section ninety-five, or who attends, approaches or is concerned with them, violates a regulation of the board of health relative thereto, he shall forfeit not less than ten nor more than one hundred dollars.

Travelers from infected places outside commonwealth.
License, etc.
Penalty.
1739-40, 1, § 3.
1742-3, 17, § 3.
1797, 16, § 9.
R. S. 21, § 18.
G. S. 26, § 18.
P. S. 80, § 42.
R. L. 75, § 45.

SECTION 106. The board of health of a town near to or bordering upon an adjoining state may in writing appoint suitable persons, who shall attend at places by which travelers may pass from infected places without the commonwealth, and who may examine such travelers as the board suspects of bringing any infection dangerous to the public health, and, if necessary, restrain them from traveling until licensed thereto by the board of health of the town to which they may come. A traveler coming from an infected place who, without such license, travels within the commonwealth, unless to return by the most direct way to the state whence he came, after he has been cautioned to depart by the persons so appointed, shall forfeit not more than one hundred dollars.

Transportation of infected dead bodies resulted.
Penalty.
INS, 124, § 2.
1887, 335.
1897, 437, § 6.
R. L. 78, § 43.

SECTION 107. No person shall convey or cause to be conveyed through or from any town in the commonwealth the body of any person who has died of smallpox, scarlet fever, diphtheria or typhus fever until such body has been so encased and prepared as to preclude danger of contagion or infection by its transportation; and no town clerk, or clerk or agent of the board of health, shall give a permit for the removal of such body until he has received from the board of health of the city or from the selectmen of the town where the death occurred a certificate stating the cause of death, and that said body has been prepared in the manner prescribed in this section. The certificate shall be delivered to the agent or person receiving the body. Whoever violates this section shall forfeit not more than twenty-five dollars.

Removal of sick prisoners.
1816, 44, § 10.
R. S. 21, § 25, 26.
G. S. 26, § 25, 26.
P. S. 80, § 19, 50.
R. L. 75, § 47.
1931, 126, § 15.

SECTION 108. If a prisoner in a jail or house of correction has a disease which, in the opinion of the physician of the board of health or of such other physician as it may consult, is dangerous to the safety and health of other prisoners or of the inhabitants of the town, the board shall, in writing, direct his removal to a hospital or other place of safety, there to be provided for and securely kept until its further order. If he recovers from the disease, he shall be returned to his former place of confinement. If the person so removed has been committed by order of court or under judicial process, the order for his removal, or a copy thereof attested by the presiding member of the board, shall be returned by him, with the doings thereon, into the office of the clerk of the court from which the

12 process of commitment was issued. No prisoner so removed shall thereby
13 commit an escape.

1 SECTION 109. A householder who knows that a person in his family
2 or house is sick of smallpox, diphtheria, scarlet fever or any other in-
3 fectious or contagious disease declared by the department dangerous to
4 the public health shall forthwith give notice thereof to the board of health
5 of the town where he dwells. Upon the death, recovery or removal of
6 such person, the householder shall disinfect to the satisfaction of the
7 board such rooms of his house and articles therein as, in the opinion of the
8 board, have been exposed to infection or contagion. But the board may,
9 in its discretion, disinfect or fumigate all such premises as, in its opinion,
10 have been exposed to any infectious or contagious disease, at the expense
11 of the town, and may employ any proper and competent person to so
12 disinfect or fumigate. Whoever violates any provision of this section
13 shall be punished by a fine of not more than one hundred dollars.

Householder
to give notice
of dangerous
diseases.
Penalty.
1712, § 17,
§ 5, 6.
1792, 58, § 7.
R. S. 21, § 43.
G. S. 26, § 47.
P. S. 80, § 78.
1884, 98, § 1.
1899, 102.
R. L. 75, § 49.
1905, 251, § 1.
1907, 480.
1910, 269.
1914, 177.
1919, 350, § 96.

1 SECTION 110. If either eye of an infant becomes inflamed, swollen
2 and red, or shows an unnatural discharge within two weeks after birth,
3 the nurse, relative or other attendant having charge of such infant shall
4 report in writing, within six hours thereafter, to the board of health of
5 the town where the infant is, the fact that such inflammation, swelling
6 and redness of the eyes or unnatural discharge exist. On receipt of such
7 report, or of notice of the same symptoms given by a physician as pro-
8 vided by the following section, the board of health shall take such im-
9 mediate action as it may deem necessary, including, so far as may be pos-
10 sible, consultation with an oculist and the employment of a trained nurse,
11 in order that blindness may be prevented. Whoever violates this section
12 shall be punished by a fine of not more than one hundred dollars.

Diseases of the
eyes of infants
to be reported.
Penalty.
1905, 251, § 1.
1907, 480.
1910, 269.
1914, 177.
230 Mass. 201.

1 SECTION 111. If a physician knows that a person whom he visits is
2 infected with smallpox, diphtheria, scarlet fever or any other disease
3 declared by the department dangerous to the public health, or if either
4 eye of an infant whom or whose mother a physician, or a hospital medical
5 officer registered under section nine of chapter one hundred and twelve,
6 visits becomes inflamed, swollen and red, or shows an unnatural discharge
7 within two weeks after birth, he shall immediately give written notice
8 thereof, over his own signature, to the board of health of the town; and
9 if he refuses or neglects to give such notice he shall forfeit not less than
10 fifty nor more than two hundred dollars.

Physicians to
report names of
persons in-
fected with
certain
diseases.
Penalty.
1827, 129.
R. S. 21, § 44.
G. S. 26, § 48.
P. S. 80, § 79.
1884, 98, § 2.
1891, 188.
R. L. 75, § 50.
1905, 251, § 2.
1907, 480.

1919, 350, § 96. 1920, 244, § 2. 230 Mass. 201. Op. A. G. (1920) 212.

1 SECTION 112. If the board of health of a town has had notice of
2 a case of any disease declared by the department dangerous to the
3 public health therein, it shall within twenty-four hours thereafter give
4 notice thereof to the department, stating the name and the location of
5 the patient so afflicted, and upon request the department shall forth-
6 with certify any such reports to the department of public welfare.
7 The provisions of this section and of sections one hundred and nine and
8 one hundred and eleven shall not apply to gonorrhœa and syphilis, the
9 same having been declared to be diseases dangerous to the public health.
10 Said diseases shall be reported to local boards of health, either directly
11 or through the department, in accordance with such special rules and

Local board
to notify de-
partment.
1885, 138, § 1.
1886, 101, § 4.
1893, 302, § 1.
R. L. 75, § 52.
1907, 480.
1916, 55.
1919, 350,
§§ 87, 96.
1925, 215.

regulations as the department may make, having due regard for the best interest of the public.

Records and reporting of dangerous diseases.
Penalty.
1884, 98,
§ 3, 1
R. L. 75, § 51.
1915, 52.
1918, 130, § 1.
1919, 350, § 96.
202 Mass. 359.
225 Mass. 521.
Op. A. G.
(1919) 1.

SECTION 113. Every board of health shall keep a record of all reports received pursuant to sections one hundred and nine to one hundred and eleven, inclusive, containing the name and location of all persons who are sick, their disease, the name of the person reporting the case, and the date of such report or other data required by the department. Such records shall be kept in the manner or upon forms prescribed by the department. The board shall give immediate information to the school committee of all contagious diseases so reported to it. Every board shall appoint some person, who may or may not be a member of the board, who shall give notice, as provided in the preceding section, to the department of diseases dangerous to the public health; and in case of the absence or disability of such appointee the board shall appoint another person to perform this duty during such absence or disability. Such appointments and the acceptance thereof by the persons so appointed shall be placed upon the records of the board. Any person, having accepted such appointment, who wilfully refuses or wilfully neglects or through gross negligence fails to make and send the notices required by the preceding section as provided therein shall be punished by a fine of not more than fifty dollars.

Forfeiture of claim
1883, 138, § 2.
1893, 302, § 2.
R. L. 75, § 53.
1918, 130, § 2.
1919, 350, § 96.

SECTION 114. A claim of a town against the commonwealth for reasonable expenses incurred by the board of health in making the provision required by law for persons infected with a disease dangerous to the public health shall not be defeated by reason of the failure on the part of the board to give notice of such disease to the department under section one hundred and twelve, if such claim is otherwise a valid claim against the commonwealth.

Recovery of expenses.
1849, 211, § 6.
G. S. 26, § 49.
P. S. 80, § 80.

SECTION 115. Expenses incurred by a town in the removal of nuisances or for the preservation of the public health, for which any person is liable, may be recovered in contract.

R. L. 75, § 54.

98 Mass. 431.

144 Mass. 523.

Payment of certain expenses regulated.
1701-2, 9,
§ 1, 2.
1797, 16, § 1.
R. S. 21, § 16.
1837, 244, § 1.
1848, 119.
G. S. 26, § 16.
1874, 121, § 2.
P. S. 80,
§ 40, 85.
R. L. 75, § 57.
1902, 213,
§ 1, 3
1907, 386, § 1.
1909, 380.
1919, 350,
§ 87, 96.
1926, 241, § 3.
1927, 91.
1931, 394,
§ 117.
187 Mass. 150.
237 Mass. 359.
261 Mass. 358.
4 Op. A. G. 474.

SECTION 116. Reasonable expenses incurred by boards of health or by the commonwealth in making the provision required by law for persons infected with smallpox or other disease dangerous to the public health shall be paid by such person or his parents, if he or they be able to pay, otherwise by the town where he has a legal settlement, upon the approval of the bill by the board of health of such town or by the department of public welfare; but such expenses shall not be recovered from a town liable therefor, unless proceedings to recover the same are commenced within two years after the cause of action arises. Such settlement shall be determined by the board of public welfare, and by the department of public welfare in cases cared for by the commonwealth. If the person has no settlement, such expenses shall be paid by the commonwealth, upon the approval of bills therefor by the department of public welfare. In all cases of persons having settlements, a written notice shall be sent by the board of health of the town where the person is sick to the board of health of the town where such person has a settlement, who shall forthwith transmit a copy thereof to the board of public

18 welfare of the place of settlement; but nothing shall be recovered for
 19 relief furnished more than three months prior to notice thereof given to
 20 the board of health of the place of settlement. If within one month
 21 after receiving such notice the board of health of the latter town does
 22 not submit a written statement denying the settlement and stating the
 23 reasons therefor, said town shall be barred from contesting the question
 24 of settlement. In any case liable to be maintained by the common-
 25 wealth when public aid has been rendered to such sick person, a written
 26 notice shall be sent to the department of public welfare, containing
 27 such information as will show that the person named therein is a proper
 28 charge to the commonwealth, and reimbursement shall be made for
 29 reasonable expenses incurred within five days next before such notice is
 30 mailed, and thereafter until such sick person is removed under section
 31 twelve of chapter one hundred and twenty-one, or is able to be so re-
 32 moved without endangering his or the public health. Reimbursement
 33 by the commonwealth under the provisions hereof shall be subject to
 34 the provisions of section forty-two of chapter one hundred and twenty-
 35 one.

VENEREAL DISEASES.

1 SECTION 117. Each city shall provide for treatment, either in a hos- Treatment
 2 pital or as out-patients, of indigent persons suffering from contagious of venereal
 3 or infectious venereal diseases. diseases.

1895, 400.

R. L. 75, § 39.

1906, 365, § 1.

1 SECTION 118. No discrimination shall be made against the treat- Discrimina-
 2 ment of venereal diseases in the out-patient department of any general tion against
 3 hospital supported by taxation in any city where special hospitals, treatment of
 4 other than hospitals connected with penal institutions, are not pro- venereal dis-
 5 vided for the treatment of such diseases at public expense; but any eases, when
 6 such hospital may establish a separate ward for their treatment. forbidden.

1894, 511, § 3.
 R. L. 75, § 41.
 1906, 365, § 1.

1 SECTION 119. Hospital, dispensary, laboratory and morbidity re- Records, etc.,
 2 ports and records pertaining to gonorrhœa or syphilis shall not be of venereal
 3 public records, and the contents thereof shall not be divulged by any diseases not
 4 person having charge of or access to the same, except upon proper judi- public records.
 5 cial order or to a person whose official duties, in the opinion of the com- Penalty.
 6 missioner, entitle him to receive information contained therein. Viola- 1905, 330, § 3.
 7 tions of this section shall for the first offence be punished by a fine of 1918, 96,
 8 not more than fifty dollars, and for a subsequent offence by a fine of §§ 1, 3
 9 not more than one hundred dollars. 1919, 350, § 97.

1 SECTION 120. Laboratory, dispensary and morbidity reports and Certain
 2 records of cases of gonorrhœa or syphilis, other than the permanent records, etc.,
 3 records of hospitals and institutions, shall be destroyed at the expira- to be destroyed.
 4 tion of five years from the year when made. 1918, 96, § 2.

1 SECTION 121. An inmate of a public charitable institution or a Treatment
 2 prisoner in a penal institution who is afflicted with syphilis, gonorrhœa of venereal
 3 or pulmonary tuberculosis shall be forthwith placed under medical diseases and
 4 treatment, and if, in the opinion of the attending physician, it is neces- tuberculosis
 5 sary, he shall be isolated until danger of contagion has passed or the in certain
 6 physician determines his isolation unnecessary. If at the expiration of institutions.
 7 his sentence he is afflicted with syphilis, gonorrhœa or pulmonary tuber- Payment of
expense.
 1891, 420.
 R. L. 75, § 48.
 1919, 350,
 §§ 87, 96.

1920, 306.
1928, 155, § 2
Op. A. G.
(1920) 239.

culosis in its contagious or infectious symptoms, or if, in the opinion of the attending physician of the institution or of such physician as the authorities thereof may consult, his discharge would be dangerous to public health, he shall be placed under medical treatment and cared for as above provided in the institution where he has been confined until, in the opinion of the attending physician, the said symptoms have disappeared and his discharge will not endanger the public health. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the town where he has a settlement, after notice of the expiration of his sentence and of his condition to the board of public welfare thereof, or, if he is a state charge, by the commonwealth after like notice to the department of public welfare.

NUISANCES.

Nuisances.
Examination,
regulation, etc.
1797, 16,
§§ 3, 5, 11.
R. S. 21,
§§ 5, 6, 9.
G. S. 26,
§§ 5, 7.
P. S. 80,
§§ 18, 20.
R. L. 75, § 65.
97 Mass. 221.
125 Mass. 152.
135 Mass. 526.
163 Mass. 240.

SECTION 122. The board of health shall examine into all nuisances, sources of filth and causes of sickness within its town, or on board of vessels within the harbor of such town, which may, in its opinion, be injurious to the public health, shall destroy, remove or prevent the same as the case may require, and shall make regulations for the public health and safety relative thereto and to articles capable of containing or conveying infection or contagion or of creating sickness brought into or conveyed from the town or into or from any vessel. Whoever violates any such regulation shall forfeit not more than one hundred dollars.

179 Mass. 385.	203 Mass. 26.	241 Mass. 406.
182 Mass. 39.	208 Mass. 493.	273 Mass. 177.
186 Mass. 330.	214 Mass. 587.	1 Op. A. G. 290.
190 Mass. 442.	233 Mass. 275.	

To be abated
by owner.
1797, 16, § 11.
R. S. 21, § 10.
1849, 211, § 3.
1855, 369.
G. S. 26, § 8.
P. S. 80, § 21.
R. L. 75, § 67.
98 Mass. 431.
132 Mass. 71.

SECTION 123. Said board shall order the owner or occupant of any private premises, at his own expense, to remove any nuisance, source of filth or cause of sickness found thereon within twenty-four hours, or within such other time as it considers reasonable, after notice; and an owner or occupant shall forfeit not more than twenty dollars for every day during which he knowingly violates such order.

186 Mass. 330.	203 Mass. 26.
190 Mass. 442.	257 Mass. 580.

Service of
order for
abatement.
1849, 211, § 4.
G. S. 26, § 9.
P. S. 80, § 22.
R. L. 75, § 68.
143 Mass. 113.
257 Mass. 580.

SECTION 124. Such order shall be in writing, and may be served personally on the owner, occupant or his authorized agent by any person authorized to serve civil process; or a copy of the order may be left at the last and usual place of abode of the owner, occupant or agent, if he is known and within the commonwealth. If the premises are unoccupied and the residence of the owner or agent is unknown or is without the commonwealth, the board may order the notice to be served by posting it on the premises and by advertising it in one or more newspapers.

Removal
by board.
1797, 16, § 11.
R. S. 21, § 11.
1849, 211, § 5.
G. S. 26, § 10.
P. S. 80, § 23.
R. L. 75, § 69.
98 Mass. 431.

SECTION 125. If the owner or occupant fails to comply with such order, the board may cause the nuisance, source of filth or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the person who caused or permitted the same, if he has had actual notice from the board of health of the existence thereof.

126 Mass. 496.

Location of
privy vaults
regulated.

SECTION 126. If the city council of a city, or a town having a population of more than one thousand, accepts this section, or has accepted

3 corresponding provisions of earlier laws, no privy vault shall be con-
 4 structed upon premises connected with a common or private sewer or
 5 abutting on a public or private street, court or passageway in which
 6 there is a common sewer opposite thereto, without permission in writ-
 7 ing having first been obtained from the board of health. And if, in
 8 the opinion of said board, a privy vault so situated is injurious to the
 9 public health, it shall declare the same a nuisance and forbid its con-
 10 tinuance, and the three preceding sections shall apply thereto.

1890, 74
 1899, 184
 R. L. 75, § 70.
 1910, 313.

1 SECTION 127. The board of health of a city, and the board of health
 2 of a town, if authorized by the town, may make and enforce regulations
 3 for the public health and safety relative to house drainage and connec-
 4 tion with common sewers, if such a sewer abuts the estate to be drained.
 5 Whoever violates any such regulation shall forfeit not more than one
 6 hundred dollars.

Regulations
 relative to
 house drain-
 age.
 1877, 143, § 5
 1881, 180
 P. S. 80, § 12.
 1889, 108
 R. L. 75, § 66.

1 SECTION 128. The board of health, if satisfied upon examination that
 2 a building, tenement, room or cellar in its town occupied as a dwelling
 3 place has become, by reason of the number of occupants, uncleanness
 4 or other cause, unfit for such purpose, and may become a nuisance or
 5 be a cause of sickness to the occupants or to the public, may issue a
 6 written notice to such occupants or any of them, requiring the premises
 7 to be put into a cleanly condition, or vacated within such time as the
 8 board may deem reasonable. If the persons so notified neglect or re-
 9 fuse to comply with the notice, the board may cause the premises to
 10 be properly cleansed at the expense of the owner, or may remove the
 11 occupants forcibly and close up the premises, which shall not be again
 12 occupied as a dwelling place without its written permission. If the
 13 owner thereafter occupies or knowingly permits the same to be occupied
 14 without such permission he shall forfeit not less than ten nor more
 15 than fifty dollars.

Eviction from
 unfit dwelling
 Penalty for
 further
 occupation.
 1890, 108
 G. S. 26, § 11
 P. S. 80, § 24
 R. L. 75, § 71

1 SECTION 129. If a person is convicted on an indictment for a com-
 2 mon nuisance injurious to the public health, the court may order the
 3 nuisance to be removed or destroyed at the expense of the defendant,
 4 under the direction of the board of health.

Removal or
 destruction of
 nuisance on
 conviction
 of owner, etc.

1801, 16, § 3. G. S. 26, § 12. R. L. 75, § 72.
 R. S. 21, § 12. P. S. 80, § 25.

1 SECTION 130. The superior court, either before or pending a prose-
 2 cution for a common nuisance affecting the public health, may enjoin
 3 the maintenance of such nuisance until the matter is decided or the
 4 injunction dissolved.

Enjoining
 nuisance.
 1827, 88
 R. S. 21, § 13.
 G. S. 26, § 13

P. S. 80, § 26. R. L. 75, § 73. 179 Mass. 385.

1 SECTION 131. If the board considers it necessary for preservation of
 2 life or health to enter any land, building or premises, or go on board a
 3 vessel within its town, to examine into and destroy, remove or prevent
 4 a nuisance, source of filth or cause of sickness, and the board, or any
 5 agent thereof sent for that purpose, is refused such entry, any member
 6 of the board or such agent may make complaint to a justice of any
 7 court of record or to a magistrate authorized to issue warrants, who
 8 may thereupon issue a warrant, directed to the sheriff or any of his
 9 deputies, to such member or agent of the board, or to any constable
 10 of such town, commanding him to take sufficient aid and at any reason-

Compulsory
 examination
 of premises
 1816, 44, § 2.
 R. S. 21, § 14
 G. S. 26, § 14.
 1873, 2, § 1
 1877, 211, § 1.
 P. S. 80, § 27.
 R. L. 75, § 74.

able time repair to the place where such nuisance, source of filth or 11
cause of sickness complained of may be, and to destroy, remove or 12
prevent the same, under the direction of the board. 13

Certain land deemed nuisance. 1868, 160, § 1. P. S. 80, § 28. 1877, 338, § 1. R. L. 75, § 75. 132 Mass. 71. 135 Mass. 490. 160 Mass. 486. 165 Mass. 240. 166 Mass. 399.

SECTION 132. Land which is wet, rotten or spongy, or covered with stagnant water, so as to be offensive to residents in its vicinity or injurious to health, shall be deemed a nuisance, which the board of health of the town where it lies, upon petition and hearing, may abate in the manner provided in the seven following sections; but if the expense of abatement will exceed two thousand dollars, such abatement shall not be made without a previous appropriation therefor.

225 Mass. 467.

Application for abatement. 1868, 160, § 2. P. S. 80, § 29. R. L. 75, § 76.

SECTION 133. Whoever is injured by such nuisance may, by petition describing the premises upon which it is alleged to exist and stating the nature of the nuisance complained of, apply to the board for its abatement; whereupon such board shall view the premises and examine into the nature and cause of such nuisance.

Proceedings on application for abatement. 1868, 160, § 3. P. S. 80, § 30. R. L. 75, § 77.

SECTION 134. Upon such examination, if the board is of opinion that the petition should be granted, it shall appoint a time and place for a hearing, first giving reasonable notice thereof to the petitioners, to the persons whose lands it may be necessary to enter upon to abate the nuisance, and to any other persons who may be damaged or benefited by the proceedings, and to the mayor or the chairman of the selectmen, unless the selectmen constitute the board of health, that they may be heard upon the necessity and mode of abating such nuisance, the question of damages, and of the assessment and apportionment of the expenses of the abatement.

Form of notice and service thereof. 1868, 160, § 4. P. S. 80, § 31. R. L. 75, § 78. 166 Mass. 399.

SECTION 135. Such notice shall be in writing, and may be served, by any person authorized to serve civil process, by personal service upon the mayor or chairman of the selectmen, the petitioners, the owner or occupant of any land upon which it may be necessary to enter or which may be benefited by the abatement, or the authorized agent of such owner or occupant, or by leaving an attested copy of such notice at the last and usual place of abode of such persons; but if the land is unoccupied and the owner or agent is unknown or out of the commonwealth, the notice to such owner may be served by posting an attested copy thereof upon the premises, or by advertising in one or more newspapers in such manner and for such length of time as the board may order.

Abatement of nuisance. Damages. 1868, 160, § 5. P. S. 80, § 32. R. L. 75, § 79. 1915, 46. 135 Mass. 490.

SECTION 136. At the time and place appointed therefor, the board shall hear the parties, and thereafter may cause such nuisance to be abated by entering upon any land and by making such excavations, embankments and drains therein and under and across any ways as may be necessary; and shall also determine in what manner and at whose expense the improvements shall be kept in repair, shall estimate and award the damage sustained by and the benefit accruing to any person by reason of such improvements, and what proportion of the expense of making and keeping the same in repair shall be borne by the town and by the persons benefited thereby. The board shall forth-

11 with give notice of its decision, in the manner required in the preceding
 12 section, to the parties to whom notice is required to be given by section
 13 one hundred and thirty-four and to the assessors of said town. The
 14 expense of making and keeping such improvements in repair shall be
 15 assessed by the assessors upon the persons benefitted thereby, as ascer-
 16 tained by said decision, shall be included in their taxes, shall be a lien
 17 upon the land benefitted thereby, and shall be collected in the same
 18 manner as other taxes upon land. Apportionment of assessments under
 19 this section may be made and the parts thereof be collected as provided
 20 in chapter eighty.

1 SECTION 137. A person entitled to notice under section one hundred
 2 and thirty-four, who is aggrieved by the decision of said board or of the
 3 commissioners appointed under section one hundred and forty that the
 4 land described in the petition is a nuisance, may appeal therefrom to the
 5 superior court, if, within twenty-four hours after notice of such decision,
 6 he gives written notice to said board of his intention so to do, and within
 7 seven days thereafter files a petition in the superior court stating his
 8 grievance and the action of said board thereon, and enters into such
 9 recognizance as said court shall order. Said court may hear and deter-
 10 mine such appeal, pending which all proceedings by the board of health
 11 relative to such nuisance shall be stayed.

Appeal from
 adjudication
 of nuisance.
 1887, 338, § 2.
 R. L. 75, § 80.

1 SECTION 138. Whoever is aggrieved by such decision in the award
 2 of damages or in the determination of benefits accrued or in the appor-
 3 tionment of the expense may, within three months after notice thereof,
 4 petition the superior court under chapter seventy-nine or chapter eighty,
 5 first giving one month's notice in writing to the mayor and aldermen or
 6 selectmen of his intention so to do, and particularly specifying therein his
 7 objections to said decision. Such petition shall otherwise be made in like
 8 manner and the proceedings thereon shall be the same as in case of land
 9 taken or betterments assessed under said chapters, respectively.

Appeal from
 assessment.
 1887, 338, § 3.
 R. L. 75, § 81.
 1918, 257,
 § 192, 285.
 1919, 5.
 1920, 2.

1 SECTION 139. The board shall, within thirty days after the abatement
 2 of such nuisance, make return of its doings to the town clerk, who shall
 3 record them in the town records.

Board to
 make return.
 1868, 160, § 6.
 P. S. 80, § 33.
 R. L. 75, § 82.

1 SECTION 140. If the board unreasonably refuses or neglects to pro-
 2 ceed in the matter of said petition, the petitioner may apply to the
 3 superior court, which, upon a hearing and for good cause shown, may
 4 appoint three commissioners, who shall proceed in the manner provided
 5 in sections one hundred and thirty-three to one hundred and thirty-nine,
 6 inclusive.

Appointment of
 commissioners.
 1868, 160, § 7.
 P. S. 80, § 34.
 R. L. 75, § 83.

1 SECTION 141. Whoever is aggrieved by the neglect or refusal of the
 2 board of health to pass all proper orders abating a nuisance may apply
 3 to the county commissioners, who may hear and determine such appli-
 4 cation and exercise in such case all the powers of such board. The
 5 applicant shall, within twenty-four hours after such neglect or refusal,
 6 file with said board a written notice to the adverse party of his intention
 7 so to apply, and within seven days shall present a petition to one of the
 8 county commissioners, stating the grievances complained of and the
 9 action of the board of health thereon.

Application
 to county
 commissioners.
 1866, 211,
 §§ 1, 2.
 P. S. 80,
 §§ 30, 37.
 R. L. 75, § 84.

Costs and expenses.
Award, payment.
1806, 241, § 3.
P. S. 80, § 38.
R. L. 75, § 85.

SECTION 142. Each county commissioner, when acting under the preceding section, shall tax three dollars a day for time and five cents a mile for travel to and from the place of meeting, which shall be paid into the county treasury; and such costs shall in the first instance be paid by the applicant, and the commissioners may award that costs of the proceeding shall be paid by any party thereto.

Assignment of places for offensive trades.
1692-3, 23, § 1.
1693, 13.
1710-11, 8, § 1.
1785, 1, § 1.
R. S. 21, § 47.
1855, 391, § 1.
G. S. 26, § 52.
P. S. 80, § 84.

SECTION 143. Boards of health may from time to time assign certain places for the exercise of any trade or employment which is a nuisance or hurtful to the inhabitants, injurious to their estates, dangerous to the public health, or is attended by noisome and injurious odors, and may prohibit the exercise thereof within the limits of the town or in places not so assigned. Such assignments shall be entered in the records of the town, and may be revoked when the board shall think proper.

R. L. 75, § 91.	97 Mass. 221.	181 Mass. 565.	260 Mass. 544.
16 Gray, 231.	116 Mass. 254.	183 Mass. 491.	265 Mass. 520.
8 Allen, 325.	135 Mass. 526.	190 Mass. 442.	273 Mass. 177.
11 Allen, 398.	151 Mass. 563.	214 Mass. 587.	

Revocation by court.
1710-11, 8, § 2.
1785, 1, § 2.
R. S. 21, § 48.
G. S. 26, § 53.
P. S. 80, § 85.
R. L. 75, § 92.

SECTION 144. If a place or building so assigned becomes a nuisance by reason of offensive odors or exhalations therefrom, or is otherwise hurtful or dangerous to the neighborhood or to travelers, the superior court may, on complaint of any person, revoke such assignment, prohibit such further use of such place or building, and cause the nuisance to be removed or prevented.

Damages.
1709, 75, § 2.
R. S. 21, § 49.
G. S. 26, § 54.
P. S. 80, § 86.

SECTION 145. Whoever is injured in the comfort or enjoyment of his estate by such nuisance may recover in tort the damages sustained thereby.

R. L. 75, § 93.

Orders of prohibition.
Penalty.
1855, 391, § 2.
G. S. 26, § 55.
P. S. 80, § 87.
R. L. 75, § 94.
8 Allen, 325.
116 Mass. 254.
190 Mass. 442.

SECTION 146. Orders of prohibition issued under section one hundred and forty-three shall be served by an officer qualified to serve civil process upon the occupant or person having charge of the premises where such trade or employment is exercised, and the board shall take all necessary measures to prevent such exercise. Whoever refuses or neglects for twenty-four hours thereafter to obey the same shall forfeit not less than fifty nor more than five hundred dollars.

Appeal from order.
1855, 391, § 3.
G. S. 26, § 56.
1867, 263.
P. S. 80, § 88.
1884, 133.
1889, 193, § 1.
R. L. 75, § 95.
125 Mass. 182.
135 Mass. 526.
183 Mass. 491.
190 Mass. 442.
260 Mass. 544.
273 Mass. 177.

SECTION 147. Whoever is aggrieved by an order made under section one hundred and forty-three or one hundred and fifty-two may, within three days after service of the order upon him, give written notice of appeal to the board, and file a petition for a jury in the superior court in the county where the premises affected are located, and, after notice to the board, may have a trial in the same manner as other civil cases are tried by jury. If by mistake of law or fact or by accident he fails within said three days to apply as aforesaid, and if it appears to the court that such failure was caused by such mistake or accident, and that he has not, since the service of such order upon him, violated it, he may within thirty days after the service of the order upon him apply for a jury.

Trade not to be exercised meanwhile.
1855, 391, § 4.
G. S. 26, § 57.

SECTION 148. Such trade or employment shall not be exercised contrary to the order while such proceedings are pending, unless specially authorized by the board; and if so specially authorized all further

4 proceedings by the board shall be stayed while such proceedings are
 5 pending. Upon any violation of the order, unless specially authorized
 6 as aforesaid, the proceedings shall forthwith be dismissed.

P. S. 80, § 89
 1889, 193, § 1.
 R. L. 75, § 96.

1 SECTION 149. The verdict may alter, affirm or annul the order, and
 2 shall be returned to the court for acceptance; and if accepted, shall
 3 have the authority and effect of a valid order of the board, and may
 4 also be enforced by the court in equity.

Verdict
 and cost.
 1875, 391, § 5
 G. S. 26, § 58.
 P. S. 80, § 90.

1889, 193, § 2.

R. L. 75, § 97.

273 Mass. 177.

1 SECTION 150. If the order is affirmed by the verdict, the board shall
 2 recover costs to the use of the town; if it is annulled and the peti-
 3 tioner has not been specially authorized by said board to exercise such
 4 trade or employment during the proceedings, he shall recover damages
 5 and costs against the town; if it is annulled and the petitioner has
 6 been specially authorized as aforesaid, or if it is altered, he shall not
 7 recover damages, and the court may render judgment for costs in its
 8 discretion.

Damages
 and cost.
 1875, 391, § 6.
 G. S. 26, § 59.
 P. S. 80, § 91.
 1889, 193, § 1.
 R. L. 75, § 98.

1 SECTION 151. No person shall occupy or use a building for carrying
 2 on the business of slaughtering cattle, sheep or other animals, or for a
 3 melting or rendering establishment, or for other noxious or offensive
 4 trade and occupation, or permit or allow said trade or occupation to be
 5 carried on upon premises owned or occupied by him, without first ob-
 6 taining the written consent and permission of the mayor and city coun-
 7 cil, or of the selectmen, or, in any town having a population of more
 8 than five thousand, of the board of health, if any, of the town where the
 9 building or premises are situated. This section shall not apply to any
 10 building or premises occupied or used for said trade or occupation on
 11 May eighth, eighteen hundred and seventy-one; but no person who
 12 used or occupied any building or premises on said date for said trades or
 13 occupations shall enlarge or extend the same without first obtaining the
 14 written consent and permission of the mayor and city council or the
 15 selectmen, or, in any town having a population of more than five thou-
 16 sand, of the board of health, if any.

Slaughter
 houses, etc.,
 regulated.
 Exceptions.
 1892-3, 23, § 1.
 1696, 13.
 1710-11, 8, § 1.
 1785, 1, § 1.
 R. S. 21, § 47.
 1871, 167, § 1.
 1874, 308.
 P. S. 80, § 92.
 1893, 106.
 1897, 328, § 2.
 R. L. 75, § 108.
 109 Mass. 315.
 320.
 114 Mass. 353.
 185 Mass. 448.

1 SECTION 152. If any buildings or premises are so occupied or used,
 2 the department shall, upon application, appoint a time and place for
 3 hearing the parties, and, after due notice thereof to the party against
 4 whom the application is made and a hearing, may, if in its judgment
 5 the public health, comfort or convenience so require, order any person
 6 to desist from further carrying on said trade or occupation in such
 7 buildings or premises; and no person shall thereafter continue so to
 8 occupy or use such buildings or premises. Whoever occupies or uses
 9 any building or premises in violation of this or the preceding section
 10 shall forfeit not more than two hundred dollars for every month of such
 11 occupancy or use and in like proportion for a shorter time.

Prohibition
 of offensive
 trades.
 Penalty.
 1870-11, 8, § 2.
 1785, 1, § 2.
 R. S. 21, § 48.
 1871, 167,
 § 1, 2.
 1874, 308.
 P. S. 80,
 §§ 92, 93.
 1886, 101, § 4.
 1893, 106.
 R. L. 75,
 §§ 108, 109.
 125 Mass. 182.
 181 Mass. 565.
 3 Op. A. G. 85.

1 SECTION 153. The superior court may restrain the unauthorized oc-
 2 cupancy, use or extension of any building or premises occupied or used
 3 for the trades or occupations aforesaid, and enforce the orders of the
 4 department issued under the preceding section; but this and the two
 5 preceding sections shall not impair any other remedies against nuisances.

Restraint of
 offensive
 trades.
 1871, 167, § 3.
 1874, 290.
 P. S. 80,
 §§ 94, 95.
 R. L. 75, § 110.
 185 Mass. 448.

Killing and rendering of horses, etc., regulated. Penalty. R. L. 75, § 111. 1901, 134. 1902, 116, §§ 1, 3. 1907, 243. 1912, 608, §§ 1, 3. 1919, 350, §§ 39, 44. 185 Mass. 448.

SECTION 154. A person engaged in or desiring to engage in the business of killing horses, or in the rendering of horses or other animals, shall annually in March apply for a license to the board of health of the town where such business is to be carried on. The application shall be in writing and signed by the persons desiring to carry on such business, or, if the applicant is a corporation, by a duly authorized officer thereof. It shall state the names in full and the addresses of all persons desiring to carry on such business, or, if a corporation is the applicant, the names of all its officers, and the street or other place where the business is to be conducted. The board of health of a town may grant such licenses after it is satisfied that the applicants have a suitable building and plant in a situation approved by said board, and that they have suitable trucks or wagons for the removal of dead animals. The license shall state the name of the licensee, the situation of the building or establishment where the business is to be carried on, and shall continue in force until April first of the year next ensuing unless sooner revoked. The board of health shall keep a record of such licenses granted by it, and shall notify the director of animal industry of the granting of any such license, giving the name and address of the licensee. The fee for a license shall not exceed one dollar, and a license may be revoked at any time by the board of health. Licensees shall report to the director of animal industry, in such form and at such times as he may order, every animal received by them which is infected with a contagious disease. No unlicensed person shall carry on the business of killing horses or of rendering horses or other animals. So much of section thirty of chapter one hundred and twenty-nine as provides that no person shall knowingly sell an animal with a contagious disease shall not apply to any person who sells such animal to a licensee under this section, if such animal is to be killed or rendered at the establishment of such licensee. Whoever violates this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than three months, or both.

STABLES.

Licenses for stables in cities and certain towns. 1890, 230; 395. 1891, 220, §§ 1, 3. 1895, 213, §§ 1, 2. 1896, 332. 1897, 300, § 3. R. L. 102, § 69. 1912, 486. 210 Mass. 378.

SECTION 155. No person shall erect, occupy or use for a stable any building in a city, or in a town having more than five thousand inhabitants, unless such use is licensed by the board of health, and, in such case, only to the extent so licensed. This section shall not prevent any such occupation and use authorized by law on May fourth, eighteen hundred and ninety-five, to the extent and by the person so authorized, but the board of health of such a city or town may make such regulations or orders as, in its judgment, the public health requires relative to drainage, ventilation, size and character of stalls, bedding, number of animals and storage and handling of manure in any stable in its city or town.

Stables in vicinity of churches regulated. 1891, 220, §§ 1-3. R. L. 102, § 70.

SECTION 156. No person shall in a city occupy or use a building for a livery stable, or a stable for taking or keeping horses and carriages for hire or to let, within two hundred feet of a church or meeting house erected and used for the public worship of God, without the written consent of the religious society or parish worshipping therein; but this section shall not prevent such occupation and use if authorized by law on May seventeenth, eighteen hundred and ninety-one, to the extent then authorized.

1 SECTION 157. Whoever violates any provision of the two preceding
2 sections or of a regulation or order made thereunder shall be punished
3 by a fine of five dollars for each day such violation continues.

Penalty.
1891, 230, § 4.
1892, 213, § 3.
R. L. 102, § 71.

1 SECTION 158. The selectmen of towns having a population of five
2 thousand or less may license suitable persons to keep more than four
3 horses in specified buildings or places within their respective towns,
4 and may revoke such licenses at pleasure. Whoever, not being licensed
5 as aforesaid, occupies or uses a building or place for a stable for more
6 than four horses shall forfeit not more than fifty dollars for every month
7 he so occupies or uses such building or place, and in like proportion for
8 a shorter time. The superior court may restrain the erection, occupancy
9 or use of stables contrary to this section or section one hundred and
10 fifty-five or one hundred and fifty-six.

Licenses for
stables in
small towns.
1871, 319.
1872, 129.
1854, 362.
G. S. 88, § 32.
P. S. 102, § 39.
1890, 230, 395.
1891, 230, § 4.
1895, 213, § 3.
1897, 428, § 2.
R. L. 102,
§ 71, 72.
157 Mass. 12.
159 Mass. 409.

166 Mass. 53.

167 Mass. 380.

168 Mass. 76.

210 Mass. 378.

WATER SUPPLY.

1 SECTION 159. The department shall have the general oversight and
2 care of all inland waters and of all streams and ponds used by any
3 city, town, water supply or fire district or public institution or by any
4 water or ice company in the commonwealth as sources of ice or water
5 supply and of all springs, streams and watercourses tributary thereto.
6 It shall be provided with maps, plans and documents suitable for such
7 purposes, and shall keep records of all its transactions relative thereto.
8 It shall give notice to the attorney general of any violation of law relative
9 to the pollution of water supplies and inland waters.

Supervision of
inland waters.
1886, 274.
§§ 1-3.
1888, 375.
§§ 1-5.
1890, 441, § 1.
1897, 510, § 1.
R. L. 75,
§§ 112, 115.
1919, 350, § 96.
179 Mass. 385.

1 SECTION 160. The department may cause examinations of such
2 waters to be made to ascertain their purity and fitness for domestic
3 use, or the possibility of their impairing the interests of the public or
4 of persons lawfully using them or of imperilling the public health. It
5 may make rules and regulations to prevent the pollution and to secure
6 the sanitary protection of all such waters used as sources of water
7 supply. It may delegate the granting and withholding of any permit
8 required by such rules or regulations to state departments, boards and
9 commissions and to selectmen in towns, and to boards of health, water
10 boards and water commissioners in cities and towns, to be exercised by
11 such selectmen, departments, boards and commissions, subject to such
12 recommendation and direction as shall be given from time to time by
13 the department; and upon complaint of any person interested, the depart-
14 ment shall investigate the granting or withholding of any such permit,
15 and make such orders relative thereto as it may deem necessary for the
16 protection of the public health. Whoever violates any such orders,
17 rules or regulations shall be punished by a fine of not more than five
18 hundred dollars, to the use of the commonwealth, or by imprisonment for
19 not more than one year, or both.

Examination
of water
supply.
Rules.
Penalty for
violation.
1886, 274, § 2.
1888, 375, § 2.
1890, 441,
§§ 1, 5.
1897, 510,
§§ 1, 6.
R. L. 75,
§§ 113, 122.
1907, 467.
1919, 350, § 96.
189 Mass. 247.
191 Mass. 384.
230 Mass. 6.
4 Op. A. G.
403.

1 SECTION 161. The publication of an order, rule or regulation made
2 by the department under the preceding or the following section in a
3 newspaper of the town where such order, rule or regulation is to take
4 effect or, if no newspaper is published in such town, the posting of a
5 copy of such order, rule or regulation in a public place therein shall
6 be legal notice to all persons; and an affidavit of such publication or

Effect of
publication
of rule, etc.
1869, 308.
1870, 75,
§ 114.

posting by the person causing such notice to be published or posted, 7
 filed and recorded, with a copy of the notice, in the office of the town 8
 clerk, shall be admitted as evidence of the time when and the place 9
 and manner in which the notice was given. 10

Removal
 of causes of
 pollution.
 Damages.
 Penalty for
 violation
 of order.
 1890, 441,
 §§ 2, 5, 7,
 1897, 510,
 §§ 3, 6, 9,
 R. L. 75,
 §§ 118, 122,
 1919, 350, § 96,
 189 Mass. 247,
 1 Op. A. G. 403.

SECTION 162. Upon petition to the department by the mayor of 1
 a city or the selectmen of a town, the managing board or officer of any 2
 public institution, or by a board of water commissioners, or the presi- 3
 dent of a water or ice company, stating that manure, excrement, 4
 garbage, sewage or any other matter pollutes or tends to pollute the 5
 waters of any stream, pond, spring or watercourse used by such city, 6
 town, institution or company as a source of water supply, the depart- 7
 ment shall appoint a time and place within the county where the nui- 8
 sance or pollution is alleged to exist for a hearing, and after notice 9
 thereof to parties interested and a hearing, if in its judgment the public 10
 health so requires, shall, by an order served upon the party causing or 11
 permitting such pollution, prohibit the deposit, keeping or discharge 12
 of any such cause of pollution, and shall order him to desist therefrom 13
 and to remove any such cause of pollution; but the department shall 14
 not prohibit the cultivation and use of the soil in the ordinary methods 15
 of agriculture if no human excrement is used thereon. The department 16
 shall not prohibit the use of any structure in existence on June eleventh, 17
 eighteen hundred and ninety-seven, upon a complaint made by the board 18
 of water commissioners of any town or by any water or ice company unless 19
 such board of water commissioners or company files with the depart- 20
 ment a vote of its city council, selectmen or company that such town or 21
 company will at its own expense make such changes in said structure or 22
 its location as said department shall deem expedient. Such vote shall be 23
 binding on such town or company. All damages caused by such changes 24
 shall be paid by such town or company; and if the parties cannot agree 25
 thereon, the damages may be recovered under chapter seventy-nine. 26
 Whoever violates such an order shall be punished by a fine of not more 27
 than five hundred dollars, to the use of the commonwealth, or by imprison- 28
 ment for not more than one year, or both. 29

Appeal from
 order.
 1890, 441, § 3,
 1897, 510, § 4,
 R. L. 75, § 119,
 1919, 350, § 96,
 189 Mass. 330,
 189 Mass. 247.

SECTION 163. Whoever is aggrieved by an order made under the 1
 preceding section may appeal therefrom as provided in section one hun- 2
 dred and forty-seven; but such notice as the court shall order shall also 3
 be given to the board of water commissioners and mayor, or chairman of 4
 the selectmen, or president or other officer of the water or ice company 5
 interested in such order. While the appeal is pending the order of the 6
 department shall be complied with, unless otherwise authorized by it. 7

Enforcement
 of law.
 1890, 441, § 4,
 1897, 510, § 5,
 R. L. 75, § 120,
 1919, 350, § 96.

SECTION 164. The supreme judicial or superior court, upon the appli- 1
 cation of the department or of any party interested, may enforce the 2
 orders, rules and regulations of said department, and restrain the use or 3
 occupation of the premises or such portion thereof as said department 4
 may specify on which the material is deposited or kept, or such other 5
 cause of pollution exists, until the orders, rules and regulations of the 6
 department have been complied with. 7

Entry on
 premises.
 Compensation,
 how appor-
 tioned, etc.

SECTION 165. The agents and servants of the department may 1
 enter any building, structure or premises to ascertain whether sources 2
 of pollution or danger to the water supply there exist, and whether 3

4 the rules, regulations and orders aforesaid are obeyed. Their com-
 5 pensation for services rendered in connection with proceedings under
 6 section one hundred and sixty-two shall be fixed by the department,
 7 and shall in the first instance be paid by the commonwealth; but the
 8 whole amount so paid shall, at the end of each year, be justly and
 9 equitably apportioned by the commissioner of corporations and taxation
 10 between such towns or companies as, during said year, have instituted
 11 said proceedings, and may be recovered in an action by the state treas-
 12 urer, with interest from the date of demand.

1897, 510, § 2.
 R. L. 75, § 121.
 1919, 350,
 §§ 52, 53, 96.

1 SECTION 166. The seven preceding sections shall not apply to the
 2 Connecticut river. The four preceding sections and so much of sections
 3 one hundred and fifty-nine to one hundred and sixty-one, inclusive, as
 4 refers to domestic water supplies shall not apply to the Merrimack river,
 5 or to so much of the Concord river as lies within the limits of Lowell,
 6 or to springs, streams, ponds or watercourses over which the metro-
 7 politan district commission has control.

Application
 of preceding
 sections
 limited
 1890, 441, § 6.
 1897, 510, § 7.
 R. L. 75, § 123.
 1919, 350,
 1919, 350,
 § 123.

1 SECTION 167. No sewage, drainage, refuse or polluting matter, of
 2 such kind and amount as either by itself or in connection with other
 3 matter will corrupt or impair the quality of the water of any pond
 4 or stream used as a source of ice or water supply by a town, public
 5 institution or water company for domestic use, or render it injurious
 6 to health, and no human excrement, shall be discharged into any such
 7 stream or pond, or upon their banks if any filter basin so used is there
 8 situated, or into any feeders of such pond or stream within twenty
 9 miles above the point where such supply is taken.

Protection of
 sources of
 water supply.
 1878, 183,
 §§ 1, 2.
 P. S. 80, § 96
 1896, 252, § 1
 R. L. 75, § 124.
 183 Mass. 10
 219 Mass. 287.
 268 Mass. 497.

1 SECTION 168. The preceding section shall not destroy or impair
 2 rights acquired by legislative grant prior to July first, eighteen hundred
 3 and seventy-eight, or destroy or impair prescriptive rights of drainage
 4 or discharge to the extent to which they lawfully existed on that date;
 5 nor shall it be applicable to the Merrimack or Connecticut rivers, or to
 6 so much of the Concord river as lies within the limits of Lowell.

Prescriptive
 rights, etc.,
 unaffected.
 Application
 of preceding
 section
 limited
 1878, 183, § 3.
 P. S. 80, § 97.
 R. L. 75, § 123.

1 SECTION 169. The supreme judicial or superior court, upon applica-
 2 tion of the mayor of a city, the selectmen of a town, the managing board
 3 or officer of a public institution, or a water or ice company which is inter-
 4 ested, may enjoin the violation of section one hundred and sixty-seven.

133 Mass. 228.

139 Mass. 183.

219 Mass. 287.

Injunction
 against pol-
 lution of
 water supply.
 1884, 134, § 1.
 1896, 252, § 2.
 R. L. 75, § 126.

1 SECTION 170. Whoever wilfully and maliciously defiles or corrupts
 2 any spring or other source of water, or reservoir, or destroys or injures
 3 any pipe, conductor of water or other property pertaining to an aqueduct,
 4 or aids or abets in any such trespass, shall be punished by a fine of not
 5 more than one thousand dollars or by imprisonment for not more than
 6 one year.

Defilement of
 spring or
 source of
 water, etc.,
 penalized
 1843, 65, § 2.
 G. S. 166, § 6
 P. S. 208, § 7
 R. L. 75, § 127.

1 SECTION 171. Whoever wilfully deposits excrement or foul or decay-
 2 ing matter in water used for domestic water supply, or upon the shore
 3 thereof within five rods of the water, shall be punished by a fine of not
 4 more than fifty dollars or by imprisonment for not more than one
 5 month. A police officer or constable of a town where such water is
 6 wholly or partly situated, acting within the limits of his town, and any

Wilful cor-
 rupting of
 sources of
 water supply
 penalized
 1879, 224
 P. S. 208, § 8.
 R. L. 75, § 128.

executive officer or agent of a water board, board of water commis- 7
sioners, public institution or water company furnishing water or ice 8
for domestic purposes, acting upon the premises of such board, in- 9
stitution or company and not more than five rods from the water, may 10
without a warrant arrest any person found in the act of violating this 11
section, and detain him until a complaint can be made against him 12
therefor. But this section shall not interfere with the sewage of a town 13
or public institution, or prevent the enrichment of land for agricultural 14
purposes by the owner or occupant thereof. 15

Bathing in
sources of
water supply
penalized.
1884, 172.

SECTION 172. Whoever bathes in a pond, stream or reservoir the 1
water of which is used for domestic water supply for a town shall be pun- 2
ished by a fine of not more than ten dollars. 3

R. L. 75, § 129.

Protection of
domestic water
supply.
1908, 539.

SECTION 173. Any police officer or constable of a town where any 1
pond, stream or reservoir used for domestic water supply is wholly or 2
partly situated, acting within the limits of his town, and any executive 3
officer of a water board, board of water commissioners, public institu- 4
tion or water company, furnishing water for domestic purposes, or agent 5
of such water board, board of water commissioners, public institution 6
or water company, duly authorized in writing by such board, institu- 7
tion or company, acting upon the premises of such board, institution 8
or company and not more than five rods from the water for such supply 9
may, without a warrant, arrest any person found in the act of bathing 10
in a pond, stream or reservoir the water of which is used for the purpose 11
aforesaid, and detain him in some convenient place until a complaint 12
can be made against him therefor. 13

Driving on
ice on ponds
used for water
supply
penalized.
1880, 185.
P. S. 80,
§§ 101, 102.
R. L. 75, § 130.

SECTION 174. Whoever, not being engaged in cutting or harvesting 1
ice, or in hauling logs, wood or lumber, drives any animal on the ice of 2
a pond or stream used for domestic water supply for a town shall be 3
punished by a fine of not more than fifty dollars or by imprisonment 4
for not more than one month. 5

Prevention of
defilement
by gulls or
terns of waters
used for
domestic
water supply.
1931, 21, § 1.

SECTION 174A. In order to preserve the purity and prevent the 1
pollution of the waters of any reservoir, pond, stream or standpipe used 2
for domestic water supply by the metropolitan water district or by a 3
town, water supply or fire and water district, public institution or water 4
company, the public board or commission, or the governing board in case 5
of a water company, having control of such waters may authorize one or 6
more of its employees, so far as permissible under federal law, to take 7
such reasonable means and use such appliances and weapons as, in the 8
judgment of such public board or commission, or governing board, as 9
the case may be, will prevent the defilement of said waters by gulls or 10
terns, any provision of chapter one hundred and thirty-one to the con- 11
trary notwithstanding. Every such public board or commission and 12
governing board shall keep an accurate account of all birds killed by its 13
employees under authority of this section and submit such account to 14
the director of the division of fisheries and game of the department of 15
conservation at such times and covering such periods as he may prescribe. 16

PROTECTION OF CHARLES RIVER.

1 SECTION 175. The department may make reasonable orders, having
 2 due regard to the particular circumstances of each case, prohibiting, limit-
 3 ing or regulating the entrance or discharge into the Charles river or its
 4 tributaries of such sewage, waste, refuse or other substances as are in-
 5 jurious to the public health. Before making any such order the depart-
 6 ment shall, after due notice to the owner of the premises or the person,
 7 corporation, city or town discharging or permitting the entrance of such
 8 sewage, waste, refuse or other substance into said river or any tributary
 9 thereof hold a hearing, and thereafter shall make, in connection with
 10 any order issued by it, specific findings of fact and a recommendation
 11 as to the best practicable and reasonably available means of avoiding the
 12 pollution in respect to which the order is issued. The findings of fact
 13 shall be prima facie evidence in any proceedings to enforce such order.
 14 The supreme judicial or superior court shall have jurisdiction in equity,
 15 if they find that entrance or discharge of any such sewage, waste, refuse
 16 or other substances into said river or any tributary thereof, is injurious
 17 to the public health, to enforce or modify any order made under this
 18 section, and to enjoin such entrance or discharge. Proceedings to enforce
 19 any such order or to obtain such an injunction shall be instituted and
 20 prosecuted by the attorney general at the relation of the department.
 21 Nothing in this section shall be held to prevent the flow into the said
 22 river or any tributary thereof of surface drainage from occupied lands
 23 or streets or the discharge from drains designed for the disposal of sur-
 24 face water and ground drainage, provided that no sewage or other waste
 25 is mingled therewith, nor shall it be held to interfere with the cultiva-
 26 tion and use of the soil in the ordinary methods of agriculture. Nor
 27 shall this section affect any powers of the metropolitan district com-
 28 mission under section thirty-nine or seventy-six of chapter ninety-two.

Protection of
 Charles river
 from pollution.
 1906, 158.
 1920, 541.

QUARANTINE.

1 SECTION 176. A town may establish a quarantine ground in a suit-
 2 able place within its limits, or, with the previous consent of another
 3 town, within the limits thereof. Two or more towns may in like man-
 4 ner join in establishing such quarantine ground for their common use.

Quarantine
 grounds.
 R. S. 21,
 §§ 27, 28.
 G. S. 26,
 §§ 32, 33.

P. S. 80, §§ 62, 63.

R. L. 75, § 131.

1 SECTION 177. The board of health in a seaport may from time to
 2 time establish the quarantine to be performed by vessels arriving within
 3 its harbor, and may make quarantine regulations for the health and
 4 safety of the inhabitants, which shall apply to all persons, goods and
 5 effects arriving in such vessels and to all persons who for any purpose
 6 may visit the same. Whoever violates any such regulation shall forfeit
 7 not less than five nor more than five hundred dollars.

Quarantine
 regulations.
 1816, 44, § 6.
 R. S. 21,
 §§ 29-31.
 G. S. 26,
 §§ 34-36.
 P. S. 80,
 §§ 64-66.
 R. L. 75, § 132.

1 SECTION 178. Such board may at any time cause a vessel arriving
 2 in port, if such vessel or its cargo is, in its opinion, foul or so infected
 3 as to endanger public health, to be removed to the quarantine ground
 4 and thoroughly purified at the expense of the owners, consignees or
 5 persons in possession thereof; and may cause all persons arriving in
 6 or for any purpose visiting such vessel, or handling the cargo, to be

Quarantine
 of suspected
 vessels.
 1816, 44, § 6.
 R. S. 21, § 32.
 G. S. 26, § 37.
 P. S. 80, § 67.
 R. L. 75, § 133.

removed to any hospital under the care of the board, there to remain 7
under its orders. 8

Person re-
fusing to
answer ques-
tions relating
to infections,
etc., punished.
1797, 16, § 9.
R. S. 21, § 33.
G. S. 26, § 38.
P. S. 80, § 68.
R. L. 75, § 134

SECTION 179. Whoever belongs to or arrives in a vessel on board of 1
which any infection then is or has lately been, or is suspected to have 2
been, or which has been at or has come from a port where an infectious 3
distemper prevails which may endanger public health, and refuses to 4
answer on oath, to be administered by any member of the board, ques- 5
tions relating to such infection or distemper asked by the board of 6
health of the town to which such vessel may come, shall forfeit not 7
more than two hundred dollars. 8

Payment
of quarantine
expenses.
1816, 44, § 6.
R. S. 21, § 34.

SECTION 180. Expenses incurred on account of any person, vessel 1
or goods under quarantine regulations shall be paid by the owner of 2
such vessel. 3

G. S. 26, § 39.
P. S. 80, § 69.

1893, 79.
R. L. 75, § 135.

120 Mass. 96.
144 Mass. 523.

VACCINATION.

Boards of
health to
enforce
vaccination.
Penalty.
1809, 116, § 2.
R. S. 21, § 45.
1855, 414.
§§ 3, 4, 6.

SECTION 181. Boards of health, if in their opinion it is necessary 1
for public health or safety, shall require and enforce the vaccination and 2
revaccination of all the inhabitants of their towns, and shall provide 3
them with the means of free vaccination. Whoever refuses or neglects 4
to comply with such requirement shall forfeit five dollars. 5

G. S. 26, §§ 28, 29.
P. S. 80, §§ 52, 53.
1894, 515, §§ 3, 4.

R. L. 75, § 137.
1902, 190, § 1.

183 Mass. 242.
197 U. S. 11.

Inmates of
factories,
etc., to be
vaccinated.
1855, 414.
§§ 5, 6.
G. S. 26, § 30.
P. S. 80, § 54.
1894, 515, § 5.
1898, 433, § 23.
R. L. 75, § 138.
1901, 426.
§ 219.
Op. A. G.
(1929) 54.

SECTION 182. The board of health of a town where any incorporated 1
manufacturing company, infirmary, training or industrial school, hospital 2
or other establishment where the poor or sick are received, prison, jail or 3
house of correction, or any institution supported or aided by the common- 4
wealth, is situated may, if it decides that it is necessary for the health of 5
the employees or inmates or for the public safety, require the authorities 6
of said establishment or institution, at the expense thereof, to cause all 7
said employees or inmates to be vaccinated. 8

Exemptions.
1894, 515, § 2.
R. L. 75, § 139.
1902, 190, § 2.
544, §§ 10, 35.
238 Mass. 528

SECTION 183. Any person over twenty-one presenting a certificate, 1
signed by the register of a probate court, that he is under guardianship 2
shall not be subject to section one hundred and eighty-one; and any child 3
presenting a certificate, signed by a registered physician designated by 4
the parent or guardian, that the physician has at the time of giving the 5
certificate personally examined the child and that he is of the opinion 6
that the physical condition of the child is such that his health will be 7
endangered by vaccination, shall not, while such condition continues, be 8
subject to the two preceding sections. 9

MISCELLANEOUS PROVISIONS.

County
bacteriological
laboratories
1913, 328.
1914, 792, § 1.
1919, 550, § 96

SECTION 184. In order to better preserve public health and secure 1
greater accuracy in the diagnosis of communicable diseases, county com- 2
missioners may establish and maintain bacteriological laboratories, 3
or provide such laboratory facilities for their respective counties as they 4
deem advantageous, and may expend necessary sums therefor. No 5

6 expenditures shall be made under this section until the laboratories or
 7 the laboratory facilities established or provided in accordance herewith
 8 have been inspected and approved by the department.

1 SECTION 185. The proprietor or manager of any place of public
 2 amusement or other place where there are provided for public use and
 3 entertainment mutoscopes or any other machine or apparatus of such
 4 nature that the person using the same breathes or speaks into it, or,
 5 to see or hear, holds any part thereof in contact with or near to his
 6 eyes or ears, shall disinfect the same, in such manner as shall be ap-
 7 proved by the board of health, at least twice during such hours, in every
 8 twenty-four hours, as the machine or apparatus is offered for use by the
 9 public. This section shall not apply to telephones.

Certain ap-
 paratus to be
 disinfected,
 etc.
 1908, 381, § 1

1 SECTION 186. No person shall provide for public use or entertain-
 2 ment in any place of public amusement or other place of public resort
 3 any so-called lung testing machine or similar contrivance the use of
 4 which requires the application of any part thereof to the lips. Violations
 5 of this or the preceding section shall be punished by a fine of not more
 6 than twenty-five dollars.

Use of certain
 machines
 penalized.
 1908, 381,
 § 2, 3.

1 SECTION 187. The supreme judicial or superior court, upon the appli-
 2 cation of the board of health of a town, may enforce the orders of said
 3 board relative to public health. Sections thirty-four and thirty-five of
 4 chapter two hundred and fourteen shall apply to such cases; but a jury
 5 may be summoned under said sections, if there is no sitting of the court,
 6 within one month after issues have been framed.

Enforcement
 of provisions
 of chapter.
 1893, 460,
 §§ 1, 2
 1899, 143.
 R. L. 75, § 141.
 237 Mass. 56.

1 SECTION 188. Fines and forfeitures incurred under the general laws,
 2 the special laws applicable to a town, or the ordinances, by-laws and
 3 regulations of a town, relative to health, shall enure to the use of such
 4 town except where the forfeiture is incurred by said town.

Disposition of
 fines and
 forfeitures.
 R. S. 21, § 46.
 1849, 211, § 7.

G. S. 26, § 50.
 P. S. 80, § 81.

R. L. 75, § 53.
 5 Cush. 408.

153 Mass. 211.

1 SECTION 189. Unless the context otherwise requires, the provisions of
 2 this chapter shall apply to cities so far as consistent with their several
 3 charters.

Chapter, when
 applicable
 to cities
 G. S. 26, § 60.

P. S. 80, § 106.

R. L. 75, § 140.

CHAPTER 112.

REGISTRATION OF CERTAIN PROFESSIONS AND OCCUPATIONS.

SECT.	SECT.	
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1. Certain duties of the director of registration.	25. Records. Annual report.	
REGISTRATION OF PHYSICIANS AND SURGEONS.		
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2A. Board may accept certificate in lieu of examination. Fee.	27. Hearing on applications and complaints.	
3. Examinations.	28. Effect of decision.	
4. Records. Annual report.	29. Suspension.	
5. Investigation of complaints.	30. Penalty for unlawful sale of drugs, etc. Limited application of this section.	
6. Penalties.	31. Proprietor, etc., to put his name on signs and labels.	
7. Application limited.	32. Investigation of complaints.	
8. Certificate of registration to be recorded before practice. Procedure. Penalties.	33. Access to documents.	
9. Limited registration of internes, etc.	34. Certificate of conviction of pharmacist to be sent to board.	
9A. Registration of students for limited practice of medicine.	35. Application of certain laws restricted.	
10. Medicine and its practice to apply to and include osteopathy and its practice.	36. Business of deceased or incapacitated registered pharmacist may be continued, etc.	
11. Certain acts by certain registered osteopaths prohibited. Penalty.	REGISTERING AND LICENSING STORES FOR TRANSACTING RETAIL DRUG BUSINESS.	
12. Disclosure of certain information by registered physician not slander or libel.	37. "Drug business" defined.	
12A. Reports of treatment of certain wounds, etc., caused by firearms. Exceptions. Penalty.	38. Transaction of retail drug business regulated.	
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13. Chiropody defined. Application of §§ 13-23 limited.	39. Registration, permits, fee, etc.	
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15. Board to prepare and distribute certain forms and to hold examinations.	41. Penalty.	
16. Granting of certificates of registration to chiropodists. Renewal.	42. Expenditures authorized.	
17. Examinations.	REGISTRATION OF DENTISTS.	
18. Board shall refuse to issue certificate, and may revoke it, in certain cases.	43. Powers and duties of board of dental examiners. Records. Annual report.	
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20. Suspension.	45. Examination and registration of dentists.	
21. Local registration.	45A. Examination and registration of dental internes.	
22. Penalties.	46. "Reputable dental college" defined.	
23. Payment of expenses.	47. Examination.	
REGISTRATION OF PHARMACISTS.		
24. Examination of pharmacists for registration. Certificates. Reciprocity certificates.	48. Reciprocity certificate.	
	49. Dental office to be operated under name of owner.	
	50. "Practicing dentistry" defined.	
	51. Dental hygienist. Qualification, registration, etc.	
	52. Penalties.	
	53. Application of §§ 43-52 limited.	
	REGISTRATION OF VETERINARIANS.	
	54. Board may make by-laws and rules.	

- SECT.
 55. Examination and registration of veterinarians.
 56. Examinations.
 57. Register. Annual report. Investigation of complaints.
 58. Practice of veterinary medicine defined.
 59. Penalty.
 60. Application of §§ 54-59 limited.

GENERAL PROVISIONS RELATIVE TO THE BOARDS OF REGISTRATION IN MEDICINE, PHARMACY AND VETERINARY MEDICINE, AND THE BOARD OF DENTAL EXAMINERS.

61. Boards of registration in medicine, etc., may suspend, etc., certificates, etc.
 62. Hearings.
 63. Pendency of action before criminal court no ground for delay, or vice versa.
 64. Revision of suspension, etc., of certificate, etc., by supreme judicial court.
 65. Penalty for practicing while certificate, etc., suspended, etc.

REGISTRATION OF OPTOMETRISTS.

66. Practice of optometry defined.
 67. Board of registration. Records, rules, report.
 68. Examination and registration of optometrists. Fees.
 69. Annual license fee.
 70. Certificate of registration to be recorded before practice. Display, etc.
 71. Revocation or suspension.
 72. Penalty.
 73. Application of §§ 66-72 limited.

REGISTRATION OF NURSES.

74. Examination and registration of nurses.
 75. Examinations.
 76. Reciprocity registration.
 77. Investigation and report on complaints.
 78. Records. Annual report.
 79. Rules and regulations.
 80. Penalties.
 81. Application of §§ 74-80 limited.

SECT.

REGISTRATION OF EMBALMERS.

82. Examination and registration of embalmers, etc. Renewal, etc.
 83. Rules and regulations.
 84. Records. Annual report.
 85. Complaints to be investigated.
 86. Certificate to be conspicuously displayed.
 87. Person not registered prohibited from engaging in embalming. Exceptions. Penalty.

REGISTRATION OF CERTIFIED PUBLIC ACCOUNTANTS.

- 87A. Powers and duties of board of registration. Records. Annual report.
 87B. Examinations. Fees.
 87C. Registration and certificate.
 87D. Authority to registered public accountant to style himself "Certified Public Accountant".
 87E. Use of designation restricted. Penalty.

REGISTRATION OF BARBERS.

- 87F. Definitions.
 87G. Examinations. Records. Registers. Annual report.
 87H. Prerequisites to registration. Certificate. Temporary permit.
 87I. Apprentices and students.
 87J. Card or insignia; display, renewal, effect of failure to renew.
 87K. Rules and regulations. Entry into shops. Inspections, etc. Quarantine.
 87L. Suspension, etc., of certificate of registration regulated. Issuance of new certificate.
 87M. Hearings.
 87N. Appeals.
 87O. Fees; payment, disposition.
 87P. Barber schools or colleges.
 87Q. Certificates of registration; term, renewal, deferred renewal.
 87R. General penalty.
 87S. Application of §§ 87F-87R limited.

GENERAL PROVISIONS AS TO ALL STATE BOARDS OF REGISTRATION OR EXAMINATION.

88. Issue of certified statements and duplicate certificates.

SUPERVISION OF BOARDS BY DIRECTOR.

1 SECTION 1. The director of registration shall supervise the work of
 2 the several boards of registration and examination included in the divi-
 3 sion of registration of the department of civil service and registration.
 4 He shall recommend changes in the methods of conducting examinations
 5 and transacting business, and shall make such reports to the governor
 6 and council as they may require or he may deem expedient.

Certain duties of the director of registration 1919, 350, § 67.

REGISTRATION OF PHYSICIANS AND SURGEONS.

Examination and registration of physicians. Revocation of certificate, re-issue, etc. §§ 4, 8. 1894, 458. 1896, 250. §§ 1-3. 1897, 196. 1901, 467, § 2. R. L. 76, § 3. 1913, 346. 1915, 293. 1917, 55, § 1. 1918, 85, § 1; 257, § 285. 1919, 5. 1920, 2. 1922, 340, § 1. 1924, 259, § 3. 1931, 426, § 220. 196 Mass. 326. 251 Mass. 283. 4 Op. A. G. 407. Op. A. G. (1920) 140.

Board may accept certificate in lieu of examination. Fee. 1923, 15.

Examinations. 1891, 458, § 9. 1901, 467, § 1.

SECTION 2. Applications for registration as qualified physicians, signed and sworn to by the applicants, shall be made upon blanks furnished by the board of registration in medicine, herein and in sections three to twenty-three, inclusive, called the board. Each applicant, who shall furnish the board with satisfactory proof that he is twenty-one or over and of good moral character, that he possesses the educational qualifications required for graduation from a public high school, and that he has received the degree of doctor of medicine, or its equivalent, either from a legally chartered medical school having the power to confer degrees in medicine, which gives a full four years' course of instruction of not less than thirty-six weeks in each year, or from any legally chartered medical school having such power, if such applicant was, on March tenth, nineteen hundred and seventeen, a matriculant thereof, shall, upon payment of twenty-five dollars, be examined, and, if found qualified by the board, be registered as a qualified physician and entitled to a certificate in testimony thereof, signed by the chairman and secretary. An applicant failing to pass an examination satisfactory to the board shall be entitled within one year thereafter to a re-examination at a meeting of the board called for the examination of applicants, upon payment of a further fee of three dollars; but two such re-examinations shall exhaust his privilege under his original application. The board, after hearing, may revoke any certificate issued by it and cancel the registration of any physician convicted of a felony; or, after hearing, may revoke any certificate issued by it and cancel for a period not exceeding one year, the registration of any physician, who has been shown at such hearing to have been guilty of gross and confirmed use of alcohol in any of its forms while engaged in the practice of his profession, or of the use of narcotic drugs in any way other than for therapeutic purposes; or of abuse of the authority granted in section two hundred and nine A of chapter ninety-four; or of publishing or causing to be published, or of distributing or causing to be distributed, any literature contrary to section twenty-nine of chapter two hundred and seventy-two; or of acting as principal or assistant in the carrying on of the practice of medicine by an unregistered person or by any person convicted of the illegal practice of medicine or by any registered physician whose license has been revoked either permanently or temporarily; or of aiding or abetting in any attempt to secure registration, either for himself or for another, by fraud; or, in connection with his practice, of defrauding or attempting to defraud any person. The board may subsequently, but not earlier than one year thereafter, reissue any certificate formerly issued by it or issue a new certificate, and register anew any physician whose certificate was revoked and whose registration was cancelled.

SECTION 2A. In determining the qualifications necessary for registration as a qualified physician, the board may at its discretion accept the certificate of the National Board of Medical Examiners of the United States, chartered under the laws of the District of Columbia, in place of and as equivalent to its own professional examination; but before registration in pursuance of this section the applicant therefor shall pay a fee of twenty-five dollars.

SECTION 3. Examinations shall be in whole or in part in writing, in English, shall be of a scientific and practical character, shall include the

3 subjects of anatomy, surgery, chemistry, biology, physics, physiology, R. L. 76, § 7
 4 pathology, obstetrics, gynecology, psychiatry, practice of medicine and 1921, 313, 400
 5 hygiene and shall be sufficiently thorough to test the applicants' fitness 1932, 340, § 2
 6 to practice medicine. The board may employ expert assistance in con- 196 Mass. 326.
 7 ducting hospital and laboratory tests.

1 SECTION 4. The board shall keep a record of the names of all persons Records
 2 registered by it and of all money received and disbursed by it, and a Annual report,
 3 duplicate thereof shall be open to inspection in the office of the state 1891, 458, § 6.
 4 secretary. The board shall make an annual report, including a state- R. L. 76, § 5.
 5 ment of the condition of medicine and surgery in the commonwealth. 1918, 257,
 § 280
 1919, 5,
 1920, 2.

1 SECTION 5. The board shall investigate all complaints of the violation Investigation
 2 of any provision of sections two to twenty-three, inclusive, or of section of complaints
 3 sixty-five, so far as it relates to medicine or chiropody, and report the 1894, 458, § 7.
 4 same to the proper prosecuting officers. R. L. 76, § 6
 1917, 202, § 13.

Op. A. G. (1920) 315.

1 SECTION 6. Except as provided in section sixty-five, whoever, not Penalties,
 2 being lawfully authorized to practice medicine within the commonwealth 1894, 458, § 10.
 3 and registered under section two, or corresponding provisions of earlier 1895, 412
 4 laws, or under section one or two of chapter five hundred and twenty- 1896, 240, § 4
 5 six of the acts of nineteen hundred and nine, holds himself out as a 1901, 467, § 3.
 6 practitioner of medicine or practices or attempts to practice medicine in R. L. 76, § 8
 7 any of its branches, or whoever practices medicine under a false or 1917, 55, § 2.
 8 assumed name or under a name other than that by which he is registered, 1918, 257,
 9 or whoever personates another practitioner, or whoever practices or § 287
 10 attempts to practice any fraud in connection with the filing of an appli- 1919, 5
 11 cation, or whoever files an application under a false or assumed name 1920, 2
 12 or under a name other than his own, or whoever personates or attempts 1927, 137.
 13 to personate another applicant for registration during an examination, 175 Mass. 48
 14 shall be punished by a fine of not less than one hundred nor more than 195 Mass. 443.
 15 one thousand dollars or by imprisonment for not less than one month nor 196 Mass. 326
 16 more than one year, or both. A person rendering medical service in 199 Mass. 558
 17 violation of this section shall recover no compensation therefor. 219 Mass. 217
 221 Mass. 184.
 223 Mass. 392
 231 Mass. 598
 235 Mass. 320.
 239 Mass. 519.
 254 Mass. 366.
 261 Mass. 40.
 4 Op. A. G. 432

1 SECTION 7. Sections two to six, inclusive, and section eight shall not Application
 2 be held to discriminate against any particular school or system of medi- 1894, 458, § 11.
 3 cine, to prohibit medical or surgical service in a case of emergency, or 1901, 467, § 4.
 4 to prohibit the domestic administration of family remedies. They shall R. L. 76, § 9
 5 not apply to a commissioned medical officer of the United States army, 1909, 526, § 6.
 6 navy or marine hospital service in the performance of his official duty; 1918, 85, § 2
 7 to an interne or medical officer registered as provided in section nine, 1920, 214, § 1.
 8 while engaged in the practice of medicine as authorized by said section; 1914, 426,
 9 to an assistant in medicine registered as provided in section nine A, § 221
 10 while engaged in the practice of medicine as authorized by said section; 199 Mass. 558.
 11 to a physician or surgeon resident in another state who is a legal practi- 219 Mass. 217.
 12 tioner therein, when in actual consultation with a legal practitioner of 221 Mass. 184.
 13 this commonwealth; to a physician authorized to practice medicine in 223 Mass. 392.
 14 another state, when he is called as the family physician to attend a per- 261 Mass. 40
 15 son temporarily abiding in this commonwealth; nor to registered phar- 4 Op. A. G. 432.
 16 macists in prescribing gratuitously, clairvoyants or persons practicing
 17 hypnotism, magnetic healing, mind cure, massage, Christian science

or cosmopathic method of healing, if they do not violate any provision 18
of the preceding section. 19

Certificate of registration to be recorded before practice Procedure. Penalties. 1917, 55, § 3; 1919.

SECTION 8. No person shall enter upon, or continue in, the practice 1
of medicine within the commonwealth until he has presented to the 2
clerk of the town where he has, or intends to have, an office or his usual 3
place of business, his certificate of registration as a physician in the 4
commonwealth, or, if it is lost, a certified statement issued by the board, 5
setting forth all the material facts in the original certificate, and a fee 6
of twenty-five cents. Thereupon the clerk shall record the name of the 7
owner of said certificate or certified statement, together with the date 8
of record, upon blanks approved by the board, said blanks to be so ar- 9
ranged that a duplicate carbon copy shall be made at the time of the 10
original record. He shall keep the original as a part of his official records 11
and it shall be open to public inspection. He shall, within twenty-four 12
hours after such recording, forward the duplicate to the board. Whoever 13
practices or attempts to practice medicine without complying with this 14
section, or whoever submits to a town clerk a false or fraudulent cer- 15
tificate or certified statement, shall be punished by a fine of not less than 16
five nor more than one hundred dollars; and any town clerk who refuses 17
or neglects to comply with this section shall be punished by a fine of 18
not less than five nor more than ten dollars. 19

Limited registration of internes, etc. 1920, 244, § 1.

SECTION 9. An applicant for limited registration under this section 1
who shall furnish the board with satisfactory proof that he is twenty- 2
one or over and of good moral character, that he has creditably com- 3
pleted not less than three and one half years of study in a legally chartered 4
medical school in good standing having the power to grant degrees in 5
medicine, and that he has been appointed an interne or medical officer 6
in a hospital or other institution maintained by the commonwealth, or 7
by a county or municipality thereof, or in a hospital incorporated under 8
the laws of the commonwealth may, upon the payment of five dollars, be 9
registered by the board as a hospital medical officer for such time as it 10
may prescribe; but such limited registration shall entitle the said appli- 11
cant to practice medicine only in the hospital or other institution desig- 12
nated on his certificate of limited registration, and under the regulations 13
established by such hospital or other institution. Limited registration 14
under this section may be revoked at any time by the board. 15

Registration of students for limited practice of medicine. 1922, 426.

SECTION 9A. An applicant for limited registration under this section 1
as an assistant in medicine, who shall furnish the board with satisfactory 2
proof that he is twenty-one years of age or over and of good moral char- 3
acter, that he is enrolled in and has creditably completed not less than 4
two years of study in a legally chartered medical school having the 5
power to grant degrees in medicine, and that he has been assigned to 6
the care and observation of persons requiring medical service by an 7
instructor in said medical school, which instructor shall be a registered 8
physician, may, upon the payment of one dollar, be registered by the 9
board as an assistant in medicine for such time as it may prescribe. 10
Such registered assistant in medicine may practice medicine as author- 11
ized by this section, but only under the supervision of such instructor; 12
he may, however, be assigned by such instructor to a hospital, recognized 13
and approved by such instructor, of not less than twenty-five beds, and 14
may practice medicine as aforesaid in said hospital, but only under the 15

16 supervision of a registered physician who has been duly appointed a staff
 17 physician in said hospital. Registration under this section shall not
 18 authorize the signing of certificates of births or deaths, or the use of
 19 any instruments whatsoever in the treatment of any cases, except instru-
 20 ments normally used for the purpose of diagnosis and then for such
 21 purpose only; nor shall it authorize the prescribing or dispensing of
 22 any narcotic drug as defined in section one hundred and ninety-seven of
 23 chapter ninety-four. Registration under this section may be revoked
 24 at any time by the board, and shall be revoked upon the request of the
 25 dean of the medical school in which such assistant in medicine is enrolled.
 26 Termination of such enrolment shall operate as a revocation of such
 27 registration.

1 SECTION 10. The provisions of this chapter with reference to medicine
 2 and its practice shall apply to and include osteopathy and its practice,
 3 when such construction is not inconsistent with the following section.

Medicine and
 its practice to
 apply to and
 include osteop-
 athy and its
 practice.

1909, 526, § 5.

1 SECTION 11. No person now registered as an osteopath under section
 2 one or two of chapter five hundred and twenty-six of the acts of nine-
 3 teen hundred and nine shall prescribe or administer drugs for internal
 4 use, perform major operations in surgery, engage in the practice of
 5 obstetrics, or hold himself out, by virtue of such registration, as and
 6 for other than an osteopath. Violation hereof shall be punished by
 7 the penalty provided in section six.

Certain acts
 by certain
 registered
 osteopaths
 prohibited.
 Penalty.
 1909, 526,
 §§ 3, 4.

1 SECTION 12. Any registered physician or surgeon who knows or has
 2 reason to believe that any person is infected with gonorrhœa or syphilis
 3 may disclose such information to any person from whom the infected
 4 person has received a promise of marriage or to the parent or guardian of
 5 such person if a minor. Such information given in good faith by a regis-
 6 tered physician or surgeon shall not constitute a slander or libel.

Disclosure of
 certain in-
 formation by
 registered
 physician not
 slander or
 libel.
 1918, 111.

1 SECTION 12A. Every physician attending or treating a case of bullet
 2 wound, gunshot wound, powder burn or any other injury arising from or
 3 caused by the discharge of a gun, pistol or other firearm, or, whenever
 4 any such case is treated in a hospital, sanitarium or other institution,
 5 the manager, superintendent or other person in charge thereof, shall
 6 report such case at once to the commissioner of public safety and to the
 7 police authorities of the town where such physician, hospital, sanitarium
 8 or institution is located. This section shall not apply to such wounds,
 9 burns or injuries received by any member of the armed forces of the
 10 United States or of the commonwealth while engaged in the actual per-
 11 formance of duty. Whoever violates any provision of this section shall
 12 be punished by a fine of not less than fifty nor more than one hundred
 13 dollars.

Reports of
 treatment of
 certain wounds,
 etc., caused
 by firearms.
 Exceptions.
 Penalty.
 1927, 69.

REGISTRATION OF CHIROPODISTS.

1 SECTION 13. "Chiropody", as used in this chapter, shall mean the
 2 external treatment of the structures of the human foot by medical,
 3 mechanical or surgical means without the use of other than local anes-
 4 thetics. This and the ten following sections shall not apply to surgeons
 5 of the United States army, navy, or of the marine hospital service,
 6 nor to physicians registered in the commonwealth.

Chiropody
 defined.
 Application of
 §§ 13-23
 limited.
 1917, 202, § 1.

Certain acts prohibited unless person registered. 1917, 202, § 2. [Penalty, § 22.]

SECTION 14. No person shall practice or attempt to practice chiropody in the commonwealth, or hold himself out as a chiropodist, or designate himself, or describe his occupation, by the use of any words or letters calculated to lead others to believe that he is a registered chiropodist, unless he is registered as provided in section sixteen. 1
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Board to prepare and distribute certain forms and to hold examinations. 1917, 202, §§ 3, 4.

SECTION 15. The board shall prepare and distribute forms of applications for registration, certificates of registration and such other documents as may be necessary or convenient in carrying out sections thirteen to twenty-three, inclusive. It shall hold at least two examinations annually, at times and places to be designated by it, after due notice of the same by publication at least twice a week for three successive weeks in one or more newspapers published in the county where the examination is to be held, and it may hold other examinations as it deems necessary or proper. 1
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Granting of certificates of registration to chiropodists. Renewal. 1917, 202, §§ 3, 5, cl. 3, §§ 6-8. Op. A. G. (1920) 248. [Penalty, § 22.]

SECTION 16. Applications for registration, signed and sworn to by the applicant, shall be made upon blanks furnished by the board. If an applicant furnishes the board with satisfactory proof that he is twenty-one or over and of good moral character, and that he has received a diploma or certificate from a reputable school of chiropody, or from some other institution of equal standing, having a minimum requirement of one year's course of at least eight months, he shall, upon payment of fifteen dollars, be examined by the board as provided in the following section, and, if found qualified, shall be registered and shall receive a certificate as a registered chiropodist, signed by the chairman and secretary of the board. An applicant failing to pass an examination satisfactory to the board shall, within one year, if not disqualified under sections eighteen and nineteen, be entitled to a re-examination upon payment of two dollars, and, in case of failure to pass that examination, shall, within one year, if not disqualified as aforesaid, be entitled to a third examination upon payment of two dollars; but two such re-examinations shall exhaust his privilege under his original application. But no such applicant shall be registered unless he obtains a general average of seventy-five per cent in the various subjects in which he is examined and not less than fifty per cent in any subject. Every such certificate shall expire on the last day of the year when it was granted, but upon payment of two dollars may be renewed by the board for each subsequent year without examination. 1
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Examinations. 1917, 202, § 8.

SECTION 17. Examinations shall be in English, and shall be wholly or partly written, oral or clinical, as the board may determine. They shall include and be limited to the subjects of the anatomy, physiology, diagnosis and treatment of the human foot, a sepsis, therapeutics and clinical chiropody, and applicants shall not be required to have received a medical or surgical education except as specified in the preceding section. 1
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Board shall refuse to issue certificate, and may revoke it, in certain cases. 1917, 202, §§ 9, 12.

SECTION 18. The board shall refuse to issue a certificate to a person, or may, after a hearing if requested by a person to whom a certificate has been issued, revoke such certificate if, in the opinion of the board, such person is intemperate in the use of alcoholic liquors or narcotic drugs, or has been guilty of misconduct involving moral turpitude, or has been convicted of an offence involving moral turpitude, or has violated any provision of sections thirteen to twenty-three, inclusive, or of 1
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8 section sixty-five relative to chiropody, or has been guilty of unprofes-
 9 sional conduct, or is in any other manner disqualified morally, mentally
 10 or physically to receive or hold such certificate, or has in his application
 11 therefor knowingly made any false statements or presented to the board
 12 a fraudulent diploma, certificate or other document.

1 SECTION 19. "Unprofessional conduct", as used in the preceding "Unprofes-
 2 section, shall include: (a) the wilful betrayal of a professional secret; (b) sional conduct"
 3 lending the use of one's name to an unregistered chiropodist, or having defined.
 4 professional connection with such a person or with any one convicted 1917, 202, § 10.
 5 of any offence involving moral turpitude; (c) the selling or giving of any
 6 substance or compound containing alcohol or narcotic drugs for other
 7 than legal purposes.

1 SECTION 20. The board, after a hearing if requested by the person Suspension.
 2 registered, may suspend any certificate for not less than six months 1917, 202,
 3 because of any misconduct on the part of the person registered which §§ 11, 12.
 4 would not, in its opinion, justify the revocation thereof.

1 SECTION 21. Every person registered under section sixteen shall, be- Local
 2 fore entering upon the practice of chiropody, submit his certificate of registration. 1917, 202, § 14.
 3 registration to the clerk of the town where he proposes to practice, and [Penalty, § 22.]
 4 shall inform the clerk that he is the person designated therein, and shall
 5 pay him fifty cents. Thereupon, the clerk shall record his name and
 6 address and the date and number of his certificate, and the said record
 7 shall be open to public inspection, and the clerk shall furnish a copy
 8 thereof to the board within one week.

1 SECTION 22. Whoever obtains or attempts to obtain registration Penalties.
 2 under section sixteen by any fraudulent means, or violates any provision 1917, 202, § 16.
 3 of section fourteen, shall, except as provided in section sixty-five, be
 4 punished by a fine of not less than one hundred nor more than five hun-
 5 dred dollars or by imprisonment for not less than three months nor more
 6 than one year, or both. Whoever violates any provision of the preceding
 7 section shall be punished by a fine of not less than three nor more than
 8 twenty dollars.

1 SECTION 23. All necessary expenses incurred in carrying out the Payment of
 2 provisions of the ten preceding sections and in investigating complaints expenses.
 3 for violation thereof shall be paid by the commonwealth, but they shall 1917, 202, § 15.
 4 not in any year exceed the amount received by the commonwealth for
 5 fees under said sections during that year.

REGISTRATION OF PHARMACISTS. •

1 SECTION 24. A person who desires to do business as a pharmacist Examination of
 2 shall, upon payment of five dollars to the board of registration in phar- pharmacists
 3 macy, herein and in sections twenty-five to forty-two, inclusive, called for registration.
 4 the board, be entitled to examination, and, if found qualified, shall be Certificates.
 5 registered as a pharmacist, and shall receive a certificate signed by the Reciprocity
 6 president and secretary of the board. Any person failing to pass such certificates.
 7 examination shall upon request be re-examined, after the expiration of 1885, 313, § 4.
 8 three months, at any regular meeting of the board, upon payment of 1896, 397, § 5.
 9 three dollars. The board may grant certificates of registration as assist- 1899, 422, § 2.
 R. L. 75, § 14.
 1906, 120.
 1908, 525, § 1.
 1918, 257,
 § 289.
 1919, 5.
 1920, 2.

1924, 53.
2 Op. A. G. 97,
165, 318.
3 Op. A. G. 50
4 Op. A. G. 109,
492.

ants after examination upon the terms above named, but such certifi- 10
cates shall not allow the holder thereof to carry on the business of 11
pharmacy. The board may grant certificates of registration to such 12
persons as shall furnish with their applications satisfactory proof that 13
they have been registered by examination in some other state; provided, 14
that such other state shall require a degree of competency equal to that 15
required of applicants in this commonwealth. Every such applicant for 16
registration as a registered pharmacist shall pay to the secretary of the 17
board ten dollars at the time of filing his application. No such certificate 18
shall be granted until the person applying therefor shall have signified 19
his intention of acting under the same in this commonwealth. No 20
certificate shall be granted under this section unless the applicant shall 21
have submitted evidence satisfactory to the board that he is a citizen 22
of the United States. 23

Records
Annual report.
1885, 313, § 6.
1896, 397, § 4.
R. L. 72, § 13.
1918, 257,
§ 288.
1919, 5.
1920, 2.

SECTION 25. The board shall keep a record of the names of all per- 1
sons examined and registered by it, of all persons to whom permits are 2
issued under section thirty-nine, and of all money received and disbursed 3
by it, and a duplicate thereof shall be open to public inspection in the 4
office of the state secretary. The board shall make an annual report 5
of the condition of pharmacy in the commonwealth. 6

Exhibit of
certificates.
1885, 313, § 8.

SECTION 26. Every person receiving a certificate of registration from 1
the board shall conspicuously display the same in his place of business. 2

1896, 397, § 6.

R. L. 76, § 15.

Hearing on
applications
and complaints.
1893, 472,
§§ 1, 2.
1896, 397,
§§ 7, 8.
R. L. 76, § 16.
1907, 140
1910, 172, § 2.

SECTION 27. The board shall hear all applications by registered 1
pharmacists for the granting of third class licenses, if a hearing is re- 2
quested by the applicant, and all complaints made to it against any 3
person registered as a pharmacist charging him in his business as a phar- 4
macist with violating any laws of the commonwealth, and especially 5
the laws relating to the sale of intoxicating liquors; or with engaging 6
with, or aiding or abetting, another in the violation of said laws; or, if 7
he himself is not the owner and actively engaged in such business, with 8
suffering or permitting the use of his name or certificate of registration 9
by others in the conduct of the business of pharmacy. Such complaint 10
shall set out the offence alleged and be made within fifteen days after 11
the date of the act complained of, or within thirty days after a conviction 12
by a court of competent jurisdiction. The board shall notify the person 13
complained against of the charge against him and of the time and place 14
of the hearing at which he may appear with his witnesses and be heard 15
by counsel. It may summon witnesses and compel their attendance at 16
said hearings. Witnesses shall testify on oath and may be sworn by a 17
member of the board. Three members of the board shall be a quorum 18
for any such hearing. 19

Effect of
decision.
1893, 472, § 3.
1896, 397, § 9.
R. L. 76, § 17.
1902, 321, § 1.
1918, 257,
§ 290.
1919, 5.
1920, 2.
179 Mass. 108.

SECTION 28. If the full board sitting at such hearing finds the person 1
guilty, the board may suspend the effect of his certificate of registration 2
as a pharmacist for such term as it fixes. The board may at any time 3
reconsider its action in cases where it has suspended or revoked the 4
license or certificate of registration of a pharmacist, and may change its 5
determination as justice shall require. 6

1 Op. A. G. 499.

2 Op. A. G. 165, 482.

3 Op. A. G. 72.

1 SECTION 29. It may, by a majority vote of all its members, after
 2 hearing, suspend the certificate of registration of a registered pharmacist,
 3 who, in its judgment, is a menace to the public by reason of the improper
 4 use of intoxicating liquor or drugs.

1920, 2.

Suspension.
 1909, 261, § 5.
 1918, 257,
 § 292,
 1919, 5.

1 SECTION 30. Except as provided in section sixty-five, whoever, not
 2 being registered under section twenty-four or corresponding provisions of
 3 earlier laws, sells or offers for sale at retail, compounds for sale or dis-
 4 penses for medicinal purposes drugs, medicines, chemicals or poisons,
 5 except as provided in sections thirty-five and thirty-six, shall be punished
 6 by a fine of not more than fifty dollars. This section shall not prohibit
 7 the employment of apprentices or assistants and the sale by them of any
 8 drugs, medicines, chemicals or poisons, provided a registered pharmacist
 9 is in charge of the store and present therein; nor shall it apply to any
 10 unregistered co-partner or unregistered stockholder in a corporation doing
 11 a retail drug business who was actively engaged in the drug business on
 12 May twenty-eighth, nineteen hundred and thirteen.

1918, 257, § 291.
 1919, 5.

1920, 2.
 4 Op. A. G. 109.

Op. A. G. (1919) 8.

Penalty for
 unlawful sale
 of drugs, etc.
 Limited applica-
 tion of this
 section.
 1885, 313,
 §§ 9, 10
 1893, 227,
 1896, 397,
 §§ 18, 23.
 1900, 317,
 R. L. 76,
 §§ 18, 23.
 1902, 327,
 1908, 525,
 §§ 2, 3, 5.
 1910, 172, § 1.
 1913, 720,
 §§ 1, 2.

1 SECTION 31. Every registered pharmacist carrying on the drug busi-
 2 ness as proprietor or manager shall cause his name to appear on every
 3 sign indicating or advertising his place of business and on every label
 4 used for medicinal preparations compounded in his place of business.

Proprietor,
 etc., to put his
 name on signs
 and labels.
 1908, 525, § 2.
 1913, 720, § 1.

1 SECTION 32. The board shall investigate all complaints of the viola-
 2 tion of any provision of sections twenty-four to forty-two, inclusive,
 3 or of section sixty-five, so far as it relates to pharmacy, and report the
 4 same to the proper prosecuting officers, and especially investigate and
 5 cause to be prosecuted all violations of sections twenty-five to thirty-
 6 three, inclusive, and eighty-eight, of chapter one hundred and thirty-
 7 eight.

Investigation
 of complaints.
 1885, 313, § 7.
 1893, 472, § 6.
 1896, 397, § 21.
 R. L. 76, § 19.
 2 Op. A. G. 282.

1 SECTION 33. A registered pharmacist against whom a complaint or
 2 charge is pending before the board, or his counsel, shall have the same
 3 right of access to documents in the possession of said board as a person
 4 charged with crime in the courts of the commonwealth would have to
 5 documents in the possession of the clerk of the court or the prosecuting
 6 officer.

Access to
 documents.
 1901, 522, § 2.
 R. L. 76, § 21.

1 SECTION 34. The court or magistrate before whom a person is con-
 2 victed of a violation of section thirty of this chapter, or of section thirty-
 3 two of chapter one hundred and thirty-eight, or of section two of chapter
 4 two hundred and seventy shall send to the board a certificate under seal
 5 showing the time, cause and place of conviction.

Certificate of
 conviction of
 pharmacist
 to be sent
 to board.
 1901, 522, § 2.
 R. L. 76, § 22.
 1923, 233, § 8.

1 SECTION 35. Sections thirty and thirty-seven to forty-one, inclusive,
 2 of this chapter, sections twenty-five to thirty-three, inclusive, and eighty-
 3 eight, of chapter one hundred and thirty-eight and section two of chapter
 4 two hundred and seventy shall not apply to physicians who put up their
 5 own prescriptions or dispense medicines to their patients; nor to the
 6 sale of drugs, medicines, chemicals or poisons by wholesale dealers or
 7 manufacturing chemists to retail dealers; nor to the manufacture or sale

Application of
 certain laws
 restricted.
 1885, 313, § 10.
 1896, 397, § 23.
 1900, 317,
 R. L. 76, § 23.
 1902, 327, § 1.
 1908, 525, § 3.
 1910, 172, § 1.
 1918, 257, § 291.
 1919, 5.

1920, 2
239 Mass. 103
3 Op. A. G. 92

of patent and proprietary medicines; nor to the sale by merchants at 8
retail of the following drugs and chemicals used in the arts, or as house- 9
hold remedies: alum, ammonia, bicarbonate of soda, borax, camphor, 10
castor oil, chlorinated lime, citric acid, cod liver oil, copperas, cotton 11
seed oil, cream of tartar, dyestuffs, Epsom salt, flaxseed, flaxseed meal, 12
gelatine, ginger, Glauber's salt, glycerine, gum arabic, gum tragacanth, 13
hops, hyposulphite of soda, licorice, lime water, linseed oil, litharge, 14
magnesia, olive oil, peroxide of hydrogen, petrolatum, phosphate of 15
soda, rhubarb, Rochelle salt, rosin, sal ammoniac, salt-peter, senna, 16
slippery elm bark, spices for seasoning, sugar of milk, sulphate of copper, 17
sulphur, tartaric acid, turpentine, extract of witch hazel and zinc oxide; 18
nor to the sale in the original packages of the following, if put up by 19
registered pharmacists, manufacturers or wholesale dealers in conformity 20
with law: flavoring essences or extracts, essence of Jamaica ginger, 21
insecticides, rat exterminators, aromatic spirits of ammonia, spirits of 22
camphor, sweet spirits of niter, syrup of rhubarb, tincture of arnica and 23
tincture of rhubarb; nor to the sale of the following poisons used in the 24
arts, if properly labelled and recorded as provided by section two of 25
chapter two hundred and seventy: muriatic acid, oxalic acid, nitric acid, 26
sulphuric acid, arsenic, cyanide of potassium, mercury, phosphorus and 27
sulphate of zinc. 28

Business of
deceased or
incapacitated
registered
pharmacist
may be con-
tinued, etc.
1900, 317
R. L. 76, § 23.
1902, 327, § 1.
1908, 525, § 3.
1910, 172, § 1.
1918, 257, § 291.

SECTION 36. The widow, executor or administrator of a registered 1
pharmacist who has died or the wife of one who has become incapacitated 2
may continue his business under a registered pharmacist, who may also 3
be considered qualified to receive a third class license to be exercised 4
upon said premises of said deceased or incapacitated pharmacist; pro- 5
vided, that the registered licensee is in charge of the premises and present 6
therein. 7

1919, 5.

1920, 2.

Op. A. G. (1919) 19.

REGISTERING AND LICENSING STORES FOR TRANSACTING RETAIL DRUG BUSINESS.

"Drug busi-
ness" defined.
1913, 705, § 1.
1916, 85.

SECTION 37. "Drug business", as used in the two following sections, 1
shall mean the sale, or the keeping or exposing for sale of drugs, medicines, 2
chemicals or poisons, except as otherwise provided in section thirty-five, 3
also the sale or the keeping or exposing for sale of opium, morphine, 4
heroin, codeine or other narcotics, or any salt or compound thereof, or 5
any preparation containing the same, or cocaine, alpha or beta eucaine, 6
or any synthetic substitute therefor, or any salt or compound thereof, 7
or any preparation containing the same, and the said term shall also 8
mean the compounding and dispensing of physicians' prescriptions. 9

Transaction of
retail drug
business
regulated.
1913, 705,
§§ 2, 3
1920, 360.
1921, 318.
[Penalty, § 41]

SECTION 38. No store shall be kept open for the transaction of the 1
retail drug business, or be advertised or represented, by means of any 2
sign, or otherwise, as transacting such business, unless it is registered with, 3
and a permit therefor has been issued by, the board, as provided in the 4
following section. The permit shall be exposed in a conspicuous place in 5
the store for which it is issued. 6

Registration,
permits, fee,
etc.
1913, 705,
§§ 3, 4.

SECTION 39. The board shall, upon application made in such manner 1
and form as it shall determine, register a store for the transaction of the 2
retail drug business and issue to such person as it deems qualified to 3

4 conduct such store, a permit to keep it open; but no such registration
 5 shall be made or permit issued in the case of a corporation unless it shall
 6 appear to the satisfaction of the board that the management of the drug
 7 business in such store is in the hands of a registered pharmacist. Such
 8 permit shall expire on January first following the date of its issue, and
 9 the fee therefor shall be five dollars.

1920, 360.
 147p. A. G. 113,
 170.

1 SECTION 40. The board may suspend or revoke any registration
 2 made under the preceding section and any permit issued thereunder for
 3 any violation of the law pertaining to the drug business or the sale of
 4 intoxicating liquors or for aiding or abetting in a violation of any such
 5 law; but before such suspension or revocation the board shall give a
 6 hearing to the holder of the permit, after due notice to him of the charges
 7 against him and of the time and place of the hearing. Such holder may
 8 appear at the hearing with witnesses and be heard by counsel. Witnesses
 9 shall testify on oath and any member of the board may administer
 10 oaths to them. The board may require the attendance of persons and
 11 compel the production of books and documents. Three members of the
 12 board shall be a quorum for such a hearing, but no registration or permit
 13 shall be suspended or revoked unless upon the affirmative vote of three
 14 or more members thereof.

Registration
 and permit
 may be sus-
 pended or re-
 voked, etc.
 1913, 705, § 5.

1 SECTION 41. Whoever violates any provision of section thirty-eight
 2 shall be punished by a fine of not less than five nor more than one hun-
 3 dred dollars or by imprisonment for not more than one month, or both.

Penalty.
 1913, 705, § 7.

1 SECTION 42. For the purpose of carrying out the five preceding sec-
 2 tions, the board may expend annually a sum not exceeding one thousand
 3 dollars.

Expenditures
 authorized.
 1913, 705, § 6.

REGISTRATION OF DENTISTS.

1 SECTION 43. The board of dental examiners, herein and in sections
 2 forty-four to fifty-three, inclusive, called the board, shall examine appli-
 3 cants for registration in dentistry. It may make, and shall publish,
 4 necessary rules and regulations for the proper conduct of its duties.
 5 Four members of the board shall constitute a quorum for the transac-
 6 tion of business. The board shall keep a full record of its proceedings
 7 and a registry of all persons registered by it, which shall be public records
 8 and open to inspection. A transcript of any of the entries in such record,
 9 certified by its secretary, shall be competent evidence of the facts stated
 10 therein. The board shall make a full and accurate annual report.

Powers and
 duties of
 board of den-
 tal examiners.
 Records. An-
 nual report.
 1887, 137.
 §§ 1, 2, 6.
 1897, 187, § 2.
 R. L. 76,
 §§ 24-26.
 1908, 294, § 1.
 1915, 301,
 §§ 1, 2, 14.

1 SECTION 44. Every registered dentist when he begins practice, either
 2 by himself or associated with or in the employ of another, shall forth-
 3 with notify the board of his office address or addresses, and every regis-
 4 tered dentist practicing as aforesaid shall annually, before April first,
 5 pay to the board a license fee of two dollars. Every registered dentist
 6 shall also promptly notify the board of any change in his office address
 7 or addresses and shall furnish such other information as the board may
 8 require. The board shall publish annually complete lists of the names
 9 and office addresses of all dentists registered and practicing in the com-
 10 monwealth, arranged alphabetically by name and also by the towns
 11 where their offices are situated. Every registered dentist shall exhibit

Office
 addresses of
 registered
 dentists to be
 furnished to
 board.
 Fees, lists, etc.
 1900, 294, § 1.
 R. L. 76, § 26.
 1908, 294, § 1.
 1915, 301, § 4
 1918, 257,
 § 293.
 1919, 5.
 1920, 2.
 1927, 147.
 1929, 70.

[Penalty, § 52.]

his full name in plain readable letters in each office or room where his business is transacted. 12 13

Examination and registration of dentists. 1887, 137, § 4, 6. 1897, 187, § 1, 2. 1900, 294, § 1. R. L. 76, § 26. 1908, 294, § 1. 1915, 301, § 5, 7. 1920, 424, § 2, 4. Op. A. G. (1918) 115.

[Penalty, § 52.]

SECTION 45. Applications for registration hereunder shall be in writing upon blanks furnished by the board, which shall be signed and sworn to by the applicant, presenting proof of the requirements herein specified. Any such applicant twenty-one years or over and of good moral character who shall furnish the board with satisfactory proof that he has received a diploma from the faculty of a reputable dental college as defined in the following section, shall, upon payment of twenty-five dollars, be entitled to be examined by the board; provided, that any such applicant who shall furnish the board with satisfactory proof that he has attended such a reputable dental college for four years and has successfully passed all examinations of the first, second and third years may, upon payment of such fee, be examined. An applicant failing in his examination shall be entitled to one re-examination free of charge, but for each subsequent examination he shall pay ten dollars. If found competent, the applicant shall be registered by the board and shall receive a certificate of registration signed by the members of the board or a majority of them, which shall be prima facie evidence of the right of the holder to practice dentistry. In proof of this right the certificate or a duplicate shall be kept in his office in plain view of his patients, and, on application, shall be shown to any member or agent of the board. 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

Examination and registration of dental internes. 1921, 365.

[Penalty, § 52.]

SECTION 45A. An applicant for limited registration under this section who shall furnish the board with proof entitling him to be examined for registration under the preceding section and with satisfactory proof that he has been appointed a dental interne in a hospital or other institution maintained by the commonwealth or by a county or municipality thereof, or in a hospital or dental infirmary incorporated under the laws of this commonwealth may, upon payment of five dollars, be registered by the board as a dental interne for one year; but such limited registration shall entitle said applicant to practice dentistry only in the hospital or other institution designated on his registration and under the direction of a registered dentist employed therein. Limited registration under this section may be revoked at any time by the board. 1 2 3 4 5 6 7 8 9 10 11 12

"Reputable dental college" defined. 1915, 301, § 6. 1920, 424, § 3. 1926, 215.

SECTION 46. A dental college shall be considered reputable which possesses the following qualifications: 1 2

First, It shall be incorporated and authorized by its charter to confer degrees of doctor of dental medicine, doctor of dental surgery or doctor of dental science. 3 4 5

Second, It shall have a competent faculty and corps of instructors. The teaching staff shall deliver a comprehensive and satisfactory course of lectures supplemented by adequate clinical and laboratory exercises in all subjects pertaining to modern dentistry. 6 7 8 9

Third, It shall give a course of not less than four separate academic years to matriculants who are graduates of accredited high schools or who present proof of equivalent training, or a course of not less than three separate academic years to matriculants who present satisfactory proof of having successfully completed two years of appropriate pre-dental training in a college or university authorized to grant degrees. Each academic year shall consist of not less than thirty-two weeks of six days each. 10 11 12 13 14 15 16 17

18 The administrative policy of the dental college shall be such as to
19 accomplish the requirements of this section.

1 SECTION 47. The examination may be written or oral or both, at
2 the option of the board, and shall include the principal subjects taught
3 in reputable dental colleges. Demonstrations in operative and pros-
4 thetic dentistry, diagnosis and prognosis shall be required.

Examination.
1915, 301, § 7.
1920, 424, § 4.

1 SECTION 48. The board may, without examination, upon the pay-
2 ment of a fee of twenty-five dollars, register, and issue a certificate to, a
3 dentist who has been lawfully in practice for at least five years in another
4 state, if he presents to the board a certificate of registration, and duration
5 of practice, from the board of dental examiners or other like board of said
6 state; provided, that such other state shall require a degree of competency
7 equal to that required of applicants in this commonwealth and extends a
8 like courtesy to dentists registered in this commonwealth.

Reciprocity
certificates.
1915, 301, § 8.
1922, 221.

1 SECTION 49. No person shall conduct a dental office under any name
2 other than that of the dentist actually owning the practice, or a corporate
3 name containing the name of such dentist.

Dental office
to be operated
under name
of owner.

1915, 301, § 9.

[Penalty, § 52.]

1 SECTION 50. Any person who owns or carries on a dental practice or
2 business, or who, by himself, his servants or agents, or by contract
3 with others, performs any operation or makes examination, with the
4 intention of performing or causing to be performed any operation on the
5 human teeth or jaws, or who describes himself by the word "dentist" or
6 other like word, or the letters "D.D.S." or other like letters, or other like
7 title in connection with his name, or who advertises by sign, card, cir-
8 cular, pamphlet or newspaper, or otherwise indicates that he by con-
9 tract with others, or by himself, his servants or agents, will perform any
10 operation or make examination, with the intention of performing or caus-
11 ing to be performed any operation on the human teeth or jaws, shall be
12 deemed to be practicing dentistry within the meaning of sections forty-
13 three to fifty-three, inclusive, and section sixty-five.

"Practicing
dentistry"
defined.
1908, 294, § 2.
1909, 301.
1911, 377.
1915, 301,
§§ 10, 14.

1 SECTION 51. Any person of good moral character nineteen years old
2 or over, who is a graduate of a training school for dental hygienists re-
3 quiring a course of not less than one academic year and approved by the
4 board, or who is a graduate of a training school for nurses and has re-
5 ceived three months' clinical training in dental hygiene in any such train-
6 ing school for dental hygienists, may, upon the payment of ten dollars,
7 be examined by the board in the subjects considered essential by it for a
8 dental hygienist, and, if his examination is satisfactory, shall be registered
9 as a dental hygienist and given a certificate allowing him to practice
10 dental hygiene, which shall mean the cleaning of teeth under the direction
11 of any registered dentist of the commonwealth, subject to such rules and
12 regulations as may be adopted by the board. An applicant failing to pass
13 a satisfactory examination shall be entitled to one re-examination at any
14 meeting of the board, free of charge, but for each subsequent examination
15 he shall pay ten dollars.

Dental
hygienist.
Qualification,
registration,
etc.
1915, 301, § 11.
1917, 76, § 1.
1924, 103.

[Penalty, § 52.]

Penalties,
1887, 137,
§§ 5, 8,
1900, 294, § 2,
R. L. 76, § 28,
1905, 289, § 1,
1908, 294, § 2,
1909, 301,
1911, 377,
1915, 301,
§§ 4, 10, 13, 14,
1917, 76, § 2,
1918, 257,
§§ 293, 294,
1919, 5,
1920, 2.

SECTION 52. Any person who falsely asserts that he has a certificate granted by the board, or who, having such certificate or a duplicate thereof, fails to exhibit the same as required by section forty-five, or who falsely and with intent to deceive claims to be a graduate of any college granting degrees in dentistry, or who, except as permitted by the following section, directly or indirectly practices or attempts to practice dentistry or dental hygiene without being registered under sections forty-five to fifty-one, inclusive, or corresponding provisions of earlier laws, or any registered dentist or incorporated dental company who employs or permits a person to practice dentistry unless such person is registered and exhibits his name and certificate as provided in sections forty-four and forty-five, or any person who violates any provision of sections forty-three to fifty-three, inclusive, for which no other penalty is provided, shall, except as provided in section sixty-five, be punished by a fine of not more than two hundred dollars or by imprisonment for three months, or both; and any registered dentist who fails to exhibit his full name, as required by section forty-four, shall be punished by a fine of not more than fifty dollars; provided, that any corporation violating any provision of sections forty-three to fifty-three, inclusive, shall be punished by the fine herein provided for such violation, and its officers, owners or managers concerned in the violation shall be punished by the fine or imprisonment herein provided for such violation, or both.

Application of
§§ 43-52
limited.
1887, 137, § 9,
1900, 294, § 2,
R. L. 76, § 29,
1905, 219,
1905, 289, § 2,
1915, 301,
§§ 9, 12, 14,
1931, 426,
§ 222.

SECTION 53. Nothing in sections forty-three to fifty-two, inclusive, shall apply to treatment by a registered physician not practicing dentistry, in cases where he deems immediate treatment necessary for the relief of his patients, or prevent a registered dentist of another state or his assistant from operating at a public clinic under the auspices of a duly organized and reputable dental college or association, or prevent a student of a reputable dental college, incorporated under the laws of this commonwealth and granting degrees in dentistry, from performing operations as part of the regular college course, or prevent the widow, executor or administrator of a registered dentist who has died, or the wife of one who is incapacitated, from continuing his business under a registered dentist, or prevent a dental interne registered as provided in section forty-five A from engaging in the practice of dentistry as authorized by said section. A registered dentist shall have the same right to prescribe or buy drugs or medicines for use in the conduct of his practice, as a registered physician of the commonwealth.

REGISTRATION OF VETERINARIANS.

Board may
make by-laws
and rules
1903, 219, § 2.

SECTION 54. The board of registration in veterinary medicine, in the six following sections called the board, may make by-laws and rules consistent with law necessary to carry out said sections.

Examination
and registration
of veterinarians.
1903, 219,
§§ 3, 4,
1906, 303, § 2,
1918, 257,
§ 297,
1919, 5,
1920, 2.

SECTION 55. Applications for registration hereunder, signed and sworn to by the applicant, shall be made upon blanks furnished by the board. Any applicant twenty-one years of age or over shall, upon payment of fifteen dollars, be entitled to examination, and, if found qualified by the board, shall be registered as a veterinarian and shall receive a certificate thereof, signed by its chairman and secretary. Any applicant failing to pass a satisfactory examination may be re-examined at any regular meeting of the board within two years thereafter, without additional fee, and thereafter may be examined at any such meeting upon

[Penalty, § 301]

10 payment of fifteen dollars for each examination. The board, after a
11 hearing, may revoke any certificate issued by it to any veterinarian
12 convicted of a crime in the practice of his profession and cancel his
13 registration.

1 SECTION 56. Examinations shall be wholly or in part in writing,
2 shall be in English, and of a scientific and practical character. They
3 shall include the subjects of anatomy, surgery, physiology, animal
4 parasites, obstetrics, pathology, bacteriology, diagnosis and practice,
5 therapeutics, materia medica and veterinary dentistry, and shall be
6 sufficiently thorough to test the applicants' fitness to practice veterinary
7 medicine.

Examinations.
1903, 249, § 5.
1911, 199
1914, 116.

1 SECTION 57. The board shall keep a register of all veterinarians
2 registered by it, which shall be open to public inspection, and shall make
3 an annual report. It shall investigate all complaints of the violation of
4 any provision of section fifty-nine and of section sixty-five, so far as it
5 relates to veterinary medicine, and report the same to the proper prose-
6 cuting officers.

Register.
Annual report.
Investigation
of complaints.
1903, 249, § 6.
1906, 503, § 3.

1 SECTION 58. The practice, or diagnosis and practice of veterinary
2 medicine, veterinary surgery and veterinary dentistry upon any domes-
3 tic animal shall be deemed to be the practice of veterinary medicine
4 within the meaning of sections fifty-four to sixty, inclusive, and section
5 sixty-five.

Practice of
veterinary
medicine
defined.
1914, 750.

1 SECTION 59. Any person not registered under section fifty-five or
2 corresponding provisions of earlier laws who holds himself out as a
3 practitioner of veterinary medicine, or who, except as permitted by the
4 following section, practices or attempts to practice veterinary medicine,
5 shall, except as provided in section sixty-five, be punished by a fine of
6 not less than fifty dollars or by imprisonment for not more than two
7 months, or both.

Penalty.
1903, 249,
§ § 7, 8.
1907, 314, § 1.
1914, 750.

1 SECTION 60. The six preceding sections shall not prohibit advice
2 or service, in a case of emergency, by a person other than a registered
3 veterinarian, nor shall they prohibit farmers from rendering services
4 to their neighbors, if they do not hold themselves out as registered
5 veterinarians, nor shall they be held to discriminate against any particu-
6 lar school or system of veterinary medicine. They shall not apply to
7 a commissioned veterinarian of the United States army in the perform-
8 ance of his official duty; nor to a veterinarian from another state who is
9 a legal practitioner in that state, when in actual consultation with a
10 legal practitioner of this commonwealth; nor to any registered phar-
11 macist prescribing gratuitously, if he does not violate section fifty-nine.

Application
of §§ 54-59
limited.
1903, 249, § 9.
1907, 314, § 2.

GENERAL PROVISIONS RELATIVE TO THE BOARDS OF REGISTRATION IN
MEDICINE, PHARMACY AND VETERINARY MEDICINE, AND THE BOARD
OF DENTAL EXAMINERS.

1 SECTION 61. Except as otherwise provided by law, each board of
2 registration in the division of registration of the department of civil
3 service and registration, after a hearing, may, by a majority vote of
4 the whole board, suspend, revoke or cancel any certificate, registration,

Boards of
registration in
medicine, etc.,
may suspend,
etc., certifi-
cates, etc.
1917, 218, § 1.

1918, 257,
§ 296;
1919, 3,
1920, 2,
1921, 478, § 1,
239 Mass. 421.
Op. A. G.
(1929) 315.

license or authority issued by it, if it appears to the board that the holder of such certificate, registration, license or authority, is insane, or is guilty of deceit, malpractice, gross misconduct in the practise of his profession, or of any offence against the laws of the commonwealth relating thereto. Any person whose certificate, registration, license or authority is suspended or revoked hereunder shall also be liable to such other punishment as may be provided by law. The said boards may make such rules and regulations as they deem proper for the filing of charges and the conduct of hearings.

Hearings,
1917, 218, § 2,
239 Mass. 424.

SECTION 62. Any person against whom charges are filed shall be notified of the hearing thereof, and may appear with witnesses and be heard by counsel. If such person has left the commonwealth, or cannot be found by reasonable search, notice may be dispensed with. Said boards shall have the same powers to summon witnesses to attend such hearings, and to swear them as are conferred upon city councils and other bodies by section eight of chapter two hundred and thirty-three, and said section and sections nine and ten of said chapter shall apply to witnesses summoned as aforesaid.

Pendency of
action before
criminal court
no ground for
delay, or vice
versa.
1917, 218, § 3.

SECTION 63. Said boards shall not defer action upon any charge before them until the conviction of the person accused, nor shall the pendency of any charge before any of said boards act as a continuance or ground for delay in a criminal action.

239 Mass. 424.

Revision of
suspension,
etc., of certifi-
cate, etc.,
by supreme
judicial court.
1917, 218, § 4,
239 Mass. 424.
270 Mass. 65.

SECTION 64. The supreme judicial court, upon petition of a person whose certificate, registration, license or authority has been suspended, revoked or cancelled, may enter a decree revising or reversing the decision of the board, if it appears that the decision was clearly wrong; but prior to the entry of such decree no order shall be made or entered by the court to stay or supersede any suspension, revocation or cancellation of any such certificate, registration, license or authority.

Penalty for
practising while
certificate, etc.,
suspended, etc.
1917, 218, § 5,
1918, 257,
§ 297,
1919, 5,
1920, 2,
1921, 478, § 2.

SECTION 65. Whoever continues to practise any profession or calling after his certificate, registration, license or authority authorizing him so to do has been suspended, revoked or cancelled under authority of section sixty-one, and while such disability continues, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than three months, or both.

REGISTRATION OF OPTOMETRISTS.

Practice of
optometry
defined.
1912, 700, § 1,
235 Mass. 329,
267 Mass. 115.
Op. A. G.
(1929) 255.

SECTION 66. The practice of optometry, as used in the seven following sections, is defined to be the employment of any method or means other than the use of drugs for the measurement of the powers of vision and the adaptation of lenses for the aid thereof.

Board of
registration,
Records,
rule's, report
1912, 700, § 1,
1920, 512, § 2,
267 Mass. 115.

SECTION 67. The board of registration in optometry, herein and in the six following sections called the board, shall keep a record of the names of all persons examined and registered by it and of all moneys received and disbursed by it, and a duplicate thereof shall be open to public inspection in the office of the state secretary. The board shall make necessary rules

6 and regulations to carry into effect sections sixteen to eighteen, inclusive,
7 of chapter thirteen and sections sixty-six to seventy-three, inclusive, of
8 this chapter. The board shall make an annual report of the condition
9 of optometry in the commonwealth.

1 SECTION 68. No person, except as otherwise provided in this section,
2 shall practice optometry until he shall have passed an examination
3 conducted by the board in theoretic, practical and physiological
4 optics, theoretic and practical optometry and in the anatomy and physi-
5 ology of the eye, and shall have demonstrated his ability to properly use
6 scientific instruments and methods used in the practice of optometry,
7 and shall have been registered and shall have received a certificate of
8 registration which shall have conspicuously printed on its face the
9 definition of optometry set forth in section sixty-six. Every applicant
10 for examination shall present satisfactory evidence, in the form of
11 affidavits properly sworn to, that he is over twenty-one years of age
12 and of good moral character, that he has graduated from a school of
13 optometry, approved by the board, maintaining a course of study of
14 not less than two years with a minimum requirement of fifteen hundred
15 attendance hours and that he has graduated from a high school ap-
16 proved by the board or has had a preliminary education equivalent to
17 at least four years in a public high school; provided, that if he is un-
18 able to prove graduation from, or four years' actual attendance at, a
19 high school the board shall determine his qualifications by proper pre-
20 liminary examination, the fee for which shall be five dollars to be paid
21 by the applicant. The fee for the examination for registration shall
22 be twenty-five dollars and those passing the examination shall receive
23 the certificate of registration without additional charge. Any appli-
24 cant who fails to pass a satisfactory examination for registration shall
25 be entitled after the expiration of three months to additional exam-
26 inations, the first of which shall be free of charge, and for each subse-
27 quent examination a fee of five dollars shall be paid.

28 Any person who shall present to the board a certified copy or cer-
29 tificate of registration or license which was issued to him after examina-
30 tion by a board of registration in optometry in any other state, where
31 the requirements for registration are in the opinion of the board equiva-
32 lent to those of this commonwealth, may be registered and given a
33 certificate of registration in this commonwealth without a written
34 examination; provided, that such state accords a like privilege to
35 holders of certificates of registration issued in this commonwealth
36 and that the applicant has not previously failed to pass the examination
37 required in this commonwealth, and that he has been engaged in the
38 reputable practice of optometry continuously for not less than three
39 years immediately preceding his application. The fee for such regis-
40 tration shall be fifty dollars.

1 SECTION 69. Every registered optometrist shall, annually, before Feb-
2 ruary first, pay to the board a license fee of two dollars, in default of
3 which the board may revoke his certificate and his authority to practice
4 optometry thereunder, after a hearing as provided by section seventy-
5 one; but the payment of the said fee at or before the time of hearing,
6 with such additional sum, not exceeding five dollars, as may be fixed by
7 the board, shall remove the default. An optometrist duly registered and
8 licensed to practice in this commonwealth, whose license has not been

Examination
and registration
of optometrists.
Fees.
1912, 700, § 5.
1920, 512, § 3.
1926, 321, § 1.
267 Mass. 145.

Annual license
fee
1915, 201.
1920, 512, § 3.
267 Mass. 145.

revoked, but who shall have temporarily retired from practice or removed from the commonwealth for not exceeding five years, may register upon paying the lapsed annual license fees and filing with the board his affidavit as to the facts aforesaid.

Certificate of registration to be recorded before practice. Display, etc. 1912, 700, § 6. 1920, 512, § 4. 267 Mass. 145.

SECTION 70. Every person to whom a certificate of registration has been granted shall cause the same to be recorded in the office of the clerk of the town where he principally carries on the practice of optometry; and if he removes his principal office from one town to another in the commonwealth, he shall, before engaging in practice in such other town, notify the board in writing of the place where he is to engage in practice, and obtain from the clerk of the town where his certificate is recorded a certified copy thereof and file the same with the clerk of such other town. The fee for recording such certificate or certified copy thereof shall be fifty cents. Every registered optometrist shall display his certificate of registration in a conspicuous place in the principal office wherein he practices optometry, and shall, whenever so required, exhibit it to said board or its authorized representative; and whenever practicing optometry outside of or away from his principal office or place of business, he shall deliver to each customer or person fitted with glasses by him a memorandum of purchase, containing his signature, home post office address and the number of his certificate of registration, together with a specification of the lenses and frames or mountings furnished and the price charged therefor.

Revocation or suspension. 1912, 700, § 8. 1920, 512, § 5. 267 Mass. 145.

SECTION 71. The board may revoke or suspend any certificate of registration for fraud or deceit in practice, or for conviction of crime, or for habitual drunkenness for six months immediately before the charges are made, or for gross incompetence; provided, that before any action is taken the accused party shall have written notice of the charges against him and of the day appointed for a public hearing thereof, which shall be at least five days after the service of such notice. At such hearing the accused shall have an opportunity to produce testimony in his own behalf and to confront the witnesses against him. Three members of the board shall be a quorum for any such hearing. Witnesses at hearings before the board shall testify on oath, and may be sworn by any member thereof. The board may compel the attendance of witnesses and the production of documents at any such hearing. Whenever the certificate of any registered optometrist is revoked, the secretary of the board shall give notice of such revocation to the clerk of the town where the principal office of such optometrist is and the clerk shall record the revocation on the records of his office. Where the right of any person to practice has been revoked as herein provided, the board may, after the expiration of one year, receive an application for a renewal of the right to practice, and upon such new application it may grant such a renewal.

Penalty. 1912, 700, § 9. 1920, 512, § 6. 1926, 321, § 2. 1931, 426, § 223. 267 Mass. 145.

SECTION 72. Whoever, not being lawfully authorized to practice optometry, holds himself out as a practitioner of optometry, or practices or attempts to practice optometry, or sells or attempts to sell spectacles, eyeglasses or lenses for the purpose of correcting defective vision, or whoever personates another practitioner, or fails to deliver a memorandum of purchase as required by section seventy, or violates any other provision of sections sixty-six to seventy-three, inclusive, shall, except as provided in section sixty-five, be punished for the first offence by a fine of not

9 less than fifty nor more than two hundred dollars or by imprisonment
 10 for not more than three months, or both, and for a subsequent offence
 11 by a fine of not less than two hundred nor more than five hundred dol-
 12 lars or by imprisonment for not less than three nor more than six months,
 13 or both.

1 SECTION 73. The seven preceding sections shall not apply to physi-
 2 cians and surgeons lawfully entitled to practice medicine in the com-
 3 monwealth, or to persons who neither practice nor profess to practice
 4 optometry, but who sell spectacles, eyeglasses or lenses, either on pre-
 5 scription from such physicians or surgeons, or from optometrists author-
 6 ized to practice in the commonwealth, or as merchandise from perma-
 7 nently located and established places of business when not sold for the
 8 purpose of correcting defective vision. But nothing herein contained
 9 shall prevent any such physician or surgeon from taking an examination
 10 and receiving a certificate of registration under section sixty-eight, nor
 11 shall this and the seven preceding sections authorize any person to
 12 administer drugs in any form, to practice or claim to practice medicine
 13 or surgery in any sense, or to use any title or appellation intended or
 14 calculated to indicate the practice of medicine or surgery.

Application
 of § 66-72
 limited
 1912, 700, § 10.
 1920, 512, § 7.
 1926, 321, § 3.
 207 Mass. 145.

REGISTRATION OF NURSES.

1 SECTION 74. The board of registration of nurses, herein and in the
 2 seven following sections called the board, shall hold examinations for the
 3 registration of nurses and shall give notice of the times, places and
 4 subjects of such examinations, by publication in one or more newspapers
 5 in each county. Applications for registration, signed and sworn to by
 6 the applicant, shall be made on blanks furnished by the board. An
 7 applicant who furnishes satisfactory proof that he is at least twenty-
 8 one, of good moral character and a graduate of a training school for
 9 nurses approved by the board, shall, upon payment of five dollars, be
 10 examined by the board, and, if found qualified, shall be registered, with
 11 a right to use the title registered nurse and to practice as such, and shall
 12 receive a certificate thereof from the board, signed by its chairman and
 13 secretary. An applicant failing to pass an examination satisfactory to
 14 the board shall be entitled, within one year thereafter, to a re-exam-
 15 ination at a meeting of the board called for the examination of appli-
 16 cants, without the payment of an additional fee. Every person regis-
 17 tered hereunder who continues to hold himself out as a registered nurse
 18 shall, on or before December thirty-first in each year, renew his regis-
 19 tration for the ensuing year by payment of fifty cents to the board, and
 20 thereupon the board shall issue a certificate showing that the holder
 21 thereof is entitled to practice as a registered nurse for the period covered
 22 by said payment. In default of such renewal, a person registered here-
 23 under shall forfeit the right to practice as a registered nurse or to hold
 24 himself out as such until such fee shall have been paid. The board
 25 may, after a hearing, by vote of a majority of its members, annul the
 26 registration and cancel the certificate of any nurse; and, without a
 27 hearing, may annul the registration and cancel the certificate of a nurse
 28 who has been found guilty of a crime.

Examination
 and registra-
 tion of nurses.
 1910, 449, § 3.
 1919, 142.

1 SECTION 75. Examinations shall be partly in writing in the English
 2 language and partly in practical work, and shall include the principles

Examinations.
 1910, 449, § 3.

and methods of nursing. Due credit shall be given for examinations in special branches. 3
4

Reciprocity
registration.
1910, 449, § 6.

SECTION 76. The board may register in like manner, without examination, any person who has been registered as a professional nurse in another state under laws which, in the opinion of the board, maintain a standard substantially similar to that of this commonwealth. 1
2
3
4

Investigation
and report on
complaints.
1910, 449, § 8.

SECTION 77. The board shall investigate all complaints of violation of sections seventy-four to eighty-one, inclusive, and report the same to the proper prosecuting officers. 1
2
3

Records.
Annual report.
1910, 449, § 9.

SECTION 78. It shall keep a record of the names of all persons registered by it and of all money received and disbursed by it, and a duplicate thereof shall be open to public inspection in the office of the state secretary. It shall make an annual report of the condition of professional nursing in the commonwealth. 1
2
3
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5

Rules and
regulations.
1910, 449, § 12.

SECTION 79. The board may make such rules and regulations consistent with law relative to procedure under sections seventy-four to eighty-one, inclusive, as it deems expedient. 1
2
3

Penalties.
1910, 449, § 10.
1931, 426,
§ 224.

SECTION 80. Whoever, not being lawfully authorized to practice as a registered nurse within the commonwealth, practices or attempts to practice as a registered nurse, or uses the abbreviation, R.N., or any other words, letters or figures to indicate that the person using the same is such a registered nurse, shall, except as provided in section sixty-five, be punished by a fine of not more than one hundred dollars. Whoever becomes or attempts to become registered, or practices or attempts to practice, as a registered nurse under a false or assumed name shall be punished by a fine of not less than one hundred nor more than five hundred dollars or by imprisonment for three months, or both. 1
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Application
of §§ 74-80
limited.
1910, 449, § 11.

SECTION 81. The seven preceding sections shall not apply to gratuitous nursing of the sick by friends or members of the family, or to the acts of any person nursing the sick for hire who does not assume to be a registered nurse. 1
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REGISTRATION OF EMBALMERS.

Examination
and registration
of embalmers,
etc. Renewal,
etc.
1905, 473, § 4.
1921, 419
1951, 202, § 1.

SECTION 82. Applications for registration as embalmers, signed and sworn to by the applicant, shall be made upon blanks furnished by the board of registration in embalming, herein and in the five following sections called the board. Each applicant, who shall furnish the board with satisfactory proof that he is twenty-one years of age or over and of good moral character, that he possesses the educational qualifications required for graduation from a public grammar school, that he has attended an embalming school approved by the board which gives a course of instruction of not less than twelve weeks, and that he has served a term of apprenticeship of not less than two years with a registered embalmer, during which term he has embalmed not less than fifteen human dead bodies, shall, upon payment of five dollars, be entitled to be examined, and, if found qualified by the board, shall be registered as an embalmer, and shall receive a certificate thereof signed by the chairman and secre- 1
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15 tary of the board. Any such applicant may be re-examined at any meet-
 16 ing of the board upon payment of three dollars. Every registered em-
 17 balmer shall annually, on such date as the board may determine, pay to
 18 the secretary thereof two dollars for the renewal of his registration. In
 19 case of failure to make the payment for the renewal of registration upon
 20 the date designated by the board, reinstatement may be obtained upon
 21 application within ten days after said date by the payment of ten dollars
 22 in addition to the regular fee of two dollars for renewal. In case a regis-
 23 tered embalmer fails to renew his registration on the date so designated,
 24 the board, not later than two days thereafter, shall so notify him.

1 SECTION 83. The board shall adopt rules and regulations consistent
 2 with law governing the care and disposition of human dead bodies and
 3 the business of embalming.
 1910, 390. 200 Mass. 474. Rules and regulations. 1905, 473, § 6.

1 SECTION 84. The board shall keep a record of the names of all persons
 2 registered by it and of all moneys received and disbursed by it, a dupli-
 3 cate whereof shall always be open to public inspection in the office of the
 4 state secretary. The board shall make an annual report showing the
 5 condition of embalming in the commonwealth.
 Records. Annual report. 1905, 473, § 7.

1 SECTION 85. The board shall investigate all complaints of violation
 2 of any provision of sections eighty-two to eighty-seven, inclusive, and
 3 bring them to the notice of the proper prosecuting officers.
 Complaints to be investigated. 1905, 473, § 8.

1 SECTION 86. Every holder of a certificate of registration from the
 2 board shall conspicuously display it in his place of business.
 Certificate to be conspicuously displayed. 1905, 473, § 9.

1 SECTION 87. Whoever, not being registered under section eighty-
 2 two or corresponding provisions of earlier laws, shall, by himself or by
 3 his agent or servant, unless such agent or servant is so registered, engage
 4 in the business of embalming human dead bodies shall, except as provided
 5 in section sixty-five, be punished by a fine of not more than one hundred
 6 dollars or by imprisonment for not more than two months, or both; but
 7 sections eighty-two to eighty-seven, inclusive, shall not prohibit the em-
 8 ployment of apprentices or assistants under the personal supervision of a
 9 registered embalmer.
 Person not registered prohibited from engaging in embalming. Exceptions. Penalty. 1905, 473, § 10. 1931, 426, § 225.

REGISTRATION OF CERTIFIED PUBLIC ACCOUNTANTS.

1 SECTION 87A. The board of registration of certified public account-
 2 ants, in this and the four following sections called the board, shall examine
 3 applicants for registration as certified public accountants. It shall make
 4 such rules and regulations as are necessary for the proper conduct of its
 5 duties. The board shall keep a full record of its proceedings, and a
 6 registry of all persons registered by it which shall be open to public inspec-
 7 tion. A duplicate list shall also be open to inspection in the office of the
 8 state secretary. The board shall make an annual report.
 Powers and duties of board of registration. Records. Annual report. 1909, 399, §§ 1, 3. 1919, 350, § 45. G. L. (ed. of 1920) 93, §§ 35, 37. 1923, 470, §§ 2, 3.

1 SECTION 87B. The board shall examine any citizen of the United
 2 States resident in the commonwealth and not less than twenty-one years
 3 of age, who may apply for a certificate, shall investigate his character and
 Examinations. Fees. 1909, 399, § 2. 1911, 81. 1919, 350, § 45.

G. L. (ed. of 1920) 93, § 36, 1923, 470, §§ 2, 3. fitness, and shall require the payment of a fee of twenty-five dollars. 4
The fee for re-examination shall be fixed under regulations made by the 5
board. 6

Registration and certificate. 1909, 399, § 1, 3. SECTION 87C. Any applicant whom the board deems to have the 1
necessary qualifications and professional ability shall be registered as a 2
public accountant by the board and shall receive a certificate thereof 3
signed by the chairman and secretary of the board. 4
G. L. (ed. of 1920) 93, § 37. 1922, 395, § 1. 1923, 470, §§ 2, 3.

Authority to register public accountant to style himself "Certified Public Accountant". 1910, 263, § 1. SECTION 87D. A public accountant, registered under the provisions 1
of the preceding section or corresponding provisions of earlier laws, may, 2
if the certificate issued to him under said provisions has not been sus- 3
pended or revoked, style himself "Certified Public Accountant". 4
G. L. (ed. of 1920) 93, § 38. 1923, 470, §§ 2, 3.

Use of designation restricted. Penalty. 1909, 399, § 4. SECTION 87E. No person, not registered under the provisions of 1
section eighty-seven C or corresponding provisions of earlier laws, shall 2
designate himself or hold himself out as a certified public accountant. 3
G. L. (ed. of 1920) 93, § 39. No partnership unless all of its members are registered under said pro- 4
visions, and no corporation, shall use the words "certified public account- 5
ant" in describing the partnership or corporation or the business thereof; 6
provided, that any partnership or corporation may represent that a 7
specified person registered under said provisions is a member of such 8
partnership or is in the service of such partnership or corporation. Any 9
violation of this section which is not punishable under section sixty-five 10
shall be punished by a fine of not more than five hundred dollars or by 11
imprisonment for not more than six months, or both. 12

REGISTRATION OF BARBERS.

Definitions. 1931, 418, § 2. SECTION 87F. The following words, as used in the following thirteen 1
sections, unless the context otherwise requires, shall have the following 2
meanings: — 3

"Barber", any person who, personally or by any other person, for 4
compensation, shaves or trims the beard, cuts the hair, gives facial and 5
scalp massaging, facial and scalp treatments with oils and creams and 6
other preparations made for that purpose, either by hand or by me- 7
chanical appliances, sings and shampoos the hair or applies any make of 8
hair tonics, and/or dyes the hair, of any male person; 9

"Board", board of registration of barbers; 10

"Cosmetologist", any person, who, with hands or mechanical or 11
electrical apparatus or appliances, or by the use of cosmetic preparations, 12
antiseptics, tonics, lotions, or creams, engages for compensation in any 13
one or any combination of the following practices, to wit: — Massaging, 14
cleansing, stimulating, manipulating, exercising, beautifying the scalp, 15
face, neck, arms, bust or upper part of the body, or manicuring the 16
nails, or removing of superfluous hair, by the use of electricity or other- 17
wise, about the body of any female, but not about the body of any male. 18

[NOTE: — §§ 87F-87S not applicable to certain counties, cities and towns, see 1931, 418, § 7.]

Examinations. Records. Registers. Annual report. 1931, 418, § 2. SECTION 87G. The board shall hold practical examinations, to be 1
held in cities in different parts of the commonwealth, distributed as 2
evenly as possible for the convenience of the applicants, and such other 3

4 examinations at such times and places as the board may, from time to
 5 time, determine, of applicants for registration as barbers, and such appli- [See note to
 6 cants, if found qualified, shall be registered by the board as barbers. § 87F.]
 7 The board shall keep a full record of its proceedings. It shall also keep
 8 a register of applicants for certificates of registration, showing the name
 9 of the applicant, the name and location of his place of occupation or
 10 business, and whether he was granted or refused a certificate, a register
 11 in which shall be entered the names of all persons to whom certificates
 12 of registration or permits, other than permits referred to in section eighty-
 13 seven I, are issued or granted, and a register of apprentices and students
 14 to whom permits have been granted under section eighty-seven I; and
 15 said registers shall be at all times open to public inspection. The board
 16 shall make an annual report, which shall include an itemized statement
 17 of all receipts and expenses of the board for the year.

1 SECTION 87H. Any person desiring to obtain a certificate of regis- Prereq-
 2 tration shall make application to the board therefor, pay to the secretary uisites
 3 thereof a fee of ten dollars and furnish to the board a certificate of a to registra-
 4 registered physician as to the freedom of the applicant from infectious Certificate.
 5 and contagious diseases, and shall present himself at the next regular Temporary
 6 meeting of the board for the examination of applicants, or at a later permit.
 7 meeting of the board if it so votes, and thereupon, if he shows that he 1931, 418, § 2.
 8 has studied and practiced the occupation of barbering for two years as [See note to
 9 an apprentice under one or more registered barbers, or for at least six § 87F.]
 10 months in a properly equipped and conducted barber school or barber
 11 college under the instruction of a registered barber and eighteen months
 12 as an apprentice under a registered barber, or practiced such occupation
 13 for at least two years in this and/or other states, and that he is possessed
 14 of the requisite skill in such occupation to perform properly all the duties
 15 thereof, including the preparation of the tools, shaving, haircutting and
 16 all the duties and services incident thereto, and has sufficient knowledge
 17 concerning diseases of the face and skin to avoid the aggravation and
 18 spreading of such diseases in the practice of such occupation, the board
 19 shall issue to him a certificate of registration, signed by the chairman
 20 and the secretary and attested by its seal. Such certificate shall be
 21 evidence that the person to whom it is issued shall, subject to section
 22 eighty-seven J, be entitled to follow the practice of the occupation
 23 referred to therein.

24 Each person making application for examination hereunder shall be
 25 allowed to practice the occupation of barbering until the next meeting
 26 of the board, and the board shall grant without charge a permit author-
 27 izing him to practice such occupation until such next meeting; provided,
 28 that the board may, in its discretion, extend such permits until the date
 29 of a subsequent meeting of the board.

1 SECTION 87I. Nothing in sections eighty-seven F to eighty-seven R, Apprentices
 2 inclusive, shall prohibit any person from serving in this commonwealth and students.
 3 as an apprentice in such occupation under a registered barber or from 1931, 418, § 2
 4 serving therein as a student in any barber school or barber college under [See note to
 5 the instruction of a registered barber; provided, that such registered § 87F.]
 6 barber, or the person owning or operating such barber school or barber
 7 college, shall immediately report in writing to the board the name and
 8 age of each apprentice or student working under his direction or training,
 9 and shall furnish to the board a certificate of a registered physician that

said apprentice or student is not afflicted with any contagious or infectious 10
 disease. Thereupon, and upon the payment of a fee of five dollars by 11
 the person operating or conducting such school or college, or by such 12
 apprentice, as the case may be, the name of such apprentice or student 13
 shall be entered in a register of the board for the registering of apprentices 14
 and students, and the board may grant to him a permit to practice as 15
 an apprentice under a registered barber or as a student in a barber 16
 school or barber college under the instruction of a registered barber. 17
 After having so practiced for two years under a registered barber, or six 18
 months in a properly equipped and conducted barber school or barber 19
 college under the instruction of a registered barber and eighteen months 20
 under a registered barber, and upon payment of the required fee for 21
 examination, such apprentice or student shall be eligible for examination 22
 by the board for registration as a barber. 23

Card or in-
 signia; dis-
 play, renewal,
 effect of
 failure to
 renew.
 1931, 418, § 2.
 [See note to
 § 87F.]

SECTION 87J. The board shall furnish without charge to each person 1
 to whom a certificate of registration is issued a card or insignia bearing 2
 the seal of the board and the signatures of its officers, certifying that the 3
 holder thereof is entitled to practice the occupation of barbering in this 4
 commonwealth during the calendar year in which it was issued. Such 5
 card or insignia shall be posted by the holder in a conspicuous place in 6
 front of his working chair where it may be readily seen. The card or 7
 insignia held by any person whose certificate of registration has been 8
 properly renewed shall be renewed annually without charge on or before 9
 the first day of January upon the presentation of a certificate from a 10
 registered physician as to the freedom from contagious or infectious 11
 disease of the holder of such card or insignia. If any holder of a cer- 12
 tificate of registration fails to apply for a renewal of his card or insignia 13
 on or before the first day of January in any year, said certificate of 14
 registration may be revoked by the board. 15

Rules and
 regulations.
 Entry into
 shops. In-
 spections, etc.
 Quarantine.
 1931, 418, § 2.
 [See note to
 § 87F.]

SECTION 87K. The board shall make such reasonable rules and 1
 regulations as are necessary for the proper conduct of its business, and 2
 especially to provide for the sanitary regulation, subject to the approval 3
 of the state department of public health, of barber shops, barber schools 4
 and barber colleges, and the training of apprentices and of students 5
 therein. Each member of the board may enter any barber shop during 6
 business hours for the purpose of inspecting such shop. Whenever a 7
 complaint is made to the board that any barber shop is kept in an un- 8
 sanitary condition, or that infectious or contagious disease has been 9
 imparted thereat, a member of the board shall visit and inspect such 10
 shop and enforce the provisions of sections eighty-seven F to eighty- 11
 seven R, inclusive. If, upon such inspection, any such shop shall be 12
 found to be in an unsanitary condition or it is determined by a member 13
 of the board that infectious or contagious disease has been imparted 14
 to any person thereat, the board shall immediately notify the district 15
 health officer and such shop shall be quarantined and no barber em- 16
 ployed therein shall, unless so authorized by the board, practice his 17
 occupation until such quarantine shall have been removed by said health 18
 officer. 19

Suspension,
 etc., of cer-
 tificate of
 registration
 regulated.

SECTION 87L. The board may suspend, for not exceeding six months, 1
 the certificate of registration of any barber for habitual drunkenness, for 2
 having epilepsy or other disease endangering the health or safety of 3

4 persons whom he may serve, for failure to comply with sanitary rules or
 5 regulations of the board approved by the state department of public
 6 health, or for having imparted any contagious or infectious disease, or
 7 may revoke such certificate upon proof of any violation of its rules and
 8 regulations; provided, that before any certificate shall be so suspended
 9 or revoked, the holder thereof shall have had notice in writing of the
 10 charge or charges against him, and at a day specified in said notice, at
 11 least five days after the service of notice thereof, shall have been given a
 12 public hearing and an opportunity to present testimony in his behalf,
 13 and to confront the witnesses against him. Any person whose certificate
 14 of registration has been so revoked may apply to have a new certificate
 15 of registration granted to him, and, upon satisfactory proof that the
 16 disqualification of such person has ceased, and that he is a proper person
 17 to be registered as a barber, the board shall grant to him a new certificate
 18 of registration.

Issuance of
 new certificate.
 1931, 418, § 2.
 [See note to
 § 87F.]

1 SECTION 87M. The board may require the attendance and testimony
 2 of witnesses and the production of such books, records and papers as it
 3 desires at any hearing or in any matter which it has authority to investi-
 4 gate, and for that purpose the secretary may issue a subpoena for any
 5 witness or a subpoena duces tecum to compel the production of any books,
 6 records or papers. Fees and mileage shall be the same as those allowed
 7 in the superior court in criminal cases and shall be paid from the fund in
 8 the state treasury for the use of the board, in the same manner as the
 9 compensation and expenses of the board are paid.

Hearings.
 1931, 418, § 2
 [See note to
 § 87F.]

1 SECTION 87N. Any person aggrieved by any action of the board
 2 refusing to grant, or suspending or revoking, a certificate of registration
 3 or a permit for any cause, may, within ten days after such action, appeal
 4 to the superior court of the county wherein he resides, and the decision
 5 of said court shall be final.

Appeals.
 1931, 418, § 2.
 [See note to
 § 87F.]

1 SECTION 87O. Fees referred to in sections eighty-seven F to eighty-
 2 seven R, inclusive, shall be paid in advance to the secretary of the board,
 3 who shall pay them monthly to the state treasurer; and such fees shall
 4 thereafter be held by the state treasurer as a fund for the use of the board.

Fees; pay-
 ment, dis-
 position.
 1931, 418, § 2.
 [See note to
 § 87F.]

1 SECTION 87P. Any school or college where tuition or fees are charged
 2 for teaching the occupation of barbering shall be considered a barber
 3 school or barber college under sections eighty-seven F to eighty-seven
 4 R, inclusive, and all said schools or colleges shall keep prominently dis-
 5 played at the entrance a sign "Barber School" or "Barber College", as
 6 the case may be. Any person desiring to operate or conduct a barber
 7 school or barber college within this commonwealth shall first secure from
 8 the board a permit to do so, and shall keep such permit prominently
 9 displayed in such school or college, and shall before commencing business
 10 give to the state treasurer a bond, in such amount and with such sureties
 11 as shall be determined and approved by the governor and council, con-
 12 ditioned upon the faithful compliance by himself in the conduct of said
 13 school or college with all the provisions of said sections and of all rules
 14 and regulations made under authority thereof, and to pay all judgments
 15 that may be obtained against said school or college or the owners or
 16 managers thereof on account of fraud, misrepresentation or deceit prac-
 17 ticed by themselves, their agents, servants or employees. The board

Barber schools
 or colleges.
 1931, 418, § 2.
 [See note to
 § 87F.]

may from time to time examine into the qualifications, appointments, 18
 course of study and hours of study in any such school or college, and may 19
 suspend or revoke the certificate of registration of the person operating 20
 or conducting such school or college or of any registered barber acting 21
 as instructor or teacher therein, or the permit of any such school or 22
 college, for the violation of any of said sections or of any rule or regulation 23
 made under authority thereof. 24

Certificates of
 registration;
 term, renewal,
 deferred
 renewal.
 1931, 418, § 2.
 [See note to
 § 87F.]

SECTION 87Q. Each certificate of registration issued by the board 1
 shall expire on the thirty-first day of December next succeeding its date. 2
 The board may renew any such registration, and issue a certificate thereof, 3
 upon the payment of an annual renewal fee of two dollars. Any person 4
 holding such a certificate which has expired may, within three years of 5
 the date of expiration, upon payment of a fee of two dollars and upon 6
 furnishing satisfactory proof of his qualifications to resume the practice 7
 of his occupation, receive from the board a new certificate of registration. 8

General
 penalty.
 1931, 418, § 2.
 [See note to
 § 87F.]

SECTION 87R. Whoever engages in or follows, or attempts to engage 1
 in or follow, the occupation of barbering, or conducts or attempts to 2
 conduct a barber school or barber college, unless so authorized to do by 3
 the board, or falsely pretends to be qualified to practice such occupation, 4
 or violates any provision of sections eighty-seven F to eighty-seven R, 5
 inclusive, or any rule or regulation made under authority thereof, shall, 6
 in addition to any other penalty prescribed or authorized by said sections, 7
 be punished by a fine of not more than one hundred dollars or by imprison- 8
 ment for not more than ninety days, or both. 9

Application of
 §§ 87F-87R
 limited.
 1931, 418, § 2.
 [See note to
 § 87F.]

SECTION 87S. Nothing in sections eighty-seven F to eighty-seven R, 1
 inclusive, shall be construed to refer to a beauty shop, so called, or a 2
 hairdressing parlor, so called, patronized exclusively by females, or to a 3
 cosmetologist, as defined in section eighty-seven F. 4

GENERAL PROVISIONS AS TO ALL STATE BOARDS OF REGISTRATION OR EXAMINATION.

Issue of certi-
 fied statements
 and duplicate
 certificates.
 1915, 301, § 8.
 1918, 217,
 §§ 1-3.

SECTION 88. Except as otherwise provided in section thirty-three of 1
 chapter ninety, every board of registration or examination established 2
 by the commonwealth shall — 3

(1) Establish rules and regulations stipulating what information is 4
 to be furnished in a certified statement of registration for the fee of one 5
 dollar, and stipulating that, in case any additional information is fur- 6
 nished, the fee shall be two dollars. 7

(2) Furnish to any applicant the certified statement of registration 8
 applied for, provided that the application therefor is accompanied by 9
 the fee prescribed by its rules and regulations established as provided 10
 above. 11

(3) Issue a duplicate certificate of registration upon satisfactory evi- 12
 dence that the original certificate has been lost or destroyed, and the fee 13
 therefor shall be five dollars. 14

CHAPTER 113.

PROMOTION OF ANATOMICAL SCIENCE.

SECT.

1. Disposition of bodies of certain deceased persons.
2. Certain bodies not to be so disposed of.
3. Body to be held fourteen days for identification, etc.

SECT.

4. Taking of such body; bond.
5. Autopsies.
6. Bodies of murderers may be dissected.

1 SECTION 1. Upon the written application of the dean or other officer
 2 of any medical school established by law in the commonwealth, the
 3 board of public welfare of a town, the institutions commissioner of
 4 Boston or the penal institutions commissioner of Boston, the trustees
 5 and superintendent of the state infirmary or other public institution sup-
 6 ported in whole or part at the public expense, except the Soldiers' Home
 7 in Massachusetts at Chelsea, in this chapter called the authorities, shall
 8 permit such dean or other officer to take, within three days after death,
 9 the body of any person, required to be buried at the public expense, who
 10 died in such town or in any institution under the control of such author-
 11 ities, to be used within the commonwealth for the promotion of anatom-
 12 ical science. In giving such permission regard shall be had to delivering
 13 such bodies to any such medical schools in proportion, so far as practi-
 14 cable, to the number of students therein.

Disposition of bodies of certain deceased persons.
 1830, 57, § 3.
 1834, 187, § 3.
 R. S. 22, § 10.
 1845, 242, § 1.
 1855, 323, § 1.
 G. S. 27, § 1.
 1879, 291, § 9.
 P. S. 81, § 1.
 1891, 185, § 1.
 406.
 1898, 479, § 1.
 1900, 333.
 R. L. 77, § 1.
 1918, 257, § 298.
 1919, 5.
 1920, 2.
 1931, 426, § 227.

2 Op. A. G. 1.

1 SECTION 2. Such permission shall not be given to take the body of
 2 any soldier or sailor, known to be such, who served in the war of the
 3 rebellion or in any war between the United States and any foreign
 4 power, or the body of any stranger or traveler who died suddenly, or
 5 the body of a person who, during his last sickness, of his own accord
 6 requested that his body be buried or delivered to a friend, but such body
 7 shall, in conformity with such request, if any, be buried or delivered to
 8 such friend.

Certain bodies not to be so disposed of.
 1830, 57, § 3.
 1834, 187, § 3.
 R. S. 22, § 11.
 1845, 242, § 2.
 G. S. 27, § 4.
 P. S. 81, § 4.
 1891, 185, § 2.
 1898, 479, § 1, 3.
 R. L. 77, § 1, 3.
 §§ 1, 3.

1918, 257, § 298.

1919, 5.

1920, 2.

1 SECTION 3. No body of a deceased person which is subject to section
 2 one shall be used for fourteen days after death for the promotion of
 3 anatomical science, but it shall during such period be kept by the au-
 4 thorities or dean or other officer in a condition and place to be viewed
 5 by any person, at all reasonable times, for the purpose of identification.
 6 If, within such time, any person claiming to be and satisfying the author-
 7 ities that he is a friend or is of kindred to the deceased asks to have the
 8 body buried or surrendered to himself, the body shall in conformity with
 9 such request be either buried or delivered to such friend or kindred.

Body to be held fourteen days for identification, etc.
 1830, 57, § 3.
 1834, 187, § 3.
 R. S. 22, §§ 11, 12.
 1845, 242, § 2.
 G. S. 27, § 4.
 P. S. 81, § 4.
 1891, 185, § 2.
 1898, 479, § 2, 3.

R. L. 77, §§ 2, 3.

2 Op. A. G. 1.

1 SECTION 4. Such dean or other officer, if he has been given permis-
 2 sion to take the body of a deceased person as provided in section one,
 3 shall, before receiving it, give to the authorities surrendering it, a bond
 4 conditioned that he will comply with the preceding section and that
 5 after the time prescribed therein, if the body has not been buried or

Taking of such body; bond.
 1830, 57, § 3.
 1834, 187, § 3.
 R. S. 22, § 12.
 G. S. 27, § 2.
 P. S. 81, § 2.
 1898, 479, § 2.
 R. L. 77, § 2.

delivered in accordance therewith, it shall be used only for the promotion of anatomical science in the commonwealth in such manner as not to outrage public feeling, and that, after having been so used, the remains shall be decently buried.

Autopsies.
1902, 417.

SECTION 5. Before surrendering the body of any such person as provided in the four preceding sections, the chief medical officer of any institution named in section one may, if the cause of the death cannot otherwise be determined and if such body is unclaimed by relatives or friends, cause an autopsy to be made upon it.

Bodies of murderers may be dissected.
1784, 9, § 4.
1804, 125, § 1.
R. S. 125, § 2.
G. S. 160, § 8.
P. S. 202, § 8.
R. L. 77, § 4.
1904, 204.

SECTION 6. Upon conviction of murder in the first degree, the court may order the body of the convict after his execution to be dissected. The warden of the state prison shall in such case deliver it to a professor of anatomy or surgery in a medical school established by law in the commonwealth, if so requested; otherwise, he shall, unless the convict's friends desire it for interment, deliver it to any surgeon attending to receive it who will undertake to dissect it.

CHAPTER 114.

CEMETERIES AND BURIALS.

SECT.

CEMETERY AND CREMATORY CORPORATIONS.

1. Organization of cemetery corporations.
2. Powers and duties.
3. Record of conveyance of lots.
4. Certified copies as evidence.
5. Trust funds.
6. Cremation.
7. Crematory corporations. Organization, etc.
8. Same subject. Right to hold real estate.
9. By-laws and regulations. Conduct of business regulated. Penalty.

PUBLIC CEMETERIES.

10. Towns to provide burial places.
11. Taking land for burial places. Application to county commissioners.
12. Same subject. Hearing. Notice.
13. Same subject. Adjudication. Taking.
14. Same subject. Compensation of commissioners.
15. Appropriation for improvements, etc. Sale of burial rights. Disposition of proceeds.
16. Appropriation for and care of certain cemeteries.
17. Ancient burial places to be preserved.
18. Care of neglected burial places.

SECT.

19. Deposits for perpetual care.
20. Deposits of such funds with state treasurer.
21. Same subject. Management, etc.

BOARDS OF CEMETERY COMMISSIONERS.

22. Election of members. Terms, etc.
23. Powers and duties.
24. Conveyance of lots. Record.
25. Gifts for cemeteries.
26. Limit of debts incurred. Annual report.
27. Appointment of commissioners. Powers and duties.

USE OF CEMETERIES.

28. Cemetery corporations, etc., may hold lots, etc., in trust for preservation.
29. Lots, etc., indivisible but inheritable. Limitations.
30. Hearing as to representation.
31. Family lot to descend to heirs.
32. Wife's right of interment.
33. Husband's right of interment.
34. Use of land for new cemetery or extension of old one. Penalty.
35. Plan to be approved by department of public health.
36. Appeal from local board of health.

- SECT.
- 37. Regulations by local boards of health. Notice.
 - 38. Closing of tombs, etc.
 - 39. Appeal from order of board.
 - 40. Trial. Costs.
 - 41. Ways not to be laid out over burial places without authority.
 - 42. Passing through cemeteries regulated. Penalty.
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- SECT.
- CREMATION AND BURIAL.
- 44. Cremation regulated.
 - 45. Burial permits.
 - 46. Burial of bodies, etc., brought into commonwealth.
 - 47. Certificates for burial, etc.
 - 48. Burial of ashes of human body regulated.
 - 49. Undertakers to be licensed. Penalty.
 - 50. Penalty for violation of §§ 44-48.

CEMETERY AND CREMATORY CORPORATIONS.

1 SECTION 1. Five or more persons desirous of procuring, establishing
 2 and preparing a cemetery, or who are the majority in interest of the
 3 proprietors of an existing cemetery, may organize as a corporation in
 4 the manner provided in chapter one hundred and seventy-nine; but
 5 such corporation shall not sell or impair the right of any proprietor of
 6 an existing cemetery.

103 Mass. 94 168 Mass. 92. 218 Mass. 387. 270 Mass. 465.

1 SECTION 2. Such corporation shall be subject to chapter one hundred
 2 and fifty-five and the first thirteen sections of chapter one hundred and
 3 seventy-nine; may take and hold only so much real and personal prop-
 4 erty as may be necessary for the objects of its organization; may lay
 5 out such real property into lots; and may grant and convey the exclu-
 6 sive right of burial in, and of erecting tombs or cenotaphs upon, any
 7 lot and of ornamenting the same, upon such terms and conditions and
 8 subject to such regulations as it shall prescribe. Section thirty-four of
 9 chapter one hundred and fifty-eight shall apply to such corporation.

Organization of cemetery corporations. 1841, 114, § 1. 1852, 56, §§ 1, 2. G. S. 28, § 1. P. S. 82, § 1. R. L. 78, § 1.

Powers and duties R. S. 38, § 7. 1841, 114, §§ 2-4. 1852, 56, § 2. G. S. 28, § 2; 60, § 7. 1866, 104. P. S. 82, §§ 2, 5. R. L. 78, § 2. 146 Mass. 163.

1 SECTION 3. Every cemetery corporation created by special charter
 2 or organized under general laws shall regularly keep books in which it
 3 shall enter all conveyances of burial lots within said cemetery and all
 4 instruments of contract relating to conveyances of such lots. Such
 5 records, and similar records made by such corporation prior to June
 6 second, eighteen hundred and eighty-nine, shall have the same effect as
 7 if made in the registry of deeds for the county or district where such
 8 cemetery is situated, and no other record shall be necessary.

Record of conveyance of lots. 1865, 252, §§ 1, 2. P. S. 82, § 6. 1883, 142. 1889, 299. R. L. 78, § 3.

1 SECTION 4. The secretary or clerk of such corporation may give cer-
 2 tified copies of all deeds and instruments so recorded, which may be used
 3 in evidence in the same manner as copies certified by the register of deeds.

Certified copies as evidence. 1865, 252, § 3. P. S. 82, § 7.

R. L. 78, § 4.

1 SECTION 5. Such corporation may hold funds in trust and apply the
 2 income thereof to the improvement or embellishment of the cemetery or
 3 to the care, preservation or embellishment of any lot or its appurtenances.

Trust funds. 1874, 190. P. S. 82, § 8. R. L. 78, § 5. 153 Mass. 462.

163 Mass. 509.

1 SECTION 6. Such corporation may cremate bodies of the dead, and
 2 may provide necessary buildings and appliances therefor and for the dis-
 3 position of the ashes of the dead on any land within its cemetery which
 4 the department of public health determines is suitable therefor, and such
 5 buildings and appliances shall be a part of the cemetery and be dedi-

Cremation. 1898, 437, § 1. R. L. 78, § 6. 1914, 792, § 1. 1919, 356, § 9C

cated to the burial of the dead, and shall be held by said corporations subject to the duties, and with the privileges and immunities, which they now have by law.

Crematory corporations. Organization, etc.
1885, 265, § 1.
R. L. 78, § 7.
1919, 334, § 9.
1920, 2.
218 Mass. 387.

SECTION 7. Five or more persons may form a corporation in the manner provided in chapter one hundred and fifty-six, with a capital of not less than six thousand nor more than fifty thousand dollars, divided into shares of a par value of either ten or fifty dollars, for the purpose of providing the necessary appliances for the disposal by cremation of the bodies of the dead; and they shall have the same powers and privileges, and be subject to said chapter except as provided in the two following sections.

Same subject. Right to hold real estate.
1885, 265, § 2.
R. L. 78, § 8.
1914, 792, § 1.
1919, 350, § 96.

SECTION 8. Such corporation may acquire by gift, devise or purchase, and hold in fee to an amount not exceeding fifty thousand dollars, land necessary and appropriate for its purposes and situated in such place as the department of public health determines to be suitable.

By-laws and regulations. Conduct of business regulated. Penalty.
1885, 265, §§ 2, 3.
1898, 437, § 2.
R. L. 78, § 9.
1914, 792, § 1.
1919, 350, § 96.

SECTION 9. Cemetery and crematory corporations may, subject to the approval of said department, make by-laws and regulations consistent with law for the reception and cremation of bodies of the dead and for the disposition of the ashes thereof, and shall conduct their business in accordance with such regulations as said department shall establish and furnish in writing to the clerk of the corporation. Violation of any such regulation of said department shall be punished by a fine of not less than twenty nor more than five hundred dollars. Such corporations shall not erect, occupy or use any building for cremation until the location and plans thereof with all details of construction have been submitted to and approved by said department or by a person designated by it.

PUBLIC CEMETERIES.

Towns to provide burial places.

SECTION 10. Each town shall provide one or more suitable places for the interment of persons dying within its limits.

1855, 257, § 1.

G. S. 28, § 4.

P. S. 82, § 9.

R. L. 78, § 10.

Taking land for burial places. Application to county commissioners.
1866, 112, § 1.
1877, 69, § 1.
P. S. 82, § 10.
R. L. 78, § 11.
103 Mass. 106.
1 Op. A. G. 327.

SECTION 11. If there is necessity for a new cemetery in a town, or for the enlargement of an existing cemetery in and belonging to a town, and the owner or any person interested in the land needed for either purpose refuses to sell the same, or demands therefor a price which the selectmen consider unreasonable, or is unable to convey it, the selectmen may, with the approval of the town, make application therefor by written petition to the county commissioners of the county where the land lies.

Same subject. Hearing. Notice.
1866, 112, § 2.
1877, 69, § 2.
P. S. 82, § 11.
R. L. 78, § 12.

SECTION 12. The commissioners shall appoint a time and place for a hearing, and shall cause notice thereof and a copy of the petition to be served personally upon the owner, if known, or left at his place of abode, fourteen days at least before the time appointed for the hearing. If the land is held in trust or by a corporation, or if the ownership is uncertain, the commissioners shall also give notice by public advertisement or otherwise.

1 SECTION 13. The commissioners shall hear the parties at the time
2 and place appointed or at an adjournment thereof, shall adjudicate
3 upon the necessity of such taking, upon the quantity and boundaries
4 of any land adjudged necessary to be taken, and may take in fee under
5 chapter seventy-nine on behalf of the town such land as is adjudged
6 necessary.

Same subject.
Adjudication.
Taking
1866, 112,
§§ 3, 5.
1877, 69, § 3.
P. S. 82, § 12.
R. L. 78, § 13.

1 SECTION 14. Each commissioner shall be paid by the town three
2 dollars a day for each day spent in acting under the petition, and five
3 cents a mile for travel to and from the place of hearing.

Same subject.
Compensation of commis-
sioners.

1866, 112, § 4.

1877, 69, § 4

P. S. 82, § 13.

R. L. 78, § 14.

1 SECTION 15. Towns may appropriate money for enclosing any
2 cemetery lawfully provided by them or for constructing paths and
3 avenues and embellishing the grounds therein, and may establish all
4 necessary rules relative thereto consistent with law. They may lay out
5 such cemetery into lots, and shall set apart a suitable portion as a public
6 burial place for the use of the inhabitants, free of charge. They may sell
7 and convey to any person, resident or non-resident, the exclusive right
8 of burial and of erecting tombs and cenotaphs upon any lot and of orna-
9 menting the same, upon such terms and conditions and subject to such
10 regulations as they shall prescribe. The proceeds of such sales shall be
11 paid into the town treasuries, be kept separate from other funds, and be
12 appropriated to reimburse the towns for the cost of the land, its care,
13 improvement and embellishment, or the enlargement of the cemetery.

Appropriation
for improve-
ments, etc
Sale of burial
rights, etc
Disposition
of proceeds.
1828, 107.
R. S. 15, § 12.
G. S. 18, § 10
1877, 69, § 7.
P. S. 82, § 15.
R. L. 78, § 16
1909, 279.

1 SECTION 16. Any town may annually appropriate and raise by taxa-
2 tion such sums as may be necessary to care for and keep in good order and
3 to protect by proper fences any or all burial grounds within the town in
4 which ten or more bodies are interred and which are not properly cared
5 for by the owners, and the care and protection of such burial grounds shall
6 be in charge of the cemetery commissioners, if the town has such officers,
7 otherwise in charge of the selectmen.

Appropriation
for and care
of certain
cemeteries.
1915, 156.

1 SECTION 17. A town shall not alienate or appropriate to any other
2 use than that of a burial ground, any tract of land which has been for
3 more than one hundred years used as a burial place; and no portion of
4 such burial ground shall be taken for public use without special authority
5 from the general court.

Ancient burial
places to be
preserved.
1880, 153
P. S. 82, § 16.
R. L. 78, § 17.

1 SECTION 18. Any town having within its limits an abandoned or neg-
2 lected burying ground may take charge of the same and keep it in good
3 order, and may appropriate money therefor, but no property rights shall
4 be violated and no body shall be disinterred. No fence, tomb, monu-
5 ment or other structure shall be removed or destroyed, but the same may
6 be repaired or restored.

Care of
neglected
burial places.
1902, 389.
§§ 1, 2.

1 SECTION 19. A town may receive, hold and apply any funds, money
2 or securities deposited with the treasurer thereof for the preservation,
3 care, improvement or embellishment of any public or private burial place
4 situated therein, or of burial lots situated in such burial places. Such
5 funds, money or securities shall be entered upon the books of the treasurer,
6 and held in accordance with ordinances or by-laws relative thereto. A

Deposits for
perpetual care
1870, 225,
§§ 1-3
P. S. 82, § 17.
1884, 186.
R. L. 78, § 18.
153 Mass 462.

town may pass ordinances or by-laws, consistent with law, necessary for the purposes of this section, and may allow interest on such funds at a rate not exceeding six per cent a year.

Deposits of such funds with state treasurer. 1901, 351, §§ 1, 2. R. L. 78, § 19. 1904, 422, § 1.

SECTION 20. Money declared by written instrument to be intended for perpetual care, maintenance, improvement or embellishment of any cemetery, or of any lots or plots therein, to an amount not less than two hundred dollars, may be deposited with the state treasurer, who shall receive and receipt for it in the name of the commonwealth. The depositors at the time of making such deposit shall file with him and with the state secretary a copy of such instrument. If the cemetery belongs to a corporation, the deposit shall be accompanied by a written agreement, signed by the president thereof, to the effect that it will accept the income derived from the fund so deposited, and will apply it to the purposes set forth in the instrument.

Same subject. Management, etc. 1901, 351, §§ 3, 4. R. L. 78, § 20. 1904, 422, § 2.

SECTION 21. The state treasurer shall invest such money in the name of the commonwealth, in bonds or other obligations of the commonwealth or in securities in which he is authorized to invest money in behalf of the commonwealth; and, on the first days of February and August in each year, he shall pay over the accrued interest thereof to the treasurer of any association owning a cemetery for the care, maintenance or improvement of which, or of any lot therein, the money has been deposited with him. If such cemetery is not owned by any association, such interest shall be paid to the town where the cemetery is located. At the time of paying such interest, the state treasurer shall inform the person to whom it is paid of the purpose to which it is to be applied, as stated in the copy of the instrument which is filed with him, and the person to whom it is paid shall apply it to such purpose.

BOARDS OF CEMETERY COMMISSIONERS.

Election of members. Terms, etc. 1890, 264, § 1. R. L. 78, § 21. 1917, 7. 1920, 591, § 19.

SECTION 22. A town which accepts this and the four following sections or has accepted corresponding provisions of earlier laws may, at any town meeting, elect by ballot a board of cemetery commissioners consisting of three persons. If such board is first chosen at a meeting other than an annual town meeting, one member shall be elected for one year from the day following that fixed for the last preceding annual town meeting, one member for two years and one member for three years from said day; and annually thereafter one member shall, at the annual town meeting, be elected by ballot for a term of three years. Such boards shall choose a chairman, and a clerk who may be a member of the board.

Powers and duties. 1890, 264, §§ 1, 2. R. L. 78, § 22.

SECTION 23. Said board shall have the sole care, superintendence and management of all public burial grounds in its town, may lay out any existing public burial grounds in its town or any land purchased and set apart by said town for such cemeteries, in lots or other suitable subdivisions, with proper paths and avenues, may plant, embellish, ornament and fence the same and erect therein such suitable edifices and conveniences and make such improvements as it considers convenient; and, subject to the approval of the town, may make such regulations, consistent with law, as it deems expedient.

1 SECTION 24. Said board may, by deed made and executed in such
 2 manner and form as it may prescribe, convey to any person the sole and
 3 exclusive right of burial in any lot in such cemeteries and of erecting
 4 tombs, cenotaphs and other monuments or structures thereon upon such
 5 terms and conditions as its regulations prescribe. Such deeds and all
 6 subsequent deeds of such lots made by the owners thereof shall be re-
 7 corded by said board in suitable books of record, which shall be open to
 8 the public at all reasonable times.

Conveyance
of lots.
Record.
1890, 264, § 3.
R. L. 78, § 23.

1 SECTION 25. A town in which cemetery commissioners are chosen
 2 may receive gifts or bequests for maintaining cemeteries or cemetery
 3 lots, which shall be paid into the town treasury and, with the accounts
 4 thereof, shall be kept separate from the other money and accounts of
 5 said town. The town treasurer shall invest all such funds in accordance
 6 with the stipulations, if any, accompanying them; otherwise he shall
 7 invest them as ordered by the selectmen and said commissioners and
 8 pay the income therefrom upon their order or with their approval. The
 9 proceeds of sales of lots or rights of burial in such cemeteries shall be
 10 paid into the town treasury and shall be subject to said orders.

Gifts for
cemeteries
1890, 264, § 4.
R. L. 78, § 24.

1 SECTION 26. Said board shall not incur debts or liabilities for pur-
 2 poses other than aforesaid nor to an amount exceeding the amount of the
 3 funds subject to their order, and it shall annually make a written report
 4 to said town of its official acts, of the condition of such cemeteries, and
 5 render an account of its receipts and expenditures for the same and of
 6 the funds subject to its order.

Limit of debts
incurred.
Annual report.
1890, 264, § 5.
R. L. 78, § 25.

1 SECTION 27. If a town so votes under section twenty-one of chapter
 2 forty-one the selectmen shall appoint a board of cemetery commissioners
 3 to consist of three members, to be appointed for the term of three years.
 4 The commissioners shall, under the supervision and control of the select-
 5 men, maintain the public cemeteries in the town, and shall with the
 6 approval of the selectmen, appoint such employees as are necessary to
 7 maintain such cemeteries.

Appointment
of commission-
ers. Powers
and duties.
1920, 591, § 43.

USE OF CEMETERIES.

1 SECTION 28. The owner of any right, title or interest in or to a lot,
 2 tomb or monument in any cemetery owned or controlled by any company
 3 or association or by any town, may convey or devise the same to such
 4 company, association or municipality in trust for the purpose of its pres-
 5 ervation as a memorial or as a burial place for the bodies of the owner
 6 and his descendants or relatives, or of such other persons as may be speci-
 7 fied in the instrument creating the trust, or upon such other trust as may
 8 be created by the instrument and accepted by the grantee or devisee;
 9 but no such instrument shall be construed to take away the right of the
 10 heirs of the owner of a lot or tomb to be buried therein, unless the instru-
 11 ment contains an express provision to that effect. Any such grantee or
 12 devisee may accept any such grant, gift or devise, and if it accepts the
 13 same shall forever carry out and observe the terms of the instrument by
 14 which the grant, gift or devise was made. After the making of a convey-
 15 ance or the taking effect of a devise and its acceptance by the cemetery

Cemetery cor-
porations, etc.,
may hold lots,
etc., in trust
for preserva-
tion.
1919, 124.

authorities, the grantor of the lot, tomb or monument or of any interest therein, or the heirs and assigns of the grantor or devisor thereof, shall have no control over it except such as may be reserved in the instrument.

Lots, etc., indivisible but inheritable. Limitations. 1841, 114, § 5. G. S. 28, § 3. 1877, 182, § 4. P. S. 82, §§ 3, 4. 1892, 165, § 1. R. L. 78, § 26. 182 Mass. 175. 1 Op. A. G. 327.

SECTION 29. Lots in cemeteries incorporated under section one, tombs in public cemeteries in cities, and lots and tombs in public cemeteries in towns, shall be held indivisible, and upon the decease of a proprietor of such lot the title thereto shall vest in his heirs at law or devisees, subject to the following limitations and conditions: If he leaves a widow and children, they shall have the possession, care and control of said lot or tomb in common during her life. If he leaves a widow and no children, she shall have possession, care and control during her life. If he leaves children and no widow, they shall have in common the possession, care and control of such lots or tombs during their joint lives, and the survivor of them during his life. The persons in possession, care and control of such lots or tombs may erect a monument and make other permanent improvements thereon. The widow shall have a right of permanent interment for her own body in such lot or tomb, but it may be removed therefrom to some other family lot or tomb with the consent of her heirs. If two or more persons are entitled to the possession, care and control of such lot or tomb, they shall designate in writing to the clerk of the corporation, or if it is a tomb or lot in a public cemetery, to the board of cemetery commissioners, if any, or to the town clerk, which of their number shall represent the lot; and in default of such designation, the board of trustees or directors of the corporation, the board of cemetery commissioners, if any, or the board of health if such lots or tombs are in public cemeteries in towns, shall enter of record which of said persons shall represent the lot during such default. The widow may release her right in such lot, but no conveyance or devise by any other person shall deprive her of such right.

Hearing as to representation. 1892, 165, § 2. R. L. 78, § 27. 182 Mass. 175.

SECTION 30. Before entering of record the name of any person to represent such lot or tomb, the board of cemetery commissioners, if any, or the board of health of a town shall hear the parties entitled to the control thereof at such time and place as it shall have previously appointed by a notice published in a newspaper, if any, of the town; otherwise, by posting a copy in a public place therein.

Family lot to descend to heirs. 1914, 492.

SECTION 31. If in a will no express disposition or other mention is made of a cemetery lot owned by the testator at his decease, and wherein he or any member of his family is buried, the ownership of the lot shall not pass from his lawful heirs by any residuary or other general clause of the will, but shall descend to his heirs, as if he had died intestate.

Wife's right of interment. 1883, 262. R. L. 78, § 28.

SECTION 32. A wife shall be entitled to a right of interment for her own body in any burial lot or tomb of which her husband was seized at any time during coverture, which shall be exempt from the operation of the laws regulating conveyance, descent and devise, but may be released by her in the same manner as dower.

Husband's right of interment.

SECTION 33. A husband shall have the same rights in the tomb or burial lot of his wife as a wife has in that of her husband.

1 SECTION 34. Except in the case of the erection or use of a tomb on
 2 private land for the exclusive use of the family of the owner, no land,
 3 other than that already so used or appropriated, shall be used for burial,
 4 unless by permission of the town or of the mayor and aldermen of the
 5 city in which the same lies; but no such permission shall be given until
 6 the location of the lands intended for such use has been approved in
 7 writing by the board of health of the town where the lands are situated
 8 after notice to all persons interested and a hearing; and the board of
 9 health, upon approval of the use of any lands either for new cemeteries or
 10 for the extension of existing cemeteries, shall include in the records of
 11 the said board a description of such lands sufficient for their identification.
 12 For every interment in violation of this section in a town in which the
 13 notice prescribed in section thirty-seven has been given, the owner of
 14 the land so used shall forfeit not less than twenty nor more than one
 15 hundred dollars.

Use of land for
 new cemetery
 or extension of
 old one.
 Penalty.
 1855, 257,
 § 2-4.
 G. S. 28,
 § 5, 11.
 P. S. 82,
 § 18, 21.
 R. L. 78, § 30.
 1908, 379, § 1.
 99 Mass. 281.
 118 Mass. 354.
 226 Mass. 5.
 251 Mass. 128.
 263 Mass. 30.

1 SECTION 35. No land other than that so used and appropriated on
 2 April tenth, nineteen hundred and eight, shall be used for the purpose of
 3 burial if it be so situated that surface water or ground drainage therefrom
 4 may enter any stream, pond, reservoir, well, filter gallery or other water
 5 used as a source of public water supply, or any tributary of a source so
 6 used, or any aqueduct or other works used in connection therewith, until
 7 a plan and description of the lands proposed for such use have been sub-
 8 mitted to, and approved in writing by the department of public health.

Plan to be
 approved by
 department of
 public health.
 1908, 379, § 2.

1 SECTION 36. Any person, including those persons in control of any
 2 public land, or the officers of any municipality, aggrieved by the action
 3 of a board of health in approving the purchase, taking or use of any lands
 4 for cemetery purposes may, within sixty days, appeal from the order of
 5 said board to the department of public health, and said department may,
 6 after a hearing, rescind such order or may modify and amend the same by
 7 approving a part of the lands so proposed for such use.

Appeal from
 local board of
 health.
 1908, 379, § 3.

1 SECTION 37. Boards of health may make regulations concerning
 2 burial grounds and interments within their towns; may impose penalties
 3 not exceeding one hundred dollars for a breach thereof; may prohibit the
 4 use by undertakers, for the purpose of speculation, of tombs as places of
 5 deposit for bodies committed to them for burial; and may close any
 6 tomb, burial ground, cemetery or other place of burial within the town
 7 for such time as they consider necessary for the protection of the public
 8 health. Notice of such regulations shall be given by publishing them in
 9 a newspaper, if any, of the town; otherwise, by posting a copy in a public
 10 place therein. Such publication shall be notice to all persons.

Regulations by
 local boards
 of health.
 Notice.
 R. S. 21,
 §§ 7, 8.
 1855, 257,
 §§ 5, 6.
 G. S. 28,
 §§ 6, 7.
 P. S. 82,
 §§ 19, 20.
 1885, 278, § 1.
 R. L. 78, § 31.
 16 Pick. 121.
 8 Cush. 66.
 13 Allen, 546.

109 Mass. 1.

1 SECTION 38. Before a tomb, burial ground or cemetery is closed by
 2 order of the board of health for more than one month, all persons in-
 3 terested shall have an opportunity to be heard, and personal notice of the
 4 time and place of hearing shall be given to at least one owner of the tomb,
 5 and to three at least, if there are so many, of the owners of such burial
 6 ground or cemetery, and notice shall be published for at least two suc-
 7 cessive weeks preceding such hearing in two newspapers published in the
 8 county.

Closing of
 tombs, etc.
 1855, 257, § 9.
 G. S. 28, § 8.
 P. S. 82, § 22.
 R. L. 78, § 32.

Appeal from
order of board.
1855, 257, § 7.
G. S. 28, § 9.
P. S. 82, § 23.
R. L. 78, § 33.

SECTION 39. The owner of a tomb aggrieved by an order of the board of health closing a tomb, burial ground or cemetery may, within six months after the date thereof, appeal therefrom to the superior court, first giving written notice to the board fourteen days before the entry of such appeal; but the order of the board shall remain in force until the appeal has been determined.

Trial. Costs.
1855, 257, § 7.
G. S. 28, § 10.
P. S. 82, § 24.
1885, 278, § 2.
R. L. 78, § 34.

SECTION 40. Appeals shall be tried before a jury, and if the jury find that the tomb, burial ground or cemetery so closed was not a nuisance or injurious to the public health at the time of the order and that the closing thereof was not necessary for the protection of the public health, the court shall rescind such order so far as it affects such tomb, burial ground or cemetery, and the appellant may recover the costs of the appeal from the town where the tomb, burial ground or cemetery was situated. If the order is sustained, the board of health shall recover double costs, to the use of the town.

Ways not to
be laid out
over burial
places without
authority.
1834, 187, § 1.
R. S. 24,
§§ 59, 60.
G. S. 43,
§§ 89, 90.

SECTION 41. A public way shall not be laid out or constructed in, upon or through an enclosure used or appropriated for a burial place except by special authority from the general court or with the previous consent of the inhabitants of the town where such enclosure is situated; or, if such enclosure belongs to private proprietors, with their previous consent.

P. S. 82, §§ 29, 30.

R. L. 78, § 35.

Passing
through ceme-
teries regulated.
Penalty.
1913, 182,
§§ 1, 2.

SECTION 42. Whoever uses as a means of passage from one point to another, not being thereupon at the time for any other purpose, the premises of a cemetery or burial place, in any other parts thereof than the defined ways, paths and walks, shall be punished by a fine of not more than twenty dollars.

Buildings in
city burial
place
regulated.
G. S. 43, § 89.

SECTION 43. No building shall be erected upon any burial place belonging to a city, except by special authority from the general court, or with the previous consent of the city council.

1877, 182, § 6.

P. S. 82, § 31.

R. L. 78, § 36.

CREMATION AND BURIAL.

Cremation
regulated.
1885, 265, § 4.
1898, 437, § 2.
R. L. 78, § 37.
1907, 138.
[Penalty, § 50.]

SECTION 44. The body of a deceased person shall not be cremated within forty-eight hours after his decease unless he died of a contagious or infectious disease, and, if the death occurred within the commonwealth, the body shall not be received or cremated by any corporation authorized to cremate the bodies of the dead until its officers have received the certificate or burial permit required by law before burial, and a certificate from a medical examiner that he has viewed the body and made personal inquiry into the cause and manner of death, and is of opinion that no further examination or judicial inquiry concerning the same is necessary. If the death occurs without the commonwealth, the reception and cremation of the body of a deceased person shall be governed by a by-law or regulation made or approved by the department of public health as provided by section nine.

Burial permits.
1878, 174.
P. S. 32, § 5.
1888, 306, § 2.
1893, 263, § 2.

SECTION 45. Except as provided in sections forty-four and forty-six, no undertaker or other person shall bury or otherwise dispose of a human body in a town, or remove therefrom a human body which has not been

4 buried, until he has received a permit from the board of health or its
 5 agent appointed to issue such permits, or if there is no such board, from
 6 the clerk of the town where the person died; and no undertaker or other
 7 person shall exhume a human body and remove it from a town, from one
 8 cemetery to another, or from one grave or tomb other than the receiving
 9 tomb to another in the same cemetery, until he has received a permit from
 10 the board of health or its agent aforesaid or from the clerk of the town
 11 where the body is buried. No such permit shall be issued until there shall
 12 have been delivered to such board, agent or clerk, as the case may be, a
 13 satisfactory written statement containing the facts required by law to
 14 be returned and recorded, which shall be accompanied, in case of an
 15 original interment, by a satisfactory certificate of the attending physician,
 16 if any, as required by law, or in lieu thereof a certificate as hereinafter
 17 provided. If there is no attending physician, or if, for sufficient reasons,
 18 his certificate cannot be obtained early enough for the purpose, or is
 19 insufficient, a physician who is a member of the board of health, or em-
 20 ployed by it or by the selectmen for the purpose, shall upon application
 21 make the certificate required of the attending physician. If death is
 22 caused by violence, the medical examiner shall make such certificate. If
 23 such a permit for the removal of a human body, not previously interred,
 24 from one town to another within the commonwealth cannot be obtained
 25 early enough for the purpose, the certificate of death made as above
 26 provided and in the possession of the undertaker desiring to make such
 27 removal shall constitute a permit for such removal; provided, that such
 28 body shall be returned to the town from which it was removed within
 29 thirty-six hours after such removal, unless a permit in the usual form for
 30 the removal of such body has been sooner obtained hereunder. If the
 31 death certificate contains a recital, as required by section ten of chapter
 32 forty-six, that the deceased served in the army, navy or marine corps of
 33 the United States in any war in which it has been engaged, such recital
 34 shall appear upon the permit. The board of health or its agent, upon
 35 receipt of such statement and certificate, shall forthwith countersign it
 36 and transmit it to the clerk of the town for registration. The person to
 37 whom the permit is so given and the physician certifying the cause of
 38 death shall thereafter furnish for registration any other necessary infor-
 39 mation which can be obtained as to the deceased, or as to the manner or
 40 cause of the death, which the clerk or registrar may require.

1897, 437, § 1.
 R. L. 78, § 38.
 1922, 176, § 1.
 1926, 243, § 2.
 1927, 48.
 1931, 414.
 4 Op. A. G. 406.
 [Penalty, § 50.]

1 SECTION 46. No undertaker or other person shall bury a human
 2 body or the ashes thereof which have been brought into the common-
 3 wealth until he has received a permit so to do from the board of health
 4 or its agent appointed to issue such permits, or if there is no such board,
 5 from the clerk of the town where the body is to be buried or the funeral
 6 is to be held, or from a person appointed to have the care of the cemetery
 7 or burial ground in which the interment is made, if a record is kept of
 8 the names of all persons buried therein, or from a duly appointed superin-
 9 tendent of burials in such town who keeps a record of interments. Such
 10 permit shall not be issued until the undertaker or other person has de-
 11 livered a certificate to said board, agent, clerk, superintendent or person
 12 having such care, giving the name of the deceased, his age as nearly as
 13 can be ascertained, the cause of death, the name of the town where he last
 14 resided or from which the body was brought, or, if the death occurred
 15 at sea, the name of the vessel upon which it occurred, and any other
 16 facts required for record which could be obtained with reasonable dili-

Burial of
 bodies, etc.,
 brought into
 common-
 wealth.
 1897, 437, § 2.
 R. L. 78, § 39.
 1926, 243, § 3.
 [Penalty, § 50.]

gence, including, in case the deceased served in the army, navy or marine corps of the United States in any war in which it has been engaged, a recital to that effect, specifying the war.

The board of health or its agent, or the superintendent or person having such care, shall, upon receipt of such certificate, forthwith countersign and transmit it to the town clerk; and if the deceased was a resident of said town, the clerk shall record the same in the books kept for recording deaths; but if the deceased was at his death a resident of any other town within the commonwealth said clerk shall forthwith forward to the clerk thereof a copy of such certificate, who shall record the same.

Certificates for burial, etc.
1897, 437, § 3.
R. L. 78, § 40.
1920, 321.
1921, 333.
1926, 243, § 4.
[Penalty, § 50.]

SECTION 47. No person having the care of a cemetery, burial ground or crematory shall permit the burial, removal or cremation of a human body until the permit for such burial, removal or cremation has been delivered to him, nor permit the ashes of a human body to be buried therein until there has been delivered to him a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

Upon the burial, removal, or cremation of a body, the superintendent or other officer in charge of the cemetery or crematory shall indorse upon the coupon accompanying the permit the fact of such burial, removal or cremation, with the date thereof, shall make and preserve in the files of the cemetery or crematory a record of such burial, removal or cremation, including any recital in the burial permit relative to service of the deceased in any war in which the United States has been engaged, and also the location of the grave or other receptacle of the body or ashes of the deceased, and shall forthwith return the coupon to the office issuing the same; provided, that if there is no officer in charge of the cemetery or crematory, such duties shall be performed by the undertaker.

Burial of ashes of human body regulated
1897, 437, § 4.
R. L. 78, § 41.
[Penalty, § 50.]

SECTION 48. An undertaker shall not bury the ashes of a human body until he has received from the person having the charge of the crematory a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

Undertakers to be licensed.
Penalty.
1872, 275.
P. S. 32, § 6.
1897, 437, § 7.
R. L. 78, § 44.
1926, 242, § 1.
200 Mass 474.

SECTION 49. Boards of health shall annually, on or before May first, license a suitable number of undertakers who can read and write the English language and who are qualified as hereinafter provided. Each license hereunder shall be issued upon such terms and conditions as the board of health issuing it may prescribe and may be revoked at any time by such board if any of its terms and conditions or any requirement of law relative thereto has been violated by the licensee. An undertaker so licensed may act in any town. Before issuance of such a license or of a renewal thereof, there shall be presented to the board of health by the applicant for such license satisfactory evidence that he is a citizen of the United States of good moral character and is competent to prepare such death certificates and other documents as are required in the ordinary course of his business, and is familiar with the precautions to be taken by an undertaker to prevent the spread of communicable diseases and is conversant with the laws of the United States and of this commonwealth relative to the custody of dead bodies, the preparation of such bodies for burial, cremation and shipment and rela-

18 tive to their burial, cremation and shipment. An undertaker licensed
19 as aforesaid shall maintain within the commonwealth an undertaking
20 establishment so located, constructed and equipped as to permit the
21 decent and sanitary handling of dead bodies and shall maintain therein
22 suitable equipment for such handling.

23 Whoever, not being licensed hereunder, shall, by himself or by an
24 agent or servant who is not so licensed, engage in the business of an
25 undertaker shall be punished by a fine of not more than one hundred
26 dollars or by imprisonment for not more than two months, or both;
27 but this section shall not prohibit the employment of apprentices or
28 assistants under the personal supervision of an undertaker licensed
29 under this section.

1 SECTION 50. Violations of any of the provisions of sections forty-
2 four to forty-eight, inclusive, shall be punished by a fine of not more than
3 fifty dollars.

Penalty for
violation of
§§ 44-48.

1897, 437, § 5.

R. L. 78, § 42.

1922, 176, § 2.

TITLE XVII.

PUBLIC WELFARE.

- CHAPTER 115. State and Military Aid, Soldiers' Relief, etc.
 CHAPTER 116. Settlement.
 CHAPTER 117. Support by Cities and Towns.
 CHAPTER 118. Aid to Mothers with Dependent Children.
 CHAPTER 118A. Adequate Assistance to Certain Aged Citizens.
 CHAPTER 119. Protection and Care of Children, and Proceedings against Them.
 CHAPTER 120. Massachusetts Training Schools.
 CHAPTER 121. Powers and Duties of the Department of Public Welfare, and the Massachusetts Hospital School.
 CHAPTER 122. State Infirmary.
 CHAPTER 123. Commitment and Care of the Insane and Other Mental Defectives.

CHAPTER 115.

STATE AND MILITARY AID, SOLDIERS' RELIEF, ETC.

SECT.	SECT.
1. Definitions.	15. Reimbursement of cities and towns for such aid. Returns, etc.
2. Commissioner, powers and duties.	16. Investigating agents, appointment, etc. Investigations by municipal authorities.
3. Cities and towns may pay state and military aid. Penalty.	17. Soldiers' relief.
3A. Payment of state and military aid and soldiers' relief regulated.	18. Same subject. How furnished.
4. Applications for state aid.	19. Burial agents, designation, powers and duties. Burial of wives, etc., of soldiers regulated.
5. Commissioner to determine controversies, etc. Appeals.	20. Expense of burial limited. Conduct of funeral. Returns and reimbursement.
6. Payment of state aid regulated.	21. Application of §§ 19 and 20 limited.
7. Restrictions as to wife or widow.	22. Care of graves of soldiers and sailors.
8. Classification of certain beneficiaries.	23. [Repealed.]
9. Limit of amounts payable. No aid to be paid in certain cases.	24. Recording of discharge or release papers of soldiers, etc.
10. Military aid.	
11. Same subject. Aid under third and fourth classes to be ordered by commissioner.	
12. Same subject. Conditions of receiving aid. Notice in certain cases.	
13. Receipt of both state and military aid prohibited.	
14. Payment of state or military aid limited. Not to be attached or assigned.	
	HOSPITAL OR HOME CARE.
	25. Hospital or home care for needy civil war veterans, etc.

Definitions.
 1879, 301, § 2.
 P. S. 30, § 3
 1889, 301, § 2
 1894, 301, § 2
 1899, 374, § 2.

SECTION 1. The following words, as used in this chapter, unless the context otherwise requires, shall have the following meanings:

"Commissioner", commissioner of state aid and pensions. 3

4 "Pensioner", "soldier" and "sailor" shall include private, non-com-
 5 missioned and commissioned officer.
 6 "Sailor" shall include marine.

R. L. 79, § 4
 1904, 381, § 4.
 1908, 405.
 1909, 468, § 4.
 1912, 589.

1914, 587, § 4.

1919, 290, § 16.

1 SECTION 2. The commissioner shall perform the duties required of
 2 him under this chapter relative to state and military aid. He shall
 3 investigate, so far as the interests of the commonwealth require, all
 4 payments for state and military aid under this chapter; shall furnish
 5 information, prepare papers and expedite the adjudication of claims,
 6 assist claimants in proving their cases, keep a record of the work done in
 7 his office and make an annual report.

Commissioner,
 powers and
 duties.
 1877, 192, § 7.
 1879, 252, § 6.
 P. S. 30, § 1.
 1885, 214.
 1888, 296, § 3.
 1889, 279, § 9.
 1892, 291.
 1894, 279, § 9.

1899, 372, § 9;
 374, § 6.
 R. L. 79, §§ 1, 23.
 1902, 192, §§ 1, 2.

1904, 381, § 1.
 1909, 468, § 1.
 1914, 587, § 1.
 1916, 314, § 4.

1917, 179, § 4
 1918, 108, § 5;
 164, § 1
 1919, 190; 290, § 1

1 SECTION 3. A town may raise money, and, under the direction of
 2 the aldermen or selectmen, or, in Boston, subject to the order of the
 3 city council, as to the amounts to be paid to beneficiaries, but under
 4 the direction of the soldiers' relief commissioner, may pay state or mili-
 5 tary aid to, or expend it for, any worthy person, subject to the conditions
 6 specified in this chapter. Whenever money is expended for any person
 7 within the provisions hereof, no officer of any town shall, directly or
 8 indirectly, solicit, direct, or in any way interfere with the recipient of such
 9 aid in the matter of the person, partnership or corporation to whom or to
 10 which, or the place at which, the recipient shall give his custom; and
 11 whoever violates this provision shall be punished by a fine of not less than
 12 twenty-five nor more than five hundred dollars.

Cities and
 towns may pay
 state and mili-
 tary aid.
 Penalty.
 1891, 222, § 1.
 1892, 66,
 §§ 1-3;
 151, §§ 1-3;
 166, §§ 1-3.
 1863, 79,
 § 1, 2; 176.
 1864, 47,
 §§ 1-3; 143,
 §§ 1, 2.
 1865, 232,
 §§ 1, 2.
 1866, 172, §§ 1,
 2, 11, 12.
 1867, 136, § 6.

1868, 107.
 1870, 339, § 1.
 1872, 324.
 1874, 330.
 1877, 192, §§ 1, 6, 10.
 1878, 282, § 1.
 1879, 252, § 1; 301, § 1.
 P. S. 30, § 2.

1889, 279, § 1; 301, § 1
 1894, 279, § 1, 301, § 1.
 1897, 441.
 1899, 372, §§ 1, 13;
 374, §§ 1, 10.
 R. L. 79, § 2.
 1904, 381, § 2.
 1909, 468, § 2.

1910, 467.
 1914, 587, § 2.
 1916, 314, § 1
 1917, 5, § 1; 179, §§ 1, 8.
 1918, 108, § 1.
 1919, 139; 290, § 2.
 138 Mass 256.
 160 Mass 503.

1 SECTION 3A. In a city or town which has duly accepted this section,
 2 no almoner or member of the board of public welfare, or officer performing
 3 similar duties, or any agent of any of them, shall directly or indirectly act
 4 as agent or disbursing officer of the aldermen or selectmen for the pay-
 5 ment of state or military aid or soldiers' relief; provided, that this section
 6 shall not operate to prevent selectmen in towns who are also members of
 7 boards of public welfare from acting in their capacity as selectmen or
 8 through an agent acting for the selectmen.

Payment of
 state and mili-
 tary aid and
 soldiers' relief
 regulated.
 1923, 181.
 1931, 426,
 § 228.

1 SECTION 4. Applicants for state aid shall, before any payment thereof
 2 to them, state in writing on oath the name, age and residence of the
 3 person for whom such aid is sought, his relation to the person who rendered
 4 the service entitling the applicant to aid, the company, regiment, station,
 5 organization or vessel in or to which the soldier or sailor enlisted or was
 6 appointed and in which he last served; the date and place of such enlist-
 7 ment, if known; the duration of such service and the reason upon which
 8 the claim for aid is founded; and shall furnish such official certificates of
 9 record, evidence of enlistment, service and discharge as may be required.
 10 The original papers in each case shall be filed with the commissioner,
 11 who shall from time to time provide each town with blank forms for the
 12 use of applicants.

Applicants
 for state aid
 1866, 172, § 9.
 1877, 192,
 §§ 2, 10
 1879, 301, § 6.
 P. S. 30, § 7
 1889, 301, § 6
 1894, 301, § 6.
 1898, 561,
 §§ 5, 6
 1899, 374, § 5.
 R. L. 79, § 7
 1904, 381, § 7.
 1909, 468, § 7.
 1914, 587, § 7.
 1916, 314,
 §§ 3, 4
 1917, 179,
 §§ 3-5.

1918, 108, §§ 4-6.

1919, 290, § 7.

Commissioner to determine controversies, etc. Appeals, 1866, 172, § 5. 1867, 136, §§ 4, 7. 1877, 192, § 9. 1879, 301, § 7. P. S. 30, §§ 8, 18. 1880, 301, § 7.

SECTION 5. The commissioner shall determine all controversies between invalid pensioners and town authorities relative to claims for state aid. He may refuse to decide on the necessity of a claimant for aid, but if he shall determine that a claimant is entitled thereto he may authorize its payment to him monthly for not more than one year, under such limitations as he may impose. An appeal may be taken from his determination to the governor and council, whose decision shall be final.

1894, 301, § 7	1904, 381, § 8	1917, 179, § 4
1898, 561, § 6.	1909, 468, § 8.	1918, 108, § 5.
1899, 374, § 6	1914, 587, § 8	1919, 290, § 8.
R. L. 79, § 8	1916, 314, § 4.	1 Op. A. G. 49.
1902, 192, §§ 3, 5.		

Payment of state aid regulated 1861, 222, § 1. 1862, 46, §§ 1-3, 6, 151, §§ 1-3, 166, §§ 1-3. 1863, 79, §§ 1, 2, 4; 176. 1864, 47, §§ 1-3, 143, §§ 1, 2. 1865, 292, §§ 1, 2, 251, § 1.

SECTION 6. The recipient of state aid shall have a residence, and shall actually reside, in the town from which such aid is received, shall not receive aid from any other town in the commonwealth or from any other state, shall be in such needy circumstances as to require public assistance, and, if a soldier, sailor or nurse, shall have been honorably discharged from all appointments and enlistments in the army or navy, shall be so far disabled, as the result of his service in the army or navy, as to prevent him from following his usual occupation, and shall belong to one of the following classes:

1866, 172, §§ 1, 2, 10; 283, § 5	1894, 301, § 1	1916, 314, §§ 2, 7
1867, 136, §§ 1, 2, 8	1895, 361, §§ 1, 3	1917, 5, § 2; 161;
1871, 299.	1897, 441	179, §§ 1, 2, 8
1876, 219.	1898, 501, §§ 3, 4, 11	1918, 108, §§ 2, 3
1877, 192, § 1	1899, 372, §§ 1, 2, 13,	1919, 151, §§ 1, 2;
1879, 252, § 2,	374, §§ 1, 2, 10	290, § 3.
301, § 1.	R. L. 79, § 3.	1921, 222, §§ 1, 2.
P. S. 30, § 2.	1902, 251.	1924, 357.
1885, 173	1903, 387	1926, 301.
1886, 39	1904, 381, § 3	1927, 219.
1889, 301, § 1	1909, 468, § 3	1931, 248, §§ 1, 2.
1892, Res 84	1910, 470	1 Op. A. G. 575
	1914, 349, 587, § 3	Op A G (1920) 61

First class qualifications.

Civil war service.

First Class, Invalid pensioners of the United States who served in the army or navy of the United States to the credit of this commonwealth in the civil war, between April nineteenth, eighteen hundred and sixty-one, and September first, eighteen hundred and sixty-five; or who served in such army or navy in the military organizations of this commonwealth known as three months' men, ninety days' men or one hundred days' men mustered into the service of the United States in April, May, June or July, eighteen hundred and sixty-one, or in April, May, July or August, eighteen hundred and sixty-four, or who, having their residence and actually residing in this commonwealth at the time of their enlistment, either served to the credit of some other state in such army or navy, between April nineteenth, eighteen hundred and sixty-one, and March eighteenth, eighteen hundred and sixty-two, or served in such army or navy, having been mustered into the service of the United States at some time between May first and October first, eighteen hundred and sixty-two, while having a residence and actually living in this commonwealth and while a member of one of the organizations of the volunteer militia, known as the Boston cadets, the Salem cadets, the eighth battery of light artillery, or company B of the seventh regiment of infantry; or who served in said navy, being one of the persons included in the list of officers, sailors and marines prepared by the adjutant general in accordance with chapter fifteen of the resolves of eighteen hundred and seventy-five and chapter eight of the resolves of eighteen hundred and eighty, having been appointed or mustered into and having served in the naval service of the United States while an actual resident of this commonwealth; or who served in the regular army or navy of the United States during the civil

36 war, having been appointed or having enlisted in said army or navy, while
 37 a citizen of this commonwealth, having a residence and actually residing
 38 therein;

39 Invalid pensioners of the United States who served under the authority
 40 or by the approval of the United States or any state or territory in any
 41 Indian war or campaign, or in connection with or in the zone of any active
 42 Indian hostilities in any of the states or territories of the United States
 43 prior to January first, eighteen hundred and ninety-eight, having enlisted
 44 in said service while an inhabitant of a town in this commonwealth and
 45 actually residing therein;

Indian wars,
 etc., service.

46 Invalid pensioners of the United States who served in the army or navy
 47 of the United States to the credit of this commonwealth in or during the
 48 period of the war with Spain, having been appointed or having enlisted in
 49 such service after February fifteenth, eighteen hundred and ninety-eight
 50 and prior to July fourth, nineteen hundred and two; or who served in the
 51 regular army or navy of the United States during said war or in the army,
 52 navy or marine corps of the United States in or during the period of the
 53 Philippine Insurrection or the China Relief Expedition, having been
 54 appointed or having enlisted in such service between said dates while a
 55 citizen of this commonwealth, having a residence and actually residing
 56 therein;

Spanish war
 service.

Philippine
 Insurrection
 and China
 Relief Expedi-
 tion service.

57 Soldiers mustered into the military service of the United States as part
 58 of the quota of this commonwealth called for service on the Mexican
 59 border in nineteen hundred and sixteen, and who are in receipt of pension
 60 or compensation from the United States for disability or illness incurred
 61 in such service, which for the purpose of this chapter shall be deemed to
 62 have begun on June nineteenth, nineteen hundred and sixteen, and as
 63 having ended on February third, nineteen hundred and seventeen, having
 64 been mustered into such service while an inhabitant of a town in this
 65 commonwealth and actually residing therein;

Mexican
 border service
 4 Op. A. G. 615.

66 Any soldier, sailor or nurse who served in the army or navy of the
 67 United States in the world war, which for the purposes of this chapter
 68 shall be defined as having begun on February third, nineteen hundred and
 69 seventeen, and as having ended on November eleventh, nineteen hundred
 70 and eighteen; provided, that such soldier, sailor or nurse receives a pen-
 71 sion or compensation from the United States for disability incurred in
 72 such service, and was mustered into such service while an inhabitant of a
 73 town in the commonwealth and actually residing therein.

World war
 service

74 Second Class, Dependent relatives of invalid pensioners and of soldiers
 75 or sailors who served in the manner and under the limitations described
 76 for such service under class one who did not die in the service above
 77 defined and who were honorably discharged therefrom, as follows:

Second class
 qualifications.

78 The wives and widowed mothers of invalid pensioners who served in
 79 the civil war, and the widows and widowed mothers of soldiers or sailors
 80 dying in such service or after honorable discharge therefrom;

Civil war
 service
 1 Op. A. G. 49.

81 The wives of invalid pensioners who served in the Indian wars or
 82 campaigns, and the widows of soldiers dying in such service, or after
 83 honorable discharge therefrom and while in receipt of a pension from the
 84 United States;

Indian wars,
 etc., service.

85 The widows and widowed mothers of soldiers or sailors who served in
 86 the war with Spain, the Philippine Insurrection or the China Relief
 87 Expedition dying in such service or dying after their honorable discharge
 88 therefrom, or dying while in receipt of a pension from the United States
 89 or of state aid from the commonwealth, and the wife and widowed mother

Spanish war,
 Philippine
 Insurrection
 or China
 Relief Expedi-
 tion service.

	of any invalid pensioner of the Spanish war, the Philippine Insurrection	90
	or the China Relief Expedition service;	91
Mexican border service.	The widow and children under sixteen years of any person who incurred	92
	disability during service on the Mexican border as defined in class one	93
	and has died from such disability, either while in the service or after an	94
	honorable discharge therefrom; provided, that only such children whose	95
	birth occurred prior to said discharge or to January first, nineteen hundred	96
	and eighteen, may receive such state aid;	97
World war service.	The dependent widow, dependent widowed mother and dependent	98
	children up to the age of sixteen of any soldier, sailor or nurse who died	99
	while in such service during the world war as defined in class one, or who	100
	shall die after an honorable discharge from all enlistments or appoint-	101
	ments in such service, or any child dependent by reason of physical or	102
	mental incapacity, provided the children were in being prior to his dis-	103
	charge or prior to the termination of said war as herein defined, or any	104
	person who stood to him in the relationship of a parent for five years prior	105
	to such service.	106
	There shall also be included in this class the crippled or otherwise help-	107
	less children, whether minors or adults, of soldiers or sailors who served in	108
	either the civil war or the war with Spain; provided, that such children	109
	are in receipt of a pension from the United States.	110
Third class qualifications.	Third Class, Dependent wives, and children up to sixteen years,	111
	widows and widowed mothers of soldiers, sailors and nurses, entitled to	112
	state aid as defined in class one, who appear on the rolls of their regiments	113
	or companies in the office of the adjutant general to be missing or to have	114
	been captured by the enemy, and who were not exchanged and have not	115
	returned from captivity, and whom the town officers granting such aid	116
	have good reason to believe to be dead.	117
Fourth class qualifications.	Fourth Class, Fathers or mothers, the fathers being alive, of soldiers	118
	or sailors who served in the war with Spain, in the manner and under the	119
	limitations described for the service of said invalid pensioners, and who	120
	died in such service, if such parents were receiving aid May eighteenth,	121
	eighteen hundred and ninety-nine.	122
	Fathers or mothers, the fathers being alive, of soldiers or sailors who	123
	served in the world war, in the same manner and under the same limita-	124
	tions described herein for the service of said soldiers or sailors, and who	125
	died in such service, if such parents had been in receipt of state war allow-	126
	ance under chapter one hundred and eight of the General Acts of nineteen	127
	hundred and eighteen between February third, nineteen hundred and	128
	seventeen, and November eleventh, nineteen hundred and eighteen. No	129
	aid shall be granted to persons in this class unless in each case the alder-	130
	men, selectmen, or, in Boston, the soldiers' relief commissioner, are satis-	131
	fied, on evidence first reported to the commissioner and satisfactory to	132
	him, that justice and necessity require a continuance of the aid to prevent	133
	actual suffering.	134
Fifth class qualifications.	Fifth Class, Women who served not less than three months as nurses	135
	in the army hospitals of the United States between April nineteenth,	136
	eighteen hundred and sixty-one, and September first, eighteen hundred	137
	and sixty-five, or who served not less than three months as nurses in the	138
	army or navy hospitals of the United States between February fifteenth,	139
	eighteen hundred and ninety-eight, and April twelfth, eighteen hundred	140
	and ninety-nine, or who served in the world war for not less than three	141
	months as nurses in the army or navy hospitals between February third,	142
	nineteen hundred and seventeen, and November eleventh, nineteen hun-	143

144 dred and eighteen, and who for three consecutive years next prior to the
 145 date of application for aid, shall have been actually resident in the com-
 146 monwealth, and who shall not be in receipt of an annuity from the com-
 147 monwealth, if the municipal authorities are satisfied, on evidence first
 148 reported to and found satisfactory by the commissioner, that the service
 149 was actually rendered and that justice and necessity require the granting
 150 of aid. The amount of such aid and its duration shall be determined by
 151 the commissioner.

1 SECTION 7. The wife of a discharged soldier or sailor shall not be
 2 held to belong to any of the foregoing classes, nor shall she receive state
 3 aid unless, if the service of the soldier or sailor was in the war with
 4 Spain, the Philippine Insurrection or the China Relief Expedition, she
 5 was married to him before his final discharge from such service, and, if
 6 his widow, before September first, nineteen hundred and twenty-two,
 7 and if his service was in the civil war unless she was, if his wife, married
 8 to him prior to his final discharge from such service, and, if his widow,
 9 prior to June twenty-seventh, eighteen hundred and ninety, and if the
 10 service of the soldier was in any Indian war or campaign unless she was,
 11 if his wife, married to him prior to his final discharge from such service,
 12 and, if his widow, prior to March fourth, nineteen hundred and seven-
 13 teen, and if the service of the soldier or sailor was on the Mexican border
 14 or in the world war unless she was, if his wife, married to him prior to
 15 his final discharge from the service or release from active duty therein,
 16 and, if his widow, prior to January first, nineteen hundred and twenty-
 17 eight.

Restrictions
as to wife or
widow
1869, 172, § 4.
1879, 301, § 2.
P. S. 30, § 3
1885, 204.
1887, 122.
1889, 301, § 2
1894, 301, § 2
1899, 374, § 2
R. L. 79, § 4.
1904, 381, § 4
1908, 405.
1909, 468, § 4
1912, 589.
1914, 587, § 4
1919, 290, § 4
1921, 222, § 3
1922, 229
1924, 280.
1928, 255.
1930, 233, § 1.
1931, 248, § 3

1 SECTION 8. Of the persons to or for whom state aid is paid under any
 2 special act or resolve, designating them by name, and passed after June
 3 first, eighteen hundred and seventy-nine, or to or for whom state aid was
 4 then being paid under any special act or resolve then repealed, all sol-
 5 diers and sailors shall be held to belong to the first class, and all depend-
 6 ent relatives of soldiers and sailors to the second class, of section six,
 7 notwithstanding the limitations of the said classes; and state aid may
 8 be paid to or for such persons in the same manner and with the same
 9 limitations as paid to or for other persons of their respective classes;
 10 but no aid shall be paid to or for any person under this section contrary
 11 to any limitation or condition of the original special act or resolve
 12 authorizing state aid to be paid to or for him.

Classification
of certain
beneficiaries
1879, 301, § 3.
P. S. 30,
§§ 4, 9.
1889, 301, § 3
1894, 301, § 3
1899, 374, § 3
R. L. 79, § 5.
1904, 381, § 5
1909, 468, § 5
1914, 587, § 5.
1919, 290, § 5

1 SECTION 9. No state aid shall be paid to or for a person of the first
 2 class as defined in section six exceeding in any one month three fourths
 3 of the monthly amount of his United States pension or compensation,
 4 nor exceeding ten dollars in any one month; or to or for a person of the
 5 second, third, fourth or fifth class as defined in said section exceeding
 6 ten dollars in any one month; and no more than twenty dollars shall be
 7 paid to or for all dependent relatives of any one soldier or sailor in any
 8 one month. State aid shall not be paid to or for any soldier or sailor on
 9 account of service in the war with Spain, or to his dependent relatives,
 10 unless he enlisted or was appointed in the service of the United States
 11 after February fourteenth and prior to August twelfth, eighteen hundred
 12 and ninety-eight; but it may be allowed to or for volunteers mustered
 13 into the service of the United States in Massachusetts regiments after
 14 said August twelfth but prior to January first, eighteen hundred and

Limit of
amounts
payable.
No aid to be
paid in certain
cases.
1879, 301, § 4.
P. S. 30, § 5
1889, 301, § 4
1894, 301, § 4
1895, 361, § 2.
1898, 561.
§ 3, 4
1899, 374, § 2.
R. L. 79, § 6
1904, 381, § 6
1909, 468, § 6
1914, 575;
587, § 6.
1919, 290, § 6.
1930, 186.

ninety-nine, who shall otherwise be qualified to receive the same, and 15
to or for their dependent relatives. 16

Military aid,
1879, 252, § 3,
1881, 26, § 1.

SECTION 10. The recipient of military aid shall belong to and have 1
the qualifications of one of the four following classes: 2

P. S. 30, § 10.	1899, 372, §§ 1-4, 6.	1919, 151, §§ 1, 2; 290,
1885, 173.	R. L. 79, § 9.	§ 9
1886, 59.	1904, 381, § 9.	1921, 222, § 4
1889, 279, §§ 1,	1909, 468, § 9.	1928, 155, §§ 4, 5.
2, 4, 5	1914, 587, § 9	1931, 248, § 4
1892, Res. 84	1916, 314, §§ 1, 2.	138 Mass. 256.
1894, 279, §§ 1,	1917, 5; 179,	160 Mass. 563.
2, 4, 6.	§§ 1, 2, 8	1 Op. A. G. 27
1898, 561, §§ 2, 4.	1918, 108, §§ 2, 3	Op. A. G. (1920) 61.

First class
qualifications.

First Class, Each person of the first class shall have his settlement in 3
the town aiding him; shall have served as a soldier, sailor or nurse in 4
the manner and under the limitations prescribed in the first class of sec- 5
tion six; shall have been honorably discharged or released from active 6
duty in such United States service and from all appointments and en- 7
listments therein; shall be poor and indigent and, by reason of sickness 8
or other physical disability, in such need as would entitle him to relief 9
under chapter one hundred and seventeen; shall not be, directly or 10
indirectly, in receipt of any other state or military aid, or of any pension 11
for services rendered or disabilities incurred either in the civil or Span- 12
ish wars, Indian wars or campaigns, the Philippine Insurrection, the 13
China Relief Expedition, Mexican border service or world war service 14
as defined in section six. The disability must have arisen from causes 15
independent of his military or naval service aforesaid. 16

Second class
qualifications.

Second Class, Each person of the second class shall have his settle- 17
ment in the town aiding him, and shall be an invalid pensioner, entitled 18
to receive state aid, whose income from pension or government com- 19
pensation and state aid is inadequate for his relief, and who would 20
otherwise receive relief under said chapter one hundred and seventeen. 21

Third class
qualifications.

Third Class, Each person of the third class shall have all the quali- 22
fications of persons of the first class except settlement, and shall have 23
been a continuous resident of the commonwealth during the three years 24
last preceding his receipt of military aid and shall be a resident of the 25
town granting the aid. 26

Fourth class
qualifications.

Fourth Class, Each person of the fourth class shall have all the quali- 27
fications of persons of the second class except settlement, and shall have 28
been a continuous resident of the commonwealth during the three years 29
last preceding his receipt of military aid, and shall be a resident of the 30
town granting the aid. 31

Same subject.
Aid under
third and
fourth classes
to be ordered
by commis-
sioner.

SECTION 11. A town shall not render military aid to a person of the 1
third or fourth class until it has furnished to the commissioner such evi- 2
dence as may be required that the applicant is entitled to receive aid 3
and has received from said commissioner an order fixing the maximum 4
amount to be paid a month and the period during which aid may be 5
allowed, and stating such other conditions as the commissioner may 6
impose relative thereto. Said order may be revoked or modified by the 7
commissioner by giving written notice to the town procuring it. 8

1919, 290, § 10.

Same subject.
Conditions of
receiving
and notice
in certain
cases.

SECTION 12. No person shall be compelled to receive military aid 1
without his consent, nor shall any person be compelled to receive military 2
aid in an infirmary or other public institution unless his physical or men- 3

4 tal condition requires it, and, except in such case, it shall be paid to or
 5 expended for those persons only who live separate from persons receiving
 6 support under chapter one hundred and seventeen or chapter one hun-
 7 dred and twenty-two. The aldermen, selectmen, soldiers' relief com-
 8 missioner or the commissioner of state aid and pensions may require a
 9 person to whom military aid is granted to pay over his United States
 10 pension or compensation to them to be expended for his relief before
 11 receiving such aid. In all cases where an applicant for military aid has
 12 a settlement outside the town where application is made, the official
 13 required to act thereon shall, within three days, notify the corresponding
 14 official in the town of the applicant's settlement, and also the com-
 15 missioner.

1878, 282, § 1.
 1879, 252, § 5.
 P. S. 30, § 12.
 1889, 279, § 7.
 1894, 279, § 7.
 1899, 372,
 §§ 7, 8, 13.
 R. L. 79, § 11.
 1904, 381, § 11.
 1909, 468, § 11.
 1914, 587, § 11.
 1919, 171, § 2;
 290, § 11.
 1928, 155, § 6.

1 SECTION 13. No person shall at the same time receive both state and
 2 military aid.

Receipt of
 both state and
 military aid
 prohibited

1889, 279, § 7, 301, § 2 1899, 372, § 7; 374, § 2 1909, 468, § 12.
 1894, 279, §§ 3, 7; 301, § 2. R. L. 79, § 12 1914, 587, § 12.
 1898, 561, § 3. 1904, 381, § 12. 1919, 290, § 12.

1 SECTION 14. State and military aid shall be paid to or applied solely
 2 for the benefit of the person for whom intended, and only so much shall
 3 be paid to or for him as is necessary to afford him reasonable relief or
 4 support. Such aid shall not be paid to or for any person able to support
 5 himself, or who is in receipt of income or owns property sufficient for his
 6 support, nor to an amount in excess of such amount as is necessary, in
 7 addition to his income and property, for his personal relief or support,
 8 nor to or for any soldier, sailor, pensioner, dependent relative or nurse
 9 if the necessity therefor is caused by the voluntary idleness or contin-
 10 uous vicious or intemperate habits of the soldier, sailor, nurse or pen-
 11 sioner on whose account such aid is sought, nor to or for any person who
 12 has been dishonorably discharged from any national soldiers' or sailors'
 13 home or from the soldiers' home in this commonwealth, unless the com-
 14 missioner, after a hearing, shall otherwise determine, nor shall such aid
 15 be paid to any person who at the time of entering the federal service
 16 was a subject or citizen of a neutral country, had filed his intention to
 17 become a citizen of the United States, and afterward withdrew such in-
 18 tention under the act of congress approved on July ninth, nineteen
 19 hundred and eighteen, nor to any person designated upon his discharge
 20 as a conscientious objector. State aid shall not be subject to trustee
 21 process, and no assignment thereof shall be valid. No back state aid
 22 shall be paid, nor shall state aid be paid to or for any person convicted
 23 of crime unless the municipal authorities and the commissioner other-
 24 wise determine, nor shall state or military aid be paid if the pensioner,
 25 soldier, sailor or nurse deserted from the service of the United States
 26 either in the war of the rebellion, the war with Spain, the Mexican
 27 border or the world war service, as defined in this chapter, or is willfully
 28 absent from his family and neglects to render them this such assistance as he
 29 is able to give.

Payment of
 state or
 military aid
 limited
 Not to be
 attached or
 assigned
 1864, 47, § 4.
 1865, 232, § 5.
 1866, 172, § 4.
 1867, 136, § 6.
 1877, 192,
 §§ 3, 4, 10.
 1879, 252, § 4;
 301, § 5.
 P. S. 30,
 § 6, 13.
 1889, 279, § 8;
 301, § 5.
 1894, 279,
 §§ 7, 8;
 301, § 5.
 1898, 561, § 4.
 1899, 372,
 §§ 7, 8; 374,
 § 2, 4.
 R. L. 79, § 13.
 1904, 381, § 13.
 1909, 468, § 13.
 1914, 587, § 13.
 1918, 408, § 3.
 1919, 151,
 §§ 2, 4, 290,
 § 13.

1 SECTION 15. The full amount expended for state or military aid by
 2 any town, the names of the persons aided and the classes to which they
 3 severally belong, the amounts paid to or for each person, the reasons
 4 therefor, the names of the persons on account of whose services the aid
 5 was granted, the names, if any, of the companies, regiments, stations,
 6 organizations or vessels in which they respectively enlisted, or to which

Reimburse-
 ment of cities
 and towns for
 such aid.
 Returns, etc.
 1861, 222,
 §§ 5-7.
 1862, 66,
 §§ 4-6; 151,
 § 3, 166, § 4.

12 in a town in the commonwealth, becomes poor and wholly or partly unable
13 to provide maintenance for himself, his wife or minor children under six-
14 teen years of age or for a dependent father or mother, unless such condi-
15 tion is the result of his own criminal or wilful misconduct, or if such person
16 dies leaving a widow or minor children under sixteen years of age, or
17 minor children over sixteen but under eighteen years of age who attend
18 school or are incapacitated for work, or a dependent father or mother
19 without proper means of support, such support as may be necessary shall
20 be accorded to him or his said dependents by the town where they or any
21 of them have a legal settlement, and his said dependents, in the case of his
22 death, shall not be deemed ineligible to receive said support by reason of
23 criminal or wilful misconduct on his part at any time during his lifetime;
24 but should such person have all the said qualifications except settlement,
25 if he served in the war of the rebellion, or in the army, navy or marine
26 corps in the war with Spain or the Philippine insurrection between said
27 dates, his widow, who has acquired a legal settlement in her own right
28 before August twelfth, nineteen hundred and sixteen, which settlement
29 has not been defeated or lost, or if he served in the world war and at the
30 time of his decease was a legal resident of this commonwealth, his widow,
31 who has a legal settlement and who has not remarried, and his minor
32 children under sixteen years of age, and those over sixteen but under
33 eighteen years of age who attend school or are incapacitated for work,
34 shall also be eligible to receive relief under this section. Any crippled,
35 blind or helpless child, whether a minor or adult, of a deceased person
36 who served in the army or navy of the United States in the war of the
37 rebellion, or in the war with Spain or the Philippine insurrection between
38 April twenty-first, eighteen hundred and ninety-eight and July fourth,
39 nineteen hundred and two, and received an honorable discharge from all
40 enlistments therein, if such child is receiving a pension from the United
41 States and is not otherwise eligible to receive relief under this section,
42 shall also be eligible as aforesaid. Such relief shall be furnished by the
43 aldermen or selectmen, or, in Boston, by the soldiers' relief commissioner,
44 subject, however, to the direction of the city council of said city as to the
45 amount to be paid. The beneficiary shall receive said relief at home,
46 or at such other place as the aldermen, selectmen or soldiers' relief com-
47 missioner deem proper, but he shall not be compelled to receive the same
48 at an infirmary or public institution unless his physical or mental con-
49 dition requires, or, if a minor, unless his parents or guardian so elect.

50 If an applicant for military aid or soldiers' relief has a settlement outside
51 of the town where the application is made, the official required to act
52 thereon shall, within three days, notify the corresponding official in the
53 town of the applicant's settlement, and also the commissioner. If the
54 town of settlement of an applicant for soldiers' relief unreasonably delays
55 in aiding the applicant after receipt of said notice, the town of the appli-
56 cant's residence shall forthwith grant such aid as the commissioner may
57 order, and the town so granting such aid shall be reimbursed in full there-
58 for by the town of the applicant's settlement. Any town official required
59 to act on such order of the commissioner who refuses and neglects to
60 comply therewith shall be punished by a fine of not less than twenty-five
61 nor more than one hundred dollars.

62 This section shall also apply to army nurses who served in the army
63 hospitals of the United States during the civil war and are entitled to state
64 aid under section six and to army nurses and their dependents as specified
65 herein who served in the army, navy or marine corps during the war with

Spain or during the Philippine insurrection between April twenty-first, 66
eighteen hundred and ninety-eight, and July fourth, nineteen hundred 67
and two, or during the world war. 68

Same subject
How furnished.
1893, 257
1898, 356
1900, 189
R. L. 79, § 19.
1902, 192,
§§ 1, 2
1925, 137.

SECTION 18. The aldermen or selectmen shall furnish such relief 1
without authority of a vote of the city council or of the town. Such 2
relief shall be furnished only by, through or under the agency or direc- 3
tion of city or town officers authorized to disburse state or military aid. 4
Upon complaint of any person aggrieved by the failure to furnish such 5
relief or upon complaint of any citizen that such relief is being granted 6
contrary to the provisions of the preceding section, the commissioner 7
shall forthwith make a thorough investigation and determine the amount 8
of relief, if any, to be given. The decision of the commissioner shall be 9
final, but may at any time be amended or reversed by him. 10

Burial agents,
designation,
powers and
duties. Burial
of wives, etc.,
of soldiers
regulated.
1889, 395, § 1.
1896, 279, § 1
1897, 164; 441.
1900, 162
1901, 283.
R. L. 79, § 20.
1902, 250; 292.
1904, 381, § 17.
1907, 354, § 1
1909, 468, § 17.
1914, 314,
587, § 17
1916, 191
1918, 108,
§ 3; 183
1919, 151, § 2;
294, § 17.
1924, 262.
1926, 155.
1930, 233, § 2
1 Op A G 408.

SECTION 19. The mayor of each city and the selectmen of each 1
town or, in Boston, the soldiers' relief commissioner, shall designate a 2
burial agent, who shall not be one of the board of public welfare or be 3
employed by said board, and who shall, under regulations established 4
by the commissioner, cause properly to be interred the body of any 5
honorably discharged soldier or sailor who served in the army or navy 6
of the United States during the war of the rebellion, or in the Indian 7
campaigns if he died in receipt of a pension from the United States, or 8
during the war between the United States and Spain or the Philippine 9
insurrection after February fourteenth, eighteen hundred and ninety- 10
eight and prior to July fourth, nineteen hundred and two, or in the 11
Mexican border service of nineteen hundred and sixteen and of nineteen 12
hundred and seventeen, or in the world war; provided, that the soldier 13
or sailor died in such service or after an honorable discharge therefrom 14
or release from active duty therein; and shall also so inter the body of 15
his wife, widow or dependent father or mother, and the bodies of army 16
nurses entitled to state aid under section six, if they die without suffi- 17
cient means to defray funeral expenses; but no wife or widow of any 18
soldier or sailor of the civil war shall be entitled to the benefits of this 19
section unless she was married to him prior to June twenty-seventh, 20
eighteen hundred and ninety, and no wife or widow of any soldier of the 21
Indian campaigns unless she was married to him prior to March fourth, 22
nineteen hundred and seventeen, and unless she was, if his widow, in 23
receipt of a pension under the act of congress of March fourth, nineteen 24
hundred and seventeen, and no wife or widow of any soldier or sailor of 25
the Spanish war, or the Philippine insurrection, unless she was married 26
to him prior to September first, nineteen hundred and twenty-two; and 27
no wife or widow of any soldier or sailor of the Mexican border service 28
or of the world war unless she was married to him prior to his final dis- 29
charge from such service. If an interment has taken place without the 30
knowledge of the burial agent, application may be made to him within 31
thirty days after the date of death, or after final interment if the soldier 32
or sailor dies in the world war service; and if upon investigation he shall 33
find that the deceased was within the provisions of this section and the 34
rules of the commissioner, he may certify the same as provided in the 35
following section. 36

Expense of
burial limited
Conduct of
funeral

SECTION 20. The expense of a burial as aforesaid shall not exceed 1
one hundred dollars, two dollars of which shall be paid as compensation 2

3 to the burial agent causing the interment to be made; but if the total
 4 expense of the burial, by whomsoever incurred, shall exceed two hundred
 5 dollars, no payment therefor shall be made by the commonwealth.
 6 The burial shall not be made in any cemetery or burial ground used ex-
 7 clusively for the burial of persons buried under the provisions of chapter
 8 one hundred and seventeen, or in any part of any cemetery or burial
 9 ground so used. Relatives of the deceased who are unable to bear the
 10 expense of burial may be allowed to conduct the funeral. The full
 11 amount so expended, the name of the deceased soldier or sailor, the
 12 regiment, company, station, organization or vessel in which he served,
 13 the date of death, place of interment, and in case of a wife or widow the
 14 name of the husband and date of marriage, and such other details as
 15 the commissioner may require, shall be certified on oath to him, in such
 16 manner as he may approve, by the burial agent and the treasurer of the
 17 town expending the amount, within three months after the burial; and
 18 the commissioner shall endorse upon the certificate his allowance of
 19 such amounts as he finds have been paid, and reported according to the
 20 foregoing provisions, and shall transmit the certificate to the comp-
 21 troller. The amounts legally paid and so allowed, with no expense for
 22 disbursement, shall be reimbursed by the commonwealth to the several
 23 towns on or before November tenth in the year after the expenditures
 24 have been made.

Returns and
 reimburse-
 ment.
 1889, 395,
 § 2, 3
 1892, 184,
 1894, 62
 1896, 279, § 2
 R. L. 79, § 21
 1902, 250
 1904, 381, § 18
 1907, 354, § 2
 1909, 468, § 18
 1913, 475
 1914, 587, § 18
 1917, 160
 1918, 108, § 3
 1919, 129, § 151,
 § 2; 290, § 18
 1923, 362, § 68
 1924, 266
 1927, 226
 1928, 155, § 7.

1 SECTION 21. The provisions of the two preceding sections relative to
 2 burial of indigent soldiers or sailors and their dependents and of section
 3 seventeen relative to soldiers' relief shall not apply to any person who
 4 at the time of entering the federal service during the world war was a
 5 subject or citizen of a neutral country who had filed his intention to
 6 become a citizen of the United States and who afterward withdrew such
 7 intention under the act of congress approved July ninth, nineteen hun-
 8 dred and eighteen, nor to any person designated upon his discharge as
 9 a conscientious objector.

Application of
 §§ 19 and 20
 limited.
 1919, 151, § 4

1 SECTION 22. In every town there shall annually be appointed by
 2 the mayor or selectmen a citizen of the town, preferably a person who
 3 has served in the army, navy or marine corps of the United States in
 4 time of war or insurrection and has been honorably discharged from
 5 such service or released from active duty therein, who shall see that
 6 every cemetery lot where there is a grave of any person who has so
 7 served is suitably kept and cared for. If the cost of such care and main-
 8 tenance is not paid by private persons, or by the trustees of the ceme-
 9 teries where any such grave is situated, it shall be paid by the town;
 10 and towns may appropriate money therefor. Money so appropriated
 11 may be expended directly by the town or paid over to the trustees or
 12 manager of any cemetery where any such grave is situated; but the
 13 sum so paid over in any year shall not exceed for each grave the sum
 14 charged for the annual care and maintenance of like lots in the same
 15 cemetery, or, if no such charge is made in that cemetery, it shall not
 16 exceed the sum charged in other cemeteries in the same town for like
 17 service.

Care of
 graves of
 soldiers and
 sailors.
 1914, 122
 1920, 218.

1 SECTION 23. [REPEALED, 1931, 426, § 16.]

Recording of
discharge or
release papers
of soldiers, etc.
1920, 467.

SECTION 24. The discharge or release papers of soldiers and sailors who served in the armed forces of the United States in time of war or insurrection and have been honorably discharged therefrom or released from active duty therein, may be recorded with the clerk of the town of the holder's residence in books kept for the purpose, upon payment of a fee of twenty-five cents for each discharge or release so recorded. The clerk shall prepare and keep an index of the papers so recorded, and copies of such papers, if attested by him, shall be admitted as sufficient evidence thereof whenever they are otherwise competent.

HOSPITAL OR HOME CARE.

Hospital or
home care
for needy
civil war
veterans, etc.
1929, 340.

SECTION 25. The commissioner shall expend such sum as he deems necessary to provide special care in a hospital or at home for persons who served in the army or navy of the United States in the war of the rebellion and received an honorable discharge from all enlistments therein, their wives and widows, who are in need of such care and who were legally settled in a town of this commonwealth on January first, nineteen hundred and twenty-nine. The amount expended by the commissioner under this section shall be paid from such appropriation as may be made for the purpose. One half of such expense shall be assessed, collected and paid over by the town of the beneficiary's settlement to the state treasurer in the same manner and at the same time as state taxes. The person charged with disbursing military aid or soldiers' relief in each town shall, within three days of receiving an application for relief under this section, notify the commissioner of such application upon blanks approved by him. Any person charged with such disbursement who refuses or unreasonably neglects to give notice required by this section within the time and substantially in the form herein required shall be punished by a fine of twenty-five dollars.

CHAPTER 116.

SETTLEMENT.

SECT.

1. Acquisition of legal settlements, etc.
2. Settlement not acquired while receiving public relief, etc.
3. [Repealed.]
4. Receipt of institutional aid by certain soldiers, etc., not to affect settlement.

SECT.

5. Existing settlements; continuance, loss. Time in certain institutions not counted.
6. Provision for persons who have begun to acquire settlements.
7. Certain settlements defeated.

Acquisition of
legal settle-
ments, etc.

SECTION 1. Legal settlements may be acquired in any town in the following manner and not otherwise:

C. L. 123, § 2.
1692-3, 28, § 9
1700-1, 23, § 5.
1766 7, 17, § 6.
1789, 11.

1793, 31, § 2.
R. S. 45, § 1.
G. S. 69, § 1.
1878, 190, § 1.

P. S. 83, § 1.
R. L. 80, § 1.
1911, 669, §§ 1, 7.
255 Mass. 499.

By residence.
1789, 14, § 1.
1821, 94, § 2.
1868, 328, § 1.

First, Except as provided in the following clause, each person who after reaching the age of twenty-one has resided in any town within the

5 commonwealth for five consecutive years shall thereby acquire a settle- 1870, 392, § 1.
6 ment in such town. 1871, 379, § 1.

1874, 274, §§ 1, 3.	10 Met. 115.	139 Mass. 357, 370.
1879, 242, § 2.	12 Met. 35.	131 Mass. 18, 454.
1898, 425, § 1.	13 Met. 192.	132 Mass. 495, 519.
R. L. 80, § 1, chs. 4-6.	4 Cush. 172, 190,	133 Mass. 242.
1911, 669, § 1, cl. 1, § 7.	553, 557.	136 Mass. 424.
4 Mass. 384.	8 Cush. 525, 528.	137 Mass. 152.
5 Mass. 439.	1 Gray, 619.	138 Mass. 395.
10 Mass. 394.	13 Gray, 92, 586.	140 Mass. 224.
12 Mass. 262.	15 Gray, 15, 496.	243, 325.
13 Mass. 462, 501.	4 Allen, 571.	144 Mass. 25.
15 Mass. 237, 253.	5 Allen, 137.	153 Mass. 192.
16 Mass. 236.	6 Allen, 431, 477, 508.	155 Mass. 359.
1 Pick. 129, 133, 154.	8 Allen, 551.	159 Mass. 491.
3 Pick. 172.	9 Allen, 137.	165 Mass. 251.
7 Pick. 42.	99 Mass. 587.	183 Mass. 314.
8 Pick. 379.	105 Mass. 293.	184 Mass. 557.
12 Pick. 1.	107 Mass. 598.	196 Mass. 393.
19 Pick. 480.	110 Mass. 113.	225 Mass. 589.
21 Pick. 233.	120 Mass. 574.	1 Op. A. G. 519.
22 Pick. 385.	125 Mass. 521.	2 Op. A. G. 3, 15, 17, 24.
3 Met. 165, 428.	126 Mass. 475.	3 Op. A. G. 180, 291, 319.
5 Met. 350.	127 Mass. 540.	

7 Second, A married woman shall follow and have the settlement of her 8 husband; but if he has no settlement within the commonwealth, she shall 9 retain the settlement, if any, which she had at the time of her marriage 10 and may acquire a settlement under the preceding clause.

Married women. 1789, 14, § 3. 1878, 190, § 1, cl. 1.

R. L. 80, § 1, cl. 1.	13 Allen, 88.	229 Mass. 83.
1911, 669, § 1, cl. 2, § 7.	131 Mass. 454.	247 Mass. 577.
9 Mass. 201.	149 Mass. 223.	2 Op. A. G. 3, 15, 17,
12 Mass. 363.	165 Mass. 251.	158, 291, 319.

11 Third, Legitimate children shall follow and have the settlement of 12 their father if he has one within the commonwealth, otherwise they shall 13 follow and have the settlement of their mother if she has one; if the father 14 dies during the minority of his children they shall thereafter follow and 15 have the settlement of the mother. Upon the divorce of the parents the 16 minor children shall follow and have the settlement of the parent to whom 17 the court awards their custody.

Legitimate children. 1789, 14, § 3. R. L. 80, § 1, cl. 2. 1911, 669, § 1, cl. 3, § 7. 13 Mass. 469. 15 Mass. 237. 16 Mass. 134. 1 Pick. 197. 3 Pick. 173.

18 Pick. 264.	6 Allen, 31.	165 Mass. 251.
8 Cush. 528.	114 Mass. 554.	260 Mass. 562.

18 Fourth, Illegitimate children shall follow and have the settlement of 19 their mother.

Illegitimate children.

1789, 14, § 3.	12 Mass. 429.	8 Allen, 551.
R. L. 80, § 1, cl. 3.	13 Mass. 381.	Op. A. G. 1917) 116.
1911, 669, § 1, cl. 4, § 7.	8 Cush. 75.	

20 Fifth, A person who enlisted and was mustered into the military or 21 naval service of the United States, as a part of the quota of a town in the 22 commonwealth under any call of the president of the United States during 23 the war of the rebellion or any war between the United States and any 24 foreign power, or who was assigned as a part of the quota thereof after 25 having enlisted and been mustered into said service, and his wife or widow 26 and minor children, shall be deemed thereby to have acquired a settlement 27 in such town; and any person who would otherwise be entitled to a settle- 28 ment under this clause, but who was not a part of the quota of any town, 29 shall, if he served as a part of the quota of the commonwealth, be deemed 30 to have acquired a settlement, for himself, his wife or widow and minor 31 children, in the place where he actually resided at the time of his enlist- 32 ment. Any person who was inducted into the military or naval forces of 33 the United States under the federal selective service act, or who enlisted 34 in said forces in time of war between the United States and any foreign 35 power, whether he served as a part of the quota of the commonwealth or 36 not, or who enlisted and served in said forces during the Philippine 37 insurrection, and his wife or widow and minor children shall be deemed 38 to have acquired a settlement in the place where he actually resided in

Soldiers and sailors. 1865, 230, § 1, 3. 1866, 288. 1868, 328, § 3. 1870, 392, §§ 3-5. 1871, 379, § 2. R. L. 80, § 1, cl. 10. 1911, 669, § 1, cl. 5, § 7. 1918, 257, § 299. 1919, 51. 333, § 5. 1920, 2. 1922, 177. 97 Mass. 382. 102 Mass. 358. 104 Mass. 46. 107 Mass. 282. 115 Mass. 336. 130 Mass. 167. 132 Mass. 498. 510, 519. 138 Mass. 256, 292. 139 Mass. 15. 144 Mass. 520. 150 Mass. 106. 2 Op. A. G. 227, 399.

this commonwealth at the time of his induction or enlistment. But these provisions shall not apply to any person who enlisted and received a bounty for such enlistment in more than one place unless the second enlistment was made after an honorable discharge from the first term of service, nor to any person who has been proved guilty of wilful desertion, or who left the service otherwise than by reason of disability or an honorable discharge.

Settlements in new towns
1872, 280.
R. L. 80, § 1, cl. 11.
1911, 669, § 1, cl. 6, § 7
1 Pick. 144
24 Pick. 164
6 Met. 484
4 Cush. 185
1 Allen, 75
125 Mass. 304

Sixth, Upon the division of a town, every person having a legal settlement therein, but being absent at the time of such division, and not having acquired a legal settlement elsewhere, shall have his legal settlement in the town containing the last dwelling place or home which he had in the town so divided; and if a new town, composed of a part of one or more other towns is incorporated, every person legally settled in the towns of which such new town is so composed, and who actually dwells and has his home within the bounds of such new town at the time of its incorporation, and any person duly qualified as provided in the fifth clause of this section who at the time of his enlistment dwelt and had his home within such bounds, shall thereby acquire a legal settlement in such new town; but no person residing in that part of a town which upon such division is incorporated into a new town and who then has no legal settlement therein shall acquire any by force of such incorporation only, nor shall such incorporation prevent his acquiring a settlement in such town within the time and by the means by which he would have gained it there if no such division had been made.

Settlement not acquired while receiving public relief, etc.
1874, 274, § 4
1879, 242, § 1.
P. S. 83, § 2
R. L. 80, § 2
1911, 669, § 2, 7.
1928, 155, § 9.

SECTION 2. No person shall acquire a settlement, or be in process of acquiring a settlement, while receiving public relief, unless, within two years after receiving such relief, he tenders reimbursement of the cost thereof to the commonwealth or to the town furnishing it. This section shall not apply to aid or relief received under chapter one hundred and fifteen.

13 Met. 192
13 Gray, 92

4 Allen, 574
136 Mass. 424.

144 Mass. 25
Op. A. G. (1919) 85.

SECTION 3. [REPEALED, 1928, 155, § 10.]

Receipt of institutional aid by certain soldiers, etc., not to affect settlement
1925, 187, § 1
1928, 155, § 11

SECTION 4. If a soldier or a dependent of a soldier eligible to receive military aid or soldiers' relief under chapter one hundred and fifteen receives aid or treatment in any hospital or other institution, such aid or treatment shall not have the effect of preventing or defeating the acquisition of a legal settlement.

Existing settlements; continuance, loss. Time in certain institutions not counted.
1793, 34, § 2, cl. 12
R. S. 45, § 3
G. S. 49, § 3
1878, 190, § 3.
P. S. 83, § 5.
1898, 425, § 2.
R. L. 80, § 5, 6
1911, 669, § 4, 5, 7
1914, 323
1916, 316
1925, 479
1925, 34

SECTION 5. Except as otherwise provided in this section, each settlement existing on August twelfth, nineteen hundred and eleven, shall continue in force until defeated under this chapter, but from and after said date failure for five consecutive years by a person, after reaching twenty-one years of age, to reside in a town where he had a settlement, shall defeat a settlement acquired under clause First of section one, or a settlement of a woman acquired under clause Second of said section one provided the settlement of her husband is defeated. The settlement of a minor acquired under either clause Third or Fourth of section one, except the settlement of a female minor who has married, shall be defeated with the settlement of the parents. The time during which a person shall be an inmate of any infirmary, jail, prison, or other public or state institution, within the

13 commonwealth or in any manner under its care and direction, or that of
 14 an officer thereof, or of a soldiers' or sailors' home whether within or with-
 15 out the commonwealth, shall not be counted in computing the time either
 16 for acquiring or defeating a settlement, except as provided in section two.
 17 The settlement existing on August twelfth, nineteen hundred and sixteen,
 18 or any settlement subsequently acquired, of a person whose service in or
 19 with the army, navy or marine corps of the United States qualifies him to
 20 receive aid or relief under the provisions of chapter one hundred and
 21 fifteen, and the settlement of his wife, widow until she remarries, father
 22 or mother, qualified by his service to receive relief under said chapter one
 23 hundred and fifteen, shall not be defeated, except by failure to reside in
 24 the commonwealth for five consecutive years or by the acquisition of a
 25 new settlement.

1926, 292
 1931, 394,
 § 211.
 11 Mass. 441.
 13 Met. 192
 6 Cush. 61.
 13 Gray, 586
 237 Mass. 351
 247 Mass. 577
 250 Mass. 99
 255 Mass. 499.
 1 Op. A. G.
 (1919) 77, 85

1 SECTION 6. No person who has begun to acquire a settlement by
 2 the laws in force at and before the time when this chapter takes effect, in
 3 any of the ways in which any period of time is prescribed for a residence,
 4 or for the continuance or succession of any other act, shall be prevented
 5 or delayed by the provisions hereof; but he shall acquire a settlement by
 6 a continuance or succession of the same residence or other act, in the same
 7 time and manner as if the former laws had continued in force.

Provision for
 persons who
 have begun to
 acquire settle-
 ments
 R. S. 45, § 2
 G. S. 69, § 2
 1878, 190, § 2
 P. S. 83, § 4
 R. L. 80, § 4
 1911, 669,
 §§ 5, 7

1 SECTION 7. Any settlement not fully acquired subsequently to May
 2 first, eighteen hundred and sixty, is hereby defeated and lost, unless such
 3 settlement prevented a subsequent acquisition of settlement in the same
 4 place; but if a settlement acquired by marriage is so defeated, the former
 5 settlement, if any, of the wife, if not also so defeated, shall be revived.

Certain settle-
 ments defeat-
 ed
 1870, 392, § 2
 1871, 379, § 3
 1878, 190, § 4
 P. S. 83, § 6
 1898, 425, § 2
 R. L. 80, § 6

1911, 669, §§ 6, 7.
 114 Mass. 553.
 116 Mass. 570

131 Mass. 18.
 187 Mass. 592.
 229 Mass. 83.

2 Op. A. G. 3, 291.
 3 Op. A. G. 67, 84, 207.

CHAPTER 117.

SUPPORT BY CITIES AND TOWNS.

SECT.

1. Cities and towns to support poor.
2. Powers and duties of boards of public welfare.
3. Care of needy persons supported at public expense.
4. [Repealed.]
5. Liability for support.
6. Certain kindred to support.
7. Superior court to assess such kindred.
8. Assessment for future expenses.
9. Further orders.
10. Proceedings on complaints.
11. Costs, how taxed.
12. Other kindred may be summoned.
13. Penalty for failure to give information regarding deposits to boards of public welfare.
14. Boards of public welfare to provide for immediate relief of strangers. Action.

SECT.

15. Judgment conclusive.
16. Liability when person supported is removed.
17. Support and burial of certain indigent persons.
18. Cities and towns may furnish aid to certain state charges, etc. Removal.
19. Cities and towns may be reimbursed for medical attendance furnished to needy persons.
20. Strangers to work in return for food and lodging.
21. Persons receiving aid to work in infirmary.
22. Penalty for refusal to work.
23. Person chargeable to city or town may be removed out of state, when.
24. Cities and towns liable to certain individuals.

- SECT.
 25. Person aided may be removed to place of settlement.
 26. Process in case of removal.
 27. Notices, etc., sent by mail. Effect.
 28. Penalty for leaving poor persons where not settled.
 29. Penalty for false representations.
 30. Estate of deceased person chargeable to city or town, by whom sold.
 31. Boards of public welfare may prosecute.
 32. Records of persons supported, etc.
 33. Annual returns.
 34. Decennial returns.

- SECT.
 35. Penalty for failure to comply with three preceding sections.
 36. Boards of public welfare to place children in their charge in families.
 37. Department of public welfare to place children in families, when.
 38. [Repealed.]
 39. [Repealed.]
 40. Removal of minors from state regulated. Penalty.
 41. [Repealed.]
 42. [Repealed.]
 43. Hospitals to furnish certain information. Penalty.

Cities and towns to support poor. C. L. 123, § 2. 1692-3, 28, § 9.

SECTION 1. Every town shall relieve and support all poor and indigent persons lawfully settled therein whenever they stand in need thereof.

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1788, 61, § 1.	P S 84, § 1.	3 Allen, 515.
1793, 59, § 1.	R. L. 81, § 1.	106 Mass. 262.
R. S. 46, § 1.	9 Met. 492.	128 Mass. 148.
G. S. 70, § 1.	10 Cush. 238.	160 Mass. 232.

Powers and duties of boards of public welfare. 1788, 61, § 1. 1793, 59, § 2. R. S. 46, § 2. 1857, 153. G. S. 70, § 2. P S 84, § 2. R. L. 81, § 2. 1931, 426, § 17. 10 Cush. 238. 8 Allen, 73.

SECTION 2. The board of public welfare shall have the care and oversight of all such poor and indigent persons so long as they remain at the charge of their respective towns, and shall see that they are suitably relieved, supported and employed in the infirmary, or in such other manner as the town directs, or otherwise at the discretion of the board. Said board may remove to the infirmary children suffering destitution from extreme neglect of dissolute or intemperate parents or guardians, except as otherwise provided.

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106 Mass. 262.	128 Mass. 148.	148 Mass. 487.	2 Op. A. G. 543, 548.
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Care of needy persons supported at public expense. 1897, 374, § 1. 1898, 396, § 1. R. L. 81, § 3. 1928, 155, § 13. 1 Op. A. G. 463.

SECTION 3. The board of public welfare, either by one of their own number or by a duly appointed agent, shall, at least once in every six months, visit each place where needy persons are supported at public expense, and a record of each visit and of the condition of the persons visited shall be kept.

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SECTION 4. [REPEALED, 1931, 426, § 18.]

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Liability for support. 1817, 186, § 5. 1882, 113. R. L. 81, § 9.

SECTION 5. A person, his executor or administrator, shall be liable in contract to the town where he has a settlement for expenses incurred by it for his support.

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1928, 155, § 14.	146 Mass. 134.	186 Mass. 341.
12 Mass. 328.	148 Mass. 158.	213 Mass. 350.
1 Allen, 23.		

Certain kindred to support. 1692, 3, 28, § 9. 1788, 61, § 1. 1793, 59, § 3. R. S. 46, § 5. G. S. 70, § 4. P S 84, § 6.

SECTION 6. The kindred of such poor persons, in the line or degree of father or grandfather, mother or grandmother, children or grandchildren, by consanguinity, living in the commonwealth, and of sufficient ability, shall be bound to support such poor persons in proportion to their respective ability.

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1898, 425, § 3.	10 Cush. 238.	160 Mass. 232.
R. L. 81, § 10.	6 Allen, 585.	216 Mass. 149.
1928, 155, § 15.	128 Mass. 287.	229 Mass. 248.
15 Pick. 159.	144 Mass. 25.	

1 SECTION 7. A justice of the superior court sitting in equity in the
2 county where any one of such kindred to be charged resides, upon com-
3 plaint of any town or kindred put to expense for the relief or support of
4 such person, may on due hearing assess and apportion upon such of
5 the kindred as it finds to be of sufficient ability and in proportion thereto
6 such amount as he considers reasonable for or towards the support of
7 the person to the time of such assessment, and may enforce payment
8 thereof by execution in common form; but such assessment shall not
9 extend to any expense for relief afforded more than two years previous
10 to the filing of the complaint.

Superior
court to
assess such
kindred
1692-3, 28, § 9.
1788, 61,
§ 1, 2.
1793, 59, § 3.
R. S. 46, § 6.
G. S. 70, § 5.
P. S. 84, § 7.
1898, 425, § 4.
R. L. 81, § 11.
1928, 155, § 16
3 Mass. 436
10 Cush. 238

11 Cush. 24.
5 Gray, 28.

128 Mass. 137.
199 Mass. 527.

216 Mass. 149.
229 Mass. 248.

1 SECTION 8. The court may further assess and apportion upon said
2 kindred such weekly amount as it finds sufficient for the future support
3 of the person, which shall be paid quarterly until the further order of
4 court; and upon application from time to time of the town or kindred,
5 to whom it is ordered to be paid, the clerk of said court shall issue and
6 may renew an execution for the arrears of any preceding quarter.

Assessment
for future
expenses
1793, 59, § 3.
R. S. 46, § 7.
G. S. 70, § 6.
P. S. 84, § 8.
R. L. 81, § 12.
1928, 155, § 17.

1 SECTION 9. The court may, upon application of any party interested,
2 make further orders, alter such assessment and apportionment according
3 to circumstances, and may order with and by whom of such kindred as
4 desire it such person shall live and be relieved, and the length of time
5 he shall live with different kindred, having regard to the comfort of the
6 person as well as the convenience of the kindred.

Further
orders.
1793, 59, § 3.
R. S. 46, § 9.
G. S. 70,
§ 8, 11.
P. S. 84,
§ 10, 13.
R. L. 81, § 13.
1928, 155, § 18.

1 SECTION 10. A complaint, under section seven, shall be filed in the
2 clerk's office, and a summons, directed to any officer qualified to serve
3 civil process, shall be thereupon issued requiring the kindred therein
4 named to appear and answer thereto; and it shall be served like an
5 original summons.

Proceedings
on com-
plaints
1793, 59, § 3.
R. S. 46, § 10
G. S. 70, § 9
P. S. 84, § 11.

R. L. 81, § 14.

1 SECTION 11. The court may award costs to either party, and if it
2 adjudge two or more of the kindred of a person to be of sufficient ability
3 to contribute to his support, it shall tax no more costs against any one
4 respondent than is occasioned by his default or separate defence.

Costs, how
taxed.
1793, 59, § 3.
1834, 103.
R. S. 46,
G. S. 70, § 9
P. S. 84, § 11.

G. S. 70, §§ 7, 11.
P. S. 84, §§ 9, 13.

R. L. 81, § 15.
1928, 155, § 19.

10 Allen, 68.

1 SECTION 12. Upon suggestion that there are other kindred of ability
2 not summoned in the original process, they may be summoned; and after
3 due notice, whether they appear or are defaulted, the court may proceed
4 against them in the same manner as if they had been summoned upon
5 the original complaint.

Other
kindred may
be summoned
1793, 59, § 3
R. S. 46, § 11.
G. S. 70, § 10
P. S. 84, § 12.

R. L. 81, § 16.

1 SECTION 13. A treasurer of a savings bank, institution for savings,
2 national bank, trust company, co-operative bank, benefit association,
3 insurance company or safe deposit company who, upon request in writing
4 signed by a member of the board of public welfare of a town, unreason-
5 ably refuses to inform him of the amount deposited in the corporation
6 or association to the credit of a person named in such request who is a
7 charge upon such town, or who wilfully renders false information in
8 reply to such request, shall forfeit fifty dollars to the use of such town.

Penalty for
failure to give
information
regarding
deposits to
boards of
public welfare.
1852, 132,
§ 1, 3.
G. S. 57,
§ 151, 153
1876, 203, § 25
P. S. 116, § 43
1894, 317, § 48

1898, 425, § 6
R. L. 81, § 44.

1918, 257, § 301.
1919, 5.

1920, 2
1928, 155, § 20.

Boards of public welfare to provide for immediate relief of strangers.

Action.
1701-2, 9, § 2
1793, 59, § 9
R. S. 46, § 13
G. S. 70, § 12
P. S. 84, § 14
R. L. 81, § 17.
1931, 394,
§ 118.
1 Mass. 459.

SECTION 14. Boards of public welfare in their respective towns shall provide for the immediate comfort and relief of all persons residing or found therein, having lawful settlements in other towns, in distress and standing in need of immediate relief, until removed to the towns of their lawful settlements. The expense thereof and of their removal, or burial in case of their decease, may be recovered in contract against the town liable therefor, if commenced within two years after the cause of action arises; but nothing shall be recovered for relief furnished more than three months prior to notice thereof given to the defendant.

2 Mass. 547, 561.	17 Pick. 68.	140 Mass. 397.
5 Mass. 325.	13 Met. 192.	141 Mass. 580.
6 Mass. 501.	11 Gray, 107.	160 Mass. 503.
14 Mass. 227.	1 Allen, 23.	164 Mass. 506.
2 Pick. 341.	8 Allen, 73.	260 Mass. 388.
8 Pick. 562.	136 Mass. 424.	3 Op. A. G. 57.
12 Pick. 1.	138 Mass. 109.	4 Op. A. G. 568.

Judgment conclusive.
1793, 59, § 9
R. S. 46, § 14.
G. S. 70, § 13.

SECTION 15. A judgment for the plaintiff in such action shall be conclusive as to the settlement of such person in any future action between the same parties for his support.

P. S. 84, § 15.	1928, 155, § 21.	4 Op. A. G. 568.
R. L. 81, § 18.	103 Mass. 117.	

Liability when person supported is removed.
1821, 94, § 3
R. S. 46, § 15
G. S. 70, § 14.
1873, 213.
P. S. 84, § 16.

SECTION 16. If a person is supported under this chapter in a town in which he has no settlement, the town liable for his support shall not be required to pay therefor more than at the rate of two dollars a week if it causes him to be removed within thirty days after receiving legal notice that such support has been furnished.

R. L. 81, § 19.	7 Pick. 155.	8 Cush. 371.
1928, 155, § 22.	21 Pick. 349.	128 Mass. 148.
4 Pick. 45.	13 Met. 198.	4 Op. A. G. 568.

Support and burial of certain indigent persons.
1701-2, 9, § 2
1788, 61, § 3
1793, 59, § 13
1830, 120, § 2
R. S. 46,
§ 16, 32
G. S. 70, § 15.
1867, 97
1878, 256
P. S. 84, § 17
1887, 310, § 3
1890, 71
1898, 354
R. L. 81, § 20
1918, 180
1923, 298.
1926, 241, § 4
1928, 155, § 23.

SECTION 17. The board of public welfare of each town shall also relieve and support and may employ all poor persons residing or found therein, having no lawful settlements within the commonwealth, until their removal to the state infirmary, and if they die shall decently bury them. They shall also decently bury all deceased persons who, although without means of support while living, did not apply for public relief, and all unknown persons found dead. The expense thereof may be recovered of their kindred, if any, chargeable by law for their support in the manner provided in this chapter; and if the expense of their burial is not paid by such kindred, an amount not exceeding forty dollars for the funeral expenses of each person over twelve years of age, and not exceeding twenty dollars for the funeral expenses of each person under that age, shall be paid by the commonwealth subject to the provisions of section forty-two of chapter one hundred and twenty-one; provided, that the board of public welfare shall file with each claim an affidavit of the undertaker stating the total amount of his bill, the amount received from the town and the amount received from all other sources; and provided, further, that if the total expense of the burial, by whomsoever incurred, shall exceed the sum of one hundred dollars, no payment therefor shall be made by the commonwealth.

Cities and towns may furnish and to certain state charges, etc. Removal.
1821, 20
1845, 127
1865, 145, § 2.

SECTION 18. A town may furnish temporary aid to poor persons found therein, having no lawful settlements within the commonwealth, if the board of public welfare consider it for the public interest; and the board of public welfare shall in every case give written notice within five days to the department of public welfare, which shall examine the case and

6 order such aid as it deems expedient. If it directs a discontinuance of
 7 such aid, it shall remove such persons to the state infirmary or to any state
 8 or place where they belong, if their necessities or the public interests
 9 require it, and the superintendent of said infirmary shall receive the per-
 10 sons removed thereto as if they were sent there in accordance with section
 11 seven of chapter one hundred and twenty-two. A detailed statement of
 12 expenses so incurred shall be rendered, and after approval by the depart-
 13 ment such expenses shall be paid by the commonwealth. If any such
 14 person refuses to submit to removal, the department or any of its officers
 15 or agents may apply to the district court of the district where such person
 16 resides, for an order directing that such removal be made. Upon such
 17 application the court shall forthwith cause a summons to be served upon
 18 the person so refusing, and, if he be a minor, upon his parent or guardian,
 19 requiring the attendance of the person so summoned at a time and place
 20 appointed therein for hearing; and at such time and place shall hear and
 21 examine upon oath such person or persons, and shall hear such other evi-
 22 dence as may be material. If upon hearing it appears that the person
 23 sought to be removed is without a legal settlement in this commonwealth
 24 and is unable to support himself, and that his necessities or the public
 25 interests require his removal, the court shall issue an order in writing,
 26 directed to a duly constituted officer or agent of the department, reciting
 27 that such person appears to be a state charge, and that his necessities or
 28 the public interests require his removal, and commanding such officer or
 29 agent to remove him to the state infirmary or to any other state institu-
 30 tion designated by the department, and such officer or agent shall there-
 31 upon make the removal as ordered. After the removal is made such
 32 officer or agent shall file such order, with his return thereon, with the clerk
 33 of the court from which it was issued. In every case where a removal is
 34 ordered a detailed statement of the expense incurred by any town for the
 35 support of the person so removed while application for his removal was
 36 pending before the court shall be rendered, and after approval by the
 37 department shall be paid by the commonwealth. Reimbursement by the
 38 commonwealth under the provisions hereof shall be subject to the provi-
 39 sions of section forty-two of chapter one hundred and twenty-one.

1856, 171, § 2.
 1857, 129
 1877, 183
 P. S. 84, § 18.
 1886, 101, § 4.
 1891, 90, § 1
 1898, 425, § 5;
 433, § 24
 R. L. 81, § 21.
 1903, 355
 1911, 104
 1912, 331.
 1917, 326, § 2
 1919, 350, § 87.
 1921, 221
 1926, 241, § 5
 1928, 155, § 24
 225 Mass. 589
 2 Op. A. G. 19,
 304
 3 Op. A. G. 137

1 SECTION 19. Reasonable compensation for medical attendance or
 2 treatment furnished by a town under this chapter or chapter one hun-
 3 dred and twenty-two may be included in the expenses to be paid to such
 4 town by any other town or by the commonwealth, although such at-
 5 tendance or treatment was by a town physician whose compensation is
 6 by a fixed salary. Such reimbursement shall not exceed the proportionate
 7 cost to the town furnishing the attendance or treatment, based upon the
 8 total number of visits annually made in relation to the total fixed or
 9 annual salary of the physician for all services rendered by him in his
 10 official capacity.

Cities and towns may be reimbursed for medical attendance furnished to needy persons.
 1909, 292

1 SECTION 20. The board of public welfare and the officer in charge of
 2 premises provided by a town for the purpose of supplying food or lodging
 3 on said premises may and in cases of tramps or vagrants shall require any
 4 person applying for and receiving food or lodging to perform, if physically
 5 able, a reasonable amount of labor in return therefor, and may detain
 6 him for not more than twenty-four hours after such application until the
 7 labor required of him as aforesaid has been performed. The places in

Strangers to work 10 return for food and lodging
 1875, 70.
 P. S. 84, § 19.
 1895, 445, § 1.
 R. L. 81, § 22.
 1905, 344
 1931, 394,
 § 119

which persons are lodged shall be kept in such order and condition as may be prescribed by the department of public health. 8
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Persons receiving aid to work in infirmary. 1895, 445, § 2.

SECTION 21. A person receiving aid in an infirmary of a town may be required by the officer in charge thereof to perform such labor as the official physician shall certify is suitable for him. 1
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R. L. 81, § 23.

1931, 426, § 19.

Penalty for refusal to work. 1895, 445, § 3. 1898, 443, § 1. R. L. 81, § 24.

SECTION 22. Whoever refuses or neglects to perform any labor required of him under the two preceding sections, or who, while performing such labor, wilfully damages any property of the town requiring the same, shall be punished, in Suffolk county by imprisonment in the house of correction for not more than one year, and in other counties, in the house of correction or at the state farm for a like term. 1
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Person chargeable to city or town may be removed out of state, when 1868, 328, § 2. P. S. 84, § 26. R. L. 81, § 30.

SECTION 23. A person who has actually become chargeable to a town where he has a settlement and who subsequently acquires a settlement in a place out of the commonwealth may be removed thereto by the board of public welfare of such town by a written order directed to any person therein designated. 1
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1928, 155, § 25.

Cities and towns liable to certain individuals. 1742-3, 18, § 4. 1793, 59, § 13. R. S. 46, § 18. G. S. 70, § 16. P. S. 84, § 27. R. L. 81, § 31. 1928, 155, § 26.

SECTION 24. Every town shall be liable for any expense necessarily incurred under this chapter or under chapter one hundred and twenty-two for the relief of a person in need of public assistance therein by any person not liable by law for his support, after notice and request made to one or more of the members of the board of public welfare thereof, and until provision is made by them. 1
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2 Mass. 547.
15 Mass. 286.
19 Pick. 473.
7 Met. 214.
9 Met. 492.
4 Cush. 199.

6 Cush. 399.
10 Cush. 3.
9 Allen, 134.
14 Allen, 30.
105 Mass. 533.

113 Mass. 47.
116 Mass. 353.
124 Mass. 286.
145 Mass. 115.
232 Mass. 273.

Person aided may be removed to place of settlement. 1793, 59, §§ 9, 10. R. S. 46, § 19. G. S. 70, § 17. P. S. 84, § 28. R. L. 81, § 32.

SECTION 25. The board of public welfare of a town to which a person has actually become chargeable may give written notice thereof to and request his removal by one or more of the members of the board of public welfare of the town where his settlement is supposed to be, who may, by a written order directed to a person designated therein, cause such removal to be made. 1
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1931, 394, § 120.
23 Pick. 156.
3 Met. 433.
13 Met. 198.

5 Allen, 545.
103 Mass. 117.
124 Mass. 117.
138 Mass. 256.

152 Mass. 484.
167 Mass. 579.
186 Mass. 524.
4 Op. A. G. 508.

Process in case of removal. 1766-7, 17, § 7. 1793, 59, § 10. R. S. 46, § 20. G. S. 70, § 18. P. S. 84, § 29. 1891, 90, § 2. R. L. 81, § 33. 1927, 89. 1928, 155, § 27. 1 Mass. 518. 1 Pick. 470. 23 Pick. 156. 9 Allen, 91.

SECTION 26. If within one month after receiving such notice the board of public welfare of the latter town does not cause such removal to be made or a written statement signed by one or more of said board, or by the executive officer or by the duly authorized agent of said board, of its objections thereto to be transmitted to said board requesting such removal, the board requesting it may, by a written order directed to a person therein designated, cause the person to be removed to the town of his supposed settlement; and the board of public welfare thereof shall receive and provide for him; and such place shall be liable to the 1
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10 town incurring the same for the expenses of his support and removal,
 11 and shall be barred from contesting the question of settlement unless
 12 the settlement is denied in said statement.

145 Mass. 535.

186 Mass. 524.

4 Op. A. G. 568

103 Mass. 117.
 117 Mass. 445
 124 Mass. 117.
 131 Mass. 10.

1 SECTION 27. The notice and statement mentioned in the two preced-
 2 ing sections may be sent by mail, and, if directed to the board of public
 3 welfare of the town intended to be notified or answered, postage prepaid,
 4 shall be a sufficient notice or answer, and shall be considered as deliv-
 5 ered to the board of public welfare to which directed at the time when
 6 it is received in the post office of the place to which it is directed and
 7 where its members reside.

Notices, etc.,
 sent by mail.
 Effect.
 1828, 142, § 1.
 R. S. 46, § 21.
 G. S. 70, § 19.
 P. S. 84, § 30.
 R. L. 81, § 31.
 1931, 394,
 § 121.
 16 Mass. 110.

1 SECTION 28. Whoever brings into and leaves a poor and indigent
 2 person in any town in the commonwealth, wherein such person is not
 3 lawfully settled, knowing him to be poor and indigent, and with intent
 4 to charge such town with his relief or support, shall forfeit not more
 5 than one hundred dollars, to the use of such place.

Penalty for
 leaving poor
 persons where
 not settled.
 1788, 61, § 9
 1793, 59, § 13.
 R. S. 46, § 24.
 1849, 66

G. S. 70, § 20.
 P. S. 84, § 31.
 R. L. 81, § 35.

16 Mass. 393.
 1 Pick. 465
 21 Pick. 83

102 Mass. 214.
 105 Mass. 336.

1 SECTION 29. Whoever knowingly and wilfully makes any false
 2 written representations to the board of public welfare, to its agent or
 3 to the department of public welfare or its agents, for the purpose of
 4 causing any person to be supported in whole or in part by a town or by
 5 the commonwealth, shall be punished by a fine of not more than two
 6 hundred dollars or by imprisonment for not more than one year.

Penalty for
 false repre-
 sentations.
 1891, 343.
 1898, 433, § 24.
 R. L. 81, § 36
 1919, 350, § 87.
 1928, 155, § 28.

1 SECTION 30. Upon the death of a person who at his decease is actu-
 2 ally chargeable to a town within the commonwealth, the board of public
 3 welfare thereof may take possession of all his real and personal property;
 4 and if administration is not taken upon his estate within thirty days
 5 after his decease, they may in their own names sell and convey so much
 6 thereof as may be necessary to reimburse the town for expenses incurred
 7 for said person. If any part of such property is withheld from said
 8 board of public welfare, they may in their own names sue for and recover
 9 possession of the real property, and shall have the same remedy for the
 10 recovery of the personal property or its value as an administrator might
 11 have in like case.

Estate of de-
 ceased person
 chargeable to
 city or town,
 by whom sold.
 1817, 186, § 6.
 1837, 54
 1858, 26
 G. S. 70, § 21.
 P. S. 84, § 32.
 R. L. 81, § 37.
 1928, 155, § 29.
 6 Pick. 462
 160 Mass. 503.

1 SECTION 31. In actions and prosecutions founded on the preceding
 2 sections, the board of public welfare of any town or any person ap-
 3 pointed by a writing under the hands of its members shall appear and
 4 prosecute or defend the same in behalf of such town.

Boards of
 public welfare
 may prose-
 cute.
 1793, 59, § 12.
 R. S. 46, § 26.

G. S. 70, § 22.
 1863, 240, § 2.

P. S. 84, § 33.
 R. L. 81, § 38.

1931, 394, § 122.
 199 Mass. 527.

1 SECTION 32. Boards of public welfare shall keep full and accurate
 2 records, in a form prescribed by the department of public welfare, of
 3 persons fully supported, persons relieved and partially supported, and
 4 travelers and vagrants lodged at the expense of their towns, and of the
 5 amount paid for such support and relief.

Records of
 persons sup-
 ported, etc.
 1867, 209, § 1.
 P. S. 84, § 34.
 1901, 177
 R. L. 81, § 39.

1919, 350, § 87.

1928, 155, § 30.

Annual returns.
1837, 194, § 1.
1841, 116, § 1.
1844, 116.
1864, 307, § 6.
1867, 209, § 2.
1871, 370, § 1.
1875, 216.
P. S. 84, § 35, § 38.
1886, 101, § 4.
R. L. 81, § 40, § 43.
1919, 350, § 87.

SECTION 33. They shall annually, in April, for the year ending on the last day of March, return to the department of public welfare the number of such persons supported and relieved, the cost thereof, and a record of those fully supported; and on or before the tenth days of January and July of each year make and forward returns to the said department, in such form as it may prescribe, relative to all minor children over the age of four years who are supported at the expense of their town on the first days of said months.

Decennial returns.
1837, 194, § 1.
1848, 217, § 1.
G. S. 70, § 23.
1875, 216.
P. S. 84, § 36.

SECTION 34. In the year nineteen hundred and twenty-five and in every tenth year thereafter the return of the board of public welfare shall contain true and correct answers to such additional inquiries as the department may deem it advisable to make.

R. L. 81, § 41. 1919, 350, § 87.
1905, 115. 1931, 394, § 123.

Penalty for failure to comply with three preceding sections.
1837, 194, § 3.
G. S. 70, § 24.
1867, 209, § 3.
P. S. 84, § 37.
R. L. 81, § 42.
1918, 257, § 300.
1919, 5; 350, § 87.
1920, 2.
1928, 155, § 31.

SECTION 35. If the board of public welfare refuse or neglect to comply with the requirements of the three preceding sections, their town shall forfeit one dollar for each day's neglect; and the amount of such forfeiture, on being certified by the department to the state treasurer, shall be deducted from any amount to which said town may be entitled in reimbursement for relief as provided in sections twelve and eighteen of chapter one hundred and twenty-two; and if no such reimbursement shall be due to said town, the forfeiture shall be deducted from any money which may be due to it from the commonwealth.

1 Op. A. G. 95.

Boards of public welfare to place children in their charge in families.
1879, 103, § 1.
P. S. 84, § 5.
1893, 197, § 1.
R. L. 81, § 5.
1905, 303, § 1.
1928, 155, § 32.

SECTION 36. In every town the board of public welfare shall place every child in their charge and over two years of age in a respectable family in the commonwealth or in an asylum therein, to be there supported by the town according to the laws relative to the support of the poor until they can be otherwise cared for. The board of public welfare, personally or by agent, shall visit such child at least once in three months and make all needful inquiries as to his treatment or welfare.

Department of public welfare to place children in families, when.
1887, 401.
1893, 197, § 2.
1908, 433, § 24.
R. L. 81, § 6.
1919, 350, § 87.
1928, 155, § 33.

SECTION 37. If the board of public welfare, except in Boston, fail to place out any child under the preceding section for two months after the date of receiving such child, the department, to the exclusion of the board of public welfare, shall perform such duty; and such child shall, under its direction, be supported by the town in the same manner as if placed out by the board of public welfare, and shall be subject to visitation by its officers or agents until it is satisfied that the board of public welfare will properly care for him.

SECTION 38. [REPEALED, 1928, 155, § 58.]

SECTION 39. [REPEALED, 1931, 426, § 20.]

Removal of minors from state regulated. Penalty.
1868, 279, § 1, 2.
P. S. 84, § 24, 25.
R. L. 81, § 29.

SECTION 40. Boards of public welfare shall not remove or allow the removal of a minor under their control beyond the limits of the commonwealth without the approval of the judge of probate, granted upon application, and after notice to all parties interested and a hearing, unless such minor has a settlement in another state. They shall not

6 withhold information relative to the maintenance of such minor from 1931, 394,
7 any person entitled to receive it. Violations of this section shall be § 124
8 punished by a fine of not more than five hundred dollars.

1 SECTION 41. [REPEALED, 1931, 426, § 20.]

1 SECTION 42. [REPEALED, 1931, 426, § 20.]

1 SECTION 43. Each hospital furnishing, or which has furnished, med- Hospitals to
2 ical or surgical aid to a person at the expense of a town shall, upon furnish certain
3 quest, furnish such town with all the information it has or can secure information
4 from the patient or from any person with whom it has dealt with respect Penalty
5 to such patient, relating to his legal settlement. Any hospital failing to 1917, 111
6 comply with this section shall be punished by a fine of ten dollars.

CHAPTER 118.

AID TO MOTHERS WITH DEPENDENT CHILDREN.

SECT.

- 1. Scope of the chapter.
- 2. Cities and towns to furnish aid to mothers with dependent children.
- 3. Duties of boards of public welfare.
- 4. Same subject.

SECT.

- 5. Department of public welfare to have supervision, etc.
- 6. Reimbursement of cities and towns by the commonwealth, etc.

1 SECTION 1. This chapter shall apply to all mothers and their de- Scope of the
2 pendent children under the age of sixteen, whether or not they or any chapter
3 of them may have a settlement within the commonwealth, who shall 1913, 763,
4 have resided therein not less than three years. A mother shall not be § 1, 4,
5 disqualified from receiving aid under this chapter because of having but 1922, 376,
6 one such child. 1930, 381
1931, 415.

1 SECTION 2. In every town the board of public welfare shall aid all Cities and
2 such mothers, if they are fit to bring up their children. The aid fur- towns to fur-
3 nished shall be sufficient to enable them to bring up their children prop- nish aid to
4 erly in their own homes. mothers with
dependent
children.

1913, 763, § 1.

1931, 394, § 125.

4 Op A G 368

1 SECTION 3. Before so aiding any such mother, except as hereinafter Duties of
2 provided, the board of public welfare shall determine that the mother boards of
3 is fit to bring up her children and that the other members of the house- public welfare-
4 hold and the surroundings of the home are such as to make for good 1913, 763, § 2,
5 character, and that aid from the board is necessary to enable her to 1919, 359, § 87,
6 bring up her children properly. For this purpose the board shall make 1931, 394,
7 an immediate and careful inquiry including the resources of the family § 126.
8 and the ability of its other members, if any, to work or otherwise con-
9 tribute to its support, the existence of relatives able to assist the family,
10 and of individuals, societies or agencies who may be interested therein;
11 shall take all lawful means to compel all persons bound to support the

mother and children to support them, and to enforce any other legal rights for their benefit; shall press all members of the family who are able to work, other than the mother and her dependent children, to secure work; shall try to secure work for them; and shall secure all necessary aid for the mother and children which can be secured from relatives, organizations or individuals. This section shall not prevent the board from giving prompt and suitable temporary aid, pending compliance with the requirements of this section, when in its opinion such aid is necessary and cannot be obtained from other sources. A detailed statement of expenses incurred under this section shall be rendered to the department of public welfare, together with such certificates or other guarantees as it may require.

Same subject.
1913, 763, § 3.
1931, 394,
§ 127.

SECTION 4. The board of public welfare, either by one of its own number or by its duly appointed agent, shall visit at least once in every three months, at their homes or other places where they may be living, each mother and her dependent children who are being aided financially or otherwise by said board, and after each visit shall make and keep on file as a part of its official records a detailed statement of the condition of the home and family and all other data which may assist in determining the wisdom of the measures taken and the advisability of their continuance; and the board shall at least once in each year reconsider the case of each such mother with whom they are dealing, and enter its determination with the reason therefor on its official records.

Department of public welfare to have supervision, etc.
1913, 763, § 5.
1919, 350, § 87.
1931, 394,
§ 128.

SECTION 5. The department of public welfare shall supervise the work done and measures taken by the boards of public welfare of the several towns in respect to families subject to this chapter; and for this purpose may make such rules relative to notice as it deems necessary and may visit and inspect any or all families so aided, and shall have access to any records and other data kept by such boards or their representatives relating to such aid; and the department shall include in its annual report a statement of the work done by its own agents and by boards of public welfare in respect to such families any of whose members are without legal settlement in the commonwealth; and a separate statement of the work done by boards of public welfare in respect to such families in which all the members have a legal settlement in the commonwealth.

Reimbursement of cities and towns by the commonwealth, etc.
1913, 763, § 6.
1919, 350, § 87.
1926, 241, § 6.
4 Op. A. G. 568

SECTION 6. In respect to all mothers in receipt of aid under this chapter the town rendering the aid shall, after approval of the bills by the department of public welfare, and subject otherwise to the provisions of section forty-two of chapter one hundred and twenty-one, be reimbursed by the commonwealth for one third of the amount of the aid given, or, if the mother so aided has no settlement, for the total amount thereof. If the mother so aided has a legal settlement in another town two thirds of the amount of such aid given may be recovered in contract against the town liable therefor in accordance with chapter one hundred and seventeen.

CHAPTER 118A.

ADEQUATE ASSISTANCE TO CERTAIN AGED CITIZENS.

SECT.

1. State department of public welfare to supervise rendering of assistance.
2. Bureaus of Old Age Assistance. Establishment, duties.

SECT.

3. Reimbursement of cities and towns rendering assistance.
4. Powers and duties of state department of public welfare.

1 SECTION 1. Adequate assistance to deserving citizens in need of
 2 relief and support seventy years of age or over who shall have resided
 3 in the commonwealth not less than twenty years immediately preceding
 4 arrival at such age, subject to such reasonable exceptions as to continuity
 5 of residence as the department of public welfare, in this chapter called
 6 the department, may determine by rules hereinafter authorized, shall be
 7 granted under the supervision of the department. Such assistance shall,
 8 wherever practicable, be given to the aged person in his own home or
 9 in lodgings or in a boarding home, and it shall be sufficient to provide
 10 such suitable and dignified care. No person receiving assistance here-
 11 under shall be deemed to be a pauper by reason thereof.

State department of public welfare to supervise rendering of assistance
 1930, 402, § 1.

1 SECTION 2. Each board of public welfare shall, for the purpose of
 2 granting adequate assistance and service to such aged persons, establish
 3 a division thereof to be designated as the Bureau of Old Age Assistance.
 4 In determining the need for financial assistance, said bureaus shall give
 5 consideration to the resources of the aged person and to the ability of
 6 children and others to support such aged person. Separate records of
 7 all such aged persons who are aided shall be kept and reports returned
 8 in the manner prescribed by section thirty-four of chapter forty-one
 9 and by sections thirty-two and thirty-three of chapter one hundred and
 10 seventeen.

Bureau of Old Age Assistance. Establishment, duties, 1930, 402, § 1.

1 SECTION 3. In respect to all aged persons in receipt of assistance
 2 under this chapter, the town rendering the assistance shall, after and
 3 subject to approval of the bills by the department and subject other-
 4 wise to the provisions of section forty-two of chapter one hundred and
 5 twenty-one, be reimbursed by the commonwealth for one third of the
 6 amount of assistance given, or, if the person so aided has no settlement
 7 in the commonwealth, for the total amount thereof. If the person so
 8 aided has a legal settlement in another town, two thirds of the amount
 9 of such assistance given may be recovered in contract against the town
 10 liable therefor in accordance with chapter one hundred and seventeen.

Reimbursement of cities and towns rendering assistance
 1930, 402, § 1.

1 SECTION 4. The department shall supervise the work done and
 2 measures taken by the boards of public welfare of the several towns in
 3 respect to persons aided and service given under this chapter; and for
 4 this purpose may make such rules relative to notice and reimbursement,
 5 and such other rules relating to the administration of this chapter, as it
 6 deems necessary, and may visit any person aided, and shall have access
 7 to any records and other data kept by the boards of public welfare or
 8 their representatives relating to such assistance, and may require the pro-
 9 duction of books and papers and the testimony of witnesses under oath.

Powers and duties of state department of public welfare.
 1930, 402, § 1.

SECT.
62. Restitution by child.
63. Parent or guardian aiding in delinquency of child penalized. Procedure.
64. Powers of board of probation.

PROVISIONS COMMON TO ALL PROCEEDINGS AGAINST CHILDREN.
65. Juvenile sessions regulated.
66. Commitment of children to houses of detention, etc., regulated.
67. Care of children held for examination or trial.
68. Superintendent of schools to furnish information, etc.
69. Proceeding to avoid incarceration, etc.
70. Parents, guardians, etc., may be summoned.
71. Procedure upon failure to appear on summons.

SECT.
72. Jurisdiction of courts in their juvenile sessions continued, etc.

CRIMINAL PROCEEDINGS.
73. Jurisdiction of courts.
74. Proceedings against children between seven and fourteen limited.
75. Complaint. Warrant.
76. Child may be put in charge of department.
77. Warrant of commitment.
78. Warrant to contain certificate of age and residence. Effect.
79. Warrant for recommitment.
80. Sentence, etc., of child not committed to Lyman school, etc.
81. Appeal.
82. Warrants by trial justices for commitment of girls to be returned to superior court.
83. Sentences in superior court. Procedure.

PROTECTION OF CHILDREN.

1 SECTION 1. Whoever for hire, gain or reward has in his custody or
2 control at one time two or more infants under two years of age unat-
3 tended by a parent or guardian, except infants related to him by blood
4 or marriage, for the purpose of providing them with care, food and lodg-
5 ing, shall be deemed to maintain a boarding house for infants.

Infant board-
ing house.
Definition. § 2.
1889, 416, § 2.
1892, 318, § 2.
R. L. 83, § 1.

1 SECTION 2. The department of public welfare, in this chapter called
2 the department, may grant licenses to maintain boarding houses for
3 infants. Every application therefor shall, except in Boston, first be ap-
4 proved by the board of health of the town where such boarding house is
5 to be maintained. Such license shall be granted for not more than one
6 year, shall state the name of the licensee, the particular premises where
7 the business may be carried on, the number of infants which may be
8 boarded there at one time, and, if required by the department, it shall be
9 posted in a conspicuous place on the licensed premises. No greater num-
10 ber of infants than is authorized by the license shall be kept at one time
11 on the premises, and no infant shall be kept in a building or place not
12 designated in the license. A record of licenses issued shall be kept by
13 the department, which shall forthwith give notice of the granting of such
14 license and of its terms to the board of health of the town where the
15 licensee resides. The department and boards of health, except in Boston,
16 shall annually, and may, at any time, visit and inspect premises so li-
17 censed or designate a person therefor.

Same subject.
License, in-
spection, etc.
1889, 416, § 3.
1892, 318,
§§ 3, 4.
R. L. 83, § 2
1919, 350, § 87.

1 SECTION 3. The department may revoke such license, and shall note
2 such revocation upon the face of the record thereof. It shall give written
3 notice of such revocation to the licensee by delivering the notice to him
4 in person or by leaving it on the licensed premises.

Same subject.
Revocation
of license.
1889, 416, § 3.
1892, 318,
§§ 3, 6.

R. L. 83, § 3.

1919, 350, § 87.

1 SECTION 4. Every such licensee shall keep a record, in a form pre-
2 scribed by the department, of every infant received, the date of its
3 reception, the name and address of the person from whom received, the

Same subject.
Records by
licensee
1892, 318, § 5.
R. L. 83, § 1.

date of its discharge, and the name and address of the person to whom delivered on discharge.

Same subject.
Penalty for
maintaining
unlicensed
house.
1892, 318, § 1.
R. L. 83, § 5.

SECTION 5. Whoever maintains a boarding house for infants, unless licensed thereto by the department, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or both.

1919, 350, § 87.

Notice to
department.
1892, 318, § 7.
1897, 395, § 3.
R. L. 83, § 6.
1919, 350, § 87.
1931, 426,
§ 229
162 Mass. 596.
[Penalty, § 8.]

SECTION 6. Whoever receives under his care or control, and whoever places under the care or control of another for compensation, an infant under two years of age, not related by blood or marriage to the person receiving it, shall, within two days thereafter, give notice thereof, and of the terms upon which such infant was received, to the department, with the name, age and residence of the infant, its parents, and the persons from whom and by whom received; but if such infant was received from the board of public welfare of any town, or from the institutions department of Boston, or from any charitable institution incorporated in the commonwealth, such notice may state only the name and age of such infant and the name and location of the board, department or institution from which received.

Investigation
by department.
1892, 318, § 8.
R. L. 83, § 7.
1919, 350, § 87.
[Penalty, § 8.]

SECTION 7. The department, upon receipt of such notice or of any information of such reception, may investigate the case and make such recommendations as it deems expedient. If they are not complied with, it may apply to a justice of the supreme judicial court, superior court, district court, or to a judge of probate, who, after notice to the parents of such infant or to the persons delivering and receiving it, may make and enforce appropriate orders for the care, custody, protection and maintenance of such infant, and on notice may from time to time revise said orders.

Penalty for
breach of
§ 6 or § 7.
1892, 318, § 9.
R. L. 83, § 8.
1919, 350, § 87.

SECTION 8. Whoever neglects to give the notice required by section six or refuses to give information upon request of the department, its officers or agents, or fails to comply with the orders of a court made in accordance with the preceding section shall, upon complaint of the department, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year, or both.

Placing an
infant under
control of
another for
pay deemed
abandonment.
Penalty.
1892, 318, § 10.
R. L. 83, § 9.
1911, 181.

SECTION 9. Whoever gives to any person an infant under two years of age for the purpose of placing it for hire, gain or reward under the permanent control of another person shall be guilty of the abandonment of such infant, and shall, if a man, be punished by imprisonment in the house of correction, and if a woman, in the reformatory for women, for not more than two years.

Aiding or
abetting such
action.
penalized.
1892, 318, § 11.
R. L. 83, § 9.

SECTION 10. Whoever for hire, gain or reward receives an infant under two years of age for the purpose of placing it under the control of any other person shall be guilty of aiding and abetting the abandonment of such infant and shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than two years.

1 SECTION 11. The two preceding sections shall not apply to the depart-
 2 ment, the board of public welfare of a town, the institutions department
 3 of Boston, any incorporated charitable institution, or the officers or agents
 4 thereof.

R. L. 83, § 9.

1919, 350, § 87.

1931, 195, § 1.

Application of
 two preceding
 sections
 1892, 318, § 12.
 1897, 395, § 3

1 SECTION 12. Whoever abandons an infant under the age of ten within
 2 or without any building, or, being its parent, or being under a legal duty
 3 to care for it, and having made a contract for its board or maintenance,
 4 absconds or fails to perform such contract, and who for four weeks after
 5 such absconding or breach of his contract, if of sufficient physical and
 6 mental ability, neglects to visit or remove such infant or notify the over-
 7 seers of the poor of the town where he resides of his inability to support
 8 such infant, shall be punished by imprisonment, if a man, in the house
 9 of correction, or, if a woman, in the reformatory for women, for not more
 10 than two years; or, if the infant dies by reason of such abandonment, by
 11 imprisonment for not more than five years.

Abandonment
 of infant
 penalized
 1882, 270, § 1.
 1889, 509, § 1
 R. L. 83, § 10.
 1905, 269.
 1911, 181; 500.
 1918, 257,
 § 464.
 1919, 5.
 1920, 2.

1 SECTION 13. Whoever knowingly and with wrongful intent aids or
 2 abets in the abandonment of an infant under ten years of age shall be
 3 punished by a fine of not more than one hundred dollars or by imprison-
 4 ment for not more than two years.

R. L. 83, § 10.

1905, 269.

1911, 500.

Aiding or
 abetting
 abandonment
 penalized
 1882, 270, § 2.

1 SECTION 14. Whoever receives an infant under two years of age for
 2 adoption or for giving it a home, or for procuring a home or adoption
 3 for it, shall, before receiving the same, ascertain its name, age and birth-
 4 place, and the name and residence of its parents, and shall keep a record
 5 of the same and of the date of such reception. He shall forthwith, upon
 6 the reception of said infant, give written notice thereof to the department,
 7 and upon its request shall give information and render reports required
 8 by it concerning such infant, and within two days after its discharge
 9 shall give written notice to the department of the discharge and disposal
 10 of such infant. The department may investigate the case, and at any
 11 time prior to a decree of adoption take any such infant into its custody
 12 if in its judgment public interest and the protection of the infant so
 13 require.

Adoption, etc.,
 of certain
 infants regu-
 lated Powers
 of department.
 1892, 318, § 13.
 R. L. 83, § 11.
 1919, 350, § 87.

1 SECTION 15. [REPEALED, 1931, 426, § 21.]

1 SECTION 16. The mother of an illegitimate infant under two years
 2 of age who is a resident of this commonwealth may, in writing signed
 3 by her and with the consent of the department, give up such infant to
 4 it for adoption; and if it deems such action for the public interest, the
 5 department may, in its discretion and on such conditions as it imposes,
 6 receive such infant and provide therefor. Such surrender by the mother
 7 shall operate as a consent by her to any adoption subsequently approved
 8 by the department.

Department
 may care for
 certain illegiti-
 mate infants
 1892, 318, § 15
 R. L. 83, § 13
 1919, 350, § 87.

1 SECTION 17. In any prosecution under the preceding sections of this
 2 chapter, except sections twelve and thirteen, a defendant who relies in
 3 defence upon the relationship of any of said infants to himself shall have
 4 the burden of proof thereof.

Burden of
 proof when
 relationship
 a defence.
 1892, 318, § 2.

R. L. 83, § 14.

Special state
police officer.
1885, 158.
1895, 310.
1898, 483.
R. L. 83, § 15.
1919, 350,
§§ 87, 99,
101, 102.

SECTION 18. The governor, upon the written recommendation of the department, may appoint a special state police officer for three years, who shall be subject to removal at any time by the governor, shall serve without pay, shall have and exercise throughout the commonwealth the powers of a state police officer, and, under the direction of the department, shall enforce the provisions of this chapter relating to the powers and duties of the department.

SECTION 19. [REPEALED, 1931, 195, § 6.]

Certain chil-
dren received
for board, etc.;
notice, if
deemed
illegitimate.
Powers of
department.
1889, 309, § 2.
1891, 194.
1899, 276.
R. L. 83, § 17.
1919, 350, § 87.
[Penalty, § 21.]

SECTION 20. Whoever receives an infant under the age of three for board or for the purpose of procuring adoption shall use due diligence to ascertain whether it is illegitimate, and if he knows or has reason to believe that it is, he shall forthwith notify the department of such reception. The members, officers or agents of the department may enter and inspect a building where they have reason to believe such illegitimate infant is boarded and remove it, if they believe that, by reason of neglect, abuse or other cause, its removal is necessary to preserve its life. Such infant shall be in the custody of the department, which shall make lawful provision therefor.

Certain infor-
mation as to
such children
to be fur-
nished.
Penalty.
1882, 270, § 3.
1889, 309,
§§ 3, 4
1891, 194.
R. L. 83,
§§ 18, 19.
1919, 350, § 87.
1931, 394,
§ 129.

SECTION 21. A person receiving an infant for board or for the purpose of procuring adoption, as described in the preceding section, and its parents shall, if required by the department, give true answers, so far as their knowledge extends, as to the parentage, residence and place of settlement of said infant; and the parents of such child shall, if required by the department or the board of public welfare of the town where the person receiving said infant resides, give security for its maintenance satisfactory to the department or board. Whoever violates any provision of this or the preceding section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one year.

Custody of
unsettled
infants.
1883, 232, § 3.
1886, 101, § 4.
1895, 217.
1898, 453, § 24.
R. L. 83, § 20.
1909, 504, § 98.
1919, 350, § 87.
1931, 195, § 2.

SECTION 22. The board of public welfare of a town and the superintendent and board of trustees of the state infirmary shall commit any indigent or neglected infant having no known settlement in the commonwealth to the custody of the department, which shall provide for him in a family or other suitable place, as it deems expedient for the interests of the child.

SECTION 23. [REPEALED, 1931, 195, § 6.]

SECTION 24. [REPEALED, 1931, 195, § 6.]

SECTION 25. [REPEALED, 1931, 195, § 6.]

SECTION 26. [REPEALED, 1931, 195, § 6.]

SECTION 27. [REPEALED, 1931, 195, § 6.]

Powers and
duties of
agents of de-
partment as
to infants
under seven.
1909, 504, § 1.

SECTION 28. An agent of the department specially authorized thereto may enter without actual force any building or room when such agent has reason to believe that a child under seven is sheltered or maintained apart from his parents and is not receiving proper care. The agent shall investi-

5 gate the ease and may, if he considers such removal necessary for the
 6 protection of the child from neglect or abuse, cause such child, if he is not
 7 under the personal care of a parent or guardian, to be removed to the
 8 custody of the department. An agent who is refused such entry or who is
 9 hindered in the removal of such child may make complaint, on oath, to a
 10 justice of a court, who may thereupon issue a warrant authorizing him to
 11 obtain sufficient aid and at any reasonable time to enter the building
 12 designated, and every part thereof, to investigate the treatment and con-
 13 dition of the children found there, and to remove such children as herein
 14 provided.

R. L. 83, § 26.
 1919, 350,
 §§ 87, 91
 1931, 195, § 3.

1 SECTION 29. The agent shall forthwith notify the department of
 2 his doings, and it shall thereupon decide whether to retain such child in
 3 its custody or to restore him to his parent or guardian or to the place
 4 from which he was removed. As to a child so retained, it shall have
 5 the powers and duties which it has as to neglected children committed
 6 to its custody by the courts. But the department, unless within a reason-
 7 able time it secures the commitment of such child, under the provisions of
 8 sections forty-two to forty-seven, inclusive, shall, upon request, discharge
 9 such child to his legal guardian, or if he has no guardian to his father, or
 10 if he has no father to his mother. The department may notify the person
 11 from whose care or custody a child has been taken under the preceding
 12 section that no child of which he is not the legal guardian shall, without
 13 a permit from the department, be received or maintained by him. The
 14 department shall apply to the probate court for the removal of the guard-
 15 ian of any child under seven years of age who is unsuitable for his trust.

Powers and
 duties of
 department as
 to such infant-
 1900, 254,
 §§ 2-4
 R. L. 83, § 27.
 1919, 350, § 87.

1 SECTION 30. Whoever obstructs or hinders the department or its
 2 officers or agents in the execution of the duties and powers imposed or
 3 conferred by the two preceding sections or, after notice as aforesaid,
 4 receives a child without having a permit therefor, shall be punished by
 5 a fine of not more than one hundred dollars for the first offence, and by
 6 a fine of not more than one hundred dollars or by imprisonment for not
 7 more than six months for a subsequent offence.

Penalty for
 violation of
 two preceding
 sections.
 1900, 254, § 5.
 R. L. 83, § 28.
 1919, 350, § 87.

1 SECTION 30A. No person or institution shall bring or cause to be
 2 brought into the commonwealth, or receive therein, from any other state,
 3 province or country, any child for the purpose of placing or boarding, or of
 4 procuring the placing or boarding of such child, in a family or home within
 5 the commonwealth, with a view to adoption, guardianship, custody or
 6 care by any person other than one related to him by blood or marriage,
 7 without first obtaining a permit therefor from the department. Such
 8 a permit shall not issue until a written application therefor has been filed
 9 with the department on forms by it prepared, containing such information
 10 relative to such child as the department may require, accompanied by an
 11 individual or blanket bond running to the commonwealth in such penal
 12 sum and with such surety or sureties as the department may approve,
 13 conditioned on the following: (1) that all statements contained in such
 14 an application are true in substantial particulars; (2) that any such child
 15 becoming a public charge during his minority shall be removed from the
 16 state not later than thirty days after notice from the department; (3)
 17 that such child shall be removed from the state immediately upon his
 18 release from any penal or reformatory institution or training school to
 19 which he has been committed, within three years of his arrival within

Bringing chil-
 dren into state
 for certain
 purposes
 regulated.
 Permit, bond,
 etc. Penalty
 1931, 433.

the state, for juvenile delinquency or crime; (4) that such child shall be placed or boarded under such agreement as will secure to him a proper home and surroundings, and as will render his custodian responsible for his proper care, education and training, under adequate supervision and subject to annual visitation by an agent; and (5) that such reports relative to the child shall be made to the department as it may require. In case of a breach of any condition of such a bond, the attorney general, upon request of the department, shall put the bond in suit, and the commonwealth or any city or town thereof shall be reimbursed from the proceeds for any expense incurred by reason of a breach of any such condition. Violation of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both.

CARE OF DESTITUTE AND ABANDONED CHILDREN.

SECTION 31. [REPEALED, 1931, 195, § 6.] 1

SECTION 32. [REPEALED, 1931, 195, § 6.] 1

SECTION 33. [REPEALED, 1931, 195, § 6.] 1

SECTION 34. [REPEALED, 1931, 195, § 6.] 1

SECTION 35. [REPEALED, 1931, 195, § 6.] 1

SECTION 36. [REPEALED, 1931, 195, § 6.] 1

Certain charitable corporations, appointment as guardians of minor children authorized. 1927, 168, 1931, 426, § 230.

SECTION 36A. Any charitable corporation, organized under general or special laws of the commonwealth for the purpose of and engaged principally in the care of children, may, with the written approval in each instance of the department, be appointed guardian of any minor child, and, when so appointed, such a corporation shall have the same powers, duties and obligations, shall be subject to the same restrictions, as are prescribed for guardians of minor children by general law. The department may grant or refuse such approval after such investigation as to the fitness and suitability of the corporation to serve in such capacity as it deems expedient. Nothing in this section shall be construed to require any charitable corporation authorized by special law in effect on March twenty-fifth, nineteen hundred and twenty-seven, to be appointed guardian of minor children to obtain the written approval of the department of public welfare in case of any appointment as such guardian.

Information as to child and right to visit it, how secured 1896, 288 R. L. 83, § 35.

SECTION 37. If the parent or guardian of a child placed in charge of any person, association or public or private institution by any state department, town board, or by any public or private corporation or body of persons authorized by law to so place children, or if one of the next of kin of an orphan so placed in charge and without guardian, is not, upon request, informed by such department, board, corporation or body of persons where the child is, the probate court for the county where such child has its legal residence may, upon petition of such parent, guardian or next of kin, and upon notice, if in its opinion the welfare of the child and the public interest will not be injured thereby, require such department, board, corporation or body of persons to give

12 the information and permit the parent, guardian or next of kin to visit
 13 the child at such times and under such conditions as the court orders;
 14 and the court may revise its order or make new orders or decrees as the
 15 welfare of the child and the public interest may require.

1 SECTION 38. The department may provide for the maintenance of a
 2 child under the age of twenty-one, dependent on public charity, upon
 3 written application of the parent or guardian or, if there is no parent or
 4 guardian, of a friend, or of the board of public welfare of the town where
 5 such child is found.

1919, 350, § 87.

1931, 195, § 4.

222 Mass. 184.

Support of
 certain chil-
 dren by
 department.
 1900, 397, § 1.
 R. L. 83, § 36.
 1911, 490, § 2.

1 SECTION 39. Children in the care or custody of the department shall
 2 be placed in private families; but in case of illness or change of place, or
 3 while awaiting trial, they may be placed in any suitable institution.

R. L. 83, § 39.

1919, 350, § 87.

Children to
 be placed in
 private
 families. 1900, 397, § 4.

1 SECTION 40. No parents, or surviving parent, of any minor child in
 2 the care or under the supervision of the department, or of any state de-
 3 partment, or of any state board of trustees, shall be denied the right of any
 4 child of theirs to the free exercise of the religious belief of his parents and
 5 the liberty of worshipping God according to the religion of his parents,
 6 or surviving parent, or of the religion which his parents professed, if
 7 they are both deceased; and no minor child in the care, or under the
 8 supervision of the department, or of any state department, or state
 9 board of trustees, shall be denied the free exercise of the religion of his
 10 parents, or of his surviving parent, or of his parents if they are both
 11 deceased, nor the liberty of worshipping God according to the religion
 12 of his parents, whether living or deceased.

Protection of
 minor wards
 of the com-
 monwealth in
 the religious
 belief of their
 parents.
 1905, 404.
 1919, 350, § 87.
 193 Mass. 187.
 3 Op. A. G. 124.

1 SECTION 41. No person shall convey or cause to be conveyed a
 2 neglected or destitute child not convicted or accused of any offence in
 3 a patrol wagon from its home or from any other place to any court or
 4 institution, but, if a conveyance is necessary, shall convey him in such
 5 other suitable vehicle as shall be provided or designated by the institu-
 6 tions commissioner in Boston or by the board of public welfare in any
 7 other town. Violation of this section shall be punished by a fine of not
 8 less than twenty-five nor more than fifty dollars or by imprisonment for
 9 not more than three months.

Certain chil-
 dren not to be
 transported in
 patrol wagon.
 Penalty.
 1914, 272.
 193 Mass. 187.
 1931, 195, § 5.

NEGLECTED CHILDREN.

1 SECTION 42. The Boston juvenile court or a district court, except the
 2 municipal court of the city of Boston, upon a complaint made by any
 3 person that any child under sixteen years of age within its jurisdiction,
 4 by reason of orphanage, or of the neglect, crime, cruelty, insanity or
 5 drunkenness or other vice of its parents, is growing up without educa-
 6 tion, or without salutary control, or without proper physical care, or in
 7 circumstances exposing him to lead an idle and dissolute life, or is de-
 8 pendent upon public charity, may issue a precept to bring such child
 9 before said court, and shall issue a notice to the department, and shall
 10 also issue a summons requiring the department or person to whom such
 11 notice or summons is directed to appear before said court at the time
 12 and place stated therein, to show cause why such child should not be
 13 committed to the department or be otherwise provided for. Such sum-

Neglected chil-
 dren may be
 taken in cus-
 tody, etc.
 1866, 283, § 3.
 P. S. 48, § 29.
 1882, 181, § 3.
 1886, 330.
 1893, 252.
 1894, 498, § 28.
 1898, 496, § 35;
 680, § 2.
 1900, 397,
 § 2, 3.
 R. L. 83, § 37.
 1903, 334,
 § 1, 7.
 1906, 489, § 4.
 1909, 181.
 1917, 326, § 2.
 1919, 350, § 87.
 222 Mass. 181.

mons shall be issued to at least one of the parents of the child, if either 14
of them is known to reside within the commonwealth, and, if after reason- 15
able search no such parent can be found within the commonwealth, to its 16
lawful guardian, if there is one known to be so resident, and if not, to 17
the person with whom such child last resided, if known; otherwise, to 18
some suitable person to act in behalf of such child. 19

Hearing, etc.
1903, 334, § 2
1917, 326, § 2
1919, 350, § 87.

SECTION 43. When such child is taken in custody upon said precept 1
and brought before said court, it may then hear said complaint, or said 2
complaint may be continued to a time fixed for hearing, and the court 3
may allow the child to be placed in the care of some suitable person or 4
charitable corporation upon furnishing surety for the further appear- 5
ance of said child; or the child may be committed to the custody of the 6
department until surety is furnished, pending a hearing on said complaint. 7

Adjudication,
commitment
to department,
etc.
1882, 181, § 3.
1888, 248, § 1.
1898, 496, § 35.
1900, 397, § 2.
R. L. 83, § 37.
1903, 334,
§§ 3, 7.
1917, 326, § 2.
1919, 350, § 87.
141 Mass. 203
152 Mass. 432.
161 Mass. 70.
195 Mass. 187.
259 Mass. 148.

SECTION 44. If the child is in court at the hearing and it appears that 1
said summons has been duly and legally served upon some person men- 2
tioned as aforesaid, and that said notice has been issued to the depart- 3
ment, the court, if it finds the allegations in said complaint proved, may 4
adjudge that said child is a neglected child, and may further continue 5
said complaint and allow the child to be placed in the care of some suit- 6
able person or charitable corporation upon furnishing surety for the 7
further appearance of the child before said court whenever said court 8
may require; and said court may make such further orders with reference 9
to the care and custody of the child as may conduce to his best interests; 10
or said court may commit the child to the custody of the department 11
until he becomes twenty-one years of age, or for a less time; and the 12
department may discharge said child from its custody whenever the 13
object of his commitment has been accomplished. 14

Commitment
to board of
public welfare.
1896, 285, § 3.
P. S. 48, § 29.
1882, 181, § 3.
1894, 498, § 28.
1898, 496, § 35.
1900, 397, § 2.
R. L. 83, § 37.
1903, 334,
§§ 4, 7.
1919, 350, § 87.

SECTION 45. If such child has a settlement, and if the board of 1
public welfare of the place of his settlement so requests, the commit- 2
ment may be to its custody. The department may transfer its custody 3
of any such child who has a settlement to the board of public welfare 4
of the place of settlement, upon the request of said board, and such 5
transfer shall thereafter relieve the commonwealth from further liability 6
for his maintenance. 7

1931, 209, § 1.

Powers of
board, etc.
1882, 181, § 3.
1898, 496, § 35;
580, § 2.
R. L. 83, § 37.
1903, 334,
§§ 5, 7.
1919, 350, § 87.

SECTION 46. Boards of public welfare shall have the same powers as 1
to children committed or transferred to their custody as are given to the 2
department as to children in its custody; but in Boston the institutions 3
department shall have the powers and duties conferred upon boards of 4
public welfare by this and the preceding section. 5

1931, 209, § 2.

Appeal from
adjudication
1886, 330, § 2.
1900, 397, § 3.
R. L. 83, § 38.
1903, 334,
§§ 6, 7.
1911, 175.
1917, 326, § 2.
1919, 350, § 87.

SECTION 47. The child, parent, guardian or person appearing in 1
behalf of such child, or the department, may appeal from the adjudica- 2
tion of the court to the superior court sitting for civil business for the 3
county where the hearing is held; and if said parent, guardian or other 4
person appearing on behalf of the child fails to furnish the bail required 5
by the court before which such hearing is held, the child may be com- 6
mitted to the custody of the department or placed in the care of some 7
suitable person or charitable corporation, pending determination of the 8

9 appeal. Such appeal shall be entered in the superior court by the court
10 from which the appeal is taken, without payment of an entry fee, and the
11 superior court may advance such complaint for speedy trial. The court
12 shall notify the child, parent, guardian or person appearing in behalf of
13 such child of the right of appeal.

1 SECTION 48. Whenever a child is before any court as a neglected
2 child and has no attorney, any person may, with the court's consent,
3 act for him.

Persons appearing in behalf of children.

1912, 165.

1 SECTION 49. Supervisors of attendance and members of boards of
2 public welfare shall, as often as they deem necessary, make diligent
3 search throughout their respective towns for children under sixteen
4 suffering want through poverty, privation or the neglect of their parents
5 or guardians or other persons having them in charge, or from any cause
6 whatsoever.

Duties of supervisors of attendance, etc.
1904, 356, § 1.
1913, 779, § 13.
1931, 209, § 3.

1 SECTION 50. Where such children are found without parents or
2 guardians, or in charge of such parents or guardians as such officers
3 deem unfit to care for children by reason of mental incapacity, dissolute
4 habits or poverty, they shall provide for the temporary care of such
5 children until proceedings may be had against them, if necessary, under
6 sections forty-two to forty-seven, inclusive.

Same subject.
1904, 356, § 2.
1931, 209, § 4.

1 SECTION 51. Reasonable expenses incurred by such officers in fur-
2 nishing aid under the two preceding sections shall be paid by the town
3 wherein the persons have legal settlements, or, if they have none, by the
4 commonwealth, after approval by the department; and written notice
5 shall be sent to the place of settlement or, if such persons have no settle-
6 ment, to the department as otherwise provided by law.

Expenses under two preceding sections, how paid.
1904, 356, § 3.
1919, 350, § 87.
1931, 209, § 5.

DELINQUENT CHILDREN.

1 SECTION 52. The following words as used in the following sections
2 shall, except as otherwise specifically provided, have the following
3 meanings:

Definitions.
1906, 413, § 1;
489, § 4.
1917, 326, § 2.
248 Mass. 482.

4 "Court", the Boston juvenile court or a district court, except the
5 municipal court of the city of Boston.

6 "Delinquent child", a child between seven and seventeen who vio-
7 lates any city ordinance or town by-law or commits an offence not pun-
8 ishable by death or by imprisonment for life.

9 "Probation officer", a probation officer or assistant probation officer
10 of the court having jurisdiction of the pending case.

11 "Wayward child", a child between seven and seventeen years of age
12 who habitually associates with vicious or immoral persons, or who is
13 growing up in circumstances exposing him to lead an immoral, vicious
14 or criminal life.

1 SECTION 53. Sections fifty-two to sixty-three, inclusive, shall be lib-
2 erally construed so that the care, custody and discipline of the children
3 brought before the court shall approximate as nearly as possible that
4 which they should receive from their parents, and that, as far as prac-
5 ticable, they shall be treated, not as criminals, but as children in need

Proceedings not to be deemed criminal.
1906, 413, § 2.
253 Mass. 244.

of aid, encouragement and guidance. Proceedings against children 6
under said sections shall not be deemed criminal proceedings. 7

Proceedings.
1882, 127,
§§ 3, 4.
R. L. 86, § 15.
1906, 413, § 3.

SECTION 54. If complaint is made to any court that a child between 1
seven and seventeen years of age is a wayward child or a delinquent 2
child, said court shall examine, on oath, the complainant and the wit- 3
nesses, if any, produced by him, and shall reduce the complaint to 4
writing, and cause it to be subscribed by the complainant. 5

If said child is under fourteen years of age, said court shall first issue 6
a summons requiring him to appear before it at the time and place named 7
therein, and such summons shall be issued in all other cases, instead of a 8
warrant, unless the court has reason to believe that he will not appear 9
upon summons, in which case, or if such a child has been summoned and 10
did not appear, said court may issue a warrant reciting the substance of 11
the complaint, and requiring the officer to whom it is directed forthwith 12
to take such child and bring him before said court, to be dealt with 13
according to law, and to summon the witnesses named therein to appear 14
and give evidence at the examination. 15

Parent or
guardian to
be summoned.
1855, 412,
§§ 4, 5.
1859, 286, § 1.
G. S. 75, §§ 6, 8;
76, §§ 17, 20.
1863, 139, § 3.
1870, 359, § 8.
P. S. 89,
§§ 20, 32.
1883, 110.
1886, 101, § 4.
1898, 453, § 24.
R. L. 86,
§§ 17, 30.
1906, 413, § 4.
1919, 350, § 87.
1931, 207.
5 Allen, 509.

SECTION 55. If a child has been summoned to appear or is brought 1
before such court upon a warrant, as provided in the preceding section, 2
a summons shall be issued to at least one of its parents, if either of them 3
is known to reside within the commonwealth, and, if there is no such 4
parent, then to its lawful guardian, if there is one known to be so resident, 5
and if not, then to the person with whom such child resides, if known. 6
Said summons shall require the person served to appear at a time and 7
place stated therein, and show cause why such child should not be ad- 8
judged a wayward child or delinquent child, as the case may be. If 9
there is no such parent, guardian or person who can be summoned as 10
aforesaid, the court may appoint a suitable person to act for such child. 11

If such child is summoned, the time for appearance fixed in the sum- 12
mons to a parent, guardian or other person, as herein provided, shall, 13
when practicable, be that fixed for the appearance of said child. 14

A summons required by this and the preceding section, unless service 15
thereof is waived in writing, shall be served by a constable or police 16
officer, by delivering it personally to the person to whom addressed, or 17
by leaving it with a person of proper age to receive the same, at the 18
place of residence or business of such person; and said constable or officer 19
shall immediately make return to the court of the time and manner of 20
the service. 21

If the court shall be of opinion that the interests of the child require 22
the attendance at any proceedings of an agent of the department, and 23
shall request such attendance, such agent shall attend to protect the 24
interests of said child. 25

Hearings.
Appeal.
1906, 413, § 5.
1916, 245, § 1.
1927, 181, § 1.
242 Mass. 401.
253 Mass. 244.

SECTION 56. Hearings upon cases arising under sections fifty-two to 1
sixty-three, inclusive, may be adjourned from time to time. A child 2
adjudged a wayward child or delinquent child may appeal to the su- 3
perior court upon adjudication, and also may appeal to said court at the 4
time of the order of commitment or sentence in which event the entire 5
case shall be before said court as if originally commenced therein, and 6
such child shall, at the time of such adjudication and also at the time 7
of such order of commitment or sentence, be notified of his right to 8
appeal. The appeal, if taken, shall be entered, tried and determined in 9

10 like manner as appeals in criminal cases, except that the trial of the said
 11 appeals in the superior court shall not be in conjunction with the other
 12 business of that court, but shall be held in a session set apart and de-
 13 voted for the time being exclusively to the trial of juvenile cases. This
 14 shall be known as the juvenile session of the superior court, and shall
 15 have a separate trial list and docket. All juvenile appeal cases in the
 16 superior court shall be transferred to this list, and shall be tried, unless
 17 otherwise disposed of by direct order of the court. In any appeal case
 18 the superior court, before passing sentence or before ordering other dis-
 19 position, shall be supplied with a report of any investigation thereon
 20 made by the probation officer of the court from which the appeal was
 21 taken. Section thirty-five of chapter two hundred and seventy-six and
 22 section eighteen of chapter two hundred and seventy-eight, relative to
 23 recognizances in cases continued or appealed, shall apply to cases aris-
 24 ing under sections fifty-two to sixty-three, inclusive.

1 SECTION 57. Every case of a wayward child or a delinquent child
 2 shall be investigated by the probation officer, who shall make a report
 3 regarding the character of such child, his school record, home surround-
 4 ings and the previous complaints against him, if any. He shall be
 5 present in court at the trial of the case, and furnish the court with such
 6 information and assistance as shall be required. At the end of the pro-
 7 bation period of a child who has been placed on probation, the officer
 8 in whose care he has been shall make a report as to his conduct during
 9 such period.

Investigation
 by probation
 officer.
 Reports.
 1906, 413, § 7.

1 SECTION 58. At the hearing of a complaint against a child the court
 2 shall examine such child and any witnesses that appear, and take such
 3 testimony relative to the case as shall be produced. If the allegations
 4 against a child are proved, he may be adjudged a wayward child or de-
 5 linquent child.

Adjudication.
 Proceedings
 after adjudi-
 cation.
 1870, 359,
 §§ 11, 12.
 P. S. 89,
 §§ 28, 29.
 R. L. 86, § 27.
 1906, 413, § 8.
 1916, 243, § 3.
 1918 Mass. 492.
 127 Mass. 450.

6 If a child is adjudged a wayward child, the court may place him in
 7 the care of a probation officer for such time and upon such conditions
 8 as may seem proper, or may deal with him in the manner provided for
 9 the disposal of the case of a neglected child.

10 If a child is adjudged a delinquent child, the court may place the case
 11 on file, or may place the child in the care of a probation officer for such
 12 time and on such conditions as may seem proper. If it is alleged in the
 13 complaint upon which the child is so adjudged that a law of the com-
 14 monwealth has been violated, the court may, with the consent of the
 15 department, authorize it to place such child in charge of any person, and,
 16 if at any time thereafter such child proves unmanageable, to commit
 17 such child, if a boy under fifteen years of age, to the Lyman school, if
 18 a boy between fifteen and eighteen years of age, to the industrial school
 19 for boys, or if a girl under seventeen years of age, to the industrial school
 20 for girls, but not for a longer period than until such child becomes twenty-
 21 one. The department may provide for the maintenance, in whole or in
 22 part, of any child so placed in charge of any person.

23 The court may commit such delinquent child to any institution to
 24 which it might be committed upon a conviction for such violation of
 25 law, excepting a jail or house of correction, and all laws applicable to a
 26 child committed upon such a conviction shall apply to a delinquent
 27 child committed under this section.

Mental and physical examinations of children before commitment as delinquents. Reports. 1951, 215.

SECTION 58A. Prior to the commitment, by way of final disposition to any public institution or to the department, of a child adjudged to be a delinquent child, the court shall cause such child to receive thorough physical and mental examinations, under rules and regulations prescribed by the commissioner of mental diseases. The court shall cause copies of the reports showing the results of such examinations and of the investigation made by the probation officer to be forwarded to the superintendent of the institution to which such child is committed or to the department, as the case may be, with the warrant of commitment. 1
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Proceedings upon violation of terms of probation. Fines. Disposition, etc. 1956, 413, § 9.

SECTION 59. If a child has been placed in care of a probation officer, said officer, at any time before the final disposition of the case, may arrest such child without a warrant and take him before the court, or the court may issue a warrant for his arrest. When such child is before the court, it may make any disposition of the case which it might have made before said child was placed on probation, or may continue or extend the period of probation. 1
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If the court finds that such child has violated the conditions of his probation, it may impose a fine not exceeding five dollars, and if the fine is not paid at once, in whole or in part, may order that said child stand committed to a jail until the same is paid, but not exceeding five days. Said court shall suspend the execution of said order and continue the probation for such time as it fixes, unless in its opinion such child will default. Said fine may be paid to the probation officer, whereupon the order for commitment shall be void. If at the end of the period of such suspension the probation officer reports that said fine is unpaid, the court may extend such period, or place the case on file, or revoke the suspension of the execution of the order of commitment. If the fine or any part thereof is paid to the probation officer, he shall give a receipt therefor, keep a record of the payment, pay the same to the clerk of the court at its next session, and keep on file the clerk's receipt therefor. 8
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Record of proceedings not admissible as evidence except in certain cases. 1956, 413, § 10.

SECTION 60. A disposition of any child under sections fifty-two to sixty-three, inclusive, or any evidence given in such case, shall not, in any proceeding, in any court, be lawful or proper evidence against such child for any purpose, excepting in subsequent criminal proceedings, or subsequent cases of delinquency or waywardness against the same child. 1
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Commission of criminal offence by child. Disposition of case. 1956, 413, § 11.

SECTION 61. If it be alleged in a complaint made under sections fifty-two to sixty-three, inclusive, that a child has committed an offence against a law of the commonwealth, or has violated a city ordinance or town by-law, and the court is of opinion that his welfare, and the interests of the public, require that he should be tried for said offence or violation, instead of being dealt with as a delinquent child, the court may, after a hearing on said complaint, order it dismissed. 1
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Restitution by child. 1956, 413, § 12.

SECTION 62. If, in adjudging a person a delinquent child, the court finds, as an element of such delinquency, that he has committed an act involving liability in a civil action, and such delinquent child is placed on probation, the court may require, as a condition thereof, that he shall make restitution or reparation to the injured person to such an extent and in such sum as the court determines. If the payment is not made at once, it shall be made to the probation officer, who shall give a receipt 1
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8 therefor, keep a record of the payment, pay the money to said injured
9 person, and keep on file his receipt therefor.

1 SECTION 63. Any parent or guardian or person having the custody
2 or control of a wayward child or delinquent child, who shall be found to
3 have knowingly or wilfully encouraged, aided, caused or abetted, or con-
4 nived at, or has knowingly or wilfully done any acts to produce, promote
5 or contribute to the delinquency or waywardness of such child, may be
6 punished by a fine of not more than fifty dollars or by imprisonment for
7 not more than six months. The court may release on probation under
8 section eighty-seven of chapter two hundred and seventy-six, subject to
9 such orders as it may make as to future conduct tending to produce
10 or contribute to such delinquency or waywardness, or it may suspend
11 sentence under section one of chapter two hundred and seventy-nine, or
12 before trial, with the defendant's consent, it may allow the defendant to
13 enter into a recognizance, in such penal sum as the court may fix, con-
14 ditioned to comply with such terms as the court may order for the pro-
15 motion of the future welfare of the child, and the said case may then
16 be placed on file. The provisions for appeal and recognizance in section
17 fifty-six shall be applicable to cases arising hereunder. The Boston
18 juvenile court shall have jurisdiction, concurrent with the municipal
19 court of the city of Boston, of complaints hereunder.

Parent or
guardian aid-
ing in de-
linquency of
child penalized.
Procedure-
1906, 413, § 13.
1916, 243, § 4.

1 SECTION 64. The board of probation may supervise the probation
2 work for wayward and delinquent children, and make necessary inquiries
3 in regard to the same, and in its annual report may make such recom-
4 mendations as it considers advisable for the improvement of methods of
5 dealing with such children.

Powers of
board of
probation.
1906, 413, § 14.
1912, 187.
1929, 179, § 3.

PROVISIONS COMMON TO ALL PROCEEDINGS AGAINST CHILDREN.

1 SECTION 65. Courts shall designate suitable times for the hearing of
2 cases of children under seventeen years of age, which shall be called the
3 juvenile session, for which a separate docket and record shall be kept.
4 Said session shall be separate from that for the trial of criminal cases,
5 shall not, except as otherwise expressly provided, be held in conjunction
6 with other business of the court, and shall be held in rooms not used for
7 criminal trials; and in places where no separate juvenile court room is
8 provided, hearings, so far as possible, shall be held in chambers. No
9 minor shall be allowed to be present at any such hearing unless his
10 presence is necessary, either as a party or as a witness; and the court
11 shall exclude the general public from the room, admitting only such
12 persons as may have a direct interest in the case.

Juvenile
sessions
regulated.
1874, 258, § 3.
1877, 219, § 5.
P. S. 89, § 19.
R. L. 86, § 16.
1906, 413, § 6;
489, § 5.
1916, 243, § 2.
1931, 217.

1 SECTION 66. A child under fourteen years of age shall not be com-
2 mitted to a lockup, police station or house of detention, to a jail or house
3 of correction, to the state farm, or the house of correction at Deer island,
4 pending an examination, in default of bail or for the non-payment of a
5 fine, except as provided in sections fifty-nine and sixty-seven or upon
6 conviction of any offence not punishable by death or imprisonment for
7 life; provided, that a boy twelve or over, arrested in the act of violating
8 a law of the commonwealth, or on a warrant, may, in the discretion of
9 the arresting officer, be committed to a lockup, police station or house
10 of detention.

Commitment
of children to
houses of
detention, etc.,
regulated.
R. S. 143, § 18.
1859, 286, § 3.
G. S. 174, § 15.
1865, 208, § 1.
P. S. 213, § 18.
1882, 127, § 1.
1899, 440, § 3.
1896, 536, § 9.
R. L. 86, § 20.
1902, 314.
1906, 413, § 3.

Whenever a child under seventeen years of age has been committed to a lockup, police station or house of detention, the probation officer and at least one of his parents, or if there is no parent the person with whom such child resides, shall be notified at once of said commitment. The officer of the place of custody where such child is confined, on the written request of the probation officer, shall release such child to him unless the officer who made the commitment makes a written request for his detention. Said probation officer shall notify such child of the time and place of the hearing of his case.

Care of children held for examination or trial. 1870, 359, § 9. P. S. 89, § 21. 1882, 127, §§ 1, 2. R. L. 86, §§ 18, 19. 1906, 413, § 5. 1916, 243, § 1. 1919, 350, § 87. 1927, 221. 1931, 216; 284, § 1.

SECTION 67. A child under fourteen held for examination or trial, or to prosecute an appeal to the superior court, if unable to furnish bail shall be committed to the care of the department or of a probation officer. The person to whose care he is committed shall provide for his safe keeping and for his appearance at such examination or trial, or at the prosecution of his appeal.

A child fourteen years of age or over so held, if unable to furnish bail shall be so committed to the department with its consent or to a probation officer unless the court on immediate inquiry shall be of opinion that, if so committed, such child will not appear at such examination or trial, in which case said child may be committed to jail.

A child so committed to jail to await examination or trial by the court shall be returned thereto within ten days after each such commitment, and not more than twenty days shall elapse after the original commitment before disposition of such case by the court, by adjudication or otherwise. Any child committed to jail under this section shall, while so confined, be kept in a place separate and apart from all other persons committed thereto who are seventeen years of age or over, and shall not at any time be permitted to associate or communicate with any other such persons committed as aforesaid, except when attending religious exercises or receiving medical attention or treatment.

Said probation officer shall have all the authority, rights and powers in relation to a child committed to his care under this section, and in relation to a child released to him as provided in section sixty-six, which he would have if he were surety on the recognizance of such child.

Superintendent of schools to furnish information, etc. 1906, 489, § 8. 1918, 257, § 419. 1919, 5. 1920, 2.

SECTION 68. The superintendent of the public schools in any town, any teacher therein, and any person in charge of any private school, or any teacher therein, shall furnish to any court from time to time any information and reports requested by any justice thereof relating to the attendance, conduct and standing of any pupil under his charge, if said pupil is at the time in charge of the court.

Proceeding to avoid incarceration, etc. 1906, 489, § 7. 1908, 286. 1918, 257, § 419. 1919, 5. 1920, 2.

SECTION 69. If a warrant is issued by a court or trial justice for a child's arrest, or if a child between seven and seventeen years of age is arrested without a warrant, as provided by law, in order to avoid the incarceration of the child, if practicable, the officer to whom said warrant is delivered, or who has arrested the child without a warrant, may, unless the court or trial justice issuing such warrant has otherwise directed in the warrant, accept the written promise of the parent, guardian or person with whom it is stated that said child resides, or any other reputable person, to be responsible for the presence of said child in court at the

10 time and place when the child is to appear, and at any other time to
 11 which the hearing in the case may be continued or adjourned. Nothing
 12 herein contained shall prevent the admitting of said child to bail, in
 13 accordance with sections twenty-nine and thirty of chapter two hundred
 14 and seventy-six.

1 SECTION 70. At any time during the pendency of any case before a
 2 court or trial justice against a child under seventeen years of age, whether
 3 pending adjudication or during continuances or probation or after the
 4 case has been taken from the files, the court or trial justice may summon
 5 any parent or guardian of said child, or any person with whom the child
 6 resides, in the manner provided in section fifty-five.

Parents,
 guardians,
 etc., may be
 summoned
 1907, 195, § 1.

1 SECTION 71. If any person to whom a summons is issued under the
 2 preceding section or section forty-two or fifty-five fails to appear in
 3 response to such summons, the court issuing the summons may issue a
 4 *caapias* to compel the attendance of such person, and such *caapias* shall
 5 be issued and served in the same manner as a *caapias* to compel the at-
 6 tendance of witnesses who have failed to appear on a subpoena issued
 7 in behalf of the commonwealth in a criminal case.

Procedure
 upon failure
 to appear on
 summons.
 1907, 195, § 2.

1 SECTION 72. Courts may continue to exercise jurisdiction in their
 2 juvenile sessions over children who become seventeen years of age or
 3 who pass the age limit for bringing the kind of complaint or proceeding
 4 before the court, pending adjudication on their cases, or during con-
 5 tinuances or probation, or after their cases have been placed on file.
 6 Nothing herein shall authorize the commitment of any girl over seven-
 7 teen years of age to the industrial school for girls, or give any court any
 8 power or authority over said children after they become eighteen years
 9 of age, except that, on the revocation of the suspension of the execution
 10 of a sentence or order of commitment, such sentence or order of com-
 11 mitment may be executed, notwithstanding that the child sentenced or
 12 ordered committed has passed the age limit for commitment to the
 13 institution to which he was sentenced or ordered committed.

Jurisdiction
 of courts in
 their juvenile
 sessions con-
 tinued, etc.
 1907, 411,
 1918, 257,
 § 418
 1919, 5,
 1920, 2.

CRIMINAL PROCEEDINGS.

1 SECTION 73. In criminal proceedings under the following sections,
 2 district courts and trial justices may commit boys under fifteen years
 3 of age to the Lyman school, boys between fifteen and eighteen years of
 4 age to the industrial school for boys, or girls under seventeen years of
 5 age to the industrial school for girls, except that the Boston juvenile
 6 court shall, subject to the preceding section, commit no boy over seven-
 7 teen years of age to the industrial school for boys. The municipal
 8 court of the city of Boston may commit boys over seventeen years of
 9 age to the industrial school for boys.

Jurisdiction
 of courts.
 1847, 165, § 4.
 1855, 442, § 8.
 1861, 200.
 1870, 339, § 7.
 1871, 365.
 1872, 358, § 1.
 1874, 258,
 §§ 1, 4
 1877, 210, § 5;
 211, § 6.
 P. 8, 89, § 15.
 1884, 255, § 11;
 323, § 3.

R. L. 86, § 10.

1908, 639, § 3.

1 SECTION 74. Criminal proceedings shall not be begun against any
 2 child between seven and fourteen years of age, except for offences
 3 punishable by death or imprisonment for life, unless proceedings against
 4 him as a delinquent child have been begun and dismissed as required
 5 by section sixty-one.

Proceedings
 against chil-
 dren between
 seven and
 fourteen
 limited.
 1906, 413, § 11.

Complaint.
Warrant.
1855, 112.
§§ 4, 5, 8.
1859, 286.
§§ 1, 4.
G. S. 75.
§§ 6, 8, 76.
§§ 17, 20.
1861, 200.
1863, 139.
§§ 2, 3.
1864, 202, § 2.
1870, 359.
§§ 7, 8.
1871, 365.
1872, 68, § 5;
358, § 4.
P. S. 89.
§§ 18, 20, 32.
1883, 110.
1886, 101, § 4.
1888, 433, § 24.
R. L. 86.
§§ 14, 17, 30.

SECTION 75. Upon complaint against any child between seven and fourteen years of age against whom proceedings have been begun and dismissed as required by section sixty-one or against any child between fourteen and seventeen years of age for any offence not punishable by death or imprisonment for life, such court or trial justice shall examine, on oath, the complainant and the witnesses produced by him, shall reduce the complaint to writing and cause it to be subscribed by the complainant, and may issue a warrant reciting the substance of the accusation and requiring the officer to whom it is directed forthwith to take the person accused and bring him before said court or trial justice, to be dealt with according to law, and to summon such witnesses as shall be named therein to appear and give evidence on the examination. The provisions of section fifty-five shall apply to proceedings under this section except that the summons shall require the person summoned to show cause why the child should not be committed to the Lyman school or an industrial school.

Child may be put in charge of department
1869, 453, § 4.
1870, 359, § 10.
1871, 365.
1876, 321, § 2.
P. S. 89.
§§ 22, 50.
1895, 428, § 4.
R. L. 86, § 21.
1919, 350, § 87.
1 Op. A. G. 405.

SECTION 76. The court or trial justice before whom a child is brought on a complaint under the preceding section, upon request of the department of public welfare, may authorize said department to place him in charge of any person, or, if such child proves unmanageable, to commit the child, if a boy under fifteen years of age, to the Lyman school, if a boy between fifteen and eighteen years of age, to the industrial school for boys, or if a girl under seventeen years of age, to the industrial school for girls, until the child becomes twenty-one years of age. Said department may provide for the maintenance, in whole or in part, of any such child so placed in charge of a person. The department may discharge from custody any child committed to its care under this section.

Warrant of commitment.
1847, 165, § 1.
1855, 442.
§§ 4, 5.
1859, 170, § 3;
286, §§ 1, 3.
G. S. 75, § 7;
76, §§ 18, 19.
1862, 9.
P. S. 89.
§§ 23, 24.
R. L. 86, § 22.
1908, 639, § 3.
4 Op. A. G. 628.

SECTION 77. At the time named in the summons, such court or trial justice shall examine the child and any person who appears in answer to the summons, and take such testimony relative to the case as may be produced. If the allegations are proved, and it appears that the child is a suitable subject for the Lyman or industrial schools, and that his moral welfare and the good of society require that he should be sent thereto for instruction, employment or training, a warrant of commitment shall be issued in substance as follows:

COMMONWEALTH OF MASSACHUSETTS.

(COUNTY) ss.

To the Sheriff of the County of _____ or his Deputy, or any Constable or Police Officer in said County, and to the Superintendent of the _____ School for Boys (or Girls) at _____

Greeting:

Whereas, (name of person committed) of _____ in the county of _____ a boy (or girl) between (seven and fifteen) (fifteen and eighteen) (or seven and seventeen, if a girl) years of age, has this day been brought before the court of _____, by virtue of a summons (or warrant) issued to (against) him (or her) on the complaint of _____ of _____ in the county of _____, who therein, upon oath, says that said defendant, at _____ in the county of _____, on the _____ day of _____ in the year of our Lord one thousand nine hundred and _____, was guilty of _____ as is more fully alleged in said complaint.

And after hearing all matters and things concerning the same, and all persons entitled thereto having been summoned and notified of the pendency of said complaint, as required by law, it is adjudged by said court that said defendant is guilty, and that he (or she) is of the age of _____ years and _____ months, and is a suitable subject for the (Lyman school for boys) (or industrial school for boys) (or industrial school for girls), and that his (or her) moral welfare and the good of society require that he (or she) should be sent thereto for instruction, employment and training; and it is thereupon ordered by said court that said defendant stand committed to the (Lyman school for boys) (or industrial school for boys) (or industrial school for girls) during his (or her) minority, or until he (or she) be discharged according to law.

You are therefore hereby required, in the NAME OF THE COMMONWEALTH OF MASSACHUSETTS, to take the said defendant and him (or her) carry to the said (Lyman school for boys) (or industrial school for boys) (or industrial school for girls), and him (or her) deliver to the superintendent thereof, together with an attested copy hereof, and thereafterward forthwith to return this warrant with your doings thereon into said court.

And you, the superintendent of said school, are alike required to receive said defendant into your custody in said school, and him (or her) there safely keep for instruction, employment, discipline and training until the expiration of said term of his (or her) minority, or he (or she) be discharged according to law.

Witness, _____ at said _____ this _____ day of _____ in the year of our Lord one thousand nine hundred and _____

Clerk.

A true copy.
Attest:

(Constable of _____)
(Sheriff of _____)

9 No variance from said form shall be considered material if it suffi-
10 ciently appears upon the face thereof that the child is committed by the
11 court or trial justice in the exercise of the powers conferred by this
12 chapter. The warrant may be executed by any officer qualified to
13 serve civil or criminal process in the county where the case is heard.
14 Accompanying the warrant, the court or magistrate shall transmit to the
15 superintendent, by the officer serving it, a statement of the substance
16 of the complaint and testimony given in the case, and such other partic-
17 ulars relative to the child committed as can be ascertained. In commit-
18 ments in proceedings under sections fifty-two to sixty-three, inclusive,
19 the word "delinquent" shall be substituted for the word "guilty".

1 SECTION 78. The court or trial justice shall certify in such warrant
2 the age of such child in years and months as near as can be ascertained,
3 and the place where he resided at the time of arrest; and such certifi-
4 cate, for the purposes of this chapter, shall be conclusive evidence of
5 his residence.

Warrant to contain certificate of age and residence. Effect. 1858, 25.

1859, 286, § 1.
G. S. 76, § 19.

P. S. 89, § 24.
R. L. 86, § 23.

146 Mass. 489.

1 SECTION 79. If a child previously committed to the Lyman school,
2 industrial school for boys or industrial school for girls is again brought
3 before a court or trial justice upon any such complaint, the case may
4 be examined and a warrant issued for a recommitment of such child
5 without issuing the summons required by section fifty-five.

Warrant for recommitment. 1855, 442, § 6; G. S. 75, § 10; 76, § 22. P. S. 89, § 26. R. L. 86, § 25.

1908, 639, § 3.

1 SECTION 80. If a child found guilty by a court or trial justice is
2 not considered a fit subject for the Lyman school or the industrial school
3 for boys or the industrial school for girls, he shall be sentenced or bound

Sentence, etc., of child not committed to Lyman school, etc.

1859, 286, § 3.
G. S. 76, § 24.
1872, 68, § 5.

over to appear before the superior court according to the usual course of criminal proceedings. 4
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P. S. 89, § 27.

R. L. 86, § 26.

1908, 639, § 3.

Appeal.

1855, 442, § 7.
1859, 286, § 2.
G. S. 75, § 12;
76, § 24.
P. S. 89, § 30.
R. L. 86, § 28.
1908, 639, § 3.

SECTION 81. A child ordered committed to the Lyman school or industrial school for boys or the industrial school for girls, by authority of section seventy-three, or sentenced under the preceding section, may appeal to the superior court, and the appeal shall be there entered, tried and determined in like manner and subject to like provisions as appeals from trial justices in criminal cases. 1
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Warrants by trial justices for commitment of girls to be returned to superior court.

SECTION 82. Warrants issued by trial justices for the commitment of girls to the industrial school for girls may be returned to the clerks of the superior court, and fees thereon shall be allowed in the same manner as expenses in criminal proceedings. 1
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1861, 116.

P. S. 89, § 31.

R. L. 86, § 29.

Sentences in superior court. Procedure.
1859, 170, § 3;
286, § 4.
G. S. 76, § 26.
1863, 139, § 1.
1864, 202, § 1.
1872, 68, § 5.
P. S. 89, § 34.
R. L. 86, § 32.
1908, 639, § 3.
1931, 208.

SECTION 83. A boy between seven and eighteen convicted in the superior court of an offence punishable by imprisonment other than imprisonment for life may be committed to the Lyman school if under fifteen years of age, to the industrial school for boys if between fifteen and eighteen years of age, or to such punishment as is otherwise provided by law. Upon a commitment under this section, the statement and certificate required by sections seventy-seven and seventy-eight shall be made and transmitted as therein provided. 1
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CHAPTER 120.

MASSACHUSETTS TRAINING SCHOOLS.

SECT.

1. Trustees corporation to hold trust funds, etc.
2. Control of all industrial schools.
3. Election of superintendent and physician for each school, etc.
4. Rules and regulations, etc.
5. Instruction of boys and girls.
6. Visits to schools. Annual reports.
7. Powers of superintendents.
8. Bond and accounts of superintendents, etc.
9. Rogers fund.
10. Contracts by superintendents. Suits not to abate by reason of vacancy, etc.
11. Revision of sentence in certain cases.
12. Escape or breach of parole. Arrest.
13. Term of detention. Discharge.
11. Transfers from one school to another, etc.

SECT.

15. Transfers from Massachusetts reformatory, etc.
16. Transfers to Massachusetts reformatory, etc.
17. Custody of boy or girl transferred under § 16.
18. [Repealed.]
19. Corporal punishment in Lyman school regulated.
20. Discharge.
21. Parole. Placing children.
22. Trustees may be guardians of children.
23. Savings by children on parole.
- 23A. Disposition of such savings if unclaimed. Records.
24. Expenditure of gifts by trustees.
25. Children committed by United States courts.
26. Aiding in escape penalized.

Trustees corporation to hold trust funds, etc.
1848, 305.

SECTION 1. The trustees of the Massachusetts training schools, in this chapter called the trustees, shall be a corporation for the purpose of taking, holding and investing in trust for the commonwealth, subject 1
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4 to section fifteen of chapter ten, any grant or devise of land or any gift or
 5 bequest made at any time for the use of any institution of which they are
 6 trustees and they shall succeed to and retain the rights, powers and duties
 7 formerly held or acquired by the board of trustees and treasurers of the
 8 state reform and state industrial or state primary schools except as pro-
 9 vided in said section.

3 Op. A. G. 452.

1 SECTION 2. The trustees shall have the management, government
 2 and care of the Lyman school for boys at Westborough, the industrial
 3 school for girls at Lancaster, the industrial school for boys at Shirley,
 4 and of all other institutions, except the Massachusetts reformatory,
 5 supported by the commonwealth for the custody, care and training of
 6 delinquent or wayward children or juvenile offenders, and of all children
 7 committed thereto.

R. L. 86, § 1. 1908, 639, § 1. 1911, 566, § 1. 1 Op. A. G. 96.

Control of all
 industrial
 schools
 1847, 165, § 1.
 1855, 442, §§ 1,
 24
 G. S. 75, § 1;
 76, § 1
 1879, 291, § 8.
 P. S. 89, § 1, 3.
 1895, 428, § 2.

1 SECTION 3. They shall annually elect a superintendent and a phy-
 2 sician of each of said schools. The superintendent of each school shall,
 3 with the approval of the trustees, appoint the other officers.

1847, 165, § 2. 1879, 291, § 10. 1908, 639, § 5.
 1855, 442, § 2. P. S. 89, § 2. 1911, 566, §§ 1, 3.
 G. S. 75, § 2; 76, § 4. R. L. 86, § 2. 1931, 301, § 90.

Election of
 superintendent
 and physician
 for each school,
 etc.

1 SECTION 4. They shall have the control of the land and buildings of
 2 said schools. They shall take charge of the general interests of each insti-
 3 tution. They shall establish rules, regulations and by-laws for its govern-
 4 ment, for the direction of its officers and the instruction and discipline
 5 of its inmates, and they shall see that its affairs are conducted accord-
 6 ing to law and to such rules, regulations and by-laws, and that strict
 7 discipline is maintained therein. They shall provide employment, edu-
 8 cation and training for the inmates and parole, discharge or remand
 9 them as provided in this chapter. They shall exercise a vigilant super-
 10 vision over the institutions, their officers and inmates, and prescribe
 11 the duties of the officers. The rules, regulations and by-laws may be
 12 amended by the assent of seven trustees at a legal meeting; but no
 13 amendment shall be valid until approved by the governor and council.

Rules and
 regulations,
 etc
 1847, 165, § 2.
 1855, 442, § 2;
 G. S. 75, § 2;
 76, §§ 3, 4.
 1879, 291, § 8.
 P. S. 89, § 8;
 R. L. 86, § 3.
 1908, 639, § 5.
 1911, 566,
 §§ 1, 3.

1 SECTION 5. They shall cause the girls and boys under their charge
 2 to be instructed in piety and morality, and in the branches of useful
 3 knowledge adapted to their age and capacity; and in some regular course
 4 of labor or trade, either mechanical, manufacturing, agricultural or
 5 horticultural, for the boys; or mechanical, manufacturing or horticul-
 6 tural, and especially in domestic and household labor and duties, for the
 7 girls; or a combination of these, as may be best suited to their age,
 8 strength, disposition and capacity; and in such other arts, trades and
 9 employments as may seem to the trustees best adapted to secure their
 10 reformation, amendment and future benefit.

Instruction of
 boys and girls.
 1847, 165, § 9.
 1855, 442, § 19.
 G. S. 75, § 20;
 76, § 5
 P. S. 89, § 9.
 R. L. 86, § 4.
 1908, 639, § 6.
 1911, 566,
 §§ 1, 3.

1 SECTION 6. One or more of the trustees shall visit each school at
 2 least once in every two weeks. At such time the girls and boys shall be
 3 examined in the school rooms and workshops and the registers and
 4 various departments shall be inspected. A record shall be kept of these
 5 visits in the books of the superintendents. Once in every three months,
 6 each school in all its departments shall be thoroughly examined by a

Visits to
 schools.
 Annual
 reports.
 1847, 165, § 15.
 1855, 442, § 25.
 1857, 40, § 1.
 1859, 177, § 2.
 G. S. 75, § 25;
 76, § 7
 1880, 208, § 4.

P. S. 89, § 10;
R. L. 86, § 7;
1908, 639, § 6.
1911, 1544;
566, § 1, 3.
1913, 295;
1919, 450,
§ 8, 87.

majority of the trustees, and a report thereof made to the trustees. On 7
or before January first of each year or as soon thereafter as possible, the 8
trustees shall make to the commissioner of public welfare a written report 9
summarizing the affairs of the institutions in their charge for the preced- 10
ing fiscal year including full reports of the superintendents, such invento- 11
ries as the institutions under their supervision are required by law to 12
make, and such recommendations for legislation as they may have. 13
The commissioner shall make an annual report covering these matters. 14

Powers of
superintend-
ent.—
1847, 165, § 10.
1855, 442, § 20.
G. S. 75, § 21;
76, § 8.
P. S. 89, § 11.
R. L. 86, § 6.
1908, 639, § 6.
1919, A. G. 96,
226.

SECTION 7. The superintendent of each school with the subordinate 1
officers shall have general charge and custody of the inmates thereof. 2
He shall be a constant resident at the school, and, under the direction 3
of the trustees, shall discipline, govern, instruct and employ and use his 4
best endeavors to reform the inmates in such manner as shall, while 5
preserving their health and promoting their proper physical develop- 6
ment, secure the formation of moral, religious and industrious habits, 7
and of regular and thorough progress and improvement in their studies, 8
trades and employments. 9

Bond and
accounts of
superintend-
ent, etc.—
1847, 165, § 11.
1855, 442, § 21.
G. S. 75, § 22;
76, § 9.
P. S. 89, § 12.
R. L. 86, § 7.
1908, 639, § 6.
1917, 18.
1920, 546, § 4.
1923, 362, § 69.

SECTION 8. Each superintendent shall before entering upon his duties 1
give bond to the commonwealth, with sureties approved by the governor 2
and council, in such sum as the comptroller may prescribe, conditioned 3
that he shall faithfully perform all his duties and account for all money 4
received by him as superintendent. The bond shall be filed in the office 5
of the state treasurer. Each superintendent shall have charge of all the 6
property of the institution within the precincts thereof. He shall keep 7
accounts of all his receipts and expenditures, and of all property intrusted 8
to him, showing the income and expenses of the institution; and shall 9
account to the trustees, in such manner as they may require, for all money 10
received by him. His books and all documents relative to the school shall 11
at all times be open to the inspection of the trustees. He shall keep a 12
register, containing the name, age and circumstances connected with the 13
early history of each girl or boy, and shall add such facts as come to his 14
knowledge relative to her or his history while at the institution, and after 15
leaving it. 16

Rogers fund.
1857, 215.
G. S. 75, § 22.
P. S. 89, § 13.
R. L. 86, § 8.

SECTION 9. The superintendent of the industrial school for girls, 1
under the direction of the trustees, shall purchase books with the income 2
and profits and according to the terms of the donation of Henry B. 3
Rogers. 4

Contracts by
superintend-
ents. Suits
not to abate
by reason of
vacancy, etc.—
1847, 165, § 12.
1855, 442, § 22.
G. S. 75, § 23;
76, § 10.
P. S. 89, § 14.
R. L. 86, § 9.
1908, 639, § 6.
1923, 362, § 70.

SECTION 10. Each superintendent shall make all contracts on account 1
of his institution, except those required to be made by the state pur- 2
chasing agent, in writing, with the approval of the trustees if their 3
rules, regulations or by-laws require it; and he or his successor may sue 4
or be sued thereon to final judgment and execution. No suit shall 5
abate by reason of the office of superintendent becoming vacant, but 6
any successor in office may take upon himself the prosecution or defence 7
thereof; and upon motion of the adverse party and notice he shall be 8
required so to do. 9

Revision of
sentence in
certain cases.
1884, 323, § 3.
R. L. 86, § 41.

SECTION 11. If within thirty days after the order of commitment 1
of a boy to the Lyman school or the industrial school for boys, or of a 2
girl to the industrial school for girls, the trustees have reason to believe 3

4 that at the time of such order a boy, if committed to the Lyman school,
 5 was more than fifteen, or if committed to the industrial school for boys,
 6 was more than eighteen, or a girl was more than seventeen, they may
 7 apply to the court of commitment for a revision of the order, and if the
 8 court finds that the boy or girl was over the maximum age for com-
 9 mitment to such school, it shall make such order as should have been
 10 made.

1918, 257,
 § 303
 1919, 5
 1920, 2.

1 SECTION 12. A boy committed to the Lyman school or to the indus-
 2 trial school for boys or a girl committed to the industrial school for girls,
 3 who has escaped therefrom, or been released on parole and broken the
 4 conditions thereof, may be arrested without a warrant by a sheriff,
 5 deputy sheriff, constable or police officer and may be kept in custody in
 6 a suitable place and there detained until such boy or girl may be removed
 7 to the school from which he or she escaped or was released.

Escape or
 breach of
 parole.
 Arrest.
 1907, 392
 1915, 113, § 5

1 SECTION 13. All boys and girls committed to the Lyman school, the
 2 industrial school for boys or the industrial school for girls shall be there
 3 kept, disciplined, instructed, employed and governed, under the direction
 4 of the trustees, until they become twenty-one or are paroled, legally
 5 transferred or discharged. The trustees may grant an honorable dis-
 6 charge to any person in their custody who, in their opinion, for merito-
 7 rious conduct is worthy and deserving thereof, and whom they believe
 8 permanently reformed. The court of commitment shall be so notified
 9 in writing and thereupon shall make an entry to the foregoing effect in
 10 its records concerning this particular person. If a person is honorably
 11 discharged by the trustees or becomes twenty-one, he shall be completely
 12 released from all penalties or disabilities incurred in consequence of
 13 commitment.

Term of
 detention.
 Discharge.
 1847, 165,
 §§ 5, 7
 1855, 442,
 §§ 5, 11, 13.
 1859, 286, § 4
 G. S. 75, § 13;
 76, § 27
 1863, 184, § 1.
 1864, 290
 P. S. 89, § 35.
 1895, 428, § 4.
 R. L. 86, § 35.
 1908, 639, § 6
 1915, 113, § 1.

1 SECTION 14. The trustees may transfer any boy from the Lyman
 2 school for boys to the industrial school for boys or vice versa. The
 3 department of public welfare may transfer boys between fifteen and
 4 eighteen in its custody to the industrial school for boys.

Transfers from
 one school to
 another, etc.
 1908, 639, § 4
 1909, 472, § 1

1911, 566, §§ 1, 3. 1919, 350, § 87. 1931, 426, § 22. 1 Op. A. G. 182, 273.

1 SECTION 15. With the consent of the trustees the commissioner of
 2 correction may transfer to the industrial school for boys any boy under
 3 seventeen sentenced to the Massachusetts reformatory, or to the indus-
 4 trial school for girls any girl under seventeen sentenced to the reforma-
 5 tory for women.

Transfers from
 Massachusetts
 reformatory,
 etc.
 1908, 639, § 4.
 1911, 566,
 §§ 1, 3.

1916, 241, § 1. 1918, 100. 1919, 350, § 83.

1 SECTION 16. The trustees may transfer any person committed or
 2 transferred to the industrial school for boys or to the Lyman school for
 3 boys, still in the custody of said trustees, who has proved unmanageable
 4 or an improper person to remain in either of the said institutions, to the
 5 Massachusetts reformatory; and in the same way may transfer any
 6 person committed or transferred to the industrial school for girls, still
 7 in the custody of the trustees, to the reformatory for women. Upon
 8 application by the trustees, the commissioner of correction may trans-
 9 fer any inmate of any of the foregoing schools, whom the trustees con-
 10 sider incorrigible or an unfit subject for said schools, to the state farm,

Transfers to
 Massachusetts
 reformatory,
 etc.
 1866, 198, § 6.
 1876, 14
 1880, 208, § 3.
 P. S. 79, § 10;
 80, § 47
 1884, 255, § 13.
 1901, 128; 359.
 R. L. 84, § 9;
 225, §§ 87, 88
 1908, 639,
 §§ 4, 6
 1911, 566,
 §§ 1, 3.
 1915, 113, § 2.

1918, 100
1919, 199; 350,
§ 84
254 Mass. 342.

there to be held on the mittimus until the term of sentence expires, but the commissioner may return such person with the mittimus to the school from which such transfer was made, when in his judgment the object of such transfer has been accomplished. Any person transferred under this or the two preceding sections shall be accompanied by all mittimuses and processes, a copy of the medical report, and a written statement covering the history and conduct of the person, and the circumstances of the person's home, so far as they can be ascertained.

Custody of
boy or girl
transferred
under § 16.
1908, 639, § 3.
1918, 257,
§ 305.
1919, 5.
1920, 2.

SECTION 17. The legal custody for the remainder of his or her minority of any boy or girl transferred to the Massachusetts reformatory or to the reformatory for women by the trustees is thereby surrendered by them, and shall thereafter be in the institution to which the transfer has been made.

SECTION 18. [REPEALED, 1923, 245, § 2.]

Corporal pun-
ishment in
Lyman school
regulated.
1877, 233.
P. S. 89, § 36.
R. L. 86, § 34.
1911, 489.

SECTION 19. Corporal punishment shall be permitted in the Lyman school only under such rules and regulations and by such modes as shall be prescribed by the trustees. No such punishment shall be inflicted except by the direction of the superintendent or assistant superintendent in charge, to whom the offence shall be reported, and who shall designate the nature and extent of punishment to be inflicted. In every case of such punishment, a record of the offence and the mode and extent of the punishment shall be made and presented to the trustees at their next meeting. Such punishment shall not be inflicted until the expiration of twenty-four hours after the same has been authorized as aforesaid, and no inmate shall be subjected to such punishment more than once in one day.

Discharge.
1855, 442, § 12.
G. S. 75, § 14
P. S. 89, § 45.
1889, 123.
R. L. 86, § 44.
1908, 639, § 3.
1911, 566,
§§ 1, 3.
1 Op. A. G. 273,
305.

SECTION 20. The trustees may discharge and return to his parents, guardian or protector any boy who, in their judgment, is physically or mentally unfit to remain in the Lyman school or industrial school for boys, and they shall discharge and return to her parents, guardian or protector, any girl who, in their judgment, ought for any cause to be removed from the industrial school for girls. In such case the trustees shall make an entry upon their records of the name of such boy or girl, the person to whom he or she was returned, the date when he or she was discharged from the custody of the school and a statement of the reasons for his or her discharge. They shall forthwith transmit to the court of commitment a copy of such record signed by their secretary.

Parole.
Placing
children.
1895, 428,
§§ 3, 4.
R. L. 86, § 36.
1904, 363, § 2
1908, 639, § 3.
1911, 566,
§§ 1, 3
1919, 350, § 87.
195 Mass. 187.
1 Op. A. G. 112,
226.

SECTION 21. They may release on parole, and may, subject to section eighteen of chapter one hundred and twenty-one, place children in their custody in their usual homes or in any situation or family which has been investigated and approved by the trustees. They may employ agents for investigating places and for visiting children, and immediately on placing such children shall give notice to the department of public welfare of the name of each child so placed and of the name and residence of the person to whose care he is intrusted. They may, at any time until the expiration of the period of commitment, resume the care and custody of children released on parole and recall them to the school to which they were originally committed; and the trustees shall place children in families or

12 homes of the religious belief of such children, but, if this be impracticable,
13 then due regard shall be had to the locality, and, if practicable, the home
14 shall be such that the children shall have the opportunity to attend re-
15 ligious worship of their own belief.

1 SECTION 22. They may act as guardians for any boy or girl in their
2 charge under twenty-one who has neither parent living nor guardian, with
3 all the power and authority conferred by chapter two hundred and one,
4 except that when a guardian is appointed, the powers herein conferred
5 shall cease.

Trustees may
be guardians
of children
1855, 112, § 18.
1865, 184, § 2.
P. S. 89, § 46
R. L. 86, § 45.

1915, 113, § 3.

1 SECTION 23. The trustees shall make earnest efforts to induce boys
2 and girls, in their charge on parole, to save some portion of their earnings
3 which, under the direction of the trustees, shall be placed in savings
4 banks or savings departments of trust companies and held by them for
5 the benefit of the ward, or when deemed necessary, expended in his be-
6 half, or by direction of the trustees applied on liabilities incurred by
7 him. Unless a different agreement is made by the trustees with the
8 ward, these deposits shall be paid to him when he becomes twenty-one,
9 or to his legal representatives if he dies at any time before such pay-
10 ment.

Savings by
children on
parole.
1915, 113, § 4.
1924, 78.

1 SECTION 23A. Annually on or before November thirtieth, the trus-
2 tees shall pay to the state treasurer all unclaimed money held by them
3 under the provisions of the preceding section or otherwise for the benefit
4 of any former ward of the trustees whose whereabouts are then unknown
5 to them and have been unknown for seven years subsequent to his be-
6 coming of age. At the time of so paying over any such money, the
7 trustees shall certify to the comptroller the amount of such money then
8 held for the benefit of each former ward, his full name, age, if known,
9 and last known address, the names of his parents, if known, and such
10 further information as they deem relevant; and said comptroller shall
11 make and keep a record thereof.

Disposition of
such savings
if unclaimed.
1927, 241, § 1.

1 SECTION 24. They may expend any money given for the purpose in
2 erecting houses or other buildings on the land of the commonwealth at
3 Lancaster, for increasing the accommodation of the industrial school,
4 if the plans therefor are first approved by the governor and council.

Expenditure of
gifts by
trustees.
G. S. 75, § 26.
P. S. 89, § 48.
R. L. 86, § 47.

1 SECTION 25. The provisions of this chapter relative to the Lyman
2 school, industrial school for boys or industrial school for girls shall extend
3 to boys and girls committed by authority of the courts or magistrates of
4 the United States.

Children com-
mitted by
United States
courts.
1866, 274

P. S. 89, § 37.

1887, 426, § 2.

R. L. 86, § 35.

1908, 639, § 3.

1 SECTION 26. Whoever aids or assists an inmate of the Lyman school,
2 industrial school for boys or industrial school for girls to escape or at-
3 tempt to escape shall be punished by a fine of not more than five hundred
4 dollars or by imprisonment for not more than two years.

Aiding in
escape
penalized.
1918, 257,
§ 307.

1919, 5.

1920, 2.

CHAPTER 121.

POWERS AND DUTIES OF THE DEPARTMENT OF PUBLIC WELFARE,
AND THE MASSACHUSETTS HOSPITAL SCHOOL.

SECT.	SECT.
1. Definitions.	DUTIES RELATIVE TO HOMESTEADS.
POWERS AND DUTIES OF DEPARTMENT.	23. Duties.
2. Certain powers and duties of the commissioner.	24. Taking, etc., and development of land.
3. Certain powers and duties of the advisory board. Meetings.	25. Sale of such land. Disposition of proceeds.
4. Rules, etc.	26. Suggestions to planning boards, etc.
5. Commissioner and advisory board may assume certain duties of trustees of institutions, if governor so directs.	27. Annual report.
6. Supervision of state institutions, etc.	MASSACHUSETTS HOSPITAL SCHOOL AND HOSPITAL FOR STATE MINOR WARDS.
7. Visitations.	28. Management of Massachusetts hospital school.
8. Duties relative to certain state charges.	29. Powers and duties of trustees.
9. Interinstitutional transfers.	30. Appointment of officials and assistants.
10. Removal of certain persons to places of settlement.	31. Admissions, payment of charges for support of children, etc.
11. Names and history of such persons to be recorded, etc.	32. Inspection of school. Annual report.
12. Removal of infected persons, etc.	33. Treasurer's accounts open to inspection by trustees.
13. Admission to the state infirmary of persons affected with certain incurable diseases. Expense of maintenance, how paid.	34. Hospital for state minor wards.
14. Inmates of institutions, correspondence with department, etc.	35. Management of hospital. Admission of patients.
15. Sick juvenile offenders may be sent to state infirmary.	36. Use of land, buildings and farm products by hospital and school.
16. Annual visits to children placed out, etc.	37. Patients not to be sent to hospital till sufficient accommodations are provided.
17. [Repealed.]	GENERAL PROVISIONS.
18. [Repealed.]	38. Approval of certain plans, and advice to boards of public welfare, etc.
19. [Repealed.]	39. Forms for statistical returns.
20. Advice to persons conducting wayfarers' lodges or public lodging houses.	40. Trustees of institutions to make annual inventory.
21. Reports of officers of such lodges and houses.	41. Banks to give information as to deposits. Penalty.
22. Annual report.	42. Approval and payment of accounts against commonwealth on account of certain poor, sick and dependent persons.
BOARDING HOMES FOR AGED PERSONS.	
22A. Boarding homes for aged persons defined and regulated. Penalty.	

Definitions.
1914, 606, § 1.
1927, 45.

SECTION 1. The following words as used in this chapter shall have the following meanings:

"Board", the advisory board of the department of public welfare.

"Commissioner", the commissioner of public welfare.

"Department", the department of public welfare.

"Public lodging house", every building not licensed as an inn, having a capacity for housing ten or more persons, where persons are lodged without charge or at the rate of fifty cents or less for a day of twenty-four hours, or in return for any work, service or value rendered.

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10 "Wayfarers' lodge", every building, lodge, enclosure or establish-
 11 ment, whether under public or private management, where wayfarers,
 12 tramps, wanderers, needy persons or persons out of work are habitually
 13 fed or provided with a place to sleep.

POWERS AND DUTIES OF DEPARTMENT.

1 SECTION 2. The commissioner shall have charge of the administra-
 2 tion and enforcement of all laws which it is the duty of the department
 3 to administer and enforce.

Certain powers and duties of the commissioner.

1919, 350, § 89.

1 SECTION 3. The board shall assist the commissioner in the work of
 2 the department. It shall keep informed of the public interests with
 3 which the department is charged, and of the administration thereof,
 4 shall study and investigate questions arising in connection therewith,
 5 and shall consider, formulate and recommend such proposals as may
 6 seem feasible for the furtherance of the work of the department and of
 7 the public welfare. It shall advise with the commissioner concerning
 8 the policies of the department, and shall make recommendations concern-
 9 ing the service or administration of any division thereof. The board
 10 shall meet at least once a month, and at such other times as it may
 11 determine by its rules, and when requested by the commissioner or by
 12 any three members.

Certain powers and duties of the advisory board Meetings. 1919, 350, § 90.

1 SECTION 4. The commissioner may prepare and present for the
 2 approval of the board rules and regulations governing the conduct of
 3 the department and any action which may legally be taken under its
 4 authority, and such rules and regulations shall take effect upon approval
 5 by a majority of the board, and at such time as it by vote shall fix. Any
 6 person objecting to any such rule or regulation may submit his objec-
 7 tion to the commissioner, in writing, who shall refer the same to the
 8 board, which may hear the said person and revise, amend or affirm the
 9 rule or regulation. At least once in each year the question of revising
 10 the rules and regulations of the department shall be brought before the
 11 board by the commissioner at a regular meeting. Rules and regulations
 12 effective under the provisions of this section may be revised, amended
 13 or annulled in the same manner in which they were originally adopted.

Rules, etc. 1863, 240, § 4. 1879, 291, § 7. P. S. 79, § 3. R. L. 84, § 3. 1919, 350, § 94.

1 SECTION 5. When so directed by the governor the commissioner and
 2 board may assume and exercise the powers and perform the duties of
 3 the board of trustees of any institution under the supervision of or
 4 placed in the department, in any matter relative to the management
 5 and control thereof, except in case of trust funds vested in any board
 6 of trustees.

Commissioner and advisory board may assume certain duties of trustees of institutions, if governor so directs.

1879, 291, § 4.
 P. S. 79, § 2.
 1898, 433, § 24.

1901, 291.
 R. L. 84, § 2.
 1904, 446, § 12.

1908, 598.
 1919, 350, § 93.

1 SECTION 6. The department shall have general supervision of the
 2 state infirmary, the Lyman school for boys, the industrial school for
 3 girls, the industrial school for boys, and the Massachusetts hospital
 4 school; and may delegate any of its powers and duties to and execute
 5 any of its functions by agents appointed for the purpose.

Supervision of state institutions, etc. 1866, 198, § 3. 1879, 291, § 3, 4.

P. S. 79, § 2.
 1884, 323, § 1.
 1887, 264.
 1895, 428, §§ 1, 2.

1898, 433, § 24.
 1901, 291.
 R. L. 84, § 2.
 1904, 446, § 12.

1907, 226.
 1908, 598-639, § 6.
 1919, 350, § 87.
 2 Op. A. G. 194.

Visitations.
 1831, 342, § 2.
 G. S. 71, § 3.
 1870, 359,
 §§ 1, 2.
 1877, 195, § 2.
 1879, 201,
 §§ 1, 3, 5.
 P. S. 79, § 5.
 1897, 374, § 3.
 1908, 396, § 2.
 1900, 215,
 R. L. § 81, § 4;
 1905, 285,
 1909, 379,
 1914, 606, § 2
 1919, 350, § 87.
 1928, 155, § 34.

SECTION 7. The department shall, at least once a year, visit all places where persons who have no legal settlement are supported, and ascertain from actual examination and inquiry whether the laws relative to such persons are properly observed, particularly in relation to such as are able to labor; and shall give such directions as will insure correctness in the returns required in relation to persons aided; and may use necessary means to collect information relative to their support. It shall visit the state infirmary and the Lyman school for boys, for the purpose of inspection, at least once a month, and, by women appointed for the purpose, may at all hours of the day or night have access to the portions of said infirmary occupied by the women or children there maintained at public expense, and may require from the officers of said institutions information concerning the condition and treatment of the inmates. It shall visit all infirmaries maintained in towns. It shall visit and inspect, at least once a year, every wayfarers' lodge and every public lodging house in the commonwealth, and for this purpose may enter upon any premises where such lodge or lodging house is maintained at any time of the day or night. It shall upon the request or with the consent of a charitable corporation which, under section twelve of chapter one hundred and eighty, is required to make an annual report to said department, at least once a year, visit and inspect the institution or investigate the work of such corporation. It may visit and inspect all places where persons are supported in families by towns.

Duties relative to certain state charges.
 1867, 209, § 4.
 P. S. 79, § 4
 1898, 435, § 24
 R. L. 84, § 4
 1909, 208
 1919, 350, § 87.
 1928, 155, § 35.
 1931, 256, § 1.

SECTION 8. It shall ascertain whether any inmates of state institutions under its supervision have settlements in the commonwealth, and shall cause laws relative to the support by towns of sane state charges to be enforced, and may prosecute cases of illegitimacy if the mother has no settlement in the commonwealth. It shall also prepare, and annually mail, on or before April first, to the clerk of the board of public welfare of each town, a form for returns to be made by such boards under sections thirty-three and thirty-four of chapter one hundred and seventeen, and from said returns it shall prepare tables of persons supported by towns.

Interinstitutional transfers.
 1869, 255
 G. S. 71, § 7.
 1863, 240, § 4.
 1872, 45, § 3
 1879, 291, § 3.
 P. S. 79,
 §§ 9, 12.
 1887, 367,
 R. L. 84,
 §§ 8, 10
 1919, 350, § 87.
 1921, 486, § 28
 1928, 155, § 36
 192 Mass. 211.
 116 Mass. 570.

SECTION 9. It may transfer inmates from one state charitable institution to another, or send them to any state or place where they belong, if public interest or the necessities of the inmates so require. It may from time to time select for support at the state farm any state charges whose labor, in domestic or other service at said institution, may contribute toward the cost of their support, or whose maintenance at the same may for special reasons be considered expedient, and in an emergency said department may transfer any inmates of the state infirmary to said institution, there to be supported while the emergency continues. The superintendent of the state farm shall receive and properly support all persons admitted to it under this section.

Removal of certain persons to places of settlement
 1860, 83, § 1.
 P. S. 79, § 11
 R. L. 84, § 11.
 1903, 231
 1919, 350, § 87.

SECTION 10. If a person, who has received a certificate described in section seven of chapter one hundred and twenty-two desires to be sent to any state or place where he has a legal settlement, or to friends willing to support him, the department may remove said person, if in its judgment it is for the interest of the commonwealth and of said person.

1 SECTION 11. The names of persons so removed and the usual details
 2 of their history shall be entered upon the register of the infirmary, and
 3 shall be recorded by the superintendent as discharged by the depart-
 4 ment for the purpose of removal from the commonwealth.

1860, § 3, § 2.

P. S. 79, § 15.

R. L. 84, § 12.

Names and
 history of
 such persons
 to be recorded,
 etc.

1 SECTION 12. The department may, if expedient, remove any person
 2 infected with a disease dangerous to the public health, who is main-
 3 tained or liable to be maintained by the commonwealth, to the state
 4 infirmary, or may provide such place of reception for such person as is
 5 judged best for his accommodation and the safety of the public, which
 6 place shall be subject to the regulations of the department, and it shall
 7 have the same authority to remove such persons thereto as is conferred
 8 upon boards of health by section ninety-five of chapter one hundred
 9 and eleven, and any expenses incurred in carrying out this section may
 10 be paid from the annual appropriation for expenses in connection with
 11 smallpox and other diseases dangerous to the public health.

Removal of
 infected
 persons, etc.
 1904, 395.
 1909, 391.
 1919, 350, § 87
 1928, 155, § 38
 4 Op. A. G. 474.

1 SECTION 13. Any person who has been a resident of the common-
 2 wealth for not less than two years and is affected with any incurable
 3 disease, except mental defect or leprosy, may be admitted to the state in-
 4 firmary; provided, that his admission shall be only upon the certificate
 5 of the board of health of the town from which he is sent. The depart-
 6 ment may make rules and regulations for such admission and to facilitate
 7 the operation of this section. The expense of the maintenance of such a
 8 patient shall be paid by him or by any person or kindred bound by law
 9 to maintain him; if he and such person or kindred are unable to pay for
 10 his maintenance the town where the patient is found to have a legal
 11 settlement shall be liable to the commonwealth for his support, or, if
 12 the patient is without settlement in this commonwealth, the expense of
 13 his maintenance shall be paid by the commonwealth.

Admission to
 the state
 infirmary of
 persons
 affected with
 certain
 incurable
 diseases.
 Expense of
 maintenance,
 how paid.
 1919, 304.

1 SECTION 14. Inmates of institutions under the supervision of the de-
 2 partment shall be allowed, subject to its regulations, to write freely to it,
 3 and letters so written shall be forwarded, unopened, by the superintend-
 4 ent or person in charge of the institution to the department for such
 5 disposition as it deems right, and the department may send any letter or
 6 other communication to any inmate of any such institution whenever it
 7 considers it proper.

Inmates of
 institutions,
 correspondence
 with depart-
 ment, etc.
 1906, 341.

1 SECTION 15. The department may send to the state infirmary any
 2 juvenile offender in its custody, or, upon the request of the trustees of
 3 the Massachusetts training schools, any juvenile offender in their custody,
 4 who is in need of hospital treatment. A juvenile offender so transferred
 5 shall be subject to the regulations of the state infirmary and shall be in
 6 the exclusive custody of the superintendent and trustees thereof until
 7 they determine that he has sufficiently recovered to be returned to the
 8 place of his former custody. Thereupon, they shall so certify upon the
 9 warrant of commitment and give written notice to the department, which,
 10 upon receipt of such notice, shall cause such juvenile offender to be re-
 11 turned to its custody, or, if he was originally transferred from the Lyman
 12 school or either industrial school, to be returned to the custody of the
 13 trustees of the Massachusetts training schools, there to remain pursuant
 14 to the original sentence in each case.

Sick juvenile
 offenders may
 be sent to
 state infirmary.
 1899, 193.
 R. L. 86, § 49.
 1908, 639, § 3.
 1919, 350, § 87.

Annual visits
to children
placed out, etc.
1879, 329, § 2.
1871, 379, § 2.
1879, 291, § 3.
P. S. 89, § 53.
R. L. 86, § 50.
1919, 350, § 87.

SECTION 16. The department shall at least once a year visit all minor children who are supported at the expense of any town. It shall inquire into the condition of such children, and make such other investigations relative thereto as it may think fit; and for this purpose it may have private interviews with such children at any time.

1931, 426, § 23.

SECTION 17. [REPEALED, 1931, 426, § 24.]

SECTION 18. [REPEALED, 1931, 426, § 24.]

SECTION 19. [REPEALED, 1931, 426, § 24.]

Advice to
persons
conducting
wayfarers'
lodges or
public lodging
houses.
1914, 606, § 3.
1919, 350, § 87.

SECTION 20. It may consult with and advise individuals or officers conducting any wayfarers' lodge or public lodging house regarding the conduct of the same and the best methods of serving the public welfare thereby, and may transmit a statement of its findings as a result of its inspection or consultation to any person, officer or board properly interested therein.

Reports of
officers of
such lodges
and houses.
1914, 606, § 4.
1919, 350, § 87.

SECTION 21. The department may require of all persons, officers or boards conducting a wayfarers' lodge or a public lodging house such reports of facts and circumstances relative thereto, its inmates and its administration, as the department deems advisable.

Annual report.
1851, 342, § 6.
1857, 49, § 1.
G. S. 71, § 9.
1863, 240.
§§ 3, 5.
1867, 209, § 4.
1879, 291.
§§ 1, 3, 7.
P. S. 79.
§§ 3, 4.
1898, 433, § 24.
1900, 215.
R. L. 84.
§§ 3-5.
1907, 271, § 1.
1909, 298.
1914, 606, § 5.
1919, 350, § 8.
1931, 394,
§ 130.

SECTION 22. The commissioner shall make an annual report containing, in addition to other matters required by law, a concise review of the work of the several institutions under the supervision of the department for the preceding fiscal year and such suggestions and recommendations as to said institutions and as to the general interests of all persons under its supervision as he considers expedient, together with information embodying the experience of this and other countries relative to the best and most successful methods of caring for such persons as come under its supervision. The report shall include a statement of the condition and management of infirmaries maintained in towns with its suggestions and recommendations relative thereto, together with the most important information obtained from the returns made by boards of public welfare under sections thirty-three and thirty-four of chapter one hundred and seventeen, and a detailed report of its inspection and supervision of wayfarers' lodges and public lodging houses.

BOARDING HOMES FOR AGED PERSONS.

Boarding
homes for
aged persons
defined and
regulated.
Penalty
1929, 305.

SECTION 22A. The department may license any suitable person to maintain a boarding home for aged persons, may prescribe the conditions under which such a license may be granted and may make, and from time to time alter and amend, rules and regulations for the government of such homes. Every license issued under authority of this section shall be for the term of two years, but may be revoked by the department at any time for cause. The department shall have supervision of all such homes and may visit and inspect the same at any time and examine their accounts. Any person, other than a charitable corporation hereinafter referred to, proposing to enter into a contract to provide care incident to advanced age, for life or for more than five years, for any person over

12 sixty years of age and not a member of his immediate family shall report
 13 that fact immediately to the department and shall, before entering into
 14 or receiving any consideration under such contract, deposit with the state
 15 treasurer a bond in a sum and in an amount satisfactory to the depart-
 16 ment, with sureties approved by the state treasurer, or, in lieu thereof,
 17 such amount of money or securities as the department determines, as
 18 security for the proper care as aforesaid of such person. Any person who
 19 maintains a boarding home for aged persons without holding a license
 20 hereunder, and any person licensed hereunder who violates any provision
 21 hereof, shall for a first offence be punished by a fine of not more than five
 22 hundred dollars and for each subsequent offence by imprisonment for not
 23 more than two years. Whoever, under his own name or under any other
 24 name or style, except a charitable corporation duly incorporated under
 25 the laws of this commonwealth, maintains a home in which three or more
 26 persons over the age of sixty years and not members of his immediate
 27 family are, for hire, gain or reward, by contract as aforesaid or otherwise,
 28 provided with care incident to advanced age shall be deemed to maintain
 29 a boarding home for aged persons for the purposes hereof.

DUTIES RELATIVE TO HOMESTEADS.

1 SECTION 23. The commissioner and board shall investigate defective
 2 housing, the evils resulting therefrom and the work being done in the
 3 commonwealth and elsewhere to remedy them, study the operation of
 4 building laws and laws relating to tenement houses, encourage the
 5 creation of local planning boards, gather information relating to town
 6 planning for the use of such boards, and promote the formation of
 7 organizations intended to increase the number of wholesome homes for
 8 the people.

Duties.
 1913, 395, § 1.
 1919, 350,
 §§ 87, 90.

1 SECTION 24. The commissioner and board may, with the consent of
 2 the governor and council, take by eminent domain or purchase in behalf
 3 of and in the name of the commonwealth tracts of land for the purpose
 4 of relieving congestion of population and providing homesteads or small
 5 houses and plots of ground for mechanics, laborers, wage earners of any
 6 kind, or others, citizens of the commonwealth; and may hold, improve,
 7 subdivide, build upon, sell, repurchase, manage and care for such land
 8 and the buildings constructed thereon, in accordance with such terms
 9 and conditions as they may determine.

Taking, etc.,
 and develop-
 ment of land.
 1917, 310, § 1.
 1919, 350,
 §§ 87, 90.

1 SECTION 25. The commissioner and board may sell such land or
 2 any parts thereof, with or without buildings thereon, for cash or upon
 3 such instalments, terms and contracts and subject to such restrictions
 4 and conditions as they may determine, and may take mortgages upon
 5 said land, with or without buildings thereon, for such portion of the
 6 purchase price and upon such terms as they deem advisable, but no
 7 tract of land shall be sold for less than its cost, including the cost of any
 8 buildings thereon. All proceeds from the sale of land and buildings or
 9 other sources shall be paid to the commonwealth.

Sale of
 such land.
 Disposition
 of proceeds.
 1917, 310, § 1.
 1918, 294,
 1919, 350,
 §§ 87, 90.

1 SECTION 26. The commissioner and board shall call the attention of
 2 mayors and city councils and selectmen in towns having planning boards,
 3 to the provisions of sections seventy to seventy-two, inclusive, of chapter
 4 forty-one; and it shall furnish information and suggestions from time

Suggestions
 to planning
 boards, etc.
 1913, 494, § 3.
 1914, 283, § 2.
 1919, 350,
 §§ 87, 90.

4 Op. A. G.
153.

to time to city governments, selectmen and planning boards, which may
to promote the purposes of said sections and of section twenty-
three of this chapter.

Annual report.
1913, 595, § 3.
1919, 350,
§§ 8, 90.

SECTION 27. The commissioner shall make an annual report of the
acts of the commissioner and board under the four preceding sections.

MASSACHUSETTS HOSPITAL SCHOOL AND HOSPITAL FOR STATE MINOR
WARDS.

Management
of Massachu-
setts hospital
school.
1904, 446,
§§ 1, 5
1907, 226.

SECTION 28. The Massachusetts hospital school shall be maintained
for the education and care of crippled and deformed children of the
commonwealth. The board of trustees of said school shall have the
same powers and shall be required to perform the same duties in the
management and control of the school as are vested in and required of
the trustees of the various state hospitals under chapter one hundred
and twenty-three, so far as applicable.

Powers and
duties of
trustees.
1904, 446, § 3.
1922, 306.

SECTION 29. The trustees shall be a corporation for the purpose of
taking and holding, by them and their successors, in the name of the
commonwealth, and in accordance with the terms thereof, any grant
or devise of land or any gift or bequest of money or other personal prop-
erty made for the use or benefit of the school, its inmates, former inmates
or graduates or any association thereof, or for the use or benefit of state
minor wards assigned to the care of the trustees under sections thirty-
four to thirty-seven, inclusive, and for the purpose of preserving and
investing the proceeds thereof in notes or bonds secured by good and
sufficient mortgages or other securities, with all the powers necessary
to effect said purposes. For said purposes the trustees may employ
such agencies as they may from time to time determine to be wise and
proper, including any trust company or other corporation authorized by
law to administer trusts, and may from funds received as aforesaid or
the income thereof pay such expenses as may be necessary for the wise
administration of such gifts or trusts, or may, with the approval of the
governor and council, delegate any powers conferred by this section
upon any such trust company or corporation. In the use, management
and administration of such gifts or trusts, the trustees or their agents
shall in their discretion so act as most effectively to aid the beneficiaries
in accordance with the terms of the gift or trust, and when so acting
their judgments and determinations in extending or denying aid or
benefit to any individual shall be conclusive and final. No trustee shall
be answerable for the use of any money or property received by any
beneficiary or for the default or neglect of any co-trustee, or of any agent
employed hereunder, or of any corporation to which power is delegated
or transferred as herein authorized.

Appointment of
officers and
assistants.
1904, 446, § 8.
1931, 301, § 91

SECTION 30. The trustees may appoint all persons necessary for the
proper administration of the affairs of the school, and may incur all
expenses necessary for the maintenance thereof.

Admissions,
payment of
charges for
support of
children, etc.

SECTION 31. The trustees may, upon written application of any child
entitled to receive the benefit of said school, or upon such application
by a parent, guardian or person having the legal custody of the child,

4 or by any state or municipal department, board or officer having such
 5 custody, admit such child to said school, subject to such rules and
 6 regulations as the trustees may prescribe, and the trustees may discharge
 7 such child from the school. The charges for the support of the children
 8 of the school who are of sufficient ability to pay for the same, or have
 9 persons or kindred bound by law to maintain them, shall be paid by such
 10 children, such persons or such kindred at a rate determined by the trust-
 11 tees. The board of such children as have a legal settlement in a town
 12 shall be paid by the town at a rate not exceeding six dollars a week,
 13 notice of the reception of the children by the trustees being given by
 14 them to the board of public welfare of the town as soon as practicable;
 15 and the tuition and board of those having no such settlement shall be
 16 paid by the commonwealth. The trustees may receive other children
 17 having no means to pay for tuition and support, and the tuition and
 18 board of all such children shall be paid by the commonwealth. The
 19 attorney general and district attorneys shall upon request bring action
 20 to recover said charges in the name of the state treasurer. The admis-
 21 sion of a child as aforesaid to the school shall be deemed a commitment
 22 of the child to the care and custody of the commonwealth, and the
 23 trustees, with the approval of the department, may detain the child at
 24 said school during its school age, or for such longer period during its
 25 minority as in the opinion of the trustees will tend to promote the
 26 education and welfare of the child.

1904, 446, § 9.
 1909, 497, § 1.
 1924, 314.
 1928, 155, § 39.

1 SECTION 32. There shall be a thorough inspection of the school by
 2 two of the trustees thereof monthly, and by a majority of them quarterly,
 3 and by all of them semi-annually, and after each inspection a written re-
 4 port of the state of the institution shall be drawn up. The treasurer shall
 5 present his report at said annual meeting and the trustees shall then audit
 6 it. The commissioner shall make an annual report of the acts of the
 7 trustees.

Inspection of
 school. Annual
 report
 1904, 446, § 10
 1919, 350, § 8

1 SECTION 33. The accounts and books of the treasurer shall at all
 2 times be open to the inspection of the trustees.

1904, 446, § 11.

Treasurer's
 accounts
 open to
 inspection by
 trustees.

1 SECTION 34. The trustees of the Massachusetts hospital school,
 2 subject to supervision by the department, may construct from time to
 3 time, as appropriations are made by the general court, and thereafter
 4 may maintain, suitable buildings for the hospital care and treatment of
 5 such state minor wards as may be assigned to their care by the said
 6 department.

Hospital
 for state
 minor wards
 1920, 597, § 1.

1 SECTION 35. The said trustees shall have the same powers and shall
 2 perform the same duties in the management and control of the said hos-
 3 pital for state wards as are vested in and required of them in their ad-
 4 ministration and control of the hospital school under sections twenty-
 5 eight to thirty-three, inclusive, so far as applicable. No state ward who
 6 is insane, feeble minded, epileptic, or otherwise unfit, shall be admitted
 7 to or received at the said hospital, nor shall any state ward so be admitted
 8 or received without the approval of the trustees and the written order
 9 of an authorized agent of the department, nor released from said hospital
 10 without written notice to the said department.

Management
 of hospital
 Admission of
 patients
 1920, 597, § 2.

Use of land, buildings and farm products by hospital and school. 1920, 597, § 2.

SECTION 36. Any land acquired or buildings erected for the Massachusetts hospital school or the hospital for state minor wards, unless it is otherwise expressly provided, and also any farm product raised at the said hospital school, or at the said hospital, may, as the trustees shall from time to time determine, be used either interchangeably or exclusively for said hospital school or said hospital, or in common for the benefit of both institutions, and for the care and maintenance of their respective inmates, officers, employees and attendants. Such officers, employees and attendants shall, as required by the trustees, render service to either or both of the said institutions. Any sewer, heating, ventilating, water or similar plant or system may so be used, separately or jointly.

Patients not to be sent to hospital till sufficient accommodations are provided. 1920, 597, § 4.

SECTION 37. No state minor wards shall be assigned to the said hospital until the commissioner, with the approval of the governor and council, finds that sufficient new building accommodations have been constructed to provide for the number thus to be assigned.

GENERAL PROVISIONS.

Approval of certain plans, and advice to boards of public welfare, etc. 1905, 192, 1907, 271, § 2, 1919, 350, § 87, 1931, 394, § 131.

SECTION 38. The department shall inspect and approve all plans and specifications for new buildings to be used by state institutions under its supervision, and for the extension or alteration, involving an expenditure of more than two thousand dollars, of existing buildings which are to be or are already so used, before such new buildings are erected or such extensions or alterations made. It may advise with and assist boards of public welfare in the preparation of plans for infirmary buildings, the expenses to be paid from the appropriation for expenses of the department.

Forms for statistical returns. G. S. 71, § 5, 1864, 307, § 6, P. S. 79, § 6, R. L. 84, § 6, 1919, 350, § 87, 1928, 155, § 40.

SECTION 39. The department shall prescribe the forms for statistical returns to be made by the superintendent of the state infirmary in his annual report, as to the sex, age and birthplace of the inmates, and the places from which they were sent. It shall also prescribe the form of and provide towns with blanks for the certificate required by section seven of chapter one hundred and twenty-two. Such certificate shall contain such inquiries as to the age, parentage, birthplace and former residence of and other facts relative to the person as the department considers necessary, to which true answers shall be given before the person is received into the infirmary.

Trustees of institutions to make annual inventory. 1859, 177, § 2, G. S. 5, § 11, P. S. 79, § 7, R. L. 84, § 7, 1905, 211, § 11, 1911, 154.

SECTION 40. The trustees of every institution under the supervision of the department shall annually cause an accurate inventory of the stock and supplies on hand, and the value and amount thereof at the institution, to be made on the thirtieth day of November, and to be sent to the department on or before the third Wednesday in December.

Banks to give information as to deposits. Penalty. §§ 1, 3, G. S. 57, §§ 151, 153, 1876, 293, § 25, P. S. 116, § 43, 1893, 317, § 48, 1898, 125, § 6, 435, § 24, R. L. 84, § 15, 1928, 155, § 41.

SECTION 41. A treasurer of a savings bank, national bank, trust company, co-operative bank, benefit association, insurance company or safe deposit company who, upon written request, signed by an officer of the department, unreasonably refuses to inform him of the amount deposited in the corporation or association to the credit of a person named in such request who is a charge upon the commonwealth, or who wilfully renders false information in reply to such request, shall forfeit fifty dollars, to the use of the commonwealth.

1 SECTION 42. All accounts against the commonwealth for allowances
 2 to counties, cities and towns on account of moneys paid for which they
 3 are entitled to reimbursement by the commonwealth under the provisions
 4 of section five of chapter one hundred and two, section one hundred and
 5 sixteen of chapter one hundred and eleven, sections seventeen and
 6 eighteen of chapter one hundred and seventeen, section six of chapter one
 7 hundred and eighteen and sections twelve, fifteen and eighteen of chapter
 8 one hundred and twenty-two shall be rendered to the department on or
 9 before the first day of October annually, and shall be for the twelve
 10 months ending on the thirtieth day of June preceding, and, if rendered
 11 as aforesaid, approved by the department and certified by the comptroller
 12 but not otherwise, shall be paid by the commonwealth; provided, how-
 13 ever, that such accounts for the twelve months aforesaid for allowances
 14 to a town, if rendered at any time prior to the sixtieth day after the close
 15 of the current fiscal year of the town, may be received and, in the discre-
 16 tion of the department and upon certification by the comptroller, be
 17 allowed and paid when an appropriation therefor has been made. Failure
 18 to comply with the rules and regulations of the department shall be
 19 ground for disapproval of any account.

Approval and
 payment of
 accounts
 against com-
 monwealth on
 account of
 certain poor,
 sick and
 dependent
 persons.
 1926, 241, § 1,
 1931, 389.

CHAPTER 122.

STATE INFIRMARY.

SECT.	SECT.
1. Powers and duties of trustees, etc. Annual reports.	13. Cities and towns not to send dangerous insane persons.
2. Rules, etc.	14. Cities and towns to care for unsettled dependent persons, when.
2A. Trustees to be corporation for certain purposes. Powers and duties.	15. Transportation expenses of certain persons sent to infirmary. State reimbursement, when.
3. Powers of trustees as to inmates, etc.	16. Removal of sick persons. Penalty.
4. Superintendent. Bond, etc.	17. Care of certain sick persons. Penalty.
5. Duties of resident physician.	18. Reimbursement to cities and towns for care of certain sick poor, etc.
6. Accounts of infirmary.	19. [Repealed.]
7. Superintendent to receive certain persons.	20. Commitment of insane inmates.
8. Contracts for employment of inmates, etc.	21. Certain persons to be deported.
9. [Repealed.]	22. [Repealed.]
10. Liability of towns, etc., for support of certain inmates.	23. Punishment for escape.
11. Liability of kindred for support of such persons.	24. Complaints for escapes.
12. [Repealed.]	25. Jurisdiction of certain courts.

1 SECTION 1. The trustees of the state infirmary, in this chapter called
 2 the trustees, shall hold meetings monthly at the state infirmary. One
 3 trustee shall visit the institution at least once a week. The trustees shall
 4 appoint a superintendent of the state infirmary, who, with the approval
 5 of the governor and council, may be the resident physician, who shall hold
 6 office at the pleasure of the trustees, and whose compensation shall be
 7 fixed by them, with the approval of the governor and council. All other
 8 officers and employees shall be appointed by the superintendent, subject
 9 to the approval of the trustees. The trustees shall not employ one of their

Powers and
 duties of
 trustees, etc.
 Annual reports.
 1852, 275,
 §§ 5, 6, 10
 1853, 189, § 1.
 1857, 40, § 1.
 1879, 177, § 2.
 G. S. 71,
 §§ 32, 34, 54.
 1864, 288, § 11.
 1876, 179,
 §§ 1-5
 1879, 291,
 §§ 7, 9, 10.

P. S. 86,
 §§ 13, 14, 16,
 17, 19, 20, 40,
 1883, 278,
 1884, 297,
 §§ 2, 3.

own members. The commissioner of public welfare shall make an annual report of the condition of the institution, with a copy of the inventory required by section forty of chapter one hundred and twenty-one.

1891, 299
 R. L. 85, § 2.
 1905, 211, § 1.

1911, 104
 1918, 257, § 476
 1919, 5; 350, §§ 8, 87.

1920, 2.
 1924, 259, § 1.
 1931, 301, § 92.

Rules, etc.
 1852, 275, § 6.
 G. S. 71, § 32.
 1879, 291,
 §§ 7, 9.

SECTION 2. The trustees shall, with the approval of the governor and council, make rules and regulations for the proper management and government of the state infirmary and shall see to their enforcement.

P. S. 86, § 14. 1884, 297, § 2. R. L. 85, § 3. 1911, 104.

Trustees to be
 corporation for
 certain
 purposes.
 Powers and
 duties.
 1928, 231.

SECTION 2A. The trustees shall be a corporation for the purpose of taking and holding, by them and their successors, in the name of the commonwealth, and in accordance with the terms thereof, any grant or devise of land or any gift or bequest of money or other personal property made for the use or benefit of the state infirmary, its patients or former patients, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other security, with all the powers necessary to effect said purposes. For said purposes the trustees may employ such agencies as they may from time to time determine to be wise and proper, including any trust company or other corporation authorized by law to administer trusts, and may from funds received as aforesaid or the income thereof pay such expenses as may be necessary for the wise administration of such gifts or trusts, or may, with the approval of the governor and council, delegate any powers conferred by this section upon any such trust company or corporation. In the use, management and administration of such gifts or trusts, the trustees or their agents shall in their discretion so act as most effectively to aid the beneficiaries in accordance with the terms of the gift or trust, and when so acting their judgments and determinations in extending or denying aid or benefit to any individual shall be conclusive and final. No trustee shall be answerable for the use of any money or property received by any beneficiary or for the default or neglect of any co-trustee, or of any agent employed hereunder, or of any corporation to which power is delegated or transferred as herein authorized.

Powers of
 trustees as to
 inmates, etc.
 1852, 275, § 7.
 1855, 445, § 3.
 G. S. 71,
 §§ 33, 47
 1879, 291, § 9.
 P. S. 86,
 §§ 13, 33.

SECTION 3. The trustees shall have and exercise the same powers relative to inmates and their property as towns and boards of public welfare have relative to persons supported or relieved by them, and the same powers as said boards to return inmates of the state infirmary to the place or country from which they came.

R. L. 85, §§ 4, 18. 1919, 5.
 1918, 257, § 302. 1920, 2. 1928, 155, § 43.

Superintendant.
 Bond, etc.
 1852, 275, § 5.
 1854, 189, § 2.
 G. S. 71, § 34.
 1876, 179, § 1
 1879, 291, § 10.
 P. S. 86,
 §§ 16, 19.
 R. L. 85, § 6.
 1911, 104.
 1917, 18.

SECTION 4. The superintendent and resident physician may reside with their families at the state infirmary. The superintendent shall receive no other compensation than that provided in section one and no perquisites for his services except as aforesaid; and he shall give bond to the state treasurer for the faithful performance of his duties in such sum as the comptroller may prescribe, and with sufficient surety to the acceptance of said trustees and subject to the approval of the governor.

1920, 546, § 4. 1923, 362, § 71.

1 SECTION 5. The resident physician shall be competent to take charge
2 of insane inmates, and shall have entire charge of and be responsible for
3 the medical treatment of the inmates of the infirmary hospital; shall
4 regulate and control the dietary of and supervise the preparation of the
5 food for the hospital; and, if not himself the superintendent, shall make
6 requisitions upon the superintendent for such food, medicines and neces-
7 saries, other than the ordinary supplies, as in his judgment the require-
8 ments of a well ordered hospital demand.

Duties of
resident
physician.
1876, 179,
§ 1, 4
P. S. 86,
§ 146, 18
R. L. 85, § 8.

1 SECTION 6. All accounts for the maintenance of the state infirmary
2 shall be approved by the trustees thereof, or, if the trustees so vote,
3 by the superintendent or by the chairman or some other member desig-
4 nated by him, and shall be filed with the comptroller and paid by the
5 commonwealth.

Accounts of
infirmary
1854, 189, § 5.
G. S. 71, § 55.
1874, 360, § 2.
P. S. 86, § 41.
R. L. 85, § 25.

1911, 104.

1923, 362, § 72.

1924, 259, § 2.

1 SECTION 7. The superintendent shall receive any person sent with
2 a proper certificate from the department of public welfare, in this chap-
3 ter called the department, or from a board of public welfare, or from the
4 institutions department of the city of Boston, or from some one duly
5 authorized by said board or said department, and shall provide for them
6 under the rules and regulations made under section two.

Superintendent
to receive
certain persons.
1852, 275, § 5.
G. S. 71, § 35.
P. S. 86, § 21.
1891, 84
1897, 395,
§ 3, 4.

R. L. 85, § 7.

1908, 393.

1919, 350, § 87.

1928, 155, § 44.

1 SECTION 8. The superintendent, with the consent of the trustees,
2 may contract with any person for the employment of any inmate of
3 the state infirmary in any kind of lawful labor for such wages or on such
4 terms as the superintendent and trustees approve. If a contract is so
5 made, such inmate shall be discharged from the infirmary, and, if he
6 refuses to accept the employment offered, shall forfeit all claim to sup-
7 port.

Contracts for
employment of
inmates, etc.
1858, 168.
G. S. 71, § 48.
1879, 291, § 9.
P. S. 86, § 34.
R. L. 85, § 19.
1911, 104.
1928, 155, § 45.

1 SECTION 9. [REPEALED, 1931, 426, § 25.]

1 SECTION 10. A town where an inmate of the state infirmary is found
2 to have a legal settlement shall be liable to the commonwealth for his
3 support in like manner as one town is liable to another in like cases;
4 and in such case the department shall adopt the measures relative to
5 notice, removal and recovery of expenses prescribed for towns in like
6 cases.

Liability of
towns, etc.,
for support of
certain inmates
1855, 445, § 4.
1856, 108, § 5.
G. S. 71, § 49.
1875, 94, § 1.
P. S. 86, § 35.

1898, 433, § 24.
R. L. 85, § 20.
1911, 104.

1919, 350, § 87.
1928, 155, § 46.
8 Gray, 455.

2 Op. A. G. 447.
3 Op. A. G. 57.

1 SECTION 11. The kindred liable by law to towns for expenses in
2 supporting such persons shall in like manner be liable to the common-
3 wealth for any expense incurred for such persons; and the department
4 may adopt the same measures and institute like proceedings for the re-
5 covery of such expenses from the kindred so liable as are prescribed for
6 towns in like cases.

Liability of
kindred for
support of
such persons.
1855, 445, § 5.
1856, 108, § 5.
G. S. 71, § 50.
1875, 94, § 1.
P. S. 86, § 36.

1898, 433, § 24.
R. L. 85, § 21.

1919, 350, § 87.
1928, 155, § 47.

2 Op. A. G. 447.

1 SECTION 12. [REPEALED, 1930, 66.]

Cities and towns not to send dangerous insane persons.

SECTION 13. No town shall send to the state infirmary any insane person who would be dangerous if at large.

1854, 437, § 1. P. S. 86, § 24. 1911, 104.
G. S. 71, § 37. R. L. 65, § 13.

Cities and towns to care for unsettled dependent persons, when.

SECTION 14. If the state infirmary be full, towns shall support dependent persons who have no legal settlement at the expense of the commonwealth until notice is given by the superintendent that they can be received. The superintendent shall give such notice by mail to towns according to priority of application.

R. L. 85, § 17. 1911, 104. 1928, 155, § 49.

Transportation expenses of certain persons sent to infirmary State reimbursement, when.

SECTION 15. Towns may at their own expense send to the state infirmary, to be maintained at the public charge, all persons falling into distress therein and having no settlement within the commonwealth. The town shall be reimbursed by the commonwealth, upon bills approved by the department and subject otherwise to the provisions of section forty-two of chapter one hundred and twenty-one, for the expense of transportation of each person having no settlement so sent, for the excess over thirty miles by the usual route, at a rate not exceeding twelve cents a mile.

1879, 291, § 3. 1919, 350, § 87. 1928, 155, § 50.
P. S. 86, § 22. 1923, 177. 105 Mass. 336.
R. L. 85, § 9. 1926, 241, § 7. 2 Op. A. G. 499.
1911, 104.

Removal of sick persons.

SECTION 16. No town officer or agent having the care and oversight of a sick person shall remove or attempt to remove him or cause him to be removed to the state infirmary unless there is reasonable cause to believe that such removal will not injure or endanger his health; provided, that in case of doubt as to the safety of such removal such officer or agent shall obtain a certificate of a competent physician that at the request of such officer or agent he has examined such person, and that in his opinion such person can so be removed without injury or danger to his health; and provided, also, that such removal shall be made whenever ordered by the department. A town officer or agent who violates this section or a physician who gives a false certificate hereunder shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment for not less than three nor more than twelve months, or both.

Care of certain sick persons.

SECTION 17. No town officer shall send to the state infirmary any person infected with smallpox or other disease dangerous to the public health, or, except as provided in the preceding section, any other sick person whose health would be endangered by removal; but all such persons liable to be maintained by the commonwealth shall be supported during their sickness by the town where they are taken sick, and written notice of such sickness shall be given to the department, which may examine the case and, if found expedient, order the removal of the patient; but such notice in the case of sick persons whose health would be endangered by such removal shall be signed by the members of the board of public welfare or by a person appointed by them by special vote, who shall certify, after personal examination, that in their or his opinion such removal at the time of his application for aid would endanger his health. A town officer who knowingly violates this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

Penalty.

1857, 440, § 1-3.
R. L. 85, § 10, 11.
1903, 233.
1911, 104.
1928, 155, § 51.

1855, 445, § 2.
1865, 162, § 1, 3.
1879, 291, § 3.
P. S. 86, § 25, 27.
1885, 211.
R. L. 85, § 14.
1911, 104.
1931, 394, § 132.
225 Mass. 589.
2 Op. A. G. 499.

1 SECTION 18. Reasonable expenses incurred by a town under the
 2 preceding section within five days next before notice has been given as
 3 therein required and also after the giving of such notice and until said
 4 sick person is able to be removed to the state infirmary shall be reim-
 5 bursed by the commonwealth. If the department, after investigation,
 6 deems it expedient as an economy in expenditure and in the interest
 7 of the patient's health, it may authorize reimbursement for aid rendered
 8 after the patient has become able to be so removed, and, in its discretion,
 9 until the patient is able to be discharged. If the department considers
 10 it expedient to order the removal to the state infirmary of a person
 11 whose physical condition is such as to require attendance, reasonable
 12 expenses incurred for such attendance as directed by the department
 13 shall also be reimbursed by the commonwealth. Bills for such support
 14 shall not be allowed unless endorsed with the declaration that, after full
 15 investigation, no kindred able to pay the amount charged have been
 16 found, and that the amount has actually been paid from the town
 17 treasury, nor unless they are approved by the department or by a person
 18 designated by it; and not more than ten dollars and fifty cents a week
 19 shall be allowed for the support of a person in a town hospital, and no
 20 charges of whatever nature in excess of the said ten dollars and fifty
 21 cents a week shall be allowed. Reimbursement by the commonwealth
 22 under the provisions hereof shall be subject to the provisions of section
 23 forty-two of chapter one hundred and twenty-one.

Reimbursement
 to cities and
 towns for care
 of certain sick
 poor, etc.
 1855, 151, § 2;
 445, § 2
 1865, 162, § 2.
 1869, 12
 1879, 291, § 3.
 P. S. 86, § 26.
 1885, 211.
 1891, 153.
 1898, 391.
 R. L. 85, § 15.
 1908, 555.
 1911, 104.
 1913, 797, § 1.
 1917, 216.
 1919, 350, § 87.
 1926, 241, § 8.
 144 Mass. 64.
 1 Op. A. G. 420.

1 SECTION 19. [REPEALED, 1926, 241, § 9.]

1 SECTION 20. Any inmate of the state infirmary found to be insane
 2 may be committed to the state infirmary in the same manner in which
 3 commitments of insane persons to insane hospitals are made.

Commitment
 of insane
 inmates.
 1904, 278, § 2.
 1909, 504, § 98.

1 SECTION 21. A justice of the superior court or of a district court or
 2 a trial justice, upon complaint of the board of public welfare of any town
 3 or of the department, may, by warrant directed to a constable or other
 4 person therein designated, cause any person aided under chapter one
 5 hundred and seventeen or under this chapter, not born or not having a
 6 settlement in the commonwealth, who may conveniently be removed,
 7 to be conveyed, at the expense of the commonwealth, to any other
 8 state, or, if not a citizen of the United States, to any place beyond sea,
 9 where he belongs.

Certain persons
 to be deported.
 1766-7, 47,
 §§ 1-3.
 1793, 59, § 13.
 R. S. 46, § 17.
 1850, 105, § 4.
 G. S. 71, § 52.
 P. S. 86, § 38.
 R. L. 85, § 23.
 1919, 350, § 87.
 1928, 155, § 52.

1 SECTION 22. [REPEALED, 1928, 155, § 53.]

1 SECTION 23. Whoever escapes from the state infirmary and within
 2 one year thereafter is found in any town soliciting public charity shall
 3 be punished by imprisonment at the state farm.

Punishment
 for escape.
 1852, 275, § 9.
 G. S. 71, § 51.

P. S. 86, § 37. 1884, 258, § 1. 1898, 443. R. L. 85, § 22. 1911, 104.

1 SECTION 24. Complaints for violations of the preceding section may
 2 be made and prosecuted by any member of a board of public welfare or
 3 by the institutions department in Boston or by agents, not exceeding
 4 two, appointed by the department and designated for such purpose.
 5 The district court of Lowell may, at such time as it appoints, hold ses-
 6 sions at Tewksbury for the trial of such complaints against inmates of
 7 the state infirmary.

Complaints for
 escapes.
 1884, 258, § 2.
 1889, 245.
 1895, 449, § 14.
 1897, 395, § 4.
 R. L. 85, § 35.
 1908, 393.
 1919, 350, § 87.
 1921, 430, § 2.

Jurisdiction
of certain
courts.
1884, 258, § 3.
R. L. 87, § 36.
1921, 430, § 3.

SECTION 25. The district court of Lowell shall have jurisdiction of said offence concurrent with any other court having jurisdiction thereof if committed in any part of the county of Middlesex without the district of said court, and the district court of Lawrence and the first district court of Essex shall have the same concurrent jurisdiction of said offence if committed in any part of the county of Essex without their respective districts.

CHAPTER 123.

COMMITMENT AND CARE OF THE INSANE AND OTHER MENTAL DEFECTIVES.

SECT.	SECT.
	GENERAL PROVISIONS.
1. Definitions.	20. Department, general power to transfer, remove or deport.
2. Care of the insane, feeble minded, epileptic, etc.	21. Transfers to or from private institutions, and of voluntary patients.
	22. Care, etc., of insane at state infirmary by department.
POWERS AND DUTIES OF THE DEPARTMENT.	22A. Bridgewater state hospital, special provisions as to.
3. Department, scope of supervisory authority.	23. Department to apply for commitment, when.
3A. Department, duties relative to mental health.	24. Department to prescribe forms, keep records of commitments, etc.
4. Department, commissioner to be executive head.	
5. Department may investigate sanity of inmates of institutions.	LIST OF STATE HOSPITALS.
6. Department made corporation to manage certain trust property.	25. List of state hospitals.
7. Management of state hospitals by department.	
8. Department, duties relative to new construction.	POWERS AND DUTIES OF TRUSTEES, ETC., OF STATE HOSPITALS.
9. Department and trustees, semi-annual meetings.	26. Supervision of state hospitals.
10. Department to establish, etc., hospital districts. Commitments regulated.	27. Trustees, certain powers and duties.
11. Department to encourage scientific investigations. Reports, etc.	28. Trustees to appoint superintendent and treasurer.
12. Department may establish, etc., free clinics for feeble minded.	29. Trustees, additional powers and duties.
13. Department may establish, etc., registry of feeble minded, etc.	30. Instruction of patients, etc.
13A. Division of mental hygiene, certain powers and duties.	31. Visits to persons boarded out by trustees.
14. Department shall visit institutions.	32. Supervision of accounts.
15. Annual reports.	
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16A. Same subject. Homes with provisions for occupational therapy.	33. Private institutions, licenses to maintain. Supervision by department.
17. Persons boarded out. Bills for board, how paid.	34. Illegal maintenance of such institutions penalized.
18. Removal of neglected boarders. Temporary release.	34A. Federal hospitals for insane veterans, licenses to maintain.
19. Agents to visit persons boarded in families.	
	RESTRAINT.
	35. Restraint regulated.
	36. Restraint, custody of implements.
	37. Restraint, records of, etc. Definition.
	38. Penalty.

SECT.

MISCELLANEOUS PROVISIONS AFFECTING INSTITUTIONS.

- 39. Patients' funds. Deposit, etc.
- 39A. Same subject. Disposition of unclaimed funds regulated.
- 40. Fire apparatus and escapes.
- 41. Trustees, etc., to furnish information to department, etc.
- 42. Certain employees exempt from civil service laws, etc.
- 43. Westborough state hospital, superintendent and assistant physicians.
- 44. [Repealed.]
- 45. Schools for the feeble minded. Departments.
- 46. Same subject. Reception, classification and discharge of pupils.
- 47. Same subject. Voluntary admission of certain feeble minded persons.
- 48. Hospital cottages for children. Trustees, powers and duties. Report.
- 49. Same subject. Certain children to be sent.

COMMITMENTS, ETC.

- 50. Commitment of insane persons. Authority.
- 51. Order of commitment.
- 52. Additional medical testimony. Fee.
- 53. Qualifications of physicians certifying to insanity.
- 54. Statement with application for commitment, etc. Notice to relatives, etc.
- 55. Apprehension of alleged insane person.
- 56. Commitment or transfer to Westborough state hospital for homœopathic treatment.
- 57. Jury trial on question of sanity.
- 58. Selection and impanelling of jury.
- 59. Judge to preside at trial. Verdict.
- 60. Deficiency in jury, how supplied, etc.
- 61. Fees of officers, jurors and witnesses.
- 62. Commitment of dipsomaniacs, etc., regulated. Limit of detention.
- 63. Appeal from order of commitment as dipsomaniac, etc.
- 64. Default for non-prosecution of appeal.
- 65. Withdrawal of appeal. Procedure.
- 66. Commitment to schools for the feeble minded regulated.
- 66A. Commitment of feeble minded persons to department. Powers of department.
- 67. Judicial inquiry as to commitment or discharge of inmates of schools for the feeble minded.
- 68. General provisions relative to commitment applicable, when.

SECT.

- 69. Commitment of insane epileptics regulated.
- 70. Commitment, order void, when.
- 71. Service of warrants, etc.
- 72. Commitment of women, attendants.
- 73. Compensation of judges, physicians, etc.
- 74. Commitment, etc., expenses of, how paid.
- 75. Commitment, judge to keep docket, etc.
- 76. Psychopathic hospital service.
- 77. Observation, commitment for. Proceedings thereafter.
- 78. Temporary care of persons violently insane, etc., without order of court.
- 79. Temporary care of insane persons needing immediate care, etc.
- 80. Temporary care of persons addicted to intemperate use of narcotics, etc.
- 81. Notice to department of receipt of insane person at institution.
- 82. Places of temporary detention regulated. Temporary care by board of health, when. Expense, how paid, etc.
- 83. Transfer of inmates of state hospitals by governor.
- 84. Detention and care of insane persons in United States service regulated.
- 85. Same subject. Contracts.

VOLUNTARY INMATES.

- 86. Voluntary admissions.
- 87. Monson state hospital, admission to, etc., regulated.

RELEASE AND DISCHARGE.

- 88. Temporary absence on leave. Insane, etc., persons.
- 88A. Same subject. Feeble minded persons.
- 89. Discharge. General provisions.
- 89A. Discharge of certain persons from custody of department, etc.
- 89B. Same subject. Order of court.
- 90. Discharge of unrecovered insane person regulated. Petition for instructions, when authorized. Procedure.
- 91. Discharge, application for.
- 92. Discharge; notice to superintendent, further proceedings.
- 93. Discharge if not insane or dangerous.
- 94. Clothing, etc., to be furnished on discharge.

ESCAPE.

- 95. Escape, arrest after.

SECT.	SUPPORT.	SECT.	RENDITION.
96.	Support of inmates in state hospitals regulated. Contribution from certain persons, when recoverable. Removal of guardian, etc., for failure to support. Certain statements receivable as prima facie evidence.	106.	Rendition of insane persons.
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	PRIVILEGES OF PATIENTS.	110.	Conspiracy to commit a sane person. Penalty.
97.	Attorney may visit patient, when.	111.	Ill-treatment, etc. Penalty.
98.	Patients may write to the department. Other correspondence regulated.	112.	Escape, connivance at. Penalty.
			DEFECTIVE DELINQUENTS AND DRUG ADDICTS.
	EXAMINATION OF PERSONS COMING BEFORE COURTS.	113.	Commitments to department for defective delinquents, or to department for drug addicts.
99.	Mental condition of persons coming before courts, how determined. Expenses.	114.	Removal from institution because of violation of regulations.
100.	Commitment to state hospitals of persons under indictment.	115.	Physicians' certificate to be filed in certain cases. Fees.
100A.	Investigation of mental condition of certain persons held for trial. Notice. Fees. Penalty.	116.	Removal from school for feeble minded for violation of regulations, etc.
101.	Commitment of persons acquitted of murder, etc., by reason of insanity. Discharge.	117.	Departments for defective delinquents and for drug addicts.
		118.	Parole, etc.
	INSANE PRISONERS.	119.	Parole and discharge by order of court.
102.	Insane prisoners, examination. "Superior court" defined, for purposes of §§ 102 and 103.	120.	Powers of special justices of courts in certain cases.
103.	Insane prisoners, removal to state hospital.	121.	Records of proceedings of commitments.
104.	Insane prisoners, removal from jails, houses of correction, etc.	122.	Commitments of defective delinquents, how made.
105.	Reconveyance of prisoners restored to sanity, not dangerously insane, etc.	123.	Expenses of commitment, etc.
		124.	Time of taking effect of certain provisions.

GENERAL PROVISIONS.

Definitions.

SECTION 1. The following words as used in this chapter, unless the context otherwise requires, shall have the following meanings:	1
"Commissioner", commissioner of mental diseases.	2
"Department", department of mental diseases.	3
"Institution", hospital or other institution, public or private, under the general supervision of the department.	4
"Judge", judge or justice.	5
"Residence", residence or place where found.	6
"State hospital", state hospital, state school, state colony or other state institution under the control of the department.	7
"State", state, territory, or dependency of the United States.	8
	9
	10
	11

Care of the insane, feeble minded, epileptic, etc.
 1884, 234,
 §§ 1, 2
 1892, 243,
 1895, 375,
 1898, 196;
 433, § 9

SECTION 2. The commonwealth shall have the care, control and treatment of all insane, feeble minded and epileptic persons, and of persons addicted to the intemperate use of narcotics or stimulants, and the care of whom is vested in it by law, and of each person who shall hereafter be received into any state hospital. No county, city or town shall	1
	2
	3
	4
	5

6 establish or maintain any institution for the care, control and treatment
 7 of insane, feeble minded or epileptic persons, or of persons addicted to
 8 the intemperate use of narcotics or stimulants, or be liable for the board,
 9 care, treatment or act of any inmate thereof.

1903, 321.
 1905, 282.

1908, 613, 629
 1909, 504, §§ 1, 107.

1 Op. A. G. 50.

1899, 156.
 1900, 451.
 §§ 1, 2, 6.
 R. L. 87,
 §§ 6, 81, 109.

POWERS AND DUTIES OF THE DEPARTMENT.

1 SECTION 3. The department shall have general supervision of all
 2 public and private institutions for insane, feeble minded or epileptic
 3 persons, or for persons addicted to the intemperate use of narcotics or
 4 stimulants, and shall have charge of all such persons the care of whom
 5 is vested in the commonwealth by law, and supervision of all other
 6 persons received into any of said institutions. It shall supervise and
 7 control any institution placed under it by the governor with the advice
 8 and consent of the council, and when so directed by the governor it shall
 9 assume and exercise the powers of the trustees of any state hospital in
 10 any matter relative to the conduct or management thereof. It shall
 11 have the same powers relative to state charges in institutions under its
 12 supervision, and to their property, as is vested in towns and boards of
 13 public welfare in the matter of the support and relief of persons in need.

Department,
 scope of
 supervisory
 authority
 1898, 433, § 9
 1900, 451, §§ 1,
 2, 6
 R. L. 87, § 6.
 1909, 504, §§ 7,
 107
 1914, 762,
 §§ 2, 9
 1916, 285, § 3.
 1918, 121
 1919, 350, § 81.
 1928, 155, § 54
 194 Mass. 486
 4 Op. A. G. 79

1 SECTION 3A. The department shall take cognizance of all matters
 2 affecting the mental health of the citizens of the commonwealth, and
 3 shall make investigations and inquiries relative to all causes and condi-
 4 tions that tend to jeopardize said health, and the causes of mental disease,
 5 feeble-mindedness and epilepsy, and the effects of employments, con-
 6 ditions and circumstances on mental health, including the effect thereon
 7 of the use of drugs, liquors and stimulants. It shall collect and dis-
 8 seminate such information relating thereto as it considers proper for
 9 diffusion among the people, and shall define what physical ailments,
 10 habits and conditions surrounding employment are to be deemed dan-
 11 gerous to mental health.

Department,
 duties relative
 to mental
 health.
 1922, 519, § 2.

1 SECTION 4. The commissioner shall administer the laws relative to
 2 persons in institutions under the general supervision of the department
 3 and shall prepare rules and regulations for the consideration of the
 4 department.

Department,
 commissioner
 to be executive
 head.
 1879, 291,
 §§ 3, 7.

P. S. 79, §§ 2, 3.
 1898, 433, §§ 2, 3.

R. L. 87, §§ 2, 3
 1909, 504, §§ 3, 4, 107.

1914, 762, §§ 1, 9.
 1916, 285, § 4.

1 SECTION 5. The department shall act as commissioners of insanity,
 2 with power to investigate the question of the insanity and condition of
 3 any person who is an inmate of any institution for the insane, public or
 4 private, or restrained of his liberty by reason of alleged insanity at any
 5 place within the commonwealth, and shall discharge any such person,
 6 if in its opinion he is not insane or can be cared for after such discharge
 7 without danger to others and with benefit to himself. All questions as
 8 to the sanity of inmates of the penal, reformatory and other institutions
 9 of the commonwealth who present indications of insanity shall be re-
 10 ferred to and determined by the department, except as otherwise provided
 11 by law.

Department
 may investi-
 gate sanity of
 inmates of
 institutions.
 1879, 291, § 5.
 P. S. 87, § 1
 1886, 101, § 4
 1898, 433, § 13
 R. L. 87, § 8
 1909, 504, §§ 9,
 107
 232 Mass. 500.

1 SECTION 6. The department shall be a corporation for the purpose
 2 of taking, holding and administering in trust for the commonwealth any

Department
 made corpora-
 tion to manage

certain trust property
1910, 583, § 1.
1928, 338.

grant, devise, gift or bequest made either to the commonwealth or to it, for the use of persons under its control in any state hospital, or, if the acceptance of such trust is approved by the governor and council, for expenditure upon any work which the department is authorized to undertake.

Management of state hospitals by department.
1832, 163, § 1.
1834, 150, § 1.
R. S. 48, § 3.
G. S. 73, § 4.
P. S. 87, § 7.
1884, 322, §§ 5, 6.
1889, 414, § 5.
1890, 378, § 3.
1892, 425, § 4.
1895, 483, §§ 4, 6.
R. L. 87, §§ 15, 27.
1906, 508, §§ 2, 6.

SECTION 7. The department shall provide for the efficient, economical and humane management of the state hospitals. It shall establish by-laws and regulations, with suitable penalties, for the government of said state hospitals, shall determine the salaries of the officers and employees thereof in accordance with the provisions of sections forty-five to fifty, inclusive, of chapter thirty, and shall provide for a monthly inspection and trial of fire apparatus belonging thereto, and for the proper organization and monthly drill of the officers and employees in use of the apparatus. It shall ascertain by actual examination and inquiry whether commitments to the state hospitals are made according to law.

1909, 504, §§ 18, 107.
1914, 762, §§ 6, 9.

1915, 241, § 1.
1931, 301, § 93.

Department, duties relative to new construction.
1898, 433, § 10.
R. L. 87, § 7.
1907, 529, § 10.
1909, 504, § 8, 107.
1914, 762, § 5, 9.

SECTION 8. The department, subject to the approval of the governor and council, shall select the site of any new state hospital and any land to be taken or purchased by the commonwealth for the purposes of any new or existing state hospital. It shall have charge of the construction of any new building at any such state hospital, shall determine the design thereof, and for this purpose may employ architects and other experts or hold competitions for plans and designs. If any land or property is taken or purchased by the department, title shall be taken in the name of the commonwealth.

Department and trustees, semi-annual meetings.
1898, 433, § 20.

SECTION 9. The department and the trustees of the state hospitals, or their representatives, shall meet semi-annually for consultation and to promote harmonious action.

R. L. 87, § 11.

1909, 504, §§ 13, 107.

Department to establish, etc., hospital districts. Commitments regulated.
1887, 346, §§ 1, 2.
1890, 482.
1897, 451, § 3.
1898, 433, § 28.
R. L. 87, §§ 31, 32.
1924, 287, § 1.

SECTION 10. The department shall divide the commonwealth into districts, may change the districts from time to time, and shall designate the state hospitals to which insane, epileptic and feeble minded persons and persons addicted to the intemperate use of narcotics and stimulants from each district shall be committed. All such persons within each district shall be committed to the state hospitals designated for the district; except that persons from any district may be committed to the Westborough state hospital under section fifty-six, or to any state hospital when the expense of their support is paid by themselves or friends or upon the written approval of the department, to the McLean hospital, to any private institution the person having charge of which is licensed under section thirty-three or to an institution established and maintained by the United States government the person having charge of which is licensed under section thirty-four A.

Department to encourage scientific investigations. Reports, etc.

SECTION 11. The department shall encourage scientific investigation by the medical staffs of the various institutions, shall publish from time to time bulletins and reports of the scientific and clinical work

4 done therein, and shall prescribe to the superintendents or managers of
 5 the several institutions the forms of, and periods covered by, the statis-
 6 tical returns to be made by them in their annual reports.

1898, 433,
 §§ 2, 6,
 R. L. 87, § 5,
 1909, 504,
 §§ 6, 107.

1 SECTION 12. The department may establish and maintain free clinics
 2 for the feeble minded in the districts established under section ten, which
 3 shall be in charge of physicians of the state schools for the feeble minded,
 4 or of such other physicians skilled in the care and treatment of the
 5 feeble minded as may be designated by it. It may also employ such
 6 persons as may be required properly to conduct the said clinics.

Department
 may establish,
 etc., free
 clinics for
 feeble minded,
 1919, 318, § 1.

1 SECTION 13. The department shall establish and maintain a registry
 2 of the feeble minded, and may report therefrom such statistical informa-
 3 tion as it deems proper; but the name of any person so registered shall
 4 not be made public except to public officials or other persons having
 5 authority over the person so registered, and the records constituting the
 6 registry shall not be open to public inspection.

Department
 may establish,
 etc., registry
 of feeble
 minded, etc.
 1919, 318, § 2.

1 SECTION 13A. Such of the powers and duties conferred or imposed
 2 upon the department, relating to the cause and prevention of mental
 3 disease, feeble-mindedness, epilepsy and other conditions of abnormal
 4 mentality, as the commissioner may determine may be exercised and
 5 performed by the division of mental hygiene. In addition to said
 6 powers and duties, said division shall institute inquiries and investi-
 7 gations for the purpose of ascertaining the causes of mental disease, in-
 8 cluding epilepsy and feeble-mindedness, with a view to its prevention.
 9 It may also establish, foster and develop out-patient clinics.

Division of
 mental hygiene,
 certain powers
 and duties.
 1922, 519, § 3.

1 SECTION 14. The department shall visit each institution at least once
 2 a year, and oftener if the governor so directs. It shall ascertain by actual
 3 examination and inquiry whether the laws relating to the persons in
 4 custody or control therein are properly observed, shall give such direc-
 5 tions as will insure correctness in the returns required in respect to such
 6 persons, and may use all necessary means to collect all desired informa-
 7 tion. It shall carefully inspect every part of the institution visited with
 8 reference to its cleanliness and sanitary condition, the number of patients
 9 in seclusion or restraint, the dietary of the patients and any other matters
 10 which it considers material, and shall offer to every patient an opportunity
 11 for an interview with its visiting members or agents.

Department
 shall visit
 institutions.
 1898, 433, § 14.
 R. L. 87, § 9.
 1909, 504,
 §§ 10, 107,
 1914, 702,
 §§ 2, 9,
 1916, 285, § 5,
 4 Op. A. G. 79.

1 SECTION 15. The commissioner shall make an annual report contain-
 2 ing an accurate account of the receipts and expenditures for each sep-
 3 arate state hospital, an inventory of the property thereof on November
 4 thirtieth, and a statement of the market value of any products of such
 5 state hospital, and of the labor, if any, performed by the inmates thereof.
 6 It may also contain information embodying the experience of this and
 7 other countries relative to the best and most successful methods of
 8 caring for such persons as come under the supervision of the department.
 9 The commissioner shall also make an annual report relative to the
 10 condition and needs of each state hospital.

Annual re-
 ports
 1832, 163, § 2.
 1834, 150, § 2.
 R. L. 48, § 5.
 1852, 269, § 1.
 1853, 318, § 1.
 1856, 247, § 3.
 1857, 40, § 1.
 1859, 177, § 2.
 G. S. 73, § 6.
 1879, 291, § 7.
 P. S. 79, § 3;
 87, § 9.
 1884, 322, § 5.
 1887, 170.

1880, 414, § 18.
 1892, 425, § 4
 1895, 483, § 6.
 1898, 433, §§ 3-5.

R. L. 87, §§ 3, 4, 29
 1906, 184; 508, § 3.
 1909, 504, §§ 4, 5, 20, 107.
 1914, 762, §§ 3, 8, 9.

1915, 211, § 2.
 1918, 257, § 308.
 1919, 5, 350, § 8.
 1920, 2.

Boarding out of insane persons regulated. 1885, 385, § 1. 1886, 101, § 4. 1898, 433, §§ 24, 28. R. L. 87, § 102. 1903, 400. 1905, 458, § 1. 1909, 504, §§ 71, 107. 1914, 493. 1921, 317, § 1.

SECTION 16. The department may place at board in a suitable family or in a place in this commonwealth or elsewhere any patient in an institution who is in the charge of the department and is quiet and not dangerous nor committed as a dipsomaniac or inebriate, nor addicted to the intemperate use of narcotics or stimulants. Any such patient in a state hospital may so be placed at board by the trustees thereof, and such boarder shall be deemed to be an inmate of the state hospital. The cost to the commonwealth of the board of such patients supported at the public expense shall not exceed four dollars and fifty cents a week for each patient.

Same subject. Homes with provisions for occupational therapy. 1930, 338.

SECTION 16A. The department, or the trustees of state hospitals with the approval of the department, may place at board, under direction, in approved private homes, with provisions for occupational therapy, such patients under supervision as they believe will be benefited from a period of training therein. Any such patient in a state hospital so placed at board by the trustees thereof, shall be deemed to be an inmate of the state hospital. The number of patients so placed shall be approved by the department. The cost to the commonwealth of the board of such patients supported at the public expense shall not be limited by the amount specified in section sixteen.

Persons boarded out. Bills for board, how paid. 1885, 385, § 2. R. L. 87, § 103. 1905, 458, § 2. 1909, 504, §§ 72, 107. 1923, 362, § 74.

SECTION 17. The bills for the support of persons who are placed at board in families by the department shall be payable monthly by the commonwealth and shall be audited by said department, which shall, at the end of each month, present to the comptroller a schedule of all such bills incurred, and shall keep a register in such form that the comptroller shall be able to verify the schedule.

Removal of neglected boarders. Temporary release. 1885, 385, § 4. R. L. 87, § 105. 1905, 458, § 4. 1909, 504, §§ 74, 107.

SECTION 18. The department shall cause to be removed to an institution used wholly or in part for the care of the insane or to a better boarding place all persons who, upon visitation, are found to be abused, neglected or improperly cared for when placed at board in families. It may permit any boarder temporarily to leave custody as an insane person in charge of his guardian, relatives, friends or by himself, for a period not exceeding one year, and may receive him again into such custody when returned by such guardian, relatives, friends or upon his own application, within such period, without any further order of commitment, and may during such temporary absence assist in his maintenance to an amount not exceeding three dollars and twenty-five cents a week.

Agents to visit persons boarded in families. 1885, 385, § 3. 1886, 101, § 4. 1898, 433, § 27. R. L. 87, § 104. 1905, 458, § 3.

SECTION 19. The department shall cause all persons placed at board by it in families at public expense to be visited at least once in three months, and shall cause all persons placed at board in families at public expense by the trustees of any state hospital to be visited once in six months, by an agent of the department.

1909, 504, §§ 73, 107.

Department, general power to transfer, remove or deport. 1859, 255.

SECTION 20. The department, subject to the following section, may transfer to and from any institution any inmate thereof who, in its opinion, is a proper subject for admission to the institution to which he is to be transferred; but no such inmate shall be transferred to be de-

Department to apply for commitment, when
 1861, 288, § 7.
 P. S. 87, § 25.
 1890, 414, § 1.
 1898, 433, § 14.
 R. L. 87, § 51.

SECTION 23. If the department has reason to believe that an insane, epileptic or feeble minded person who is a proper subject for treatment or custody in an institution, is confined in an infirmary or other place at the public charge or otherwise, it shall cause application to be made to a judge for the commitment of such person to an institution.

1931, 394, § 212.

Department to prescribe forms, keep records of commitments, etc.
 1895, 286, § 2.
 1898, 433, §§ 8, 17, 19.
 R. L. 87, §§ 36-38.
 1909, 504, §§ 11, 107.

SECTION 24. The department shall prescribe the forms of application, medical certificate and order of commitment required by law in the commitment and admission of all persons to the institutions under its supervision, which shall be the only forms used in such commitments and admissions. It shall keep records of all such commitments and admissions and shall secure compliance with the laws relative thereto, and shall investigate the propriety of any commitment or admission, notice whereof is received under any provision of sections three to one hundred and twelve, inclusive.

LIST OF STATE HOSPITALS.

List of state hospitals.
 1830, Res. 133.
 1839, 131.
 1851, 251; Res. 44.
 1855, 454.
 1861, Res. 26.
 1862, 223, § 1.
 1870, 238.
 1873, 239.
 1874, Res. 18.
 1877, 227;
 252, § 1.

SECTION 25. The state institutions under the control of the department shall be Worcester state hospital, Taunton state hospital, Northampton state hospital, Danvers state hospital, Grafton state hospital, Westborough state hospital, Foxborough state hospital, Medfield state hospital, Monson state hospital, Gardner state colony, Wrentham state school, Boston state hospital, Walter E. Fernald state school, Boston psychopathic hospital, Belchertown state school, Metropolitan state hospital, and such others as may hereafter be added by authority of law.

1878, 216, § 2.	1905, 400.	1916, 283.
P. S. 87, §§ 2, 56.	1906, 313; 508.	1917, 115.
1884, 322, §§ 1, 3.	1907, 421	1918, 139, § 2; Sp. 119.
1886, 298, § 4.	1908, 613, § 2	1919, 74; 550, § 81.
1889, 414, § 1.	1909, 504, §§ 14, 60, 107.	1920, 537, § 1.
1892, 425, § 1.	1916, 635	1922, 410, § 5.
1895, 488, §§ 1, 2.	1912, 530, 679.	1925, 263, § 3.
1900, 451, § 5.	1914, 358; 442, § 3; 456.	1930, 403, § 3.
R. L. 87, §§ 13, 16, 19-22, 114.	1915, 68, 79, § 3; 170.	

POWERS AND DUTIES OF TRUSTEES, ETC., OF STATE HOSPITALS.

Supervision of state hospitals.
 1832, 163, § 1.
 1834, 150, § 1.

SECTION 26. The trustees of each state hospital shall have charge of the general interests thereof, and shall see that its affairs are conducted according to law and to the by-laws and regulations established by them.

R. S. 48, § 2.	1892, 425, § 4.	1909, 504, §§ 17, 107.
G. S. 73, § 3.	1895, 483, § 6	1914, 762, § 8, cl. b, § 9.
P. S. 87, § 6.	1900, 451, §§ 4, 6.	1915, 241, § 2, cl. b.
1884, 322, § 5.	R. L. 87, §§ 15, 26.	1920, 537, § 2.
1889, 414, § 5.	1906, 508, § 2.	227 Mass. 88.

Trustees, certain powers and duties.
 1832, 163, § 9.
 1834, 150, § 10.
 R. S. 48, § 4.
 1842, 96.
 G. S. 73, § 2.
 P. S. 87, § 5.
 1884, 322, § 4.
 1889, 414, § 3.
 1892, 425, § 4.
 1895, 483, § 3.
 1900, 451, §§ 4, 5.
 R. L. 87, §§ 15, 25, 24.
 1906, 508, § 4.
 1909, 504, §§ 16, 107.
 1920, 537, § 2.

SECTION 27. The trustees of each state hospital shall be a corporation for the purpose of taking and holding, by them and their successors, in trust for the commonwealth, any grant or devise of land, and any gift or bequest of money or other personal property, made for the use of the state hospital of which they are trustees, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to carry said purposes into effect. They may expend any unrestricted gift or bequest, or part thereof, in the erection or alteration of buildings on land belonging to the state hospital, subject to the approval of the department, but all such buildings shall belong to the state hospital and be managed as a part thereof.

1 SECTION 28. The trustees of each state hospital, with the approval of
 2 the department, shall appoint and may remove from such state hospital:
 3 (a) A superintendent, who shall be a physician and shall reside at the
 4 state hospital. With the approval of the trustees he shall appoint and
 5 may remove assistant physicians and necessary subordinate officers and
 6 other persons. In state hospitals receiving female patients and employ-
 7 ing more than two assistant physicians one of them shall be a woman.
 8 (b) A treasurer, who shall give bond for the faithful performance of his
 9 duties.

Trustees to
 appoint super-
 intendent and
 treasurer.
 1832, 163, § 1.
 1834, 150, § 1.
 R. S. 48, § 3.
 G. S. 73, § 4.
 P. S. 87, § 7.
 1884, 116; 322,
 §§ 5, 6.
 1889, 414, § 5.
 1892, 425, § 4.
 1895, 483, § 4.

1900, 451, §§ 4, 6.	1909, 504, §§ 18, 107.	1918, 239.
R. L. 87, §§ 15, 27.	1914, 762, §§ 6, 9.	1920, 537, § 2.
1906, 508, § 2.	1915, 241, § 1.	

1 SECTION 29. The trustees of each state hospital shall have the follow-
 2 ing powers and duties in addition to any other powers given and duties
 3 imposed by this chapter:

Trustees, ad-
 ditional powers
 and duties.

1832, 163, § 1.	1889, 414, § 5.	1909, 504, §§ 17, 107.
1834, 150, § 1.	1892, 425, § 4.	1914, 762, §§ 8, 9.
R. S. 48, § 2.	1895, 483, § 6.	1915, 241, § 2.
G. S. 73, § 3.	1900, 45, §§ 4, 6.	1918, 121.
P. S. 87, § 6.	R. L. 87, §§ 15, 26.	1919, 350, § 81.
1884, 322, § 5.	1906, 508, § 2.	1920, 537, § 2.

4 (a) Except as otherwise provided in this chapter, they shall retain all
 5 powers and duties now conferred or imposed upon them by law, and shall
 6 maintain an effective and proper inspection of their respective state hos-
 7 pitals, and shall from time to time make suggestions to the department
 8 as to improvements therein, especially such as will make the administra-
 9 tion thereof more effective, economical and humane.

10 (b) There shall be thorough visitations of each state hospital by at
 11 least two of the trustees each month. Every trustee shall visit his state
 12 hospital at least semi-annually, and a majority of the trustees of each
 13 state hospital shall visit it at least quarterly. Reports of the visits shall
 14 be transmitted to the department whenever matters are observed which
 15 need its attention.

1832, 163, § 2.
 1834, 150, § 2.
 R. S. 48, § 5.
 1853, 318, § 1.
 1856, 247, § 2.
 G. S. 73, § 6.
 P. S. 87, § 9.
 1884, 322, § 5.
 1887, 170.

1889, 414, § 18.	1900, 451, §§ 4, 6.	1909, 504, §§ 20, 107.
1892, 425, § 4.	R. L. 87, §§ 15, 29.	1914, 762, §§ 8, 9.
1895, 483, § 6.	1906, 508, § 3.	1915, 241, § 2.

16 (c) They shall carefully inspect every part of the state hospital, either
 17 as a board or by committees, with reference to cleanliness and sanitary
 18 condition, the number of persons in seclusion or restraint, dietary matters,
 19 and any other matters which merit observation.

20 (d) Upon request of the department, the trustees shall investigate any
 21 sudden death and any accident or injury, whether self-inflicted or other-
 22 wise, and send a report of the same to the department.

23 (e) All trustees shall have free access to all books, records and accounts
 24 pertaining to their respective state hospitals, and shall be admitted at all
 25 times to the buildings and premises thereof.

1852, 269, § 2.
 G. S. 73, § 7.
 P. S. 87, § 10.

1889, 414, § 19.	1906, 508, § 3.	1914, 762, §§ 8, 9.
R. L. 87, § 30.	1909, 504, §§ 22, 107.	1915, 241, § 2.

26 (f) They shall keep a record of their doings, and shall record their visits
 27 to the state hospital in a book kept there for that purpose. They shall
 28 transmit promptly to the department a copy of the proceedings of each
 29 meeting.

30 (g) They shall personally hear and investigate the complaints and re-
 31 quests of any inmate, officer or employee of the state hospital. If they
 32 deem any such matter of sufficient importance, after determining what,
 33 if anything, should be done relative thereto, they shall make written re-
 34 port of their determination to the department.

(h) They may at any time cause the superintendent or any officer or employee of the state hospital to appear before them and answer any questions or produce any books or documents relative to the state hospital.

1898, 433, § 10.
R. L. 87, § 7.
1906, 508, § 10.
1907, 520.
1909, 504,
§§ 8, 107.
1914, 662;
762, §§ 8, 9.
1915, 241, § 2.

(i) They shall consider every proposed taking or purchase of land for the state hospital, the site of every new building and all plans and specifications for the construction or substantial alteration of buildings, grading of grounds and other substantial improvements, and shall report thereon to the department within such reasonable time as it shall fix. No such taking, purchase, construction or substantial alteration or improvement shall be made until it has been submitted to the trustees and until they have reported thereon, or until the time fixed by the department for their report has expired.

Instruction of patients, etc.
1911, 649.
1917, 59.
1920, 537, § 2.

SECTION 30. The trustees of each state hospital shall cause to be given to the nurses, attendants and patients thereof instruction in such arts, crafts, manual training, kindergarten and other branches and lines of occupation as may be appropriate for the patients to undertake, especially such patients as are physically unfit to perform the usual work in or about the hospitals.

Visits to persons boarded out by trustees.
1905, 458, § 3.
1909, 504,
§§ 73, 107.

SECTION 31. The trustees of each state hospital shall cause all persons who are placed at board by them in families at public expense to be visited at least once in three months, and shall inform the department of the location of every person so placed at board.

1920, 537, § 2.

Supervision of accounts
1901, 303, § 1.
R. L. 87, § 127.
1905, 175, § 1.
1909, 504,
§§ 95, 107.
1920, 537, § 2.
1922, 193.
1923, 362, § 75.

SECTION 32. All accounts for the maintenance of each of the state hospitals shall be approved by the trustees thereof or, if the trustees so vote, by the chairman or some member designated by him, or by the superintendent, and shall be filed with the comptroller, and shall be paid by the commonwealth. Full copies of the pay rolls and bills shall be kept at each hospital.

PRIVATE HOSPITALS, ETC.

Private institutions, licenses to maintain.
Supervision by department.
1864, 288, § 53.
R. L. 87, § 111.
1909, 504,
§§ 24, 107.
1914, 762,
§§ 7, 9
1916, 285,
§§ 6, 8
1917, 352, § 1.
1926, 239, § 1
1 Op. A. G. 283.
3 Op. A. G.
359, 563.

SECTION 33. The department may annually license any suitable person to establish or have charge of an institution or private house for the care and treatment of the insane, epileptic, feeble minded, and persons addicted to the intemperate use of narcotics or stimulants, and may at any time revoke the license. No such license shall be granted for the care and treatment of insane or epileptic persons unless the said department is satisfied, after investigation, that the person applying therefor is a duly qualified physician, as provided in section fifty-three, and has had practical experience in the care and treatment of such patients. No such license shall be granted for the care and treatment of persons addicted to the intemperate use of narcotics or stimulants unless the department is satisfied, after investigation, that the person applying therefor is a physician who is a graduate of a legally chartered medical school or college, and that he has been in the actual practice of medicine for the three years next preceding his application for a license; nor unless his standing, character and professional knowledge of inebriety are satisfactory to the department. Licenses granted hereunder shall expire with the last day of the year in which they are issued, but may be re-

19 renewed. The department may fix reasonable fees for said licenses and
 20 renewals thereof. All places required by this and the following section
 21 to be in charge and under the direct personal supervision of a licensee of
 22 the department shall be subject to supervision and visitation by said
 23 department, in so far as they are not already subject thereto under any
 24 other provision of this chapter.

1 SECTION 34. Whoever keeps or maintains an institution or private
 2 house for the care or treatment of persons mentioned in the preceding
 3 section, unless the same is in charge of, and under the direct personal
 4 supervision of, a person duly licensed as provided therein, shall be
 5 punished by a fine of not more than five hundred dollars.

Illegal main-
 tenance of
 such institu-
 tions penalized.
 1864, 288, § 9
 P. S. 87, § 54
 R. L. 87, § 112.

1909, 504, §§ 25, 107.
 1914, 762, §§ 7, 9.

1916, 285, §§ 7, 8.
 1917, 232, § 2.

1926, 229, § 2.

1 SECTION 34A. The department may also license annually physicians,
 2 qualified as provided in section fifty-three who have had practical ex-
 3 perience in the care and treatment of persons suffering from mental dis-
 4 eases, to have charge of institutions established and maintained by the
 5 United States government for the care and treatment of persons who
 6 have been in the military or naval service of the United States and are
 7 suffering from mental disease, and may at any time revoke any such
 8 license. Licenses granted hereunder shall expire with the last day of
 9 the year in which they are issued, but may be renewed. The depart-
 10 ment may fix reasonable fees for said licenses and renewals thereof.

Federal hos-
 pitals for
 insane vet-
 erans, licenses
 to maintain.
 1924, 287, § 3.

RESTRAINT.

1 SECTION 35. No restraint in the form of muffs or mitts with lock
 2 buckles or waist straps, wristlets, anklets or camisoles, head straps, pro-
 3 tection sheets or simple sheets when used for restraint, or other device
 4 interfering with free movement, shall be imposed upon any patient in
 5 any institution unless applied in the presence of the superintendent, or
 6 of the physician or of an assistant physician of the institution, or on his
 7 written order, which order shall be preserved in the files or records of the
 8 institution. Such devices shall be applied only in cases of extreme vio-
 9 lence, active homicidal or suicidal condition, physical exhaustion, in-
 10 fectious disease, or following an operation or accident which has caused
 11 serious bodily injury, except that in cases of emergency restraint may be
 12 imposed without the presence of the superintendent, physician or assist-
 13 ant physician, and without a written order; but every such emergency
 14 case, after the imposition of such restraint, shall immediately be reported
 15 to the superintendent or to the physician or assistant physician of the
 16 institution, who shall immediately investigate the case, and approve or
 17 disapprove the restraint imposed.

Restraint
 regulated
 1911, 589, § 1.

1 SECTION 36. The superintendent or head physician of each institu-
 2 tion, or in his absence one of the assistant physicians, shall personally
 3 keep under lock and key all implements or devices of restraint not in
 4 actual use.

Restraint,
 custody of im-
 plements.
 1911, 589, § 3.

1 SECTION 37. The superintendent or head physician of each institution
 2 shall cause records of all restraint to be kept in a book provided for that
 3 purpose. The book shall be open for inspection at all times by the trustees
 4 or other persons having control of the institution, the department, the

Restraint,
 records of, etc.
 Definition.
 1911, 589,
 §§ 2, 4.

governor and council, and members of the general court, and shall contain a complete record relative to the restraint, including the cause for restraint, the form used, the name of the patient, the time when the patient was placed under restraint and the time when he was released. "Restraint" in sections thirty-five to thirty-eight, inclusive, shall also include therapeutic and chemical restraint and confinement in a strong room, or seclusion in solitary confinement, except when the patients are placed in their rooms for the night, but shall not include the prolonged bath, the hot or cold pack, or medication when it is used as a remedial measure and not as a form of restraint.

Penalty.
1911, 589, § 5.

SECTION 38. Any supervisor, attendant or other employee of any institution who knowingly violates or willingly permits to be violated any provision of the three preceding sections shall be punished by a fine of not less than fifty nor more than three hundred dollars.

MISCELLANEOUS PROVISIONS AFFECTING INSTITUTIONS.

Patients' funds.
Deposit, etc.
1918, 176, § 1.

SECTION 39. The superintendent of each state hospital may deposit in any bank or trust company within the commonwealth funds belonging to patients and funds deposited by their relatives or friends to be used for their benefit, in an account entitled "Patients' Funds".

Same subject.
Disposition
of unclaimed
funds
regulated.
1930, 176.

SECTION 39A. So much of any funds known as "Patients' Funds" as represent monies belonging to, or deposited for the benefit of, patients who have been discharged or have escaped from any state hospital, which shall have remained unclaimed for more than ten years, shall be paid by the superintendent of such state hospital to the state treasurer to be held subject to be paid to the person establishing a lawful right thereto, with interest at the rate of three per cent per annum from the time when it was so paid to the state treasurer to the time when it is paid by him to such person; provided, that so much of any monies so paid to the state treasurer as may be necessary to reimburse the department for any sum due for the support of the person by whom, or for whose benefit such money was originally deposited, shall be credited to the department for that purpose. After six years from the date when any such monies were paid to the state treasurer the same or any balance thereof then remaining in his hands may be used as a part of the ordinary revenue of the commonwealth. Any person may, however, establish his claim after the expiration of the six years above mentioned and any claim so established shall be paid from the ordinary revenue of the commonwealth. Any person claiming a right to money deposited with the state treasurer under this section may establish the same by a petition to the probate court; provided, that in cases where claims amount to less than fifty dollars, the claims may be presented to the comptroller who shall examine the same and allow and certify for payment such as may be proved to his satisfaction.

Fire apparatus
and escapes.
1860, 378,
§§ 1, 2.
R. L. 87, § 25.
1906, 508, § 6.
1909, 501,
§§ 26, 107.

SECTION 40. Each institution shall be provided with proper means of escape from fire and suitable apparatus for the extinguishment of fire, and no building shall be erected or maintained at such institution without a written certificate of approval from the building inspector of the department of public safety for the district in which it is to be erected or maintained.

1 SECTION 41. The trustees, superintendent or manager of each insti-
 2 tution shall furnish all the information required by the department, and
 3 shall immediately notify the department if there is any question as to
 4 the propriety of the commitment of any person received therein.

R. L. 87, §§ 36, 38. 1905, 458, § 3. 1909, 504, §§ 27, 73, 107.

Trustees, etc.,
 to furnish in-
 formation to
 department,
 etc.
 1898, 433,
 §§ 8, 17.

1 SECTION 42. Engineers, firemen and head farmers employed in state
 2 hospitals shall be exempt from chapter thirty-one.

1919, 350, § 80.

Certain em-
 ployees exempt
 from civil
 service
 laws, etc.

1 SECTION 43. The superintendent and the assistant physicians at the
 2 Westborough state hospital shall be of the homoeopathic school of
 3 medicine.

1884, 322, § 6. 1909, 504, §§ 18, 107. 1915, 241, § 1.
 R. L. 87, § 27. 1914, 762, §§ 6, 9.

Westborough
 state hospital,
 superintendent
 and assistant
 physicians.

1 SECTION 44. [REPEALED, 1931, 426, § 26.]

1 SECTION 45. The Walter E. Fernald state school, the Belchertown
 2 state school and the Wrentham state school shall each maintain a school
 3 department for the instruction and education of feeble minded persons
 4 who are within the school age or who in the judgment of the trustees
 5 thereof are capable of being benefited by school instruction, and a cus-
 6 todial department for the care and custody of feeble minded persons
 7 beyond the school age or not capable of being benefited by school in-
 8 struction.

Schools for
 feeble minded.
 Departments.
 1883, 239, § 1.
 1886, 298, § 1.
 R. L. 87, § 115.
 1906, 508, § 14.
 1909, 504,
 §§ 61, 107.
 1922, 410, § 6.
 1925, 293, § 4.

1 SECTION 46. Persons received by the Walter E. Fernald state school,
 2 by the Belchertown state school and by the Wrentham state school shall
 3 be classified in said departments as the trustees shall see fit, and the
 4 trustees may receive and discharge pupils, and may at any time discharge
 5 any pupil or other inmate and cause him to be removed to his home.

1906, 508, § 15. 1909, 504, §§ 62, 107. 1922, 410, § 7. 1925, 293, § 5.

Same subject.
 Reception,
 classification
 and discharge
 of pupils.
 1883, 239, § 2.
 1886, 298, § 2.
 1898, 433, § 28.
 R. L. 87, § 116.

1 SECTION 47. The trustees of either of the state schools mentioned in
 2 the two preceding sections may, at their discretion, receive any feeble
 3 minded person from any part of the commonwealth upon application
 4 being made therefor by the parent or guardian of such person, which
 5 application shall be accompanied by the certificate of a physician, quali-
 6 fied as provided in section fifty-three that such person is deficient in
 7 mental ability, and that in the opinion of the physician he is a fit subject
 8 for said school. The physician who makes the said certificate shall have
 9 examined the alleged feeble minded person within five days of his signing
 10 and making oath to the certificate. The trustees of either of said state
 11 schools may also, at their discretion, receive any person from any part
 12 of the commonwealth upon the written request of his parent or legal
 13 guardian, and may detain him for observation for a period not exceeding
 14 thirty days, to determine whether he is feeble minded.

Same subject.
 Voluntary
 admission
 of certain
 feeble minded
 persons.
 1883, 239, § 6.
 1886, 298, § 3.
 R. L. 87, § 117.
 1906, 508, § 16.
 1909, 504,
 §§ 64, 107.
 1916, 122, § 2.
 1917, 223, § 2.
 197 Mass. 357.

1 SECTION 48. The governor, with the advice and consent of the
 2 council, shall annually appoint a trustee of the hospital cottages for
 3 children, for five years. The appointive trustees shall serve without com-
 4 pensation, and, with the trustees elected by said corporation, shall have
 5 the management of the business and property of the corporation and the
 6 general supervision of its cottages. The trustees shall annually prepare

Hospital cot-
 tages for chil-
 dren. Trust-
 ees, powers
 and duties.
 Report.
 1887, 441,
 §§ 2, 3.
 1890, 354, § 2.
 1892, 407.

1898, 433, § 24. and send to the department a written report of all its proceedings, income 7
 R. L. 87, and expenditures, properly classified, for the year ending on November 7
 §§ 124, 125, thirtieth, stating the whole number and average number of beneficiaries, 8
 1909, 504, the number and salaries of officers and persons employed, and such other 9
 §§ 66, 107, information as the department requires. 10
 1 Op. A. G. 68. 11

Same subject. SECTION 49. The department may send to and keep at the hospital 1
 Certain children cottages for children such number of children afflicted with epilepsy as 2
 to be sent shall be approved by the trustees and superintendent thereof, to be 3
 1887, 441, § 4. shall be maintained at such expense to the commonwealth as shall be determined 4
 1889, 230, § 2. by said department and said trustees. 5
 1898, 433, § 24. 6
 R. L. 87, § 126. 7
 1909, 504, 8
 §§ 67, 107. 1918, 121. 9

COMMITMENTS, ETC.

Commitment of SECTION 50. A justice of the superior court, in any county, and 1
 insane persons. either of the judges of probate for Suffolk county, the judge of probate 2
 Authority. for Nantucket county, or a justice or special justice of a district court, 3
 1797, 62, § 3. except the municipal court of the city of Boston, within his county, 4
 1833, 95, may commit to any institution for the insane, designated under or 5
 1834, 150, § 3. described in section ten, any insane person, then residing or being in 6
 R. S. 48, § 6. said county, who in his opinion is a proper subject for its treatment or 7
 1839, 149, § 3. custody; provided, that commitments to the Gardner state colony may 8
 1852, 44 be made only by a justice or special justice of a district court and only 9
 1853, 318, when authorized by the department; but such special justice may make 10
 § 1, 2. such commitment only in case of the incapacity of the justice, his absence 11
 1856, 108, § 1. from the district, interest, or relationship to the applicant or to the person 12
 G. S. 73, to be committed, or when specially authorized by the justice to act in the 13
 §§ 8, 19. case, or when the justice is absent from the court building and the special 14
 1862, 223, § 3. justice is holding court in his place. 15
 1864, 288, § 6.
 1867, 355, § 1.
 1873, 275.
 1874, 258, § 2;
 293, § 16; 392,
 § 16.
 1878, 195, § 1.
 P. S. 87, § 11.
 1884, 322, § 9.
 R. L. 87, § 33.
 1904, 459, § 1.
 1905, 447.

1909, 504, §§ 29, 107.
 1914, 473.

1918, 257, § 309.
 1919, 5, 49, § 1.

1920, 2.
 Op. A. G. (1920) 238.

Order of com- SECTION 51. No person shall be committed to any institution for the 1
 mitment. insane designated under or described in section ten, except the Walter E. 2
 1834, 150, § 3. Fernald state school, the Belchertown state school and the Wrentham 3
 R. S. 48, state school, unless there has been filed with the judge a certificate in 4
 §§ 6, 7, accordance with section fifty-three of the insanity of such person by two 5
 1855, 464, properly qualified physicians, nor without an order therefor, signed by 6
 G. S. 73, a judge named in the preceding section stating that he finds that the 7
 §§ 8, 9, person committed is insane and is a proper subject for treatment in a 8
 1862, 223, hospital for the insane, and either that he has been an inhabitant of the 9
 § 3, 4, commonwealth for the six months immediately preceding such finding or 10
 1879, 195, § 2. that provision satisfactory to the department has been made for his 11
 1880, 250, § 6. maintenance or that by reason of insanity he would be dangerous if at 12
 P. S. 87, §§ 12, large. The order of commitment shall also authorize the custody of the 13
 14, insane person either at the institution to which he shall first be committed 14
 1886, 319, § 1. or at some other institution to which he may be transferred. Said judge 15
 1892, 53, shall see and examine the alleged insane person, or state in his final order 16
 1894, 145, the reason why it was not considered necessary or advisable so to do. The 17
 1895, 429, hearing, unless a jury is summoned, shall be at such place as the judge 18
 1898, 433, § 28; 438, § 2. shall appoint. In all cases he shall certify in what place the insane person 19
 1900, 350, resided or was at the time of his commitment; or, if the commitment is 20
 R. L. 87, § 34. ordered by a court under section one hundred or one hundred and one the 21
 1908, 613, court shall certify in what place the insane person resided or was at the 22
 1909, 504,
 §§ 30, 107.
 1922, 410, § 8.
 1925, 293, § 6.
 11 Gray, 117.
 111 Mass. 308.
 169 Mass. 387.

23 time of the arrest upon the charge for which he was held to answer before
24 such court. Such certificate shall, for the purposes of the preceding
25 section, be conclusive evidence of the residence of the person committed.

1 SECTION 52. If in the opinion of the judge additional medical testi-
2 mony as to the mental condition of the alleged insane person is desirable,
3 he may appoint a third physician to examine and report thereon. The
4 fee for making such examination and report shall be four dollars, and
5 twenty cents for each mile traveled one way.

Additional
medical testi-
mony. Fee.
1909, 504, § 31.

1 SECTION 53. No physician shall make a certificate of insanity under
2 section fifty-one unless he makes oath that he is a graduate of a legally
3 chartered medical school or college, that he has been in the actual prac-
4 tice of medicine for three years since his graduation and for three years
5 last preceding the making of said oath, and that he is registered as a
6 physician in accordance with chapter one hundred and twelve, nor un-
7 less his standing, character and professional knowledge of insanity are
8 satisfactory to the judge. The physician who makes such certificate shall
9 have examined the alleged insane person within five days of his signing
10 and making oath to the certificate, and shall state therein that in his
11 opinion such person is insane and a proper subject for treatment in a hos-
12 pital for the insane, and the facts upon which his opinion is based. A
13 copy of the certificate, attested by the judge, shall be delivered with the
14 insane person to the superintendent of the institution to which the person
15 shall have been committed, to be kept on file with the order of commit-
16 ment, and said superintendent shall forthwith transmit to the depart-
17 ment copies of such certificate, of the statement required by the following
18 section and of the order of commitment. Any certificate bearing date
19 more than ten days prior to the commitment of any person alleged to be
20 insane shall be void, and no certificate shall be valid or received in evi-
21 dence if signed by a physician holding any office or appointment, other
22 than that of consulting or advisory physician, in an institution for the
23 insane to which such person is committed.

Qualifications
of physicians
certifying to
insanity
1862, 223, § 8.
1865, 268, § 1.
1879, 195, § 3.
P. S. 87, § 13.
1892, 229.
1895, 286,
§ 5 1, 2.
R. L. 87, § 35.
1909, 504,
§ 33, 107.
1916, 67.
1920, 537.
177 Mass. 11.
1 Op. A. G.
322, 190.
3 Op. A. G. 289.

1 SECTION 54. Upon each application for the commitment or admission
2 of a person as a patient to an institution, a statement in a form prescribed
3 by the department shall be filed with the application, or within ten days
4 after the commitment or admission, giving as nearly as can be ascertained
5 the facts therein required. A copy of the statement shall be transmitted
6 to the superintendent of the institution and filed with the order of com-
7 mitment or the application for admission. In the case of insane persons,
8 the superintendent of the institution shall within two days after the
9 reception of the patient send notice of his commitment or admission by
10 mail, postage prepaid, to all persons whose addresses appear on the said
11 statement, and to any other two persons whom the patient may designate.

Statement
with applica-
tion for com-
mitment, etc.
Notice to rela-
tives, etc.
1858, 64.
G. S. 73,
§ 10, 21.
1862, 223, § 5.
1865, 268, § 2.
P. S. 87, § 15.
R. L. 87, § 39.
1905, 436.
1909, 504,
§ 33, 107.

1 SECTION 55. After hearing such evidence as he may consider sufficient,
2 the judge may, either before or after the certificate required by section
3 fifty-one has been filed, issue a warrant for the apprehension and bring-
4 ing before him of the alleged insane person, if in his judgment the con-
5 dition or conduct of such person makes such action necessary or proper.
6 Pending examination and hearing, such order may be made relative to
7 the care, custody or confinement of the alleged insane person as the
8 judge shall see fit.

Apprehension
of alleged in-
sane person.
1880, 250, § 1.
P. S. 87, § 16.
R. L. 87, § 41.
§ 34, 107.

Commitment or transfer to Westborough state hospital for homœopathic treatment.
1884, 322, § 7.
R. L. 87, § 40.
1909, 504,
§§ 35, 107.

SECTION 56. In making a commitment of an insane person, the judge shall inquire of the applicant for his commitment whether he desires the insane person to be treated according to homœopathic principles of medicine, and if he does, such insane person shall be committed to the Westborough state hospital in preference to any other place, if that state hospital is capable of receiving him; and any inmate of any other state hospital desiring homœopathic treatment, or for whom such treatment is desired by his family or by the applicant for his commitment, may be transferred by the department to the Westborough state hospital.

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Jury trial on question of sanity.
1837, 228, § 1.
G. S. 73, § 11.

SECTION 57. The judge may, in his discretion, issue a warrant to the sheriff or his deputy, directing him to summon a jury of six men to hear and determine whether the alleged insane person is insane.

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1862, 223, § 6.
P. S. 87, § 17.
R. L. 87, § 42.
1909, 504, §§ 36, 107.
237 Mass. 591.

Selection and impanelling of jury.
1837, 228, § 2.
G. S. 73, § 12.
1862, 223, § 6.
P. S. 87, § 18.
R. L. 87, § 43.
1909, 504,
§§ 37, 107.
1919, 333, § 6.
1920, 2.

SECTION 58. The jurors shall be selected in equal numbers from the town where the trial is had and one or two adjoining towns, as the judge shall order, and in Suffolk and Nantucket counties they may all be taken from one town. The officer receiving the warrant shall in writing require the board authorized to draw jurors in such towns to return not less than two nor more than six jurors from each town; and the jurors shall be drawn, summoned, returned and impanelled as provided in chapter two hundred and thirty-four for civil cases, except that they need not be summoned more than twenty-four hours before the time appointed for their attendance. In the superior court the jurors may be selected from such traverse jurors in attendance at any session of said court in the same county as may be available.

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Judge to preside at trial. Verdict.
1837, 228, § 3.
G. S. 73, § 13.

SECTION 59. The judge shall preside at such trial and administer to the jury an oath faithfully and impartially to try the issue, and the verdict of the jury shall be final.

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P. S. 87, § 19.
R. L. 87, § 44.
1909, 504, §§ 38, 107.

Deficiency in jury, how supplied, etc.
1837, 228, § 4.
G. S. 73, § 14.
P. S. 87, § 20.
R. L. 87, § 45.
1909, 504,
§§ 39, 107.

SECTION 60. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the judge shall cause the officer who served the summons, or in his absence the officer attending the jury, to return persons to supply the deficiency; and shall have the same authority as the superior court to enforce the attendance of jurors and witnesses and to impose fines for non-attendance.

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Fees of officers, jurors and witnesses.
1857, 228, § 2.
1848, 271.
1855, 120.
G. S. 73, § 15.
1862, 223, § 6.
P. S. 87, § 21.

SECTION 61. The officer who summons and attends the jury shall receive therefor four cents a mile for all necessary travel, and one dollar and fifty cents for each day that he attends upon them; and the jurors and witnesses shall be entitled to such compensation as is prescribed for traverse jurors impanelled to try cases other than murder in the first degree and witnesses in civil actions before the courts, respectively.

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R. L. 87, § 46.
1909, 504, §§ 40, 107.
1931, 426, § 232.

Commitment of dipomanacs, etc., regulated. Limit of detention.
1885, 339, § 1.
1889, 414,
§§ 6-8.
1901, 178, § 1.
1899, 266, § 1;
325, § 1.

SECTION 62. Any of the judges named in section fifty, or a judge of the municipal court of the city of Boston, may commit to the state farm, or to any other institution under the department of correction that may be designated by the governor, to the McLean hospital, or to a private licensed institution, by an order of commitment, directed to the trustees, superintendent, or manager thereof, as the case may be, made

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7 in accordance with section fifty-one, and accompanied by a certificate,
 8 in accordance with section fifty-three, by two physicians qualified as
 9 therein provided, any male or female person, who is subject to dipso-
 10 mania or inebriety either in public or private, or who is so addicted to
 11 the intemperate use of narcotics or stimulants as to have lost the power
 12 of self-control. The judge receiving the application for such commit-
 13 ment shall examine on oath the applicant and all other witnesses, and
 14 shall reduce the application to writing and cause it to be subscribed and
 15 sworn to by the applicant. He shall cause a summons and copy of the
 16 application to be served upon such person in the manner provided by
 17 section twenty-five of chapter two hundred and seventy-six. Such
 18 person shall be entitled to a hearing unless after receiving said summons
 19 he shall in writing waive a hearing, in which case the judge may issue
 20 an order for his immediate commitment as aforesaid, without a hearing,
 21 if he is of opinion that the person is a proper subject for custody and
 22 treatment in the institution to which he is committed. The commit-
 23 ment may be made forthwith, if the examining physicians certify the
 24 case to be one of emergency. A person committed as aforesaid may be
 25 detained for two years after the date of his commitment, and no longer.

1900, 350.
 1901, 282.
 R. L. 87,
 §§ 59, 60.
 1905, 400.
 1909, 504,
 §§ 50, 107.
 1911, 558.
 1915, 73.
 1917, 49.
 1918, 139, § 1.
 1922, 535, § 4.
 169 Mass. 387.

1 SECTION 63. A person may appeal from the order of commitment as
 2 a dipsomaniac or inebriate, or as addicted to the intemperate use of nar-
 3 cotics or stimulants, to the superior court sitting for criminal business in
 4 the county from which he is committed, in the manner provided by sec-
 5 tion twenty-two of chapter two hundred and twelve, but he shall be held
 6 in such institution to abide the final order of the court until he recognizes
 7 in the manner provided in section eighteen of chapter two hundred and
 8 seventy-eight. Upon such appeal the judge who ordered the commitment
 9 may bind the witnesses by recognizance as provided in chapter two hun-
 10 dred and seventy-six, and shall make a copy of the order of commitment
 11 and other proceedings in the case and transmit the same with the recog-
 12 nizance, if any, to the clerk of the superior court. If the appellant so
 13 requests, an issue or issues shall be framed and submitted to a jury in
 14 the superior court.

Appeal from
 order of com-
 mitment as
 dipsomaniac,
 etc.
 1889, 414,
 §§ 10-12.
 1899, 266, § 2.
 R. L. 87, § 62.
 1909, 504,
 §§ 51, 107.

1 SECTION 64. If the appellant fails to enter and prosecute his appeal
 2 he shall be defaulted on his recognizance, and the superior court may
 3 enter an order in like manner as if he had been ordered to be committed
 4 by that court; and process may issue, if necessary, to bring him into
 5 court to be recommitted.

Default for
 non-prosecution
 of appeal
 1889, 414, § 13.
 R. L. 87, § 63.
 1909, 504,
 §§ 52, 107.

1 SECTION 65. At any time before the copy of the proceedings has been
 2 transmitted to the superior court, the appellant may be brought or may
 3 appear personally before the judge from whose order the appeal was
 4 taken, who may in his discretion, at the appellant's request, permit him
 5 to withdraw his appeal and abide by the order of said judge. Thereupon
 6 the judge shall order that the appellant comply with the order appealed
 7 from in the same manner as if it were then imposed.

Withdrawal
 of appeal
 Procedure.
 1889, 414, § 14.
 R. L. 87, § 64.
 1909, 504,
 §§ 53, 107.

1 SECTION 66. Any judge of probate, within his county, upon written
 2 application, if he finds that a person residing or being within said county
 3 is a proper subject for the Walter E. Fernald state school, the Belchertown
 4 state school or the Wrentham state school, may commit him thereto by an
 5 order of commitment, directed to the trustees thereof, made in accordance

Commitment
 to schools
 for the
 feeble minded
 regulated
 1883, 239, § 5.
 1889, 298, § 5.
 R. L. 87, § 118.

1906, 508, § 12.
1909, 504,
§§ 63, 107.
1916, 122, § 1.
1917, 225, § 1.
1922, 410, § 9.
1925, 293, § 7.
1931, 288, § 1.
202 Mass. 536.

with section fifty-one, and accompanied by a certificate in accordance 6
with section fifty-three by a physician, qualified as therein provided, that 7
such person is a proper subject for said school, and all provisions of said 8
section shall apply to such certificate, except that the physician's exami- 9
nation of the alleged feeble minded person shall have occurred within 10
ten days of the signing and making oath to the certificate, which shall 11
bear date not more than twenty days prior to the commitment of such 12
person. The order of commitment shall also direct the sheriff, deputy 13
sheriff, constable, police officer, or other person to apprehend and convey 14
the said person to the school to which he has been committed. Such order 15
shall be void if such person shall not be received at the school named 16
therein within sixty days after the date of such order. Unless the person 17
sought to be committed is present at the time of the hearing, or the appli- 18
cation is made by some one legally entitled to his custody, notice of the 19
application and of the time and place of hearing shall be given to the 20
person sought to be committed, and the order of commitment shall state 21
what notice was given or the finding of facts which made notice unneces- 22
sary, and shall authorize custody of the person until he shall be discharged 23
by order of a court or otherwise in accordance with law. 24

Commitment
of feeble
minded persons
to department.
Powers of
department.
1921, 441, § 1.
1924, 88, § 1.

SECTION 66A. If an alleged feeble minded person is found, upon 1
examination by a physician qualified as provided by section fifty-three, 2
to be a proper subject for commitment, the judge of probate for the 3
county in which such person resides or is found may upon application 4
commit him to the custody or supervision of the department; but no 5
person shall be so committed unless the approval of the department shall 6
be filed with the application for his commitment. If he is committed 7
to the custody or supervision of the department, the department shall 8
thereafter have power, whenever advisable, to transfer him to a state 9
school for the feeble minded, or may cause an application to be made for 10
his removal to a department for defective delinquents, and such person 11
may be so removed in the manner provided by section one hundred and 12
sixteen. If the alleged feeble minded person is committed to the custody 13
or supervision of the department of mental diseases, the said department 14
may temporarily release him in the manner provided by, and subject to, 15
the provisions of section eighty-eight, or may discharge him under section 16
eighty-nine. 17

Judicial
inquiry as to
commitment
or discharge of
inmates of
schools for the
feeble minded.
1906, 309, § 1.
1907, 489, § 1.
1909, 504,
§§ 65, 107.
1922, 410, § 10.
1925, 293, § 8.

SECTION 67. If an inmate of the Walter E. Fernald state school, the 1
Belchertown state school or the Wrentham state school has reached the 2
limit of school age, or if in the judgment of the trustees he is incapable of 3
being further benefited by school instruction, or if the question of the 4
commitment to or continuance in either of the said schools of any inmate, 5
including inmates who may have been transferred from one department 6
to another of such school, under section forty-six, is in the opinion of the 7
trustees and of the department a proper subject for judicial inquiry, the 8
probate court for Middlesex county, for Hampshire county or for Norfolk 9
county, respectively, upon the written petition of said trustees, or of said 10
department, or of any member of either body, and after such notice as the 11
court may order, may, in its discretion, order such inmate to be brought 12
before the court, and shall determine whether or not he is a feeble minded 13
person, and may commit him to such school or either department thereof, 14
or may order him to be discharged therefrom. 15

1 SECTION 68. The provisions relative to the commitment of insane
 2 persons to an institution for the insane shall, unless it is otherwise ex-
 3 pressly provided in this chapter, apply to and govern commitments under
 4 sections sixty-two to sixty-five, inclusive, or any of them, except that
 5 when an allegation of mental condition is required it shall be specifically
 6 alleged that a person who is committed under said sections is a dipso-
 7 maniac or inebriate or is so addicted to the intemperate use of nar-
 8 cotics or stimulants as to have lost the power of self-control.

General provisions relative to commitment applicable, when
 1885, 339, § 2.
 1889, 114, § 7.
 1899, 266, § 1.
 R. L. 87, § 65.
 1909, 504, § 56, 107.
 177 Mass. 11.

1 SECTION 69. A person who is subject to epilepsy, if he is not a criminal,
 2 an inebriate, or violently insane, may, if insane, be committed to the
 3 Monson state hospital, in accordance with the provisions of this chapter
 4 relative to the commitment of other insane persons, or, if dangerous to
 5 himself or others by reason of epilepsy, may be committed thereto in the
 6 manner provided for the commitment of dipsomaniacs and inebriates.

Commitment of insane epileptics regulated.
 1895, 483, § 8, 9.
 1899, 211, § 1.
 R. L. 87, § 66.
 1906, 352.
 1907, 432.
 1909, 504, § 57, 107.

1911, 71, § 1.

1 SECTION 70. Except as provided in section sixty-six, an order of
 2 commitment of a person to an institution shall be void if such person
 3 shall not be received at the institution within thirty days after the date
 4 of such order.

Commitment, order void, when.
 1911, 273.
 1916, 122, § 1.

1931, 288, § 2.

1 SECTION 71. Warrants and all other processes issued by a judge for
 2 the apprehension or commitment of insane persons, or of dipsomaniacs,
 3 inebriates, or persons addicted to the intemperate use of narcotics or
 4 stimulants, or of feeble minded persons, or of those subject to epilepsy,
 5 may be directed to and served by a court officer, by any sheriff, deputy
 6 sheriff, constable or police officer, or by any private person whom the
 7 judge may designate; and such warrants and processes may run into
 8 any county where any person to be apprehended or committed may
 9 be found, and any of the officers or persons to whom such warrants
 10 and processes are directed may serve the same in any part of the
 11 commonwealth.

Service of warrants, etc.
 1880, 250, § 1.
 P. S. 87, § 16.
 R. L. 87, § 41.
 1909, 504, § 34, 107.
 1915, 136.

1 SECTION 72. Upon committing a woman to any institution the judge
 2 shall designate her father, husband, brother or son, or some woman, to
 3 be the attendant or one of the attendants to accompany her to the
 4 institution.

Commitment of women, attendants.
 1899, 198.
 R. L. 87, § 57.

1909, 504, §§ 47, 107.

1 SECTION 73. Except as is otherwise provided, the compensation of
 2 the judges, physicians and officers taking part in the commitment or
 3 admission of persons to institutions in accordance with sections three
 4 to one hundred and twelve, inclusive, shall be as follows: The judge, if
 5 required to go from his office or place of business to see and examine the
 6 person committed or admitted, shall be allowed all necessary expenses of
 7 travel. If a special justice hears and determines the application he
 8 shall receive compensation at the rate provided in section six of chap-
 9 ter two hundred and eighteen; provided, that he shall not receive more
 10 than four dollars and the necessary expense of travel for each commit-
 11 ment. The fee for each physician making a certificate shall be four
 12 dollars, and twenty cents for each mile traveled one way. The fees for
 13 officers serving process shall be the same as are allowed by law in like
 14 cases.

Compensation of judges, physicians, etc.
 1836, 223, § 4.
 1838, 31.
 1850, 235.
 1856, 108, § 6.
 G. S. 73, § 17, 20.
 74, § 11.
 1862, 223, § 7.
 1873, 275.
 1879, 222.
 1880, 250, § 3.
 P. S. 87, § 23.
 1886, 298, § 5.
 1894, 493.
 1899, 211, § 5.
 R. L. 87, § 48, 73, 118.
 1904, 459, § 3, 5.
 1906, 508, § 12.

1909, 504, §§ 48, 107.

Commitment,
etc., expenses
of, how paid
1837, 228, § 5.
1838, 31.
1850, 255.
G. S. 73.
§§ 16, 18.
1880, 250, § 3.
1881, 186, § 1.
P. S. 87, § 24.
1899, 211, § 5.
R. L. 87.
§§ 49, 73.
1905, 475.
1906, 471.
1909, 504.
§§ 49, 107.
1910, 420.
1926, 104.
194 Mass. 486.

SECTION 74. All necessary expenses attending the apprehension, examination, trial, commitment or delivery of an alleged insane, epileptic or feeble minded person, dipsomaniac, inebriate or one addicted to the intemperate use of narcotics or stimulants, committed to a state hospital, shall be allowed and certified by the judge and presented as often as once a year to the county commissioners of the county in which such person was committed, who shall examine and audit the same. Necessary expenses attending the apprehension, examination or trial of any person sought to be committed to a state hospital but not so committed, shall be so presented, examined and audited if they have been allowed in the discretion of the judge and certified by him. All necessary expenses of examination and delivery of persons mentioned in section eighty-seven, and of examination of an alleged insane, epileptic or feeble minded person, dipsomaniac, inebriate or one addicted to the intemperate use of narcotics or stimulants in any other case where there is no application for commitment, when allowed in the discretion of a judge authorized to make commitments of such persons if their condition is found to be as alleged and certified by him, shall be presented as often as once a year to the county commissioners of the county, where the judge certifying the expenses was authorized by law to make commitments, who shall examine and audit the same. All expenses certified, examined and audited as provided in this section shall be paid by the proper county. Such expenses shall be repaid to the county paying them by the county, if any, of which the person committed, the person for whose commitment application was made and refused, the person mentioned in section eighty-seven or the person examined for whose commitment no application was made, as the case may be, is an inhabitant; but if the person committed or for whose commitment application was made but refused, or examined as aforesaid, is an inmate of an institution of any department of the commonwealth at the time of his commitment or of the denial of the application for commitment or of his examination as aforesaid, such expenses shall be repaid to the county paying them by the county of which such inmate was an inhabitant at the time of his admission or commitment to such institution, or, if he was not an inhabitant of any county, by the county from which he was sent to such institution. The necessary expenses of returning to a state hospital a person temporarily absent therefrom, under section eighty-eight, shall be paid by such person or his guardian, relative or friend if of sufficient ability, or may be paid by the county where he is found, if the condition of the person returned is such that a new commitment would be necessary if he were not returned; such expenses shall be certified and audited as in the case of a commitment, and shall be repaid as heretofore provided by the county of the person's residence. If application is made for the commitment of a person whose expenses and support are not to be paid by the commonwealth, the said expenses shall be paid by the applicant or by a person in his behalf.

Commitment,
judge to keep
docket, etc.
1880, 250, § 2.
P. S. 87, § 22.
R. L. 87, § 47.
1904, 459, § 2.
1909, 504.
§§ 41, 107.

SECTION 75. Each judge shall keep a docket or record of the causes relative to insane persons coming before him, numbered or otherwise properly designated, and the disposition thereof. He shall also receive and keep on file the original application, statement of applicant and certificate of physicians, and the copy of the order of commitment, attested by, and with the return thereon of, the officer or other person serving the same. Said docket or record and other documents required

8 to be kept as above shall be transmitted, on the death, resignation or
9 removal of the judge to his successor in office.

1 SECTION 76. The department may develop, extend and complete a
2 state wide system of psychopathic hospital service by establishing and
3 maintaining new hospital and out-patient units in suitable districts in
4 connection with existing or future state hospitals. The administration of
5 the separate new district units and the appropriations granted therefor
6 shall be in accordance with the laws governing the state hospitals to
7 which the land, buildings and furnishing of said units shall appertain.
8 The direction of the scientific work in such units shall be vested in the
9 department by means of its duly appointed agents.

Psychopathic
hospital
service
1917, 115,
1920, 537, § 1.

1 SECTION 77. If a person is found by two physicians qualified as pro-
2 vided in section fifty-three to be in such mental condition that his com-
3 mitment to an institution for the insane is necessary for his proper care
4 or observation, he may be committed by any judge mentioned in section
5 fifty, to a state hospital, to the McLean hospital, or, in case such person
6 is eligible for admission, to an institution established and maintained by
7 the United States government, the person having charge of which is
8 licensed under section thirty-four A, for a period of thirty-five days pend-
9 ing the determination of his insanity; provided, that such commitments
10 shall be made to Gardner state colony only when legally authorized by the
11 department. Within thirty days after such commitment the superin-
12 tendent of the institution to which the person has been committed shall
13 discharge him if he is not insane, and shall notify the judge who com-
14 mitted him, or if he is insane he shall report the patient's mental condition
15 to the judge with the recommendation that he shall be committed as an
16 insane person, or discharged to the care of his guardian, relatives or friends
17 if he is harmless and can properly be cared for by them. Within the said
18 thirty-five days, the committing judge may authorize a discharge as afore-
19 said, or he may commit the patient to any institution for the insane as an
20 insane person if, in his opinion, such commitment is necessary. If, in the
21 opinion of the judge, additional medical testimony as to the mental con-
22 dition of the alleged insane person is desirable, he may appoint a physician
23 to examine and report thereon.

Observation,
commitment
for. Proceed-
ings thereafter.
1909, 504, § 43.
1919, 49, § 14
145.
1924, 19,
1929, 136.

24 In case of the death, resignation or removal of the judge committing a
25 person for observation, his successor in office, or, in case of the absence or
26 disability of the judge committing a person as aforesaid, any judge or
27 special justice of the same court, shall receive the notice or report pro-
28 vided for by this section and carry out any subsequent proceedings
29 hereunder.

1 SECTION 78. The superintendent or manager of any institution for
2 the insane, in the case of Gardner state colony when so authorized by the
3 department, may without the order of a judge required by sections fifty
4 and fifty-one, receive into his custody and detain in such institution for
5 not more than five days any person whose case is certified to be one of
6 violent and dangerous insanity or of other emergency by two physicians
7 qualified as provided in section fifty-three by a certificate conforming in
8 all respects to said section, which certificate may be filed with a judge,
9 as the certificate required by section fifty-one. The officers mentioned in
10 section ninety-five or any member of the state police shall, upon the re-
11 quest of the applicant or of one of the said physicians, cause the arrest and

Temporary
care of
persons vio-
lently insane,
etc., without
order of court.
1881, 272,
§§ 1, 2.
P. S. 87, §§ 26,
27.
1898, 438, § 1.
R. L. 87, § 52.
1909, 504,
§§ 42, 107,
1919, 49, § 2.

delivery of such person to such superintendent or manager. The person applying for such admission shall within five days cause the alleged insane person to be committed to or removed from the institution, and failing so to do shall be liable to the commonwealth, in the case of a state hospital, or to the person maintaining the institution, in the case of a private institution, for the expenses incurred and to a penalty of fifty dollars, which may be recovered in contract by the state treasurer, or the person maintaining the private institution, as the case may be.

Temporary care of insane persons needing immediate care, etc., 1911, 395, 1915, 174, 1919, 49, § 2, 1929, 222, 4 Op. A. G. 467.

SECTION 79. The superintendent or manager of any institution for the insane, in the case of the Gardner state colony when so authorized by the department, may, when requested by a physician, member of the board of health, sheriff, deputy sheriff, member of the state police, selectman, police officer of a town or by an agent of the institutions department of Boston, receive and care for in such institution as a patient, for a period not exceeding ten days, any person needing immediate care and treatment because of mental derangement other than delirium tremens or drunkenness. Such request for admission of a patient shall be put in writing and be filed at the institution at the time of his reception, or within twenty-four hours thereafter, together with a statement in a form prescribed or approved by the department, giving such information as it deems appropriate. Any such patient deemed by the superintendent or manager not suitable for such care shall, upon the request of the superintendent or manager, be removed forthwith from the institution by the person requesting his reception, and, if he is not so removed, such person shall be liable to the commonwealth or to the person maintaining the private institution, as the case may be, for all reasonable expenses incurred under this section on account of the patient, which may be recovered in contract by the state treasurer or by such person, as the case may be. The superintendent or manager shall cause every such patient either to be examined by two physicians, qualified as provided in section fifty-three, who shall cause application to be made for his admission or commitment to such institution, or to be removed therefrom before the expiration of said period of ten days, unless he signs a request to remain therein under section eighty-six. Reasonable expenses incurred for the examination of the patient and his transportation to the institution shall be allowed, certified and paid as provided by section seventy-four.

Temporary care of persons addicted to intemperate use of narcotics, etc., 1917, 232, § 3, 1922, 535, § 5, 1931, 426, § 233.

SECTION 80. The superintendent or manager of any institution to which commitments may be made under section sixty-two may, when requested by a physician, by a member of the board of health or a police officer of a town, by an agent of the institutions department of Boston, by a member of the state police, or by the wife, husband, guardian or, in the case of an unmarried person having no guardian, by the next of kin, receive and care for in such institution, as a patient for a period not exceeding fifteen days, any person needing immediate care and treatment because he has become so addicted to the intemperate use of narcotics or stimulants that he has lost the power of self-control. Such request for the admission of a patient shall be made in writing and filed at the institution at the time of his reception, or within twenty-four hours thereafter, together with a statement, in a form prescribed by the department having supervision of the institution, giving such information as it deems appropriate. The trustees, superintendent or manager of such institutions shall cause to be kept a record, in such form as the

17 department having supervision of the institution requires of each case
 18 treated therein, which shall at all times be open to the inspection of such
 19 department and its agents. Such record shall not be a public record,
 20 nor shall the same be received as evidence in any legal proceeding. The
 21 superintendent or manager of such an institution shall not detain any
 22 person received as above for more than fifteen days, unless, before the
 23 expiration of that period, such person has been committed under section
 24 sixty-two, or has signed a request to remain at said institution under
 25 section eighty-six.

1 SECTION 81. Whenever a patient is received into any institution the
 2 superintendent or manager thereof shall give immediate notice of such
 3 reception to the department, stating all the particulars of the case, ex-
 4 cept where such information is contained in copies required to be sent
 5 to the department by section fifty-three.

Notice to
 department
 of receipt of
 insane persons
 at institution.
 1881, 272, § 4.
 P. S. 87, § 29.

1886, 101, § 4.
 R. L. 87, § 54.
 1905, 432, § 2.

1909, 504, §§ 46, 107.
 1918, 257, §§ 310, 311.

1919, 5.
 1920, 2.

1 SECTION 82. No person suffering from insanity, mental derangement,
 2 deliriums, or mental confusion, except delirium tremens and drunkenness,
 3 shall, except in case of emergency, be placed or detained in a lockup, po-
 4 lice station, city prison, house of detention, jail or other penal institution
 5 or place for the detention of criminals. If, in case of emergency, any such
 6 person is so placed or detained, he shall forthwith be examined by a phy-
 7 sician and shall be furnished suitable medical care and nursing and shall
 8 not be so detained for more than twelve hours. Any such person not so
 9 placed or detained who is arrested by or comes under the care or protec-
 10 tion of the police, and any other such person who is in need of immediate
 11 care and treatment which cannot be provided without public expense,
 12 shall be cared for by the board of health of the town where such per-
 13 son may be. Such board of health shall cause such person to be ex-
 14 amined by a physician as soon as possible, shall furnish him with suitable
 15 medical care and nursing, and shall cause him to be duly admitted or
 16 committed to an institution, unless prior to such admission or commitment
 17 he shall recover or be suitably provided for by his relatives or friends.
 18 Reasonable expenses for board, lodging, medical care, nursing, clothing
 19 and all other necessary expenses incurred by the board of health, under
 20 this section, shall be allowed, certified and paid in the same manner as
 21 provided by section seventy-four.

Places of tem-
 porary deten-
 tion regulated.
 Temporary
 care by board
 of health,
 when.
 Expense,
 how paid, etc.
 1911, 394.

1 SECTION 83. The governor may cause an inmate of a state hospital
 2 to be removed to another state hospital, as the circumstances or the
 3 necessities of the case may in his judgment require.

Transfer of
 inmates of
 state hospitals
 by governor.

1853, 318, § 3.
 1856, 247, § 5.

G. S. 73, § 26.
 P. S. 87, § 38.

R. L. 87, § 85.
 1909, 504, §§ 68, 107.

1 SECTION 84. The superintendent of any state hospital for the insane,
 2 except Gardner state colony, or of the McLean hospital, may receive for
 3 care and treatment any person in the military or naval service of the
 4 United States who is suffering from mental disease and cannot properly
 5 be cared for at the army post, naval station or government hospital
 6 where he is stationed or happens to be, upon the written application of the
 7 medical officer in charge thereof, who shall make a full statement of the
 8 case in such form as the department prescribes. Unless otherwise or-

Detention
 and care of
 insane persons
 in United
 States service
 regulated.
 1918, 142, § 1.
 1919, 49, § 1.

dered by the proper military or naval authority, persons received into an institution under this section may be detained therein for a period not exceeding sixty days, except that further detention, if necessary, may be authorized by the department. 9
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Same subject.
Contracts.
1918, 142, § 2.

SECTION 85. The department may make contracts with the federal government relative to the support of persons received and cared for under the preceding section on such terms as may be agreed upon. 1
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VOLUNTARY INMATES.

Voluntary admissions.
1881, 272, § 3.
P. S. 87, § 28.
R. L. 87, § 53.
1905, 432, § 1.
1906, 316.
1909, 504.
§§ 45, 54, 107.
1918, 139, § 3.
1919, 49, § 2.
1926, 132.
1 Op. A. G. 283.

SECTION 86. The trustees, superintendent or manager of any institution to which an insane person, a dipsomaniac, an inebriate, or one addicted to the intemperate use of narcotics or stimulants may be committed, in the case of Gardner state colony when so authorized by the department, may receive and detain therein as a boarder and patient any person who is desirous of submitting himself to treatment, and who makes written application therefor and is mentally competent to make the application; and any such person who desires so to submit himself for treatment may make such written application. No such person shall be detained more than three days after having given written notice of his intention or desire to leave the institution. 1
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Monson state hospital, admission to, etc., regulated.
1895, 483, § 10.
1897, 395, § 4.
1898, 213.
§§ 1-5.
1899, 211.
§§ 2-4.
R. L. 87.
§§ 67, 72.
1907, 432.
1909, 504.
§§ 58, 107.
1911, 71, § 2.
1 Op. A. G. 515.

SECTION 87. The trustees of the Monson state hospital may receive and detain therein as a patient any person who is certified to be subject to epilepsy by a physician qualified as provided in section fifty-three, and who desires to submit himself to treatment and makes written application therefor, and whose age and mental condition are such as to render him competent to make such application, or for whom application is made by a parent or guardian. No such patient shall be detained more than three months after having given written notice of his intention or desire to leave the hospital. Upon the patient's reception at the hospital, the superintendent shall report the particulars of the case to the department, which may investigate the same. 1
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RELEASE AND DISCHARGE.

Temporary absence on leave.
Insane, etc., persons.
1883, 78, § 2.
1889, 414.
§§ 8, 9.
1899, 325, § 1.
R. L. 87, §§ 60, 95.
1905, 435.
1909, 504.
§§ 75, 107.
1916, 239.
1917, 48.
165 Mass. 559.
3 Op. A. G. 151.
Op. A. G. (1920) 213.

SECTION 88. The superintendent or manager of any institution, after the examination required by section ninety-four has been made, may permit any inmate thereof temporarily to leave such institution in charge of his guardian, relatives, friends, or by himself, for a period not exceeding twelve months, and may receive him when returned by any such guardian, relative, friend, or upon his own application, within such period, without any further order of commitment, but no patient committed under section one hundred and one shall be permitted to temporarily leave the state hospital without the approval of the governor and council, nor shall such permission terminate or in any way affect the original order of commitment. The superintendent or manager may require as a condition of such leave of absence, that the person in whose charge the patient is permitted to leave the institution shall make reports to him of the patient's condition. Any such superintendent, manager, guardian, relative or friend may terminate such leave of absence at any time and authorize the arrest and return of the patient. The officers mentioned in section ninety-five shall cause such a patient to be arrested and returned upon the request of any such superintendent, manager, guardian, relative or friend. Any 1
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19 patient, unless he has been committed under section one hundred and one,
 20 who has not returned to the institution at the expiration of twelve months
 21 shall be deemed to be discharged therefrom.

1 SECTION SSA. The trustees of a state school for the feeble minded
 2 may permit any inmate of the school to leave the institution on parole for
 3 such length of time and on such conditions as they may determine and
 4 may from time to time extend the period of such parole or change the
 5 conditions upon which it is granted. They shall cause an investigation
 6 to be made prior to the granting of such parole as to the home into which
 7 such inmate is to go if paroled and other conditions and circumstances
 8 which may affect his welfare and behavior and shall provide such super-
 9 vision of paroled inmates as they deem necessary for his welfare. They
 10 shall have such powers as to the revocation of the permit and as to the
 11 return of the inmate to whom it has been granted as are provided by law
 12 for the return of insane and feeble minded persons to the institutions
 13 from which they have been temporarily released. No length of absence
 14 on parole under this section from a state school for the feeble minded shall
 15 be construed as a discharge therefrom.

Same subject.
 Feeble minded
 persons
 1922, 337.

1 SECTION S9. The superintendent or manager of a private institution
 2 described in section three, the superintendent of a state hospital and of the
 3 McLean hospital, or of any institution to which commitments may be
 4 made under section sixty-two, when authorized thereto by the trustees of
 5 such institution, the trustees themselves, the department having super-
 6 vision of the institution, or, on written application, a judge of probate
 7 for the county where the institution is situated, or where the inmate had
 8 his residence at the time of his commitment or admission, or a justice
 9 of the superior court in any county, after such notice as the said superin-
 10 tendent, manager, trustees, department having supervision, judge or
 11 justice, may consider reasonable and proper, may discharge any inmate
 12 if it appears upon examination that he will be sufficiently provided for by
 13 himself, his guardian, relatives or friends, or that his detention in such
 14 institution is no longer necessary for his own welfare or the safety of the
 15 public. If the legal or natural guardian or any relative of an inmate
 16 opposes such discharge, it shall not be made without written notice
 17 having been given to the person opposing such discharge. This section
 18 shall not apply to persons committed by a court under any provision of
 19 sections one hundred to one hundred and five, inclusive.

Discharge.
 General
 provisions.
 1832, 163, § 6.
 1834, 150, § 6.
 1835, 129, § 3.
 R. S. 48, §§ 14,
 15.
 1839, 149, § 1.
 G. S. 73, §§ 27,
 29, 30.
 1862, 223,
 §§ 13-15.
 1871, 321,
 §§ 1, 2.
 P. S. 87,
 §§ 39-41.
 1883, 78, § 1.
 1885, 339, § 3.
 1897, 474, § 2.
 1898, 453, § 21.
 1899, 266, § 3.
 325, § 2.
 R. L. 87,
 §§ 86, 91-94, 96.
 1906, 508, § 15.
 1909, 504,
 §§ 76, 107.
 1922, 525, § 6.
 165 Mass. 559.
 1 Op. A. G. 487.
 2 Op. A. G. 122.

1 SECTION S9A. If at any time, after study and observation, the super-
 2 intendent of a state school having custody of a person placed therein
 3 under section sixty-six A is of opinion that such person is not defective,
 4 or that his further detention is not required for his own or the public wel-
 5 fare, he shall so report to the department, which may thereupon discharge
 6 such person from further care and custody. Any parent, guardian, rela-
 7 tive or friend of a person committed to the custody or supervision of the
 8 department of mental diseases or to a department for defective delin-
 9 quents may at any time file a petition for a hearing in the probate court
 10 of the county in which such person resided or was found when first com-
 11 mitted, to establish that further custody or supervision is not required for
 12 the welfare of such person or the public; and upon payment of the neces-
 13 sary traveling expenses by said petitioner, from the place where such
 14 person is detained to the place of hearing, and the giving of security for

Discharge
 of certain
 persons from
 custody of
 department,
 etc.
 1921, 441, § 2.
 1924, 88, § 2.

the payment of necessary expenses for a return to such place of detention, 15
 if a return shall be ordered, the probate court may by order require the 16
 attendance of such person at said hearing. Upon filing with the depart- 17
 ment of mental diseases or with the commissioner of correction, as the case 18
 may be, a certified copy of said order, the department of mental diseases 19
 or the commissioner of correction shall authorize and direct the attend- 20
 ance of such person at such hearing in compliance with the terms of said 21
 order. Notice of such hearing and proceedings thereupon shall be such as 22
 are prescribed by the court. 23

Same subject.
 Order of court.
 1921, 441, § 2.

SECTION 89B. If, at said hearing, the contention of the petitioner 1
 is sustained, the probate court may order the immediate discharge of 2
 such person and file a copy of such order with the commissioner of mental 3
 diseases or the commissioner of correction, as the case may be, and such 4
 person shall thereupon be discharged accordingly. If such contention is 5
 not sustained, such person shall be remanded to the custody or super- 6
 vision of the department of mental diseases or to the department for 7
 defective delinquents; provided, that the probate court may, in lieu of 8
 such immediate discharge or remand, permit such person to remain in 9
 the custody of a relative or friend who shall give security, to be approved 10
 by the court, for his safe care and custody and for his appearance in court 11
 whenever required, until discharged or remanded as herein provided. 12

Discharge of
 unrecovered
 insane person
 regulated.
 Petition for
 instructions,
 when au-
 thorized
 Procedure
 1909, 504, § 77.

SECTION 90. No unrecovered inmate who is known to have committed 1
 or attempted to commit violence to others, or who in the opinion of the 2
 superintendent or manager is, or is likely to become dangerous to others, 3
 shall be discharged from or permitted to leave an institution under either 4
 of the two preceding sections by the trustees, superintendent or manager 5
 without written approval of the department. The department shall not 6
 grant such approval unless the superintendent or manager shall have sub- 7
 mitted to it a written report containing a full statement of the case and of 8
 the reasons for his opinion whether or not the patient is or is likely to 9
 become dangerous to others, and such other information as the depart- 10
 ment may require, nor unless the department is satisfied by such report 11
 or by its own investigation that such inmate is not and is not likely to 12
 become dangerous to others, or, if so dangerous, that sufficient precau- 13
 tions will be taken to protect the public safety. The department, if it 14
 does not agree with such superintendent or manager, may file a petition 15
 for instructions in the probate court for the county where the institution 16
 is situated, and such court may in its discretion order such inmate to be 17
 brought before it and cause him to be examined by one or more experts 18
 in insanity, shall determine whether or not he is or is likely to become 19
 dangerous to others, and, if so dangerous, whether sufficient precautions 20
 will be taken to protect the public safety, and may order him to be dis- 21
 charged or to be returned to the institution. Copies of all reports, deci- 22
 sions, findings and evidence connected with the case shall be trans- 23
 mitted to the institution and made a part of the case record of the inmate. 24
 Reasonable expenses incurred by the probate court in such examination 25
 shall be approved by the court and paid by the commonwealth. 26

Discharge,
 application for.
 1864, 288, § 1.
 1871, 321, § 3.
 P. S. 87, § 42.

SECTION 91. Any person may make written application to a justice 1
 of the supreme judicial court at any time and in any county, stating 2
 that he believes or has reason to believe that a person named in such 3

4 application is confined as an insane person in an institution or other place,
5 public or private, and ought not longer to be so confined, giving the
6 names of all persons supposed to be interested in keeping him in con-
7 finement, and requesting his discharge. Such an application may like-
8 wise be made by any inmate of the Walter E. Fernald state school, of
9 the Belchertown state school or of the Wrentham state school, or by any
10 person in his behalf.

R. L. 87, § 97.
1909, 504,
§§ 78, 107.
1916, 122, § 3.
1922, 410, § 11.
1925, 293, § 9.

1 SECTION 92. If an application is made under the preceding section, the
2 justice, upon reasonable cause shown for a hearing, shall order notice of
3 the time and place thereof to be given to the superintendent or manager
4 of the institution or place of confinement, and to such other persons as
5 he considers proper; and such hearing shall be given as conven-
6 iently may be before any justice of the supreme judicial court in any
7 county. The alleged insane or feeble minded person may be brought
8 before the justice at the hearing upon a writ of habeas corpus, if any
9 person so requests and the justice considers it proper. Pending the
10 decision of the court such person shall remain in the custody of the
11 superintendent or manager. An issue or issues may be framed and sub-
12 mitted to a jury by direction of the justice or on the request of any
13 person who appears in the case. The jurors may be those in attendance
14 on said court, if in session at the time of the hearing, or may be sum-
15 moned for the purpose upon the order of the justice substantially in ac-
16 cordance with chapter two hundred and thirty-four.

Discharge;
notice to
superintendent,
further pro-
ceedings.
1839, 149, § 1.
G. S. 73, § 30.
1864, 288,
§§ 3, 5.
1871, 321, § 4
P. S. 87, § 43.
R. L. 87, § 98.
1909, 504,
§§ 79, 107.
1916, 122, § 4.

1 SECTION 93. If it appears upon the verdict of the jury, or in the
2 opinion of the justice if the case is not submitted to a jury, that the
3 person so confined is not insane, or that he is not dangerous to himself or
4 others and ought not longer to be so confined, or in case of an inmate of
5 the Walter E. Fernald state school, of the Belchertown state school or
6 of the Wrentham state school, either that such inmate is not feeble
7 minded, or that continued custody of his person is unnecessary and un-
8 reasonable, or that he can be discharged with safety to himself and the
9 public, and will be cared for properly elsewhere, he shall be discharged
10 from confinement.

Discharge if
not insane or
dangerous.
1871, 321, § 5.
1879, 132.
P. S. 87, § 44.
R. L. 87, § 99.
1909, 504,
§§ 80, 107.
1916, 122, § 5.
1922, 410, § 12.
1925, 293, § 10.
3 Allen, 225.

1 SECTION 94. No state charge in a state hospital shall be discharged
2 therefrom without suitable clothing; and the trustees may furnish the
3 same, and such amount of money, not exceeding twenty dollars, as they
4 may consider necessary. Inquiry shall be made into the future situation
5 of every patient about to be discharged, and precautionary medical advice
6 shall be given to him. No patient shall be discharged or permitted to be
7 temporarily absent from any institution without a personal examination
8 of his mental condition made by one of the hospital physicians within
9 forty-eight hours of his departure, the result of which shall be entered
10 in his case record.

Clothing, etc.,
to be furnished
on discharge.
1834, 150, § 9.
R. S. 48, § 13.
G. S. 73, § 32.
P. S. 87, § 45.
R. L. 87, § 101.
1909, 504,
§§ 81, 107.
1 Op. A. G. 159.

ESCAPE.

1 SECTION 95. An inmate of any institution, who escapes therefrom,
2 may be arrested and returned thereto by an officer qualified to serve
3 criminal process in any county, or by any officer or employee of such
4 institution. The superintendent of police of Boston, city marshals and
5 chiefs of police of towns, upon information from the superintendent or

Escape,
arrest after.
1897, 474, § 1.
R. L. 87, § 61.
1909, 504,
§§ 86, 107.

manager of such institution of such an escape, shall cause the person so escaping, if he is within such town, to be arrested and returned to the institution at his expense.

SUPPORT.

Support of inmates of state hospitals regulated. Contribution from certain persons, when recoverable. Removal of guardian, etc., for failure to support.

Certain statements receivable as prima facie evidence.

1832, 163.

§§ 4, 5.

1834, 150.

§§ 5, 7.

1835, 129.

§§ 1, 2, 4.

R. S. 48.

§§ 8-11, 16.

1857, 228, § 7.

1857, 108, § 4.

1857, 209.

1858, 161.

1859, 107, § 2.

G. S. 73.

§§ 22-24.

1862, 223.

§§ 9-11.

1863, 240, § 9.

1864, 138, § 1.

1870, 105, § 1.

1879, 88.

18-0, 149.

P. S. 87.

§§ 31-33.

1883, 239, § 3.

1884, 322, § 9.

1889, 298.

§§ 7, 10.

1889, 414, § 17.

1892, 425, § 4.

1895, 483, § 12.

1897, 395, § 4.

1898, 213.

§§ 1-5.

1899, 211.

§§ 3, 4.

1909, 451, § 1.

R. L. 87.

§§ 68-72, 75-80.

120.

SECTION 96. The price for the support of inmates of state hospitals, except the Boston psychopathic hospital, and of insane inmates of the state infirmary and of the Bridgewater state hospital, not under orders of a court, shall be determined by the department at a sum not exceeding ten dollars per week for each person, and may be recovered of such persons or of the husband, wife, father, mother, grandfather, grandmother, child or grandchild if of sufficient ability. The price for the support of inmates of the Boston psychopathic hospital shall be determined by the department and may be recovered as herein provided. A married woman shall be subject to the said liability as though sole. Such action shall be brought by the attorney general in the name of the state treasurer.

Any person making payment for such support may recover the same, by suit in equity in the superior court to which any or all of the classes of persons hereinbefore named may be made parties, regardless of the existence of the marriage relation, from any person primarily liable for such support, or may have the amount so paid apportioned among those who are not primarily liable, in proportion to their respective ability to pay, and may recover such apportionment.

Any guardian or conservator of such an inmate who, having property of his ward in his possession or control exceeding two hundred dollars in value, fails to pay, within three months after receipt of any bill therefor, for his support at the rate determined by the department, shall, upon application of the attorney general, forthwith be removed.

In all proceedings under this section the sworn statement of a person that he is the superintendent of one of said institutions, or keeps or has custody of the records thereof or of the records of the department, and that a certain person has been an inmate of said institution during a certain period of time, or that the price of the support of a certain inmate has been determined at a certain sum by the department, shall be prima facie evidence of the said facts.

1905, 354.

1906, 508, § 17.

1908, 613, § 1; 629.

1909, 504, §§ 45, 82, 107.

1915, 208.

1917, 133.

1918, 139, § 3.

1921, 317, § 3.

1925, 314.

1926, 274.

18 Pick 379.

3 Met. 1.

9 Cush. 585.

1 Gray, 514.

5 Gray, 390.

9 Gray, 32.

11 Gray, 107.

6 Allen, 585.

12 Allen, 510.

116 Mass. 570.

119 Mass. 479.

130 Mass. 12.

131 Mass. 328.

151 Mass. 96.

160 Mass. 232.

164 Mass. 506.

194 Mass. 486.

195 Mass. 42.

196 Mass. 63.

268 Mass. 594.

1 Op. A. G. 515.

3 Op. A. G. 132.

PRIVILEGES OF PATIENTS.

Attorney may visit patient, when

1879, 195, § 4.

P. S. 87, § 35.

R. L. 87, § 82.

1909, 504.

§§ 84, 107.

SECTION 97. An attorney at law regularly retained by or on behalf of any person committed to an institution shall be admitted to visit his client at all reasonable times, if in the opinion of the superintendent or manager thereof such visit would not be injurious to such person, or if a justice of the supreme judicial or superior court, in any county, or a judge of probate within his county first orders in writing that such visit be allowed.

Patients may write to the department. Other correspondence regulated

SECTION 98. All patients of any institution shall be allowed to write freely to the department, subject to its regulations. Letters so written shall be forwarded unopened by the superintendent, manager or person

4 in charge of said institution to said department, and letters or other com-
 5 munications by or from the department may be sent to the patient.
 6 All other letters to or from the patient may be sent as addressed or to his
 7 parent or legal guardian or most interested friend.

1909, 504, §§ 85, 107.

4 Op. A. G. 219.

1874, 363,
 §§ 1, 2,
 P. S. 87, § 36,
 1898, 433, § 15,
 R. L. 87, § 83.

EXAMINATION OF PERSONS COMING BEFORE COURTS.

1 SECTION 99. In order to determine the mental condition of any per-
 2 son coming before any court of the commonwealth, the presiding judge
 3 may, in his discretion, request the department to assign a member of
 4 the medical staff of a state hospital to make such examinations as he
 5 may deem necessary. No fee shall be paid for such examination, but
 6 the examining physician may be reimbursed for his reasonable traveling
 7 expenses.

Mental condition
 of
 persons coming
 before courts,
 how deter-
 mined
 Expenses.
 1918, 133.
 271 Mass. 435.

1 SECTION 100. If a person under complaint or indictment for any
 2 crime is, at the time appointed for trial or sentence, or at any time prior
 3 thereto, found by the court to be insane or in such mental condition that
 4 his commitment to an institution for the insane is necessary for his
 5 proper care or observation pending the determination of his insanity,
 6 the court may commit him to a state hospital or to the Bridgewater
 7 state hospital under such limitations, subject to the provisions of section
 8 one hundred and five as it may order. The court may in its discretion
 9 employ one or more experts in insanity, or other physicians qualified as
 10 provided in section fifty-three, to examine the defendant, and all reason-
 11 able expenses incurred shall be audited and paid as in the case of other
 12 court expenses. A copy of the complaint or indictment and of the
 13 medical certificates attested by the clerk shall be delivered with such
 14 person in accordance with section fifty-three. If reconveyed to jail or
 15 custody under section one hundred and five, he shall be held in accord-
 16 ance with the terms of the process by which he was originally committed
 17 or confined.

Commitment
 to state hos-
 pitals of persons
 under indict-
 ment.
 1849, 68
 G. S. 172, § 14.
 P. S. 214, § 16.
 1891, 379, § 12.
 R. L. 219,
 §§ 11, 12.
 1904, 257.
 1909, 504,
 § 103, 107.
 1917, 46, § 1.
 1923, 467, § 2.
 212 Mass. 438.

1 SECTION 100A. Whenever a person is indicted by a grand jury for
 2 a capital offense or whenever a person, who is known to have been in-
 3 dicted for any other offense more than once or to have been previously
 4 convicted of a felony, is indicted by a grand jury or bound over for
 5 trial in the superior court, the clerk of the court in which the indict-
 6 ment is returned, or the clerk of the district court or the trial justice,
 7 as the case may be, shall give notice to the department of mental dis-
 8 eases, and the department shall cause such person to be examined with
 9 a view to determine his mental condition and the existence of any mental
 10 disease or defect which would affect his criminal responsibility. When-
 11 ever the probation officer of such court has in his possession or when-
 12 ever the inquiry which he is required to make by section eighty-five of
 13 chapter two hundred and seventy-six discloses facts which if known
 14 to the clerk would require notice as aforesaid, such probation officer
 15 shall forthwith communicate the same to the clerk who shall there-
 16 upon give such notice unless already given. The department shall
 17 file a report of its investigation with the clerk of the court in which
 18 the trial is to be held, and the report shall be accessible to the court,
 19 the probation officer thereof, the district attorney and to the attorney
 20 for the accused. In the event of failure by the clerk of a district
 21 court or the trial justice to give notice to the department as aforesaid,

Investigation
 of mental
 condition of
 certain persons
 held for trial.
 Notice. Fees.
 Penalty.
 1921, 415.
 1923, 331
 1923, 169
 1927, 59, § 1.
 1929, 165.
 257 Mass. 391.
 273 Mass. 210.

the same shall be given by the clerk of the superior court after entry of the case in said court. Upon giving the notice required by this section the clerk of a court or the trial justice shall so certify on the papers. The physician making such examination shall, upon certification by the department, receive the same fees and traveling expenses as provided in section seventy-three for the examination of persons committed to institutions and such fees and expenses shall be paid in the same manner as provided in section seventy-four for the payment of commitment expenses. Any clerk of court or trial justice who wilfully neglects to perform any duty imposed upon him by this section shall be punished by a fine of not more than fifty dollars.

Commitment of persons acquitted of murder, etc., by reason of insanity.
Discharge.
1873, 227.
P. S. 214,
§§ 20, 21.
1895, 390, § 7.
R. L. 219, § 16.

SECTION 101. If a person indicted for murder or manslaughter is acquitted by the jury by reason of insanity, the court shall order him to be committed to a state hospital or to the Bridgewater state hospital during his natural life. The governor, with the advice and consent of the council, may discharge such a person therefrom when he is satisfied after an investigation by the department that such discharge will not cause danger to others.

1909, 504, §§ 104, 107.

1923, 467, § 3.

136 Mass. 489.

INSANE PRISONERS.

Insane prisoners, examination.
"Superior court" defined, for purposes of §§ 102 and 103.
1844, 120,
§§ 1, 2.
1856, 135.
G. S. 180,
§§ 1-3.
1862, 8.
1880, 250, § 5.
P. S. 222, § 10.
1885, 320, § 1.
1886, 101, § 4.
1898, 453,
§§ 24, 28.
R. L. 225,
§ 101.
1906, 472.
1909, 274, 504,
§§ 105, 107.
1910, 345, § 1.
1911, 604, § 1.

SECTION 102. The department shall designate two persons, experts in insanity, to examine prisoners in the state prison, the Massachusetts reformatory, the prison camp and hospital or the reformatory for women, alleged to be insane. If any such prisoner appears to be insane or in such mental condition that his commitment to an institution for the insane is necessary for his proper care or observation pending the determination of his insanity, the warden or superintendent shall notify one or both of said experts, who shall, with the physician of such penal institution, examine the prisoner and report the result of their investigation to the superior court of the county where such penal institution is situated. For the purposes of this and the following section, "superior court" may, in respect to a prisoner in the Massachusetts reformatory, include the district court of central Middlesex, and, in respect to a prisoner in the reformatory for women, the first district court of southern Middlesex.

G. L. (ed of 1920) 123,
§§ 102, 103.

1929, 213, § 1.
173 Mass. 550.

255 Mass. 369.
4 Op. A. G. 531.

Insane prisoners, removal to state hospital.
1844, 120, § 2.
G. S. 180, § 3.
1860, 250, § 5.
P. S. 222, § 10.
1885, 320, § 1.
1886, 101, § 5.
1895, 390, § 3.
1898, 453, § 28.
R. L. 225, § 101.
1906, 472.
1909, 274, 504,
§§ 105, 107.

SECTION 103. The superior court upon a report under the preceding section, if it considers the prisoner to be insane or in such mental condition that his commitment to an institution for the insane is necessary for his proper care or observation pending the determination of his insanity, and his removal expedient, shall issue a warrant, directed to the warden or superintendent, authorizing him to cause the prisoner, if a male, to be removed to the Bridgewater state hospital, and, if a female, to be removed to one of the state hospitals for the insane, subject to the provisions of section one hundred and five.

1910, 345, § 1.
1911, 604, § 1.
1929, 213, § 2.

1931, 166, § 1.
173 Mass. 550.
195 Mass. 42.

255 Mass. 369.
1 Op. A. G. 113.

Insane prisoners, removal from jails, houses of correction, etc.

SECTION 104. If a prisoner under sentence in a jail, house of correction, or prison other than one named in section one hundred and two, appears to be insane or in such mental condition that his com-

4 mitment to an institution for the insane is necessary for his proper
 5 care or observation pending the determination of his insanity, the
 6 physician in attendance shall make a report thereof to the jailer or
 7 master who shall transmit the same to one of the judges mentioned in
 8 section fifty. If the judge finds in accordance with sections fifty and
 9 fifty-one that the prisoner is insane, or if he finds that the mental condi-
 10 tion of the prisoner is such that his commitment to an institution for
 11 the insane is necessary for his proper care or observation pending the
 12 determination of his insanity, and that his removal is expedient, he shall
 13 order the removal of such prisoner, if a male to Bridgewater state
 14 hospital, if a female to one of the state hospitals for the insane, sub-
 15 ject to the provisions of section one hundred and five; provided, that
 16 if a male prisoner has not been criminal and vicious in his life the judge
 17 may order him removed to one of the state hospitals. A physician,
 18 other than the physician in attendance at the place of detention, mak-
 19 ing the certificate, shall be entitled to the compensation provided by
 20 section seventy-three.

1 SECTION 105. When in the opinion of the trustees and superintendent
 2 of the state hospital to which a prisoner has been committed or removed
 3 under section one hundred, one hundred and three or one hundred and
 4 four, or of the commissioner of correction and the superintendent of the
 5 state farm in case of commitment or removal to the Bridgewater state
 6 hospital, the mental condition of the prisoner is such that he should be
 7 returned to custody or to the penal institution from which he was taken,
 8 they shall so certify upon the warrant or commitment, and notice, ac-
 9 companied by a written statement regarding the mental condition of
 10 the prisoner, shall be given to the proper custodian or to the warden,
 11 superintendent, keeper or master of such penal institution, as the case
 12 may be, who shall thereupon cause the prisoner to be reconveyed to
 13 such custodian, or to such penal institution, there to remain pursuant to
 14 the original sentence if committed or removed under section one hundred
 15 and three or one hundred and four, computing the time of his detention
 16 or confinement in the said hospital as part of the term of his imprison-
 17 ment under such sentence; provided, that a prisoner committed or re-
 18 moved to a state hospital under section one hundred, one hundred and
 19 three or one hundred and four for his proper care or observation pending
 20 the determination of his insanity shall, unless found to be insane as here-
 21 inafter provided, be returned in the manner hereinbefore provided to
 22 the penal institution or custody whence so taken, not later than thirty-
 23 five days thereafter, but such prisoner shall in all other respects be sub-
 24 ject to the provisions of this section. If a prisoner committed as insane
 25 under section one hundred, who has not been restored to sanity, is
 26 returned as aforesaid because in the opinion of the trustees and superin-
 27 tendent, or of the commissioner of correction and superintendent, as the
 28 case may be, neither the public interest nor the welfare of the prisoner
 29 will be promoted by his further retention in the hospital, they shall so
 30 certify upon the warrant or commitment and shall append thereto a
 31 report relative to the prisoner's mental condition as affecting his criminal
 32 responsibility and the advisability of his discharge or temporary release
 33 from the penal institution or custody to which he is returned. If a
 34 prisoner, committed or removed under section one hundred, one hundred
 35 and three or one hundred and four for his proper care or observation as
 36 aforesaid, is found by the trustees and superintendent or by the com-

R S 145, § 1.
 1853, 259.
 G S 180,
 § 4, 5.
 P S 222,
 §§ 12, 13.
 1886, 219, § 1.
 1895, 390, § 1.
 R. L. 85, § 41;
 225, §§ 101, 102.
 1909, 504,
 § 98, 106, 107.
 1910, 122
 1917, 46, § 2.
 1929, 213, § 3.
 1931, 166, § 2.
 195 Mass. 42.

Reconveyance of prisoners
 restored to
 sanity, not
 dangerously
 insane, etc.
 R S 145, § 2.
 1853, 259.
 G S 180,
 § 3, 5.
 1880, 250, § 5.
 P S 222,
 § 10, 13.
 1885, 320, § 1.
 1886, 101, § 4;
 219, § 1
 1895, 390, § 6.
 1898, 433, § 28.
 R. L. 85, § 41;
 225, §§ 101, 102.
 1906, 472.
 1909, 274; 504,
 § 98, 103,
 105-107.
 1910, 122.
 1917, 46,
 § 1, 2.
 G. L. (ed. of
 1920) 123,
 §§ 103-105.
 1923, 467, § 4.
 1929, 213, § 4.
 1931, 166, § 3.

missioner of correction and superintendent, as the case may be, to be 37
insane, the finding shall be certified upon the warrant or commitment, 38
and the superintendent of the institution shall report the prisoner's 39
mental condition to the court or judge issuing the warrant or commit- 40
ment, or in case of the death, resignation or removal of the judge, to his 41
successor in office, or in case of the absence or disability of the judge, 42
to any judge or special justice of the same court, with the recommenda- 43
tion that the prisoner be committed as an insane person. The court, 44
judge or justice may thereupon commit the prisoner to an institution for 45
the insane, if, in the opinion of the court, judge or justice, such com- 46
mitment is necessary. The provisions of this section relative to the 47
return to custody or to a penal institution of a prisoner taken therefrom 48
under section one hundred, one hundred and three or one hundred and 49
four, shall apply, so far as apt, to a prisoner committed under this section. 50

RENDITION.

Rendition of
insane persons.
1909, 504, § 87.
219 Mass. 548.

SECTION 106. The governor may upon demand deliver to the execu- 1
tive of any other state any person who has escaped from an institution 2
for the insane to which he has been committed under the laws of such 3
state, and who may be dangerous to the safety of the public, or may 4
upon application appoint an agent to demand of the executive authority 5
of any other state any person who has escaped from an institution in this 6
commonwealth. Such demand or application shall be accompanied by 7
an attested copy of the commitment and sworn evidence of the superin- 8
tendent or manager of the institution stating that the person demanded 9
has escaped from such institution, and by such further evidence as the 10
governor requires. 11

Warrant.
1909, 504, § 88.

SECTION 107. If the governor is satisfied that the demand made 1
upon him under the preceding section conforms to law and ought to be 2
complied with, he shall issue his warrant under the seal of the common- 3
wealth to an officer authorized to serve warrants in criminal cases, direct- 4
ing him at the expense of the agent who makes the demand, and at a time 5
designated in the warrant, to take and transport such person to the 6
boundary line of the commonwealth and there deliver him to such agent. 7
The officer may require aid as in criminal cases. 8

Writ of habeas
corpus, when
1909, 504, § 89.

SECTION 108. A person arrested upon such a warrant shall not be 1
delivered to the agent of another state until he has been notified of the 2
demand for his surrender and has had an opportunity to apply for a writ 3
of habeas corpus, if he claims such right of the officer making the arrest. 4
If the said writ is applied for, notice thereof and of the time and place of 5
hearing shall be given to the attorney general or to the district attorney 6
for the district where the arrest is made. An officer who delivers such 7
person in his custody upon such warrant to such agent for rendition with- 8
out having complied with this section shall forfeit not more than one 9
thousand dollars. Pending the determination of the court upon an ap- 10
plication for the said writ, the person shall be detained in custody in a 11
suitable institution for the insane. 12

Payment of
expenses.
1909, 504, § 90.
1931, 426, § 234.

SECTION 109. If an application made under section one hundred and 1
six for the arrest of a patient escaped from an institution in the common- 2

3 wealth is granted and an agent is appointed as therein provided, his
 4 reasonable expenses shall be paid by the commonwealth from the ap-
 5 propriation for expenses of the institution from which the patient escaped.

CERTAIN ACTS FORBIDDEN.

1 SECTION 110. A physician who wilfully conspires with a person un-
 2 lawfully or improperly to commit to an institution for the insane a person
 3 who is not insane shall be punished by fine or imprisonment, at the
 4 discretion of the court.

Conspiracy
to commit a
sane person.
Penalty
1881, 272, § 5.

P. S. 87, § 30.

R. L. 87, § 56.

1909, 504, §§ 91, 107.

1 SECTION 111. Any person employed in an institution, or having charge
 2 of an insane, feeble minded or epileptic person, whether by reason of any
 3 contract or of any ties of relationship or marriage or otherwise, who ill-
 4 treats or wilfully neglects such person shall be punished by fine or im-
 5 prisonment, at the discretion of the court.

Ill-treatment,
etc. Penalty
1909, 504, § 92.

1 SECTION 112. Any person who wilfully permits or assists, or connives
 2 at, the escape of a patient from any institution, or secretes a patient who
 3 has escaped therefrom, shall be punished by fine or imprisonment, at the
 4 discretion of the court.

Escape, con-
nivance at.
Penalty.
1909, 504, § 93.
1919, 48.

DEFECTIVE DELINQUENTS AND DRUG ADDICTS.

1 SECTION 113. At any time prior to the final disposition of a case
 2 in which the court might commit an offender to the state prison, the
 3 reformatory for women, any jail or house of correction, the Massachu-
 4 setts reformatory, the state farm, the industrial school for boys, the
 5 industrial school for girls, the Lyman school, any county training school,
 6 or to the custody of the department of public welfare, for any offense
 7 not punishable by death or imprisonment for life, a district attorney,
 8 probation officer or officer of the department of correction, public wel-
 9 fare or mental diseases may file in court an application for the com-
 10 mitment of the defendant in such a case to a department for defective
 11 delinquents established under sections one hundred and seventeen and
 12 one hundred and twenty-four, or to a department for the care and
 13 treatment of drug addicts, established by the governor and council
 14 under authority of said sections. On the filing of such an application the
 15 court may continue the original case from time to time to await dis-
 16 position thereof. If, on a hearing on an application for commitment
 17 as a defective delinquent, the court finds the defendant to be mentally
 18 defective and, after examination into his record, character and person-
 19 ality, that he has shown himself to be an habitual delinquent or shows
 20 tendencies towards becoming such and that such delinquency is or may
 21 become a menace to the public, and that he is not a proper subject for
 22 the schools for the feeble minded or for commitment as an insane per-
 23 son, the court shall make and record a finding to the effect that the
 24 defendant is a defective delinquent and may commit him to such a
 25 department for defective delinquents according to his age and sex,
 26 as hereinafter provided. If, on a hearing on an application for com-
 27 mitment as a drug addict, it appears that the defendant is addicted to
 28 the intemperate use of stimulants or narcotics, the court may commit
 29 him to a department for the care and treatment of drug addicts if and
 30 when such a department is provided.

Commitments
to department
for defective
delinquents,
or to depart-
ment for
drug addicts.
1911, 595, § 1.
1921, 270, § 1.
1922, 535, § 7.
1928, 333.

Removal from institution because of violation of regulations. 1911, 595, § 2. 1922, 535, § 8.

SECTION 114. If an offender while under commitment to any of the institutions named in the preceding section or to the department of public welfare persistently violates the regulations of the institution or department in whose custody he is, or conducts himself so indecently or immorally, or otherwise so grossly misbehaves as to render himself an unfit subject for retention in said institution or by said department, and it appears that such offender is mentally defective or addicted to the intemperate use of stimulants or narcotics, and is not a proper subject for a school for the feeble minded, a physician in attendance at any institution named in the preceding section or a physician employed by said department shall make a report thereof to the officer in charge of said institution or to the director of child guardianship, who shall transmit the same to one of the judges mentioned in section fifty. The judge shall make inquiry into the facts and, if satisfied that the offender is mentally defective or so addicted, and not a proper subject for a school for the feeble minded, shall order his removal to a department for defective delinquents, or to a department for the care and treatment of drug addicts, as the case may be, according to his age and sex as hereinafter provided.

Physicians' certificate to be filed in certain cases. Fees. 1911, 595, § 3. 1922, 535, § 9.

SECTION 115. No person shall be committed to a department for defective delinquents or to a department for the care and treatment of drug addicts under either of the two preceding sections unless there has been filed with the judge a certificate by two physicians qualified as provided in section fifty-three that such person is mentally defective or is addicted to the intemperate use of stimulants or narcotics. The fees of the certifying physicians shall be of the amount and paid in the manner provided for like service in sections three to one hundred and twelve, inclusive.

Removal from school for feeble minded for violation of regulations, etc. 1911, 595, § 4.

SECTION 116. If an inmate of a school for the feeble minded persistently violates the regulations of the school, or conducts himself so indecently or immorally, or so grossly misbehaves as to render himself an unfit subject for retention therein, the officer in charge shall make a report thereof to one of the judges mentioned in section fifty. The judge shall make inquiry into the facts and, if satisfied that such inmate is not a fit subject for retention in the school, shall order his removal to a department for defective delinquents, according to his age and sex, as hereinafter provided.

Departments for defective delinquents and for drug addicts. 1911, 595, § 5. 1913, 796, § 1. 1916, 241, §§ 1, 2. 1919, 199, § 1; 350, § 82. 1921, 270, § 2. 1922, 535, § 10.

SECTION 117. At the Massachusetts reformatory, the state farm or such other place or places as may hereafter be approved by the governor and council, there may be maintained departments to be termed departments for defective delinquents, for the custody of persons committed thereto under sections one hundred and thirteen to one hundred and sixteen, inclusive. At any state institution under the supervision of the department of correction, there may be established and maintained, with the approval of the governor and council, departments to be termed departments for drug addicts, for the care and treatment of persons addicted to the intemperate use of stimulants or narcotics and committed thereto under said sections. All men and boys so committed shall be committed to departments for male defective delinquents or for male drug addicts, as the case may be. All women and girls so committed shall be committed to departments for female

15 defective delinquents or for female drug addicts, as the case may be.
 16 All such persons committed to departments for defective delinquents
 17 or for drug addicts at any institution under control of the department
 18 of correction shall be and remain in the custody of the said department
 19 until discharged as hereinafter provided.

1 SECTION 118. The board of parole of the department of correction
 2 may parole inmates of the departments for defective delinquents or drug
 3 addicts on such conditions as it deems best, and may at any time during
 4 the parole period recall to the institution any inmate paroled.

1922, 535, § 11.

Parole, etc.
 1911, 595, § 6.
 1916, 241, § 2.
 1919, 199, § 1;
 350, § 82.

1 SECTION 119. Any person may apply at any time to the justice of
 2 the district court in whose jurisdiction a department for defective de-
 3 linquents or a department for drug addicts is located, for the discharge
 4 of any inmate of said department. A hearing shall thereupon be held,
 5 of which notice shall be given to the applicant and to the person in
 6 charge of the institution where the inmate is confined. If after the
 7 hearing the justice shall find that it is probable that the inmate can be
 8 allowed to be at large without serious injury to himself, or damage or
 9 injury or annoyance to others, he may order the person having custody
 10 of said inmate to parole him. Further action on the application for the
 11 inmate's discharge shall be suspended for one year from the date of his
 12 parole. If, at any time prior to the expiration of said year, the justice
 13 of the court where the application was filed shall be satisfied that the
 14 best interests of said inmate, or of the public, require the recall of the in-
 15 mate from parole, he may authorize the person having custody of the
 16 inmate to so recall him. If an application is denied, a new application
 17 shall not be made within one year after the date of the order denying
 18 the previous application. If at the end of said year the justice shall
 19 find that said inmate can be allowed to be permanently at large without
 20 serious injury to himself, or damage or injury or annoyance to others,
 21 he may order the person having custody of said inmate to discharge
 22 him. If a person discharged under this section is found by any court
 23 to have committed, after his discharge, any offence against the laws of
 24 the commonwealth, said court may commit such person to a depart-
 25 ment for defective delinquents or to a department for drug addicts, as
 26 the case may be, without the certificate of any physician.

Parole and
 discharge by
 order of court.
 1911, 595, § 7.
 1922, 535, § 12.

1 SECTION 120. Any special justice, when holding court at the request
 2 of the justice, shall have the powers and perform the duties of the justice
 3 under sections one hundred and thirteen to one hundred and twenty-four,
 4 inclusive. In case of a vacancy in the office of justice and in the case of
 5 the illness, absence or other disability of the justice, the special justice
 6 who holds the senior commission shall, if no request has been made as
 7 aforesaid, have the powers and perform the duties of the justice under
 8 said sections.

Powers of
 special justices
 of courts in
 certain cases.
 1911, 595, § 8.

1 SECTION 121. A docket for, and a record of all proceedings under
 2 sections one hundred and thirteen to one hundred and twenty-four, in-
 3 clusive, and all papers in connection therewith, shall be kept by the clerk
 4 of the court in which the justice making the commitment under said
 5 sections sits. The clerk shall receive and keep on file the original ap-
 6 plication, the certificate of physicians and the copy of the order of com-

Records of
 proceedings
 of commit-
 ments.
 1911, 595, § 9.
 1923, 397.

mitment attested by and with the return thereon of the officer or other person serving the same. 7
8

Commitments
of defective
delinquents,
how made.
1911, 595, § 10.

SECTION 122. All commitments under sections one hundred and thirteen to one hundred and twenty-four, inclusive, shall be made under an order signed by the justice making it. Such order may be served by any person qualified to serve any process issuing out of the court in which the justice making the commitment sits or, in case of transfer, by any officer or attendant of the institution from which the transfer is being made. The officer or other person serving such order shall make return of service on an attested copy thereof. 1
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Expenses of
commitment
etc.
1911, 595, § 11.

SECTION 123. All necessary expenses attending proceedings under sections one hundred and thirteen to one hundred and twenty-four, inclusive, shall be allowed, certified and paid in the manner provided in section seventy-four. 1
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Time of taking
effect of
certain
provisions.
1911, 595, § 12.
1913, 700, § 2.
1916, 241,
§§ 1, 2
1919, 199, § 1;
350, § 82.
1922, 535, § 13.

SECTION 124. Sections one hundred and thirteen to one hundred and twenty-four, inclusive, shall take effect as to any of the departments named in section one hundred and seventeen when the same is ready for occupancy. The commissioner of correction shall notify the governor when a department is in a suitable condition to receive inmates; and the governor may then issue his proclamation establishing such department as a place for the custody of defective delinquents or for the care and treatment of drug addicts, as the case may be. 1
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TITLE XVIII.

PRISONS, IMPRISONMENT, PAROLES AND PARDONS.

- CHAPTER 124. Powers and Duties of the Department of Correction.
 CHAPTER 125. Penal and Reformatory Institutions of the Commonwealth.
 CHAPTER 126. Jails, Houses of Correction and Reformation, and County Industrial Farms.
 CHAPTER 127. Officers and Inmates of Penal and Reformatory Institutions. Paroles and Pardons.

CHAPTER 124.

POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTION.

SECT.

1. Duties of commissioner.
2. Duties of commissioner and subordinates.
3. Temporary aid for dependents of prisoners.
4. Supervision of prisoners having permits to be at liberty.
5. Reports of commissioner to the governor.

SECT.

6. Annual report of commissioner to the general court.
7. Duties of board of parole. Annual report.
8. Reports of criminal cases by clerks of courts and trial justices. Penalty.
9. Monthly reports of arrests. Penalty.

1 SECTION 1. The commissioner of correction, in this chapter called
 2 the commissioner, shall have the general supervision of the state prison,
 3 the Massachusetts reformatory, the prison camp and hospital, the
 4 state prison colony, the state farm and the reformatory for women,
 5 and of jails and houses of correction. He shall make rules for the direc-
 6 tion of the officers of such institutions in the performance of their du-
 7 ties, for the government, discipline and instruction of the convicts
 8 therein, for the custody and preservation of the property connected
 9 therewith, for the supply of food, clothing and bedding in the state
 10 prison, Massachusetts reformatory, prison camp and hospital, the
 11 state prison colony, state farm and reformatory for women, for teach-
 12 ing prisoners who are committed to a jail or house of correction for
 13 six months or more to read and write, for securing proper exercise for
 14 unemployed sentenced prisoners in jails and houses of correction, and
 15 for securing medical examination and supervision of prisoners in jails
 16 and houses of correction punished by solitary imprisonment. As soon
 17 as may be after such rules have been made the commissioner shall
 18 submit copies thereof to the governor and council, who may approve,
 19 annul or modify them. Jailers, keepers of houses of correction, county
 20 commissioners and the penal institutions commissioner of Boston shall
 21 make no rules inconsistent with the aforesaid rules. The commissioner

Duties of
 commissioner.
 1827, 118, § 7.
 R. S. 144, § 4;
 1852, 275, § 6.
 G. S. 71, § 32;
 179, § 14.
 1866, 198,
 §§ 2, 3.
 1870, 370,
 §§ 7, 9, 10.
 1874, 385, § 12.
 1879, 291, §§ 1,
 3, 7, 9; 294,
 §§ 10, 12, 25,
 35, 36.
 1881, 90, § 3.
 P. S. 88, § 4;
 219, §§ 14, 16.
 1884, 255, § 28;
 297, § 2.
 1886, 101, § 4.
 1895, 146;
 195; 259.
 R. L. 222, § 3.
 1905, 355.
 1906, 243.
 1911, 181.
 1916, 241, § 1.
 1919, 199, § 1.
 350, §§ 82-84,
 86.
 1920, 341.
 1931, 426,
 § 235.
 1 Op. A. G. 281,
 290.
 4 Op. A. G. 573

of correction shall also from time to time cause to be printed in convenient form the rules of the board of parole and the statutes relating to the duties and powers of said board, and shall annually during the month of January cause to be mailed one copy thereof to each justice of the superior and district courts, each trial justice, each sheriff and to each master, keeper, warden or superintendent of the penal institutions in the commonwealth, and to the board of probation two hundred copies thereof.

Duties of commissioner and subordinates.
 1827, 118, § 3, 7.
 R. S. 144, §§ 10, 17.
 G. S. 179, §§ 15, 16, 1870, 370, §§ 8, 10.
 1874, 385, § 14.
 1877, 120, § 1.
 1879, 294, §§ 11, 14, 31.
 P. S. 219, §§ 15, 19, 39.

SECTION 2. The commissioner shall keep informed as to the management and condition of all institutions under his supervision or control. He may expend annually in the performance of his duties and for necessary clerical assistance such sum as may be appropriated therefor by the general court. He or one of his deputies shall make frequent visits to such institutions, and investigate the management, condition and discipline of the institutions and the treatment of the inmates, and the books of the said institutions shall be open for his examination. The commissioner or any representative designated by him may attend any meeting of the parole board.

1885, 52, §§ 1, 2. R. L. 222, §§ 2, 4, 5. 1916, 241, §§ 7, 9.
 1888, 328. 1914, 526, § 1. 1919, 350, § 84.
 1895, 431.

Temporary aid for dependents of prisoners.
 1920, 377.

SECTION 3. The commissioner may expend annually such sum of money, not more than two thousand dollars, as may be appropriated therefor for the temporary relief of the families or dependents of inmates of state penal institutions but such relief shall not extend for more than one week and shall be such as may be necessary pending proper and adequate relief through the usual channels. An agent of the department may be designated to perform the work authorized by this section.

Supervision of prisoners having permits to be at liberty.
 1913, 829, § 5.
 1916, 241, § 1.
 1919, 350, § 84.

SECTION 4. The commissioner shall exercise a careful supervision over all prisoners absent from all penal and reformatory institutions in the commonwealth on permits to be at liberty, and shall require from his agents reports regarding such prisoners as are not complying with the conditions upon which they were released.

Reports of commissioner to the governor.
 1893, 428.
 R. L. 222, § 8.
 1905, 355, § 1.
 1906, 243, § 1.
 1911, 181.
 1916, 241, § 1.
 1919, 199, § 1.
 350, §§ 84, 86.
 1931, 426, § 236.

SECTION 5. The commissioner shall, at least once in six months, report in writing to the governor the condition of the state prison, Massachusetts reformatory, prison camp and hospital, state prison colony, state farm and the reformatory for women, and shall so report to the governor when, in his judgment, the conditions of administration, financial management or discipline in any of said institutions require executive action.

Annual report of commissioner to the general court.
 1827, 118, § 7;
 R. S. 143, § 33;
 144, § 11.
 1840, 15, § 3.
 1848, 29, § 2.
 1857, 40, § 1.
 1858, 46, § 1.
 1859, 139, § 2.
 G. S. 178, § 68;
 179, § 18.

SECTION 6. He shall make an annual report setting forth fully and in detail the actual condition on November thirtieth of the state prison, Massachusetts reformatory, prison camp and hospital, state prison colony, state farm and reformatory for women, and on September thirtieth of each jail and house of correction, the number of inmates in each, such statistics from the reports required by section eight as will show the results of criminal prosecutions, and such statistics from the reports required by section nine, and by section one hundred of chapter two

9 hundred and seventy-six, as he considers proper. The report shall state
 10 the industries which have been carried on in the institutions named in
 11 section fifty-one of chapter one hundred and twenty-seven during the
 12 year, the number of prisoners employed in each, the greatest and small-
 13 est number thereof at any one time, the kind and quantity of goods man-
 14 ufactured, the amount thereof sold to such institutions and elsewhere,
 15 and the prices received therefor. The report shall include the reports
 16 made to him by the officers in charge of the penal and reformatory institu-
 17 tions of the commonwealth and of the board of parole.

1906, 243, § 1.	1918, 257, § 476.	1920, 2
1911, 181.	1919, 5; 199, § 1;	1931, 426, § 237.
1916, 241, § 8.	350, §§ 82-84, 86.	
1917, 201, § 1.		

1864, 303, § 1
 1870, 370, § 12
 1874, 385, § 22
 1879, 294.
 §§ 33, 35.
 1881, 66
 P. S. 219, § 38.
 1882, 226, § 2
 1884, 255, § 31.
 1887, 447, § 14.
 1901, 364, § 2.
 R. L. 222, § 9
 1905, 211, § 1
 355, § 1.

1 SECTION 7. The board of parole shall have the powers and duties
 2 relative to granting permits to be at liberty from penal and reformatory
 3 institutions given by chapter one hundred and twenty-seven. It shall
 4 also be an advisory board of pardons, with the powers and duties in
 5 relation thereto set forth in said chapter. It shall make an annual report
 6 to the commissioner.

1917, 201; 266, § 1. 1918, 214. 1919, 350, § 85. Op. A. G. (1919) 126.

Duties of
 board of
 parole. Annual
 report.
 1913, 829,
 §§ 1-3, 6.
 1915, 35, 206.
 1916, 241,
 § 1, 5.

1 SECTION 8. Clerks of courts shall annually, on or before October
 2 fifteenth, make reports to the commissioner of all criminal cases com-
 3 menced in the superior court in the several counties during the year
 4 ending on September thirtieth, and of all criminal cases entered therein
 5 on appeal during such time. Clerks of district courts and trial justices
 6 shall annually, at the same time and for the same period, make like
 7 reports of criminal cases in which such courts or justices have exercised
 8 jurisdiction, and shall state whether such jurisdiction was final or other-
 9 wise. Blank forms for such reports shall be prepared and furnished by
 10 the commissioner. Whoever refuses or neglects to make the report re-
 11 quired of him by this section shall forfeit two hundred dollars.

Reports of
 criminal cases
 by clerks of
 courts and
 trial justices.
 Penalty.
 1851, 216, § 2.
 1852, 289, § 3.
 G. S. 14,
 §§ 11, 12, 15.
 1881, 66
 P. S. 219,
 §§ 34, 35, 37.
 1882, 226, § 1.
 R. L. 222, § 6.

1 SECTION 9. The police commissioner of Boston, city marshals or chiefs
 2 of police and every officer making an arrest in a town not having a city
 3 marshal or chief of police shall make monthly reports to the commissioner
 4 of the number of persons of each sex arrested in their several towns.
 5 Such reports shall be classified according to offences. An officer who
 6 refuses or neglects to make such report shall be punished by a fine of fifty
 7 dollars.

Monthly
 reports of
 arrests.
 Penalty.
 1882, 226, § 2.
 1892, 290, § 3.
 R. L. 222, § 7.
 1906, 291, § 10.

CHAPTER 125.

PENAL AND REFORMATORY INSTITUTIONS OF THE COMMONWEALTH.

SECT.	SECT.
GENERAL PROVISIONS.	
1. Definition.	32. Burial place for prisoners.
2. Appointment of warden and superintendents.	33. Official residence and duties of superintendent.
3. Bonds of warden and superintendents.	34. Additional duties.
4. Appointment of subordinate officers.	35. Duties of chaplain.
5. Vacancy in office of warden or superintendent.	36. Duties of physician.
6. Temporary assistant deputies.	37. Watchman for Washakum pond.
7. Warden and superintendent to suggest changes in rules.	38. Salaries, etc.
8. Uniforms, etc.	
9. Wages of male laborers.	PRISON CAMP AND HOSPITAL.
10. Oaths of subordinate officers.	39. Purposes of prison camp and hospital.
	40. Duties of superintendent.
THE STATE PRISON.	41. Purchases and sales.
11. Purposes of state prison.	
12. Visits of governor and council.	STATE PRISON COLONY.
13. Officers.	41A. State prison colony. Establishment, etc.
14. Powers and duties of warden.	41B. Removal from state prison and status of certain prisoners regulated.
15. Official residence of warden and deputy. Duties of deputy, etc.	41C. Duties of superintendent.
16. Duties of chaplain.	41D. Purchases and sales.
17. Duties of physician.	41E. Certain provisions of law applicable.
18. Care of sick prisoners.	
19. Diet in the hospital.	STATE FARM.
20. Insane prisoners.	42. [Repealed.]
21. Officers, except physician, to have no other business.	43. Commissioner to have supervision.
22. Salaries, etc.	44. Rules and regulations.
	45. Duties of superintendent.
THE MASSACHUSETTS REFORMATORY.	46. Compensation of superintendent.
23. Purposes of Massachusetts reformatory.	47. Superintendent and physician may reside at the state farm.
24. Officers.	48. Bridgewater state hospital.
25. Parole clerk.	
26. Official residence and duties of superintendent.	PRISON CONTRACTS.
27. Duties of chaplain.	49. Contracts.
28. Duties of physician.	50. Arbitration of controversies.
29. Salaries, etc.	51. [Repealed.]
	52. [Repealed.]
THE REFORMATORY FOR WOMEN.	53. Bills to be taken for all purchases, services, etc.
30. Purposes of reformatory for women.	54. Salaries, etc., to be paid monthly.
31. Officers.	

GENERAL PROVISIONS.

Definition. SECTION 1. In this chapter the word "commissioner" shall mean the commissioner of correction. 1
2

Appointment of warden and superintendents 1827, 118, § 2. R 8 144, § 4 SECTION 2. The warden of the state prison and the superintendents of the Massachusetts reformatory, the prison camp and hospital, the state prison colony, the state farm and the reformatory for women shall 1
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3

4 be appointed by the commissioner, and shall hold their offices during
5 his pleasure.

1872, 45, § 4	1883, 278	R. L. 85, § 2; 223, §§ 4, 22,
1874, 385, § 6	1884, 255, § 20; 297, § 3.	30; 225, § 65.
1879, 294, § 10.	1891, 299	1916, 183; 241, § 1.
P. S. 86, § 19;	1898, 393, § 6.	1919, 199, § 1, 350, §§ 82, 84.
221, §§ 7, 45.	1901, 364, § 3.	1927, 289, § 2.

1 SECTION 3. The warden of the state prison and the superintendents
2 of the Massachusetts reformatory, prison camp and hospital, state prison
3 colony, state farm and reformatory for women shall, before entering
4 upon the performance of their official duties, each give bond to the
5 commonwealth, in such sum as the comptroller may prescribe, with
6 sureties approved by the commissioner, conditioned faithfully to account
7 for all money received by him and faithfully to perform the duties of
8 warden or superintendent. The approval of the sureties shall be en-
9 dorsed on the bond, and it shall be filed in the office of the state treasurer.

R. L. 85, § 6; 223, §§ 5, 23.	1918, 257, §§ 469, 472.	1920, 2; 546, § 4.
31; 225, § 65.	1919, 5; 199, § 1.	1923, 362, § 76.
1916, 183; 241, § 1.	333, § 20;	1927, 289, § 5.
1917, 15	350, §§ 82, 84.	

1 SECTION 4. All subordinate officers and employees in the several
2 institutions shall be appointed by the warden or superintendent thereof
3 and hold office during the pleasure of said warden or superintendent.
4 Appointments in the prison camp and hospital, state prison colony and
5 state farm shall be subject to the approval of the commissioner.

1866, 198, § 2.	1884, 255, § 21; 297, § 3.	1901, 364, § 3
1872, 45, § 4	1887, 335, §§ 1, 2.	R. L. 85, § 2; 223, §§ 4, 22,
1874, 385, § 7.	1891, 299	30; 225, § 65.
1879, 294, §§ 13, 23.	1894, 477, § 2.	1916, 183; 241, § 1.
1881, 178, § 2.	1898, 393, § 6.	1919, 199, § 1;
P. S. 86, § 20; 221, § 8.	1899, 245, § 1.	350, §§ 82, 84.
1882, 203, § 2.	1900, 286, § 1.	1927, 289, § 4.

1 SECTION 5. If the office of warden, superintendent of the Massa-
2 chusetts reformatory or reformatory for women is vacant, or if the
3 warden or superintendent is absent from the prison or reformatory or is
4 unable to perform his duties, the deputy warden or deputy superin-
5 tendent shall have the powers, perform the duties and be subject to the
6 liabilities of the warden or superintendent. If the office of warden or
7 superintendent becomes vacant, the commissioner may require the
8 deputy warden or deputy superintendent to give a bond to the common-
9 wealth, in such sum as the comptroller may prescribe, with sureties ap-
10 proved by the commissioner, conditioned for the faithful performance of
11 his duties as deputy warden and treasurer or as deputy superintendent
12 until a warden or superintendent is qualified, and faithfully to account
13 for all money received by him as such. After the approval of such
14 bond, the deputy shall, so long as he performs the duties of the office,
15 receive the salary of the warden or superintendent in lieu of his salary
16 as deputy warden or deputy superintendent. If the deputy warden or
17 deputy superintendent does not give such bond when required, the
18 commissioner may remove him from the office of warden or superin-
19 tendent, and appoint a temporary warden or superintendent, who shall
20 give such bond, and shall have the power and authority, perform the
21 duties and receive the salary of the warden or superintendent until a
22 warden or superintendent is qualified.

Bonds of
warden and
superintend-
ent
Pw11, 32, § 3
1827, 118, § 3
R. S. 144, § 15
1854, 189, § 2
G. S. 71, § 34.
179, § 23
P. S. 86, § 19;
88, § 2, 221,
§§ 17, 49
1883, 267, § 4
1884, 255, § 24
1898, 393, § 5

Appointment of
subordinate
officers
1827, 118, § 2.
R. S. 144, § 5.
1857, 122, § 1.
1859, 177, § 2.
G. S. 179, § 10.
1864, 288, § 11.

Vacancy in
office of warden
or superin-
tendent
1827, 118, § 4.
R. S. 144,
§§ 26, 27,
§§ 5, 179,
§§ 30, 31.
1879, 294, § 34
P. S. 221,
§§ 22, 23.
1883, 267,
§§ 3, 4
1884, 255,
§§ 25, 26
R. L. 223,
§§ 8, 25, 35.
1916, 241, § 1.
1917, 18
1919, 350,
§§ 82, 84.
1920, 546, § 4.
1923, 362, § 77.

1 SECTION 6. The warden of the state prison or the superintendent of
2 the Massachusetts reformatory or reformatory for women may designate

Temporary
assistant
deputies.

1910, 454.
1916, 241, § 1.
1919, 350,
§§ 82, 84
1931, 301, § 94.

for temporary service one of the officers of the institution as assistant deputy. He shall perform duties assigned by the warden or superintendent, and in the absence of the deputy warden or deputy superintendent shall perform the duties of that officer.

Warden and superintendent to suggest changes in rules
1827, 118, § 3.
R. S. 144, § 6.
G. S. 179, § 26.
1879, 294, § 34.

SECTION 7. The warden of the state prison or the superintendent of the Massachusetts reformatory or reformatory for women shall from time to time suggest to the commissioner in writing such alterations in the rules and regulations as he considers advisable for the direction of the officers and the government of the institution.

P. S. 221, § 19. 1916, 241, § 1 1919, 5; 350, §§ 82, 84.
R. L. 223, § 7. 1918, 257, §§ 470, 473. 1920, 2.

Uniforms, etc.
1873, 193, § 1.
1875, 56, § 1.
P. S. 221, § 10.
R. L. 223, § 18.
1918, 257,
§§ 471, 474.

SECTION 8. Officers of the state prison, Massachusetts reformatory and reformatory for women, except the clerk, physician and chaplain, shall while on duty wear such uniform, cap or badge as the warden or superintendent may prescribe.

1919, 5. 1920, 2.

Wages of male laborers.
1914, 458.
1916, 241, § 1.
1919, 350,
§§ 82, 84.

SECTION 9. The wages paid by the commissioner to male laborers directly employed by him shall be not less than two dollars and a half a day.

4 Op. A. G. 489.

Oaths of subordinate officers.
1893, 426, § 1.
R. L. 223, § 9.
1918, 257,
§§ 471, 474.
1919, 5.
1920, 2.
1929, 170, § 1.

SECTION 10. All subordinate officers of the state prison, state prison colony, Massachusetts reformatory or reformatory for women, before entering upon the performance of their official duties, shall take and subscribe the following oaths:

I, A. B., do solemnly swear that I will bear true faith and allegiance to the commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.

I, A. B., do solemnly swear that I will obey the lawful orders of all my superior officers. So help me, God.

I, A. B., do solemnly swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me in the office to which I have been appointed, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, the laws of the commonwealth and the rules provided in accordance with law for the government of the state prison (state prison colony, Massachusetts reformatory or reformatory for women). So help me, God.

The oaths may be administered by any officer authorized by law to administer oaths, and a record thereof shall be in the possession of the warden or superintendent.

THE STATE PRISON.

Purposes of state prison.
1805, 113,
§§ 1, 2.
1811, 32,
§§ 1, 2.
1827, 118, § 10.
R. S. 114,
§§ 1, 30.
G. S. 179, § 1.
1869, 354.
1878, 62.
P. S. 221, § 1.

SECTION 11. The state prison at Boston shall be the general penitentiary and prison of the commonwealth where all male persons convicted of crime in a court of the commonwealth or in any court of the United States and sentenced by them according to law to solitary imprisonment and confinement in the state prison at hard labor shall be securely confined and employed at hard labor; but a person convicted and sentenced before a court of the United States need not be received

8 in said prison unless the United States shall agree with the commissioner
 9 to pay all expenses incurred by the commonwealth in maintaining him
 10 therein.

1916, 241, § 1.

1919, 350, §§ 82, 84.

1 SECTION 12. The governor and council shall visit the prison annually,
 2 and as much oftener as they may think proper, to examine into its affairs
 3 and ascertain its condition. They shall inquire into all alleged abuses
 4 or neglects of duty, and may make such alterations in the general dis-
 5 cipline of the prison as they find necessary.

Visits of
governor
and council.
1811, 32, § 5.
1827, 118, § 17.
R. S. 144, § 49
G. S. 179, § 5

P. S. 221, § 5.

R. L. 223, § 2.

1 SECTION 13. The officers of the state prison shall be a warden,
 2 deputy warden, chaplain, physician and surgeon, clerk, engineer, not
 3 more than three assistant engineers, electrician, and as many correction
 4 officers, not exceeding fifty-eight, as the warden, subject to the approval
 5 of the commissioner, may find necessary; provided, that there may be
 6 employed therein such additional officers as the commissioner shall
 7 consider necessary to comply with section thirty-nine of chapter one
 8 hundred and forty-nine. In certifying the names of persons eligible to
 9 appointment as correction officers, the commissioner of civil service
 10 shall certify the names of persons over the age of twenty-five and under
 11 the age of forty.

Officers
1805, 113, § 3.
1811, 32, § 3
1827, 118, § 1.
1829, 16, § 1;
114, § 2.
R. S. 144,
§§ 2, 6
1850, 289, § 2.
1852, 242
1857, 122, § 1.
G. S. 179, § 7.
1874, 133
1878, 269
1879, 294,
§§ 34, 35.
1881, 178, § 1.
P. S. 221, § 6.

1882, 203, § 1.
1888, 264, § 1.
1889, 412, § 1.
1893, 436.
1894, 477, § 2.

1899, 245, §§ 1, 4.
1900, 286, § 1.
R. L. 223, § 3.
1908, 547, § 2.
1909, 514, §§ 54, 145.

1916, 241, § 1; 278.
1919, 157, §§ 1, 2;
350, §§ 63, 64, 82, 84.
1926, 343, § 1.
1931, 426, § 238.

1 SECTION 14. The warden shall have the custody and control of all
 2 convicts in the prison, and shall govern and employ them according to
 3 law, pursuant to their respective sentences and to the rules and regu-
 4 lations of the prison, until their sentences have been performed or they
 5 are otherwise discharged by due course of law. He shall also have the
 6 charge and custody of the prison and of the land, buildings, furniture,
 7 tools, implements, stock, provisions, and all other property belonging
 8 to it or within its precincts. He shall be treasurer of the prison, and shall
 9 receive and disburse all money paid to him by the commonwealth for the
 10 support thereof, and shall cause regular and complete accounts to be
 11 kept of all the property, expenses, income and business of the prison.
 12 He may, with the approval of the commissioner, expend not more than
 13 three hundred dollars annually for the entertainment of official and other
 14 visitors to the state prison.

Powers and
duties of
warden.
1811, 32, § 3.
1827, 118,
§§ 3, 10.
R. S. 144,
§§ 16, 25, 30.
G. S. 179,
§§ 27, 28
P. S. 221,
§§ 20, 21
1901, 224, § 1.
R. L. 223, § 6.
1916, 241, § 1.
1919, 350,
§§ 82, 84.
1924, 260.

1 SECTION 15. The warden and deputy warden shall reside constantly
 2 within the precincts of the prison. The deputy warden, clerk, correc-
 3 tion officers, and all other subordinate officers of the prison shall perform
 4 such duties in the charge and oversight of the prison, the care of its
 5 property, and the custody, government, employment and discipline of
 6 the convicts, as the warden, in conformity to law and the rules and
 7 regulations of the prison, may require.

1900, 286, § 2.

R. L. 223, § 11.

1926, 343, § 5.

Official
residence of
warden and
deputy.
Duties of
deputy, etc.
1827, 118, § 5
R. S. 144, § 28
G. S. 179, § 25
P. S. 221, § 18
1899, 245, § 2.

1 SECTION 16. The chaplain shall conduct divine service in the chapel
 2 of the prison, shall instruct the convicts in their moral and religious
 3 duties, visit the sick on suitable occasions, have charge of the school

Duties of
chaplain.
1814, 156, § 11.
1827, 118, § 6.
R. S. 144, § 12.

G. S. 179, § 19. and library of the prison under the direction of the warden, and shall 4
 1870, 243, § 1. devote his entire time to the duties of his office. 5
 P. S. 221, § 12.

1901, 364.

R. L. 223, § 12.

Duties of physician.

SECTION 17. The physician shall visit the hospital of the prison at 1
 least once a day and as much oftener as necessary, shall prescribe for 2
 sick convicts, and attend to the regimen, clothing and cleanliness of con- 3
 victs in the hospital. He shall keep a regular journal of all admissions 4
 to the hospital, the time of admission, the nature of the disease, his pre- 5
 scriptions, the treatment of each patient and the time of his discharge 6
 from the hospital or of death. The journal shall also contain entries of 7
 all orders given for supplies for the hospital department, specifying the 8
 articles ordered, and it shall remain at the prison. All such orders shall 9
 be in writing, and the warden shall provide the supplies so ordered. 10

Care of sick prisoners.

SECTION 18. If a convict complains of illness requiring medical aid, 1
 notice thereof shall be given to the physician, who shall visit the convict, 2
 and if in his opinion the illness requires the convict's removal to the 3
 hospital, the warden may order such removal, and the convict shall re- 4
 main in the hospital until the physician determines that he may leave it 5
 without injury to his health. 6

Diet in the hospital.

SECTION 19. The physician shall have the direction of the subsistence 1
 and diet of the convicts in the hospital; but his order for all articles of 2
 comfort or indulgence not included in their regular hospital rations shall 3
 be in writing and for a term of not more than one week. 4

Insane prisoners.

SECTION 20. He shall attend upon all insane convicts, and if in his 1
 opinion they can be removed to the prison hospital without detriment 2
 or danger to the other patients or inmates of the prison, he shall order 3
 them so removed, and shall see that they have sufficient daily exercise 4
 outside their cells or places of confinement. 5

Officers, except physician, to have no other business.

SECTION 21. Neither the warden nor any officer appointed by him, 1
 except the physician, shall be employed in any business for private 2
 emolument or which does not pertain to the duties of his office. 3

R. S. 144, § 7.

P. S. 221, § 9.

1906, 242.

G. S. 179, § 12.

R. L. 223, § 17.

Salaries, etc.

SECTION 22. The warden and the deputy warden of the prison shall 1
 receive such salaries as shall be fixed by the commissioner with the ap- 2
 proval of the governor and council, not exceeding five thousand dollars 3
 in case of the warden or three thousand dollars in case of the deputy 4
 warden. Each other officer or employe of the prison shall receive such 5
 salary as may be fixed under and in accordance with sections forty-five 6
 to fifty, inclusive, of chapter thirty. No other perquisite, reward or 7
 emolument shall be allowed to or received by any of the said officers, 8
 except that the warden and deputy warden shall be allowed mainte- 9
 nance for themselves and their families. 10

1881, 178, § 2.

1899, 245, § 3.

1916, 278.

P. S. 221, § 11.

1900, 286, § 3.

1919, 157, §§ 1, 2;

1882, 203, § 3.

R. L. 223, § 19.

186; 213, § 1; 234,

1884, 95.

1902, 454.

§ 1; 350, §§ 82, 84.

1888, 264, § 2.

1910, 430, §§ 1, 2.

1920, 340; 353;

1889, 412, § 2.

1911, 467; 542,

459.

1893, 455.

§§ 1, 2.

1926, 343, § 2.

1894, 370.

1914, 554, §§ 1, 2.

1929, 332, § 1.

THE MASSACHUSETTS REFORMATORY.

1 SECTION 23. The Massachusetts reformatory at Concord shall be
 2 the reformatory prison for the commonwealth in which all male persons
 3 under the age of thirty convicted of crime in the courts of the common-
 4 wealth or of the United States, and duly sentenced or removed thereto,
 5 shall be imprisoned and detained in accordance with the sentences or
 6 orders of said courts and the rules and regulations of said reformatory.

Purposes of
 Massachusetts
 reformatory.
 R. L. 223, § 20.
 1928, 28, § 2.
 1 Op. A. G. 290.
 2 Op. A. G. 90.

1 SECTION 24. The officers of the reformatory shall be a superin-
 2 tendent, deputy superintendent, chaplain, physician, clerk, engineer,
 3 and as many correction officers, not exceeding sixty, as the superintendent,
 4 subject to the approval of the commissioner, may consider necessary;
 5 provided that there may be employed therein such additional officers
 6 as the commissioner shall consider necessary to comply with section
 7 thirty-nine of chapter one hundred and forty-nine.

Officers.
 1884, 255, § 19.
 1888, 335, § 1.
 1889, 408, § 1.
 1890, 255, § 1.
 1893, 333, § 1.
 1894, 477, § 2.
 R. L. 223, § 21.
 1908, 547, § 2.
 1909, 514.
 §§ 54, 143.

1916, 241, § 1.

1919, 350, §§ 82, 84.

1926, 343, § 3.

1 SECTION 25. The commissioner may designate as parole clerk one
 2 of the officers at the Massachusetts reformatory. He shall perform
 3 such duties relating to the parole of inmates of the reformatory as the
 4 commissioner may prescribe. While performing the duties of parole
 5 clerk, such officer shall receive such salary as may be fixed under and
 6 in accordance with sections forty-five to fifty, inclusive, of chapter
 7 thirty. No officer so designated shall by reason of such designation
 8 lose any rights that he may have had to retirement and pension under
 9 sections forty-six to forty-eight, inclusive, of chapter thirty-two.

Parole clerk.
 1917, 293.
 1919, 206.
 350, §§ 82, 84.
 1920, 362.
 1930, 360, § 3.

1 SECTION 26. The superintendent shall reside at all times within the
 2 precincts or dependencies of the reformatory. He shall have the custody
 3 and control of prisoners committed to the reformatory, the management
 4 and direction of the reformatory, under the rules and regulations thereof,
 5 and the custody and control of the buildings and property of the com-
 6 monwealth connected therewith. He shall receive and securely keep,
 7 according to the terms of the sentence, any male person sentenced to
 8 the reformatory by any court of the United States, or sentenced by such
 9 court to any other prison and removed to the reformatory. He shall,
 10 if authorized so to do by the state purchasing agent, purchase all neces-
 11 sary supplies for the reformatory, and shall receive and disburse all
 12 money paid to him by the commonwealth for the support thereof. He
 13 shall cause to be kept such books of account of the property, expenses,
 14 income and business of the reformatory as may be approved by the
 15 comptroller. He may, with the approval of the commissioner, expend
 16 not more than three hundred dollars annually for the entertainment of
 17 official and other visitors to the reformatory.

Official resi-
 dence and
 duties of
 superintend-
 ent.
 1884, 255,
 §§ 23, 24.
 1886, 323, § 6.
 1901, 224, § 1.
 R. L. 223, § 24.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 84.
 1923, 362, § 78.
 2 Op. A. G. 35.

1 SECTION 27. The chaplain shall devote his entire time to the instruc-
 2 tion of the prisoners and to the promotion of their moral and religious
 3 well-being.

1890, 255.

R. L. 223, § 26.

Duties of
 chaplain.
 1884, 255, § 27.

1 SECTION 28. The physician shall devote his entire time to the
 2 service of the reformatory.

Duties of
 physician.

1908, 426.

Salaries, etc.
 1884, 255, § 22.
 1888, 335, § 2.
 1889, 408, § 2.
 1893, 333, § 2.
 R. L. 223, § 27.
 1908, 426.
 1910, 430.
 1911, 542.
 1914, 554.
 §§ 1, 2.
 1919, 157, § 1;
 213, § 1;
 234, § 1.
 1920, 343;
 353, 459
 1926, 343, § 4.
 1929, 332, § 2.

SECTION 29. The superintendent and the deputy superintendent of the reformatory shall receive such salaries as shall be fixed by the commissioner with the approval of the governor and council, not exceeding five thousand dollars in case of the superintendent or three thousand dollars in case of the deputy superintendent. Each other officer or employee of the reformatory shall receive such salary as may be fixed under and in accordance with sections forty-five to fifty, inclusive, of chapter thirty. No other perquisite, reward or emolument shall be allowed to or received by any of the said officers, except that the superintendent and deputy superintendent shall be allowed maintenance for themselves and their families.

THE REFORMATORY FOR WOMEN.

Purposes of reformatory for women.
 1874, 385, § 3.
 P. S. 221, § 43.
 1887, 426, § 1.
 1896, 504
 R. L. 223, § 28.
 1911, 181;
 595, §§ 5, 12.
 1913, 796,
 §§ 1, 2.
 215 Mass. 525.

SECTION 30. The reformatory for women at Sherborn shall be the prison of the commonwealth where all females convicted of crime in the courts of the commonwealth or of the United States, and duly sentenced or removed thereto, shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said institution. A department for defective delinquents shall be maintained for the custody of persons committed thereto under sections one hundred and thirteen to one hundred and twenty-four, inclusive, of chapter one hundred and twenty-three.

Officers.
 1874, 385,
 §§ 5, 8
 1881, 43.
 P. S. 221,
 §§ 44, 47.
 R. L. 223, § 29.
 1908, 547, § 2.
 1909, 514,
 §§ 54, 145.
 1912, 380, § 1.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 84.

SECTION 31. The officers of said reformatory shall be a superintendent, deputy superintendent, chaplain, physician, clerk, as many matrons, not exceeding twenty-six, as the superintendent and the commissioner may judge necessary; provided that there may be employed therein such additional officers as the commissioner shall consider necessary to comply with section thirty-nine of chapter one hundred and forty-nine. All said officers shall be women, except that the superintendent may be either a man or a woman.

Burial place for prisoners.
 1882, 213.
 R. L. 223, § 32.
 1916, 241, § 1.

SECTION 32. The commissioner may, in behalf of the commonwealth, hold not more than one acre of land within the town of Sherborn which may be used for the burial of prisoners who die in the reformatory.

1919, 350, §§ 82, 84.

Official residence and duties of superintendent.
 1874, 385, § 10.
 P. S. 221, § 49.
 1883, 267, § 1.
 R. L. 223, § 33.

SECTION 33. The superintendent shall reside at all times within the precincts or dependencies of the reformatory, shall have the custody and control of all prisoners committed thereto, and shall govern and employ them according to law, pursuant to their sentences and the rules and regulations of the reformatory. He shall have the management and direction of the reformatory, its servants and employees, and all its affairs, except as otherwise provided.

Additional duties.
 1883, 267, § 1.
 R. L. 223, § 34.
 1923, 362, § 79.

SECTION 34. He shall receive and disburse all money paid to him by the commonwealth for the support of said reformatory, shall, if authorized so to do by the state purchasing agent, purchase all supplies and all other articles needed for carrying on and managing it, shall have the custody and control of all property connected with or belonging to it, and shall cause to be kept such books of account of all its property, expenses, income and business as may be approved by the comptroller.

1 SECTION 35. The chaplain shall, in addition to other duties, act as
 2 teacher, and as such have charge of the reformatory school and of the
 3 instruction of the prisoners, under rules established by the superintendent
 4 and approved by the commissioner.

Duties of
 chaplain.
 1884, 43, § 1
 R. L. 223, § 36.
 1916, 241, § 1.

1919, 330, §§ 82, 84.

1 SECTION 36. The physician shall devote her entire time to the service
 2 of the reformatory.

Duties of
 physician.

1913, 675.

1 SECTION 37. The superintendent may appoint a watchman to pro-
 2 tect the waters of Washakum pond in the towns of Framingham and
 3 Ashland, who shall have the powers of a state police officer.

Watchman for
 Washakum
 pond.

1888, 370, § 3.

1896, 275.

R. L. 223, § 38.

1 SECTION 38. The salaries of the officers and employees of the reform-
 2 atory shall be fixed by the commissioner in accordance with sections
 3 forty-five to fifty, inclusive, of chapter thirty. No other perquisite,
 4 reward or emolument shall be allowed to or received by any of them,
 5 except that all said officers may reside at said reformatory or its de-
 6 pendencies at the public charge.

Salaries, etc
 1874, 385, § 8.
 P. S. 221, § 47.
 1884, 43, § 3.
 1887, 341
 1888, 327.
 1897, 329.
 R. L. 223, § 39.
 1909, 303.

1912, 380, § 2.
 1913, 675, § 1.

1919, 157, §§ 1, 2;
 233, §§ 1, 2.

1931, 301, § 95.

PRISON CAMP AND HOSPITAL.

1 SECTION 39. The prison camp and hospital at West Rutland shall
 2 be the institution to which such male prisoners, except those serving
 3 sentences for life in the state prison, as have shown by their conduct
 4 and disposition that they would be amenable to less rigorous discipline
 5 and would benefit from work in the open air may be removed from the
 6 state prison, Massachusetts reformatory, state farm and jails and houses
 7 of correction. There shall be at that institution a hospital for the con-
 8 finement and treatment of male prisoners having tubercular disease who
 9 are removed thereto under section seventy-nine of chapter one hundred
 10 and twenty-seven.

Purposes of
 prison camp
 and hospital.
 1898, 393,
 §§ 5, 7.
 R. L. 225, § 96
 1905, 240;
 353, § 1
 1906, 243, § 1.
 1916, 76.
 264 Mass. 490

1 SECTION 40. The superintendent of the prison camp and hospital
 2 shall have the custody of all prisoners removed to the prison camp and
 3 hospital.

Duties of
 superintendent.

1898, 393, §§ 5, 6.
 R. L. 225, § 65.
 1905, 355, § 4.

1906, 243, § 1.
 1916, 183; 241, § 1.
 1919, 350, §§ 82, 84.

1931, 301, § 96.
 264 Mass. 490.

1 SECTION 41. Purchases and sales on account of the prison camp and
 2 hospital shall be made by the superintendent, with the approval of the
 3 commissioner.

Purchases
 and sales
 1898, 393, § 9
 R. L. 225, § 67.

1906, 243, § 1.

1916, 241, § 1.

1919, 350, §§ 82, 84.

STATE PRISON COLONY.

1 SECTION 41A. The commissioner is hereby authorized to establish
 2 an institution to be known as the state prison colony upon a site to be
 3 approved by the commission on administration and finance on any land
 4 now owned by the commonwealth which, in the opinion of said com-
 5 mission, is not needed for any other state purpose, or upon land acquired
 6 as hereinafter provided. The commissioner, on behalf of the common-

State prison
 colony.
 Establish-
 ment, etc
 1927, 289, § 1.
 1931, 426,
 § 239.

wealth, may, with the approval of the governor and council, take by eminent domain under chapter seventy-nine, or acquire by purchase or otherwise, land necessary for the establishment of said institution.

Removal from state prison and status of certain prisoners regulated. 1927, 289, § 1.

SECTION 41B. The commissioner may remove to the state prison colony any prisoner held in the state prison who, in his judgment, may properly be so removed and may at any time return such prisoner to the state prison. Prisoners so removed shall be subject to the terms of their original sentence and to the provisions of law governing parole from the state prison.

Duties of superintendent. 1927, 289, § 1. 1931, 301, § 97.

SECTION 41C. The superintendent of said state prison colony shall have the care, custody and control of all prisoners removed to the state prison colony.

Purchases and sales. 1927, 289, § 1.

SECTION 41D. Purchases and sales on account of the state prison colony shall be made by the superintendent with the approval of the commissioner.

Certain provisions of law applicable. 1927, 289, § 1.

SECTION 41E. All provisions of law applying generally to the institutions under the control of the department of correction shall apply to the state prison colony.

STATE FARM.

SECTION 42. [REPEALED, 1921, 486, § 29.]

Commissioner to have supervision. 1866, 198, § 3.

SECTION 43. The commissioner shall have general supervision of the state farm.

1879, 291, §§ 1-3.	1898, 433, § 24.	1919, 199, § 1; 350,
P. S. 88, § 4.	R. L. 85, § 29.	§§ 82-84, 86.
1886, 101, § 4.	1916, 241, § 1.	

Rules and regulations. 1852, 275, § 6. 1866, 198, § 2. G. S. 71, § 32. 1879, 291, § 9.

SECTION 44. The commissioner, with the approval of the governor and council, shall establish rules and regulations for the proper management of the state farm and see that they are enforced.

P. S. 88, § 1.	R. L. 85, § 3.	1919, 199, § 1;
1884, 297, § 2.	1916, 241, § 1.	350, §§ 82, 84, 86.

Duties of superintendent. 1866, 198, §§ 2, 4. P. S. 88, § 2. R. L. 85, § 28.

SECTION 45. The superintendent shall have the management and control of the state farm and its operations, subject to the approval of the commissioner.

1916, 241, § 1.	1919, 199, § 1; 350, §§ 82, 84, 86.
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Compensation of superintendent. 1866, 198, § 2.

SECTION 46. The commissioner shall fix the compensation of the superintendent, subject to the approval of the governor and council.

1872, 45, § 4.	1801, 299, § 1.	1919, 199, § 1;
1879, 291, § 10.	R. L. 85, § 2.	350, §§ 82, 84
P. S. 88, § 3.	1916, 241, § 1.	1931, 301, § 98.
1884, 297, § 3.		

Superintendent and physician may reside at the state farm. 1852, 275, § 5.

SECTION 47. The superintendent and physician may reside with their families at the state farm. The superintendent shall receive no perquisites for his services except as aforesaid.

G. S. 71, § 34.	P. S. 86, §§ 16,	R. L. 85, § 6.
1876, 179, § 1.	19; 88, § 2.	1919, 199, § 1.
1879, 291, § 10.		

1 SECTION 48. The Bridgewater state hospital shall be part of the
 2 state farm, and the superintendent thereof shall, with the approval of
 3 the commissioner, appoint a physician as medical director. The medical
 4 director shall have the care and custody of the inmates thereof and
 5 govern them in accordance with regulations approved by the com-
 6 missioner.

Bridgewater
 state hospital.
 1886, 219, § 1.
 1895, 390,
 §§ 1, 2.
 R. L. 85, § 41.
 1909, 504, § 98.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 84.

1931, 301, § 99.

PRISON CONTRACTS.

1 SECTION 49. All contracts on account of the state prison, Massa-
 2 chusetts reformatory, reformatory for women, prison camp and hos-
 3 pital, state prison colony and state farm, except those required to be
 4 made by the state purchasing agent, shall be made by the warden or
 5 superintendent in writing, and when approved in writing by the com-
 6 missioner shall be binding. The warden and superintendents, or their
 7 successors, may sue or be sued upon any contract made in accordance
 8 with this chapter. No such suit shall abate by reason of said offices
 9 becoming vacant, but the successor of any of said officers, pending such
 10 suit, may, and, upon motion of the adverse party and notice shall,
 11 prosecute or defend it.

Contracts
 1813, 47, § 1.
 1827, 118, § 3.
 R. S. 134, § 19.
 G. S. 179, § 32.
 1879, 294, § 19.
 P. S. 221, § 55.
 1883, 267, § 5.
 1888, 403, § 7.
 R. L. 225, § 41.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 84.
 1923, 362, § 80.
 1927, 289, § 5.
 11 Met. 129.
 11 Cash. 510.

1 SECTION 50. The warden or superintendent may submit any contro-
 2 versy relative to a contract made by him or an action pending thereon
 3 to the final determination of arbitrators or referees to be approved by
 4 the commissioner.

Arbitration of
 contracts.
 R. S. 144, § 20.
 G. S. 179, § 33.
 1879, 294, § 20.

P. S. 221, § 56.
 1883, 267, § 5.

R. L. 223, § 42.
 1916, 241, § 1.

1919, 350, §§ 82, 84.

1 SECTION 51. [REPEALED, 1923, 362, § 81.]

1 SECTION 52. [REPEALED, 1923, 362, § 81.]

1 SECTION 53. The warden or superintendent shall, at the time sup-
 2 plies for the institution are delivered, take bills of the quantity and price
 3 thereof, which the clerk or such officer as the warden or superintendent
 4 directs shall compare with the articles delivered, and, if they are correct,
 5 shall enter them with the date upon a book kept for them. Bills for all
 6 services rendered for the institution shall be taken and entered in like
 7 manner. If a bill for supplies or services is incorrect, the clerk shall
 8 not enter it, but shall inform the warden or superintendent, so that the
 9 error may be corrected.

Bills to be
 taken for all
 purchases,
 services, etc.
 R. S. 144, § 24.
 G. S. 179, § 37.
 P. S. 221, § 24.
 R. L. 223, § 45.

1 SECTION 54. The salaries and pay of officers and employees and all
 2 bills for supplies and other expenditures for said institutions shall be
 3 paid monthly by the commonwealth, having first been certified by the
 4 comptroller, upon schedules, enumerating the bills and pay rolls and
 5 accompanied by vouchers. The name and position of each officer and
 6 employee, the amount of his pay and the amount due him shall be on
 7 the pay roll, which, with said bills, shall be certified by the warden or
 8 superintendent and approved by the commissioner. A record in full
 9 of the pay rolls and bills shall be made by the clerk in a book kept there-
 10 for at each institution, and the originals shall be deposited with the
 11 comptroller as vouchers.

Salaries, etc.,
 to be paid
 monthly.
 1854, 189, § 5.
 G. S. 71, § 55.
 1864, 303, § 3.
 1874, 385, § 24.
 P. S. 86, § 41;
 221, § 60.
 1883, 267, § 5.
 1884, 255, § 30.
 1888, 337, 403,
 § 7.
 1889, 294.
 1898, 393, § 9.
 R. L. 85, § 25.
 223, §§ 40, 46.
 225, § 67.
 1923, 362, § 82.

CHAPTER 126.

JAILS, HOUSES OF CORRECTION AND REFORMATION, AND COUNTY INDUSTRIAL FARMS.

SECT.

INSPECTION OF PRISONS.

1. County commissioners as inspectors of prisons. Duties.
2. Access to books, accounts, etc.
3. Notice to district attorney of violation of law.

JAILS.

4. Jails, purposes of.
5. Confinement in any jail in county.
6. Reimbursement of sheriff for damages for escape.
7. Return of list of prisoners to court. Penalty.

HOUSES OF CORRECTION.

8. Houses of correction, how provided, etc.
9. Enclosed yards.
10. Execution of sentence in any house of correction in county.
11. County commissioners, etc., to enforce rules, inspect accounts, etc.
12. Sheriff to report to court as to employment, etc., of prisoners.

HOUSES OF REFORMATION FOR JUVENILE OFFENDERS.

13. [Repealed.]
14. [Repealed.]
15. [Repealed.]

JAILS, HOUSES OF CORRECTION AND PRISONERS.

16. Sheriff to have custody of jails, etc. Bonds of jailer, etc.
17. Sheriffs not to receive rent, etc.

SECT.

18. Compensation and duties of officers, assistants, etc.
19. [Repealed.]
20. [Repealed.]
21. Abstract of mittimus committing female to be sent to commissioner.
22. Burial of deceased prisoner.
23. Sheriff to deliver prisoners to successor.
24. Temporary control of jail, etc., following death of sheriff.
25. Care of jail, etc.
26. Removal of prisoners in case of pestilence.
27. Removal of prisoners in case of danger from fire.

EXPENSE OF SUPPORTING PRISONS.

28. County commissioners to procure supplies.
29. Expense of supporting convicts.
30. Advances for expenses.
31. Application for an advance.
32. Accounting.
33. Clothing, bedding and fuel.
34. Keeper to obey orders for furnishing specific rations. Penalty.

COUNTY INDUSTRIAL FARMS.

35. Acquisition, improvement and sale of land.
36. Erection of buildings, etc. Management.
37. Prisoners on industrial farms.
38. Bonds, etc., to meet expenses.
39. County commissioners to provide for payment of loan, etc.

INSPECTION OF PRISONS.

County commissioners as inspectors of prisons.
 Duties.
 1834, 151, § 15.
 R. S. 143,
 §§ 28, 29.
 1843, 61, § 2.
 1845, 221.
 G. S. 178,
 §§ 62, 64.
 1864, 311, § 1.
 P. S. 220,
 §§ 72, 73.
 R. L. 224, § 1.

SECTION 1. The county commissioners shall be inspectors of the prisons in their counties. They shall twice in each year, at intervals of not exceeding eight months, themselves or by a committee of two of their members, visit all the prisons in their county, and fully examine into everything relative to the government, discipline and police thereof; and as soon as may be after each inspection, the committee shall make and subscribe a detailed report to the commissioners of the condition of each prison as to health, cleanliness and discipline at the time of inspection, the number of prisoners confined there within the preceding six months or since the last inspection, the causes of confinement, the number of prisoners usually confined in one room, the distinction, if any, usually observed in the treatment of the different classes of prisoners, the punishments inflicted, any evils or defects in the construction, dis-

14 cipline or management of such prisons, the names of prisoners who have
 15 been discharged or pardoned or who have died or escaped, and any viola-
 16 tion or neglect of law relative to such prisons, with the causes, if known,
 17 of the violation or neglect.

1 SECTION 2. When the commissioners or any of them visit any of
 2 said prisons, the sheriff, master, keeper or other officer in charge thereof
 3 shall admit them, when required, into every apartment of such prison,
 4 exhibit all books, precepts, documents, accounts and papers relative to
 5 the affairs of the prison or to the detention or confinement of any person
 6 therein, which may be required, and give such aid as they request in the
 7 performance of their duties. The commissioners or their committee may
 8 examine on oath, administered by one of them, either by written inter-
 9 rogatories, to be answered in writing and subscribed, or otherwise as they
 10 may direct, any officer, keeper or other person relative to the affairs or
 11 management of any prison, and they may also converse with any prisoner
 12 apart, and without the presence of any officer or keeper.

Access to
books, ac-
counts, etc.
R. S. 143, § 31.
G. S. 178, § 66.
P. S. 220, § 74.
R. L. 224, § 2.

1 SECTION 3. If it appears to the commissioners, from the report of their
 2 committee or otherwise, that any law relative to prisons has been violated
 3 or neglected in their county, they shall forthwith give notice thereof to
 4 the district attorney.

Notice to dis-
trict attorney
of violation
of law.
R. S. 143, § 32.

G. S. 178, § 67.

P. S. 220, § 75.

R. L. 224, § 3.

JAILS.

1 SECTION 4. Jails shall be used for the detention of persons charged
 2 with crime and committed for trial, committed to secure their attendance
 3 as witnesses upon the trial of criminal causes, committed pursuant to a
 4 sentence upon conviction of crime or for any cause authorized by law,
 5 or detained or committed by the courts of the United States.

Jails, pur-
poses of.
R. S. 143, § 1.
G. S. 178, § 31.
P. S. 220, § 1.
R. L. 224, § 4.
14 Gray, 226.
256 Mass. 539.

1 SECTION 5. If there are several jails in a county, the sheriff may cause
 2 the prisoners to be confined in any of them.

Confinement
in any jail
in county.

R. S. 143, § 43.

G. S. 178, § 2.

P. S. 220, § 2.

R. L. 224, § 5.

1 SECTION 6. If a prisoner escapes by reason of the insufficiency of
 2 the jail, whereby the sheriff is made liable to a party at whose suit the
 3 prisoner was committed, or to whose use any forfeiture was adjudged
 4 against him, the county shall reimburse the amount recovered by such
 5 party of the sheriff on account of the escape.

Reimbursement
of sheriff for
damages for
escape.
1700-1, 2, § 9.
1784, 41, § 1.
R. S. 14, § 12.

G. S. 178, § 4.

P. S. 220, § 5.

R. L. 224, § 6.

1 SECTION 7. The jailers of the county shall, at the opening of each
 2 session of the superior court for criminal business, return to the court a
 3 list of all prisoners in their custody, specifying the causes for which and
 4 the persons by whom they were committed, and produce and exhibit
 5 therewith, for the inspection of the court, their calendars of prisoners, and
 6 return a like list of the persons committed during the session of the court,
 7 so that the court may take cognizance and make deliverance according
 8 to law of the prisoners committed for crimes within its jurisdiction.
 9 Jailers who neglect to make such reports or to exhibit their calendars shall
 10 be punished by a fine at the discretion of the court.

Return of list
of prisoners
to court.
Penalty.
C. L. 128, § 2.
1700-1, 2, § 1.
1784, 41, § 5.
1836, 4, § 19.
G. S. 178, § 5.
P. S. 220, § 6.
R. L. 224, § 7.

HOUSES OF CORRECTION.

Houses of correction, how provided, etc. C. L. 127, § 2 1699-1700. S. § 1. 1787, 54, § 1 1818, 123, § 5. 1834, 151, § 1. R. S. 14, § 9; 143, § 2. 1848, 324, § 2.

SECTION 8. The county commissioners in each county, except Dukes, shall at the expense of the county provide a house or houses of correction, suitably and efficiently ventilated, with convenient yards, workshops and other suitable accommodations adjoining or appurtenant thereto, for the safe keeping, correction, government and employment of offenders legally committed thereto by the courts and magistrates of the commonwealth or of the United States. 1 2 3 4 5 6 7

1854, 448, § 33. 1885, 266, § 6. 116 Mass. 193.
G. S. 178, § 6. R. L. 224, § 8. 256 Mass. 539.
P. S. 220, § 7. 101 Mass. 24. 2 Op. A. G. 612.

Enclosed yards. 1834, 151, § 1. R. S. 143, § 3. G. S. 178, § 7. P. S. 220, § 8. R. L. 224, § 9.

SECTION 9. The yards shall be of sufficient extent for the convenient employment of the persons confined therein, and shall be enclosed by fences of sufficient height and strength to prevent escapes and to prevent all persons who are without from access to or communication with any person confined therein. If such house of correction is not provided, the jail or a part thereof may be used for that purpose; but if so used it shall be provided with a sufficient yard, so enclosed. 1 2 3 4 5 6 7

Execution of sentence in any house of correction in county.

SECTION 10. A sentence to a house of correction shall be executed in any house of correction in the county. 1 2

1859, 249, § 7. 1860, 164, § 1. P. S. 220, § 10.
G. S. 178, § 8. 1862, 127, § 1. R. L. 224, § 10

County commissioners, etc., to enforce rules, inspect accounts, etc. 1834, 151, § 6. R. S. 143, § 11. 1837, 35. G. S. 178, § 12. 1877, 147. P. S. 220, § 12.

SECTION 11. The county commissioners of the several counties and the penal institutions commissioner of Boston shall cause the rules established for the management of the house of correction and for the government of the prisoners therein to be strictly observed, shall examine all accounts of the master relative to the expenses of the institution, and keep a record of their official proceedings relative thereto. 1 2 3 4 5 6

R. L. 224, § 11.

Sheriff to report to court as to employment, etc., of prisoners. 1875, 83. P. S. 220, § 16.

SECTION 12. The sheriff shall report to the superior court, at each session for criminal business, the number of prisoners sentenced to labor in houses of correction in the county employed, and also the number not employed with the reasons why they are not employed. 1 2 3 4

R. L. 224, § 12.

HOUSES OF REFORMATION FOR JUVENILE OFFENDERS.

SECTION 13. [REPEALED, 1931, 426, § 27.] 1

SECTION 14. [REPEALED, 1931, 426, § 27.] 1

SECTION 15. [REPEALED, 1931, 426, § 27.] 1

JAILS, HOUSES OF CORRECTION AND PRISONERS.

Sheriff to have custody of jails, etc Bonds of jailer, etc 1859, 249, § 1 G. S. 178, § 19 1865, 241 P. S. 220, § 23 R. L. 224, § 16 1914, 34

SECTION 16. The sheriff shall have custody and control of the jails in his county, and, except in Suffolk county, of the houses of correction therein, and of all prisoners committed thereto, and shall keep the same himself or by his deputy as jailer, master or keeper, and shall be responsible for them. The jailer, master or keeper shall appoint subordinate assistants, employes and officers, and shall be responsible for them. In Suffolk 1 2 3 4 5 6

7 county the penal institutions commissioner shall appoint a master of
 8 the house of correction, who shall hold office during the pleasure of said
 9 commissioner. A sheriff, who acts as jailer, master or keeper, or a jailer,
 10 master or keeper appointed by the sheriff, shall give to the state treasurer
 11 a bond, with such sureties as the superior court shall order and approve,
 12 conditioned faithfully to perform his duties.

1920, 546, § 2.
 1931, 426,
 § 240
 161 Mass. 394.
 2 Op. A. G.
 612.

1 SECTION 17. No sheriff shall receive any rent or emolument from
 2 the jailers and keepers of the houses of correction for the use and occupa-
 3 tion of the dwelling houses provided for them by the county.

Sheriffs not to
 receive rent,
 etc.

1830, 110, § 6. G. S. 178, § 21. R. L. 224, § 17.
 R. S. 14, § 92. P. S. 220, § 25. 2 Op. A. G. 612.

1 SECTION 18. The compensation of all officers, assistants and em-
 2 ployees of jails and houses of correction shall be paid by their respective
 3 counties, and shall be in full compensation for all their services. They
 4 shall devote their entire time, not exceeding the time limited by section
 5 forty of chapter one hundred and forty-nine, to the performance of
 6 their duties, unless released therefrom by the county commissioners.

Compensation
 and duties
 of officers,
 assistants, etc.
 1859, 249, § 2
 G. S. 178, § 22
 1864, 270, § 1.
 P. S. 220, § 26
 R. L. 224, § 18.
 1918, 240, § 3.

1930, 400, §§ 5, 7-9. 145 Mass. 509
 1931, 301, § 18. 2 Op. A. G. 612.

[Special salaries of certain county employees, 1918, 260, § 1, as amended by 1919, 276.]

1 SECTION 19. [REPEALED, 1931, 301, § 19.]

1 SECTION 20. [REPEALED, 1931, 301, § 19.]

1 SECTION 21. The keeper of a jail or master of a house of correction to
 2 which a female has been committed shall forthwith transmit to the com-
 3 missioner of correction such an abstract of the mittimus upon which she
 4 has been committed as he may require.

Abstract of
 mittimus con-
 muniting female
 to be sent to
 commissioner.

1879, 294, § 26. R. L. 224, § 21. 1919, 350, §§ 82, 83.
 P. S. 220, § 30. 1916, 241, § 1. 1931, 426, § 28.

1 SECTION 22. If a prisoner dies in the jail or house of correction, the
 2 sheriff or keeper shall, except as provided in chapter one hundred and
 3 thirteen, deliver the body to his relatives or friends if they request it;
 4 otherwise, he shall bury it in the common burying ground, and the expense
 5 thereof shall be paid by the town where the deceased had a legal settle-
 6 ment, if any; otherwise, by the county.

Burial of de-
 ceased pris-
 oner.
 1811, 102, § 1.
 R. S. 14, § 87.
 G. S. 178, § 26.
 P. S. 220, § 31.
 R. L. 224, § 22

1 SECTION 23. Upon the expiration of the term of office of a sheriff,
 2 or upon his resignation or removal, he shall deliver to his successor all
 3 the prisoners in his custody, but he shall retain the keeping of the jails
 4 and houses of correction and of the prisoners therein under his care until
 5 his successor has qualified.

Sheriff to deliv-
 er prisoners
 to successor.
 1783, 44, § 4
 R. S. 14, § 84.
 G. S. 178, § 27.
 P. S. 220, § 32

R. L. 224, § 23.

1 SECTION 24. Upon the death of a sheriff, the jailer, master or keeper
 2 appointed by him shall continue in office and retain the custody and
 3 control of the jail or house of correction and of all prisoners therein until
 4 a successor to the deceased sheriff has qualified, or until the governor,
 5 with the advice and consent of the council, removes him and appoints
 6 another. The jailer, master or keeper appointed by the governor shall
 7 give bond, with sureties as the governor directs and approves, for the

Temporary
 control of jail,
 etc., following
 death of
 sheriff.
 1808, 46, § 1.
 R. S. 14, § 86.
 G. S. 178, § 28.
 P. S. 220, § 33.
 R. L. 224, § 24.

faithful performance of the duties of his office and shall be reimbursed 8
 in the manner provided in section sixteen for any premium paid to a 9
 surety company thereon. 10

Care of jail,
 etc.
 1817, 149, § 1.
 1834, 151, § 11.
 R. S. 143, § 38.
 G. S. 178, § 31.
 P. S. 220, § 36.
 1886, 226.
 R. L. 224, § 25.

SECTION 25. The keeper of each jail and the master of each house 1
 of correction shall, at the county's expense, cause it to be constantly 2
 kept in as cleanly and healthful a condition as may be. No permanent 3
 vault shall be used in any apartment. Every room occupied by a prisoner 4
 shall be furnished with a suitable bucket, with a cover made to shut 5
 tight, for the necessary accommodation of such prisoner, and such bucket, 6
 when used, shall be emptied daily and shall be constantly kept in good 7
 order. 8

Removal of
 prisoners in
 case of pesti-
 lence.
 R. S. 143, § 41.
 G. S. 178, § 48.
 P. S. 220, § 51.
 R. L. 224, § 26.

SECTION 26. If disease breaks out in a jail or other county prison, 1
 which, in the opinion of the inspectors of the prison, may endanger the 2
 lives or health of the prisoners to such a degree as to render their removal 3
 necessary, the inspectors may designate in writing a suitable place within 4
 the same county, or any prison in a contiguous county, as a place of con- 5
 finement for such prisoners. Such designation, having been filed with 6
 the clerk of the superior court, shall be a sufficient authority for the 7
 sheriff, jailer, master or keeper to remove all prisoners in his custody to 8
 the place designated, and there to confine them until they can safely be 9
 returned to the place whence they were removed. Any place to which 10
 the prisoners are so removed shall during their imprisonment therein be 11
 deemed a prison of the county where they were originally confined, but 12
 they shall be under the care, government and direction of the officers of 13
 the county where they are confined. 14

Removal of
 prisoners in
 case of danger
 from fire.
 R. S. 143, § 42.
 G. S. 178, § 49.
 P. S. 220, § 52.
 R. L. 224, § 27.

SECTION 27. If a jail or other county prison or any building near 1
 thereto is on fire and the prisoners are exposed to danger thereby, the 2
 sheriff, jailer or other person in charge of the prison may remove them 3
 to a safe place, and there confine them as long as necessary to avoid the 4
 danger, and such removal and confinement shall not be deemed an escape 5
 of the prisoners. 6

EXPENSE OF SUPPORTING PRISONS.

County commis-
 sioners to
 procure sup-
 plies.
 1859, 249, § 4.
 G. S. 178, § 50.
 P. S. 220, § 53.
 R. L. 224, § 28.
 2 Op. A. G. 612.

SECTION 28. The county commissioners shall, except in Suffolk county, 1
 without extra charge or commission to themselves or to any other person, 2
 procure or cause to be procured all necessary supplies for the jails and 3
 houses of correction, to be purchased and provided under their direction 4
 and at the expense of the county. 5

Expense of
 supporting
 convicts.
 1819, 163.
 1826, 142, § 1.
 1834, 151, § 18.
 R. S. 143, § 27.
 1839, 156.
 G. S. 178, § 51.
 P. S. 220, § 54.
 1885, 266, § 6.
 R. L. 224, § 29.
 8 Met. 513.

SECTION 29. The expense of keeping and maintaining convicts sen- 1
 tenced to imprisonment in the jail or house of correction, of the keeping 2
 of persons charged with or convicted of crime and committed for trial or 3
 sentence, and of prisoners committed on mesne process or execution, so 4
 long as the fees for their board are paid by the defendant or debtor, plain- 5
 tiff or creditor, shall be paid by the county after the accounts of the 6
 keeper or master have been settled and allowed by the county commis- 7
 sioners, or, in Suffolk county, by the auditor of Boston; and no allowance 8
 therefor shall be made by the commonwealth. 9

1 SECTION 30. Masters and keepers of jails and houses of correction
 2 authorized or directed to expend money in behalf of the county may
 3 have money advanced to them from the county treasury in such amounts
 4 as the county commissioners may approve, not exceeding the sum of
 5 three hundred dollars at any one time.

G. S. 178, § 52.
 P. S. 220, § 55.

R. L. 224, § 30.
 1912, 77, § 1.

1925, 173.

Advances for
 expenses
 1834, 151, § 18.
 R. S. 134,
 §§ 23, 24.
 1839, 146, § 1.
 1854, 448, § 33.

1 SECTION 31. Every officer applying for such an advance shall certify
 2 in writing that the amount asked for is needed for immediate use, and,
 3 as specifically as may be, the purposes for which it is required. The
 4 certificate shall bear the approval of the county commissioners, and
 5 when the certificate is filed with the county treasurer payment shall be
 6 made by him to such officer.

Application for
 an advance
 1912, 77, § 2.

1 SECTION 32. Every such officer shall within thirty days after the
 2 receipt of an advance file with the county treasurer a detailed statement,
 3 bearing the approval of the county commissioners, of the amounts ex-
 4 pended subsequent to the preceding accounting, with vouchers therefor
 5 if they can be obtained.

Accounting
 1912, 77, § 3.

1 SECTION 33. The keeper of the jail and the master of the house of
 2 correction in Suffolk county shall, at the expense of the county, provide
 3 necessary fuel, bedding and clothing for all prisoners in their custody
 4 upon charge or conviction of crime against the commonwealth, and shall
 5 present to the auditor of Boston a full account of their charges so incurred
 6 or incurred for necessary furniture for said institutions, which, upon the
 7 allowance thereof by the auditor, shall be paid by the county.

Clothing, bed-
 ding and fuel
 1834, 151, § 12.
 R. S. 143, § 44.
 G. S. 178, § 54.
 P. S. 220, § 57.
 R. L. 224, § 31.

1 SECTION 34. If the commissioners, or the mayor of Boston, direct
 2 specific rations or articles of food, soap, fuel or other necessaries to be
 3 furnished to the prisoners, the keeper or master shall conform to such
 4 direction; and if he refuses or neglects to furnish the same, he shall be
 5 subject for a first and second offence to the penalties described in sec-
 6 tion twenty-nine of chapter two hundred and sixty-eight for the offences
 7 therein mentioned.

Keeper to obey
 orders for fur-
 nishing specific
 rations.
 Penalty.
 1834, 151, § 20.
 R. S. 143, § 45.
 1854, 448, § 34.
 G. S. 178, § 55.
 P. S. 220, § 58.
 R. L. 224, § 32.

COUNTY INDUSTRIAL FARMS.

1 SECTION 35. The county commissioners of any county may, subject
 2 to the approval of the commissioner of correction, purchase, take by
 3 eminent domain under chapter seventy-nine, or lease, in behalf of the
 4 county, a tract of land not exceeding five hundred acres in area for use
 5 as a county industrial farm, and may reclaim, cultivate and improve the
 6 same. The work of reclaiming, cultivating and improving the said land
 7 shall, so far as practicable, be done by prisoners transferred thereto as
 8 provided in section thirty-seven. At any time after said land has been
 9 reclaimed, cultivated and improved, the same may be sold if the county
 10 commissioners determine that it is for the best interest of the county.

Acquisition,
 improvement
 and sale
 of land.
 1917, 258, § 1.
 1919, 350,
 §§ 82, 83.

1 SECTION 36. Said commissioners may erect on said land such tem-
 2 porary buildings of inexpensive construction as they consider necessary
 3 for the proper housing of prisoners and for other purposes, in no case,
 4 however, costing over three thousand dollars. If the land reclaimed,
 5 cultivated and improved, as aforesaid, shall be sold, the proceeds shall

Erection of
 buildings, etc.
 Management
 1917, 258, § 2.
 1919, 350,
 §§ 82, 83.

be placed in the county treasury and used, so far as possible, for the payment of loans made under section thirty-eight. Any surplus thereof shall be used for general county purposes. The commissioners may appoint, and at any time remove, a superintendent for said farm and such assistants as in their opinion are needed for its proper management. No building used for housing the prisoners shall be constructed until the commissioner of correction has approved the plans therefor.

Prisoners on industrial farms. 1917, 258, § 3. 1918, 156, § 1.

SECTION 37. On the request of said commissioners, the sheriff of the county shall remove to said farm such prisoners as in the opinion of the commissioners can advantageously be employed thereon in carrying out sections thirty-five and thirty-six, and on the order of the said commissioners the sheriff shall return any prisoner to the jail or house of correction from which he was taken, or to which he was sentenced. The superintendents of industrial farms shall have the custody of all prisoners removed thereto, and a prisoner who escapes or attempts to escape therefrom shall be punished therefor by imprisonment in a jail or house of correction for not more than one year. Permits to be at liberty shall be issued to the inmates of county industrial farms and revoked in the manner provided by law for the issuance or revocation of permits to prisoners in jails and houses of correction.

Bonds, etc., to meet expenses. 1917, 258, § 4. 1918, 156, § 2. 1925, 222.

SECTION 38. To meet the expense of acquiring land in fee under section thirty-five or for constructing buildings under section thirty-six, the county commissioners may borrow from time to time, upon the credit of the county, such sums as may be necessary, not exceeding in the aggregate in any one year the sum of ten thousand dollars, and may issue bonds or notes of the county therefor, which shall be payable in not more than five years from their respective dates. To meet the expense of maintaining industrial farms as authorized under sections thirty-five, thirty-six and thirty-seven, said commissioners may borrow from time to time, upon the credit of the county, such sums as may be necessary, and may issue notes of the county therefor, which shall be payable in not more than one year from their respective dates. Bonds or notes issued under authority of this section shall bear on their face the words, County of _____ Industrial Farm Loan, General Laws, Chapter 126, — and, except as herein provided, shall be subject to chapter thirty-five. Such bonds or notes shall be signed by the treasurer of the county and countersigned by a majority of the county commissioners. Said bonds or notes, if payable in not more than one year, may be sold at a discount, such discount to be treated as interest paid in advance, but, if payable in more than one year, shall not be sold for less than their par value. The county may sell the said securities at public or private sale and the proceeds shall be used only for such of the aforesaid purposes as are specified in the vote authorizing the loan.

County commissioners to provide for payment of loan, etc. 1917, 258, § 5.

SECTION 39. The county commissioners, at the time of authorizing each loan, shall provide for the payment thereof in accordance with the preceding section; and a sum sufficient to pay the interest as it accrues and to make such payments on the principal as may be required under said section shall be levied annually thereafter, as a part of the county tax of the county, in the same manner as other county taxes, until the debt incurred by said loans is extinguished.

CHAPTER 127.

OFFICERS AND INMATES OF PENAL AND REFORMATORY INSTITUTIONS. PAROLES AND PARDONS.

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5.	Same subject. Calendar of prisoners in jail, etc. Penalty.
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 134. Permits to habitual criminals.
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DEFINITIONS.

1 SECTION 1. In this chapter "commissioner" shall mean the commissioner of correction. "Board of parole" shall mean the board of parole of the department of correction. Definitions.

OFFICERS.

1 SECTION 2. The warden of the state prison, the superintendents of the Massachusetts reformatory, of the reformatory for women, of the prison camp and hospital and of the state farm, respectively, and the masters and keepers of jails, houses of correction and of all other penal or reformatory institutions shall keep full and accurate records of all prisoners committed thereto, maintained therein or discharged therefrom. Duties of warden, etc. Record of prisoners. 1874, 264, § 1; 385, § 19; P. S. 219, § 31. R. L. 225, § 1. 1906, 243, § 1. 1911, 181. 1919, 199, § 1.

1 SECTION 3. They shall keep a record of all money or other property found in possession of prisoners committed to such institutions, and shall be responsible to the commonwealth for the safe keeping and delivery of said property to said prisoners or their order on their discharge or at any time before. Same subject. Record of property in possession of prisoners. 1861, 138. P. S. 222, § 1.

R. L. 225, § 2.

1 SECTION 4. They shall keep a record of the name and number or other sufficient designation of every person punished by solitary imprisonment, the day and hour when he was placed in solitary imprisonment, the day and hour when released, the offence, and such remarks as may Same subject. Record of solitary imprisonment. 1876, 61, §§ 2, 3. P. S. 222, §§ 4, 5. R. L. 225, § 3.

1916, 241, § 1. be necessary to complete the record. The commissioner shall ascertain 5
 1919, 350, whether the requirements of this section are observed. 6
 §§ 82, 83.

Same subject.
 Calendar of
 prisoners in
 jail, etc.
 Penalty.
 1784, 41, § 4
 R. S. 14, § 83;
 1859, 130, § 5;
 G. S. 178, § 24
 P. S. 220, § 28;
 R. L. 225, § 4
 1916, 241, § 1.
 1919, 350,
 §§ 82, 83.

SECTION 5. The jailer, keeper or master of each jail and house of 1
 correction shall keep in a bound book an exact calendar of all prisoners 2
 committed thereto, in which shall be recorded the names of all prisoners, 3
 their places of abode and additions, the time, cause and authority of 4
 their commitment, and, if they have been committed upon a sentence on 5
 conviction of crime, a description of their persons and such facts as, 6
 with the entries in the prison book, will enable the sheriff or penal institu- 7
 tions commissioner of Boston to make the reports to the commissioner 8
 required by section ten. He shall record in the same book the time and 9
 authority for the release of every prisoner released and the time and 10
 manner of the escape of a prisoner escaping. A jailer, master or keeper 11
 neglecting to keep such calendar or to enter such facts therein shall forfeit 12
 one hundred dollars, which shall be recovered by the county commis- 13
 sioners in the name of the county, or, in Suffolk county, by the penal 14
 institutions commissioner in the name of the city of Boston, and shall 15
 be expended by them for the relief of discharged prisoners. 16

Same subject.
 Service of
 process in
 prisons.
 1811, 32, § 3.

SECTION 6. All process to be served within the precincts of any penal 1
 or reformatory institution shall be directed to and served by the warden, 2
 superintendent, master or keeper thereof or his deputy. 3

1827, 118, § 3. G. S. 179, § 3. R. L. 225, § 5.
 R. S. 144, § 25. P. S. 221, § 3.

Same subject.
 Filing of
 warrants, etc.
 1784, 41, § 6.
 R. S. 14, § 85
 G. S. 178, § 25
 P. S. 220, § 29.
 1809, 328, § 1.
 R. L. 225, § 6.

SECTION 7. All warrants, mittimus, processes and other official 1
 papers by which a prisoner is committed or released, or attested copies 2
 thereof, shall contain a detailed statement of the fees of the officer for 3
 making the commitment, shall be regularly filed in chronological order, 4
 and safely kept with the calendar in a suitable box for that purpose. 5
 Upon the expiration of the sheriff's commission, his death, resignation 6
 or removal from office, it shall be delivered to his successor; and in 7
 default thereof the sheriff or his executor or administrator shall forfeit 8
 two hundred dollars. 9

Same subject.
 Prison book,
 etc.
 1699-1700,
 S. § 7.
 1818, 123, § 3.
 1848, 276, § 2.
 1859, 130, § 5.
 G. S. 178, § 61.
 P. S. 220, § 65.
 R. L. 225, § 7.
 13 Gray, 439.

SECTION 8. Each jailer and master of a house of correction shall have 1
 a prison book, in which he shall keep an account of the value of the 2
 labor of the prisoners, of the salaries of officers and of articles furnished 3
 for the support of the prisoners, the quantity of such articles, of whom 4
 bought and the price paid, classified as follows: cost of provisions, 5
 including the portion consumed by the family of the jailer or master; 6
 of clothing; of beds and bedding; of medicines; of medical attendance; 7
 of religious or secular instruction; of fuel; of light; allowance to dis- 8
 charged prisoners; allowance to witnesses in money or clothing. The 9
 prison book, verified by the oath of the jailer or master, shall be exhibited 10
 to the county commissioners when his accounts are presented for examina- 11
 tion, and at other times when demanded. A jailer or master who neglects 12
 to keep such book or to enter therein such facts, or who wilfully makes 13
 any false entry therein, shall forfeit one hundred dollars, to be recovered 14
 by the county commissioners in the name of the county, or, in Suffolk 15
 county, by the penal institutions commissioner in the name of the city 16
 of Boston, and it shall be expended by them for the relief of discharged 17
 prisoners. 18

Removal of incompetent jailers, masters or keepers of jails, etc. 1859, 249, § 8. G. S. 178, § 29. P. S. 220, § 24. R. L. 225, § 12.

SECTION 13. The jailer, master or keeper of a jail or house of correction, except in Suffolk county, may be removed by the superior court for neglect of duty or for wasteful or extravagant use of supplies, upon complaint of the county commissioners, after notice to the sheriff and the person complained of and a hearing.

Certain officers using intoxicating liquor to be removed. 1838, 162, § 2. G. S. 178, § 45. P. S. 220, § 49. 1882, 6, § 4. R. L. 225, § 13.

SECTION 14. The sheriffs of the several counties and the penal institutions commissioner of Boston shall forthwith remove any officer appointed by them, respectively, to any position of trust or authority in a jail or house of correction who is known to use intoxicating liquor as a beverage.

Detention in and transportation through commonwealth of prisoners of Vermont. 1862, 423. R. L. 225, § 14.

SECTION 15. The authorities of the state of Vermont shall have the same power and authority to detain and transport through this commonwealth persons convicted of crime in Vermont and sentenced to imprisonment in a penal institution therein as they have to detain and transport them in said state.

PRISONERS.

Physical and psychiatric examinations of prisoners. 1918, 58, § 1. 1919, 199, § 1. 1924, 309, § 1. [Penalty, § 18.]

SECTION 16. The warden of the state prison, the superintendents of the Massachusetts reformatory, the reformatory for women, the prison camp and hospital and the state farm, and the keepers and masters of jails and houses of correction shall cause a thorough physical examination to be made by a competent physician of each inmate in their respective institutions committed for a term of thirty days' imprisonment or more. In conducting the examination special attention shall be given to determining the presence of communicable diseases, particularly gonorrhoea, syphilis and pulmonary tuberculosis. Keepers and masters of jails and houses of correction shall cause all convicted prisoners serving a sentence of more than thirty days therein, except prisoners sentenced for non-payment of fine or of fine and expenses, and all convicted prisoners serving sentence therein who have been previously committed upon sentence to any penal institution, to be given a thorough psychiatric examination by a psychiatrist appointed under section four of chapter nineteen.

Same subject. Specifications, statements, records. PHS, 58, § 2. 1919, 179, § 96. 1924, 309, § 2. P. 29, 179, § 4. Op. A. G. (1920) 54.

[Penalty, § 18.]

SECTION 17. Specifications governing the manner and time of such physical examinations and such psychiatric examinations shall be respectively promulgated by the departments of public health and mental diseases. Said departments shall respectively prescribe the medical and psychiatric records to be kept, shall require such laboratory or other diagnostic aids to be used as in their judgment are expedient, and shall forward to the commissioner statements of the results of all such examinations, together with recommendations relative thereto, and the psychiatrists making such examination shall from time to time furnish such other information as the commissioner may request. For the purpose of obtaining further information relative to such prisoners the commissioner may cause inquiry to be made of court physicians and psychiatrists, probation officers and district attorneys, who have made examinations or investigations of such prisoners prior to conviction or who have prosecuted them, and such physicians, psychiatrists and probation officers shall furnish to the commissioner when requested all 16

17 pertinent information in their possession. The commissioner may cause
 18 such further inquiry to be made relative to the offences committed by
 19 such prisoners and their past history and environment as he may deem
 20 necessary. He shall cause records to be made of such examinations and
 21 investigations, and shall transmit copies thereof to the office of the
 22 board of probation, which shall cause the same to be filed with its office
 23 records.

1 SECTION 18. Any officer named in section sixteen who neglects or
 2 refuses to comply with said section or who violates any rule or regulation
 3 of the department of public health or of the department of mental dis-
 4 cases made under section seventeen shall forfeit not more than fifty
 5 dollars.

Penalty for
breach of §§ 16
and 17
1918, 58, § 3.
1919, 350, § 96.
1924, 309, § 3.

1 SECTION 19. The commissioner may institute a system of physical
 2 training, including military drill and organized athletic sports in any
 3 penal institution in the commonwealth, to be under the direction of the
 4 director of physical training of the department. He may prescribe the
 5 powers and duties of the director and may adopt rules and regulations
 6 to carry out this section.

Physical
training of
prisoners.
1920, 421.

1 SECTION 20. The commissioner may, with the approval of the gov-
 2 ernor and council, provide for grading and classifying the prisoners in
 3 the state prison, the Massachusetts reformatory and the reformatory for
 4 women, and may establish rules for dealing with the prisoners in the
 5 state prison according to their conduct and industry and with the pris-
 6 oners in the Massachusetts reformatory and the reformatory for women
 7 according to their conduct, industry in labor and diligence in study.

Classification
in prisons.
1884, 255, § 28.
1891, 372, § 1.
1892, 267, § 1.
R. L. 225, § 15.
1903, 266, § 4.
1918, 257,
§ 475.
1919, 5: 350,
§§ 82, 83.
1920, 2.

1 SECTION 21. He shall, as far as practicable, so classify prisoners sen-
 2 tenced and committed to jails and houses of correction, with reference
 3 to their sex, age, character, condition and offences, as to promote their
 4 reformation and safe custody and the economy of their support, and to
 5 secure the separation of male and female prisoners. Sheriffs may classify
 6 prisoners in houses of correction, subject to revision by the commissioner.
 7 The master or keeper of a jail or house of correction shall ascertain
 8 whether a prisoner committed thereto upon a sentence of six months or
 9 more can read or write.

Classification
in jails and
houses of
correction.
1862, 127, § 1.
1870, 370, § 2.
1879, 294, § 3.
P. S. 219, § 4;
220, § 10.
1895, 259.
R. L. 225, § 16.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

1 SECTION 22. Male and female prisoners shall not be put or kept in
 2 the same room in a jail or house of correction; nor, unless the crowded
 3 state of the institution so requires, shall any two prisoners, other than
 4 debtors, be allowed to occupy the same room, except for work. Persons
 5 committed for debt shall be kept separate from convicts and from persons
 6 who are confined upon a charge of an infamous crime. Conversation
 7 between prisoners in different apartments shall be prevented. Minors
 8 shall be kept separate from notorious offenders and from persons con-
 9 victed of an infamous crime. Persons committed on charge of crime
 10 shall not be confined with convicts, and prisoners charged with or con-
 11 victed of a crime not infamous shall not be confined with those charged
 12 with or convicted of an infamous crime, except while at labor or assem-
 13 bled for moral or religious instruction, at which time no communication
 14 shall be allowed between prisoners of different classes.

Same subject.
1817, 149, § 2.
1834, 151, § 19.
R. S. 143, § 35.
G. S. 178, § 33.
P. S. 220, § 38.
R. L. 225, § 17.

Measurements for identification. Thieves and felons
 1890, 316, § 1.
 1900, 260, § 1.
 R. L. 225, § 18.
 1904, 241.
 1905, 459, § 1.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 83.
 1931, 350, § 4.
 1 Op. A. G. 27.

SECTION 23. The officer in charge of a penal institution to which a person is committed under a sentence of imprisonment for larceny or any felony shall, unless the court otherwise orders, take or cause to be taken his name, age, height, weight, photograph and general description and copies of his finger prints in accordance with the finger print system of identification of criminals. The court may order to be taken the photograph and the aforesaid description and finger prints of a person convicted of a felony who is not committed to a penal institution. All such photographs and identifying matter shall be transmitted forthwith to the commissioner of public safety.

SECTION 24. [REPEALED, 1931, 350, § 10.]

Same subject. Fugitives from justice.
 1906, 293.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 83.
 1931, 350, § 5.

SECTION 25. Whenever the officer in charge of a prison, lockup or other place of detention has received a request from any authority, either by circular or otherwise, to assist in the apprehension of a fugitive from justice, such officer may take an exact description of any person committed to such prison or held in such lockup or other place of detention, and may include in such descriptions copies of the finger prints in accordance with the finger print system of identification. But said officer shall not take a description of a person who, he has reason to believe, is not a fugitive from justice. All descriptions so made shall be forthwith transmitted to the office of the commissioner of public safety.

SECTION 26. [REPEALED, 1931, 350, § 10.]

District attorney to furnish criminal history.
 1890, 316, § 3.
 1900, 260, § 1.
 R. L. 225, § 19.
 1916, 241, § 1.
 1919, 350, §§ 82, 83.

SECTION 27. The district attorney who prosecuted such prisoners as are described in section twenty-three shall forward to the officer in charge of the prison to which he is sentenced the criminal history of each prisoner as shown upon the trial, upon blanks to be furnished by the commissioner of public safety.

1919, 350, §§ 82, 83.

1931, 350, § 6.

Record of measurements, etc.
 1890, 316, § 2.
 1900, 260, § 2.
 R. L. 225, § 20.
 1911, 181.
 1931, 350, § 7.
 1 Op. A. G. 27.

SECTION 28. The warden of the state prison, the superintendents of the state prison colony, of the Massachusetts reformatory and of the reformatory for women, respectively, and the keepers of jails and houses of correction shall keep a record of such descriptions and finger prints and of the criminal history of prisoners so described and finger printed, as shown by the records of the courts of the commonwealth or of any other state or by any other official records which are accessible, and shall attach to the record, or file in such manner as to be readily found, a photograph of such prisoner.

Publication of records regulated
 1890, 316, § 4.
 1899, 293.
 1900, 260, § 1.
 R. L. 225, § 21.
 1931, 350, § 8.

SECTION 29. The record required by the preceding section shall not be published except so far as may be necessary for the identification of persons convicted of larceny or any felony after their release from prison; but the officer in charge of a prison shall exhibit the record to any person upon the order of a justice of the superior court or of a district attorney. A copy of the descriptions including copies of finger prints, photographs and criminal histories shall upon request be furnished by the officer in charge of any prison to the commissioner of public safety or to the principal officer of a prison in any other state which requires by law the finger printing and description of convicts

11 and has provided for furnishing information concerning criminals to
12 other states.

1 SECTION 30. No compensation shall be allowed to an officer for the
2 performance of any services required by sections twenty-three to twenty-
3 nine, inclusive, but he shall be reimbursed by the commonwealth for his
4 actual traveling expenses incurred in the performance of any duties
5 therein required.

No compensation to officers.
1890, 316, § 5.
1900, 260, § 1.
R. L. 225, § 22.
1931, 301,
§ 103; 350, § 9.

1 SECTION 31. [REPEALED, 1931, 350, § 10.]

1 SECTION 32. The warden and officers of the state prison shall treat
2 the prisoners with kindness so long as they merit such treatment by their
3 obedience, industry and good conduct.

Treatment of prisoners
R. S. 144, § 52.

G. S. 179, § 38.

P. S. 221, § 25.

R. L. 225, § 21.

1 SECTION 33. The warden shall cause all necessary means to be used
2 to maintain order in the state prison, enforce obedience, suppress insur-
3 rection and prevent escapes, and for that purpose he may at all times
4 require the aid and utmost exertions of all the officers of the prison except
5 the chaplain and the physician.

Warden to maintain order.
1827, 118,
§§ 3, 21.
R. S. 144, § 48.
G. S. 179, § 39.
P. S. 221, § 26.

R. L. 225, § 25.

1 SECTION 34. No communication shall be allowed between prisoners
2 in the state prison and any person without the prison. The prisoners
3 shall be confined in separate cells in the night time, and all intercourse
4 between them in the day time shall, so far as practicable, be prevented;
5 but the warden may, at such times and under such circumstances as he
6 considers expedient, with the consent of the commissioner, allow them
7 to assemble in the yard for recreation and exercise.

Separation of prisoners
1827, 118, § 13.
R. S. 144, § 33.
G. S. 179, § 44.
1869, 275,
P. S. 221, § 31.
R. L. 225, § 27.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

1 SECTION 35. All penal and reformatory institutions shall be suitably
2 and sufficiently ventilated. Food, clothes, beds and bedding therein
3 shall be of good quality and of sufficient quantity for the sustenance and
4 comfort of the prisoners, and the bedding shall include mattresses,
5 blankets and pillows. The warden of the state prison, the superintendents
6 of the Massachusetts reformatory, the reformatory for women, the prison
7 camp and hospital and the state farm, respectively, and the keepers and
8 masters of jails and houses of correction shall see that strict attention is
9 constantly given to the personal cleanliness of all prisoners in their
10 custody. They shall, at least once a week, cause the shirt of each prisoner
11 to be washed, each male prisoner to be shaved, and each prisoner to have
12 a bath of cold or tepid water applied to the whole surface of the body if
13 such bath would not, by reason of illness, be hurtful or dangerous. Each
14 prisoner shall be provided daily with as much clean water as he needs
15 for drink or for the purpose of personal cleanliness, and with a clean towel
16 once a week. Clothes shall not be washed or hung out wet in any room
17 which is occupied by a prisoner during the night. All prisoners who are
18 not in solitary confinement shall be served three times each day with a
19 sufficient quantity of wholesome food, well cooked and in good order.

Ventilation.
Baths. Food,
clothing and
bedding
1817, 149, § 1.
1827, 118,
§§ 14, 15.
1829, 16, § 2;
114, § 1.
1833, 67, § 3.
1834, 145, § 2;
151, § 11
R. S. 143, § 39;
144, §§ 44, 45,
47.
1848, 324,
§ 1, 2.
1850, 101,
G. S. 178, § 32;
179, §§ 59, 61,
62.
1879, 294, § 12.
P. S. 219, § 16;
220, § 37; 221,
§ 32
R. L. 225, § 30.
1911, 181,
1919, 199, § 1.

1 SECTION 36. No person, except the governor and council, members
2 of the general court, officers of justice, or other persons having business
3 at the state prison, shall be allowed to visit it without a permit from the
4 commissioner or the warden.

Visitors to state prison.
1854, 302, § 1.
G. S. 179, § 48.
P. S. 221, § 33.

R. L. 225, § 31.

1916, 241, § 1.

1919, 350, §§ 82, 83.

Register of visitors.	SECTION 37. The warden shall cause a register to be kept of the names and residences of all visitors and of the authority by which they visit, which shall always be open to the commissioner. He may refuse admission to a person having a permit if such admission would be injurious to the best interests of the prison, but he shall forthwith report such refusal to the commissioner.	1 2 3 4 5 6
1854, 302, § 2, 3 G. S. 179, §§ 49, 50. 1879, 294, § 34. P. S. 221, §§ 34, 35. R. L. 225, § 32. 1916, 241, § 1.		

1919, 350, §§ 82, 83.

Gag forbidden. Penalty.	SECTION 38. Punishment by the use of the gag shall not be allowed in any penal, reformatory or charitable institution. An officer of any such institution who uses a gag as a punishment shall be punished by a fine of not more than fifty dollars.	1 2 3 4
1879, 181. P. S. 222, § 6. R. L. 225, § 33.		

SOLITARY CONFINEMENT.

Solitary confinement for juveniles forbidden. Restraint, etc., regulated.	SECTION 39. The officers of a juvenile reformatory school shall not place an inmate in any cell, room or cage in solitary confinement. Whenever restraint or separation from the other inmates is necessary, confinement shall be permitted only in a place where the inmate is under the constant supervision of an officer of the school.	1 2 3 4 5
1911, 265, § 1. 4 Op. A. G. 2.		

Solitary labor in state prison.	SECTION 40. The warden of the state prison, with the consent of the commissioner, may, for such time as he considers necessary to produce penitence or to promote good order and discipline, confine obstinate and refractory prisoners to solitary labor.	1 2 3 4
1850, 286, § 1. G. S. 179, § 41. 1879, 294, § 34. P. S. 221, § 28. R. L. 225, § 34		

1916, 241, § 1.

1919, 350, §§ 82, 83.

Solitary imprisonment in state prison.	SECTION 41. A prisoner in the state prison sentenced to solitary imprisonment or subjected thereto for a violation of the rules and regulations of the prison shall be confined in a solitary cell and be fed with bread and water only, unless the physician of the prison certifies to the warden that his health requires other diet.	1 2 3 4 5
1827, 118, § 18 R. S. 144, § 32. G. S. 179, § 42. P. S. 221, § 29. R. L. 225, § 35.		

Execution of sentence to solitary imprisonment in jail, etc.	SECTION 42. When a prisoner is sentenced to solitary imprisonment and hard labor in a jail or house of correction, the master or keeper shall execute such sentence by confining him in one of the cells; and during the time of solitary imprisonment he shall be fed with bread and water only, unless other food is necessary for the preservation of his health. No intercourse shall be allowed with a prisoner in solitary imprisonment except for the conveyance of food and other necessary purposes.	1 2 3 4 5 6 7
1834, 151, § 14. R. S. 143, § 20. 1854, 393. G. S. 178, § 34. P. S. 220, § 39. R. L. 225, § 36.		

Punishment of refractory prisoner.	SECTION 43. If a prisoner is refractory, or if, during the time for which he is sentenced to hard labor, he refuses or neglects without reasonable cause to labor in a suitable manner when required, he shall be kept in solitary imprisonment and fed on bread and water, as before provided, so long as he is refractory or refuses to labor; but the keeper of a jail or master of a house of correction shall not keep a prisoner in solitary imprisonment for more than three days at one time without informing the sheriff or county commissioners thereof and of the reasons therefor.	1 2 3 4 5 6 7 8
1834, 151, § 15. R. S. 143, § 22. 1853, 34. G. S. 178, § 36. P. S. 220, § 41. R. L. 225, § 38.		

Solitary imprisonment for refractory prisoner.	SECTION 44. If a person confined in a jail or house of correction upon a conviction or charge of crime is refractory or disorderly, or willfully or wantonly destroys or injures any article of furniture or other property or any part of such prison, the sheriff or county commissioners	1 2 3 4
1818, 125, § 4 1825, 118, § 3 1843, 151, § 13		

5 or penal institutions commissioner of Boston, respectively, after due
6 inquiry, may cause him to be kept in solitary imprisonment not more
7 than ten days for one offence, and during such imprisonment to be fed
8 with bread and water only unless other food is necessary for the preser-
9 vation of his health.

R. S. 143, § 46.
1857, 35,
G. S. 178, § 37
P. S. 220, § 42.
R. L. 225, § 39.

1 SECTION 45. If a person committed to jail on mesne process or
2 execution, or for any cause other than those mentioned in the preceding
3 section, is convicted of any of the offences therein named, he shall be
4 punished by solitary imprisonment, as directed in said section, for not
5 more than ten days for each offence, and shall be liable in an action of
6 tort, to be commenced by the sheriff or county treasurer in the name
7 and to the use of the county, for double the amount of the damage done
8 to the jail, furniture or other property.

Punishment
and liability of
poor debtors,
etc., for
degradations.
1823, 148, § 3.
1834, 151, § 13.
R. S. 143, § 47.
G. S. 178, § 38
P. S. 220, § 43
R. L. 225, § 40.

1 SECTION 46. The two preceding sections shall not affect the au-
2 thority of a sheriff, jailer or master of a house of correction to preserve
3 order and enforce strict discipline among the prisoners in his custody.

Two preceding
sections not
to limit
sheriff's and
keeper's
authority.

1834, 151, § 13.
R. S. 143, § 48.

G. S. 178, § 39.
P. S. 220, § 44.

R. L. 225, § 41.

1 SECTION 47. Officers having custody and charge of prisoners in the
2 several prisons and other places of confinement shall see to it that every
3 cell therein which may be used as a place for solitary imprisonment is
4 properly ventilated and furnished with a form of boards, not less than
5 six and one half feet long, eighteen inches wide and four inches high from
6 the floor, and with a sufficient amount of bedding to protect the health
7 of the inmate from injury. The commissioner shall ascertain whether
8 the requirements of this section are observed.

Solitary cell.
1873, 143.
1876, 61,
§§ 1, 3.
P. S. 222,
§§ 3, 5.
R. L. 225, § 42
1916, 241, § 1.
1919, 350,
§§ 82, 83.

LABOR OF PRISONERS.

1 SECTION 48. Prisoners in the state prison shall be constantly em-
2 ployed for the benefit of the commonwealth, but no prisoner shall be
3 employed in engraving.

Prisoners,
employment
regulated.

1827, 118, § 13.
R. S. 144, § 33.

1850, 289, § 4.
G. S. 179, § 40.

P. S. 221, § 27.
1888, 189.

R. L. 225, § 26.
4 Op. A. G. 332.

1 SECTION 48A. At the state prison, the Massachusetts reformatory
2 and the reformatory for women, respectively, there may be established
3 a system of compensation for its inmates, to be paid out of the excess
4 profits from the industries in that institution as hereinafter provided.
5 As a basis for determining such excess profits, the minimum rate of profit
6 on prison industries shall be twenty-five per cent of the cost as herein-
7 after defined at the state prison, fifteen per cent of such cost at the
8 Massachusetts reformatory and twenty-five per cent of such cost at the
9 reformatory for women. Whenever the rate of profit shall be in excess
10 of such minimum rate at any such institution, the excess profit may be
11 disposed of in the following manner: one half shall be placed to the
12 credit of the prison industries fund of such institution and one half to
13 the credit of such of the inmates of such institution as are entitled
14 thereto in accordance with rules and regulations, which are hereby
15 authorized to be established by the warden or superintendent of said
16 institution to carry out the purposes of this section. Said rules and
17 regulations shall take effect when approved by the commissioner of

Compensation
of inmates
of certain
institutions
in connection
with prison
industries.
Credits estab-
lished and
regulated.
1928, 357.

correction and by the governor and council. No such credits shall be paid directly to any inmate during the term of his imprisonment. One half of all credits so earned by any inmate may be paid over monthly, or at other periods determined by such rules and regulations, to his dependents, if any, directly or through the board of public welfare of the city or town chargeable or likely to become chargeable for the support of such dependents; and, if such credits are paid over directly to such dependents, notice shall be sent by the warden or superintendent of the institution to the board of public welfare of such city or town. An amount not exceeding twenty-five per cent of the credits so earned may be expended on behalf of the inmate for articles for his own use, to be purchased by reference to a list approved from time to time by the warden or superintendent of the institution. The remainder of the credits so earned, after deducting amounts paid over to or for the benefit of his dependents, and amounts expended on behalf of the inmate as aforesaid, shall be accumulated to the credit of the inmate, and shall be paid to him upon his release from such institution in such instalments and at such times as may be prescribed in such rules or regulations. The rates of profit referred to above shall be computed semi-annually or otherwise in accordance with said rules and regulations and credits to the account of prisoners shall be allotted at like intervals following the establishment of such rates. No compensation shall be credited or paid to inmates under this section except out of money earned by them from the prison industries and only when and if the rate of profit is in excess of the minimum rate hereinbefore prescribed. For the purposes of making the computations referred to herein, the profit on prison-made goods shall be the difference between the net sales of all prison-made products for the period in question less the cost; and cost shall be taken to mean the cost of raw materials and current supplies purchased during that period, the salaries of all persons engaged in the manufacture of said prison products whose salaries are properly chargeable against the Prison Industries Funds and the established charge for heat, light and power. Capital expenditures or expenditures taken from said funds under sections fifty-nine and seventy of this chapter shall be chargeable against the said funds and not be taken to reduce the current rate of profit. The payments of compensation under the plan herein provided for shall be graded by the warden or superintendent in accordance with the skill and industry of the inmates and other details of the administration of the scheme shall be provided for by the rules and regulations aforesaid. From and after the expiration of two years following the establishment in any of the institutions hereinbefore named of a system of compensation as provided in this section, no pecuniary aid under sections one hundred and fifty-eight to one hundred and sixty, inclusive, and section one hundred and sixty-two shall be extended to any prisoner discharged from such institution, unless the amount standing to his credit under such system at the time of his discharge is less than ten dollars. From and after the establishment in any of said institutions of any such system the warden or superintendent thereof may prohibit the delivery of any money to its inmates.

Employment
on land of
common-
wealth.
Escapes.
1884, 255, § 32.
1885, 94, § 1.

SECTION 49. Prisoners in the state prison and in the reformatory for women may be employed, in the custody of an officer, on any part of the premises of the prison or reformatory, and whoever escapes from said premises shall be deemed to have escaped from the prison or reformatory.

5 Prisoners in the Massachusetts reformatory may be employed, in the
6 custody of an officer, upon any land or building owned by the common-
7 wealth, and whoever escapes from said land or building shall be deemed
8 to have escaped from said reformatory.

1898, 307
1901, 196,
R. L. 225, § 28
1903, 207,
1911, 181.

1 SECTION 50. Prisoners in the state prison, Massachusetts reformatory,
2 reformatory for women, prison camp and hospital, state farm, or in any
3 jail or house of correction, may be employed, in the custody of an officer,
4 in caring for public lands and buildings; but no prisoner, except as pro-
5 vided in sections eighty-two to eighty-four, inclusive, shall be employed
6 outside the precincts of the place of his imprisonment in doing work of
7 any kind for private persons.

Employment
on public lands
and buildings.
1891, 209
1897, 434
1900, 269
R. L. 225, § 29.
1905, 241
1906, 243, § 1.
1911, 181.
1919, 199, § 1.

1 SECTION 51. The commissioner and the warden of the state prison,
2 the superintendent of the Massachusetts reformatory, reformatory for
3 women, prison camp and hospital, state prison colony or state farm,
4 keepers or masters of jails and houses of correction, shall determine the
5 industries to be established and maintained in the respective institutions
6 under the control of said officers. The prisoners in said institutions
7 shall be employed in said industries under regulations which shall be
8 established by the commissioner; but no contract shall be made for the
9 labor of prisoners, except that, with the approval of the commissioner,
10 prisoners may be employed in cane seating and the manufacture of
11 umbrellas under the "piece price system", so called.

Establishment
and mainte-
nance of
industries.
1887, 447,
§§ 1, 7
1888, 22, 403,
§ 1, 5
1897, 412, § 3;
434
1900, 269.
1901, 364, § 2.
R. L. 225, § 43.
1911, 181.
1916, 241, § 1.
1919, 199, § 1;
350, §§ 82, 83;
1927, 289, § 6.

1 SECTION 52. The warden, superintendent, master or keeper of any
2 institution named in the preceding section may, with the approval of
3 the commissioner, appoint such superintendents and instructors to
4 instruct the prisoners in said industries as he and the commissioner shall
5 consider necessary. Such superintendents and instructors shall have
6 the same authority relative to the prisoners as the subordinate officers of
7 the institution where they are employed. They may be removed by
8 the warden, superintendent, master or keeper, with the approval of the
9 commissioner.

Superintend-
ents and
instructors.
1887, 447, § 2.
1897, 434.
1900, 269.
R. L. 225, § 44.
1916, 241, § 1.
1919, 350,
§§ 82, 83
1930, 400,
§§ 5, 7-9
1931, 301, § 20.

1 SECTION 53. The commissioner shall, so far as possible, cause such
2 articles and materials as are used in the offices, departments or institu-
3 tions of the commonwealth and of the several counties, cities and towns
4 to be produced by the labor of prisoners in the institutions named in
5 section fifty-one.

R. L. 225, § 45. 1916, 241, § 1.
1912, 565, §§ 1, 3. 1919, 350, §§ 82, 83.

Certain
articles to
be made by
prisoners.
1887, 447, § 13.
1898, 334, § 1.
1900, 269.

1 SECTION 54. For the purpose of determining the styles, designs
2 and qualities of articles and materials to be made by the labor of prison-
3 ers for use in the offices, departments or institutions in accordance with
4 section fifty-three, the officers in charge of said offices, departments or
5 institutions shall hold meetings annually in May. The day and place
6 of each of said meetings shall be assigned by the commissioner, who
7 shall give to the officers concerned at least ten days' notice thereof. If
8 an officer in charge is unable to be present at a meeting he may delegate
9 one of his assistants to attend in his behalf. Each meeting shall organize
10 by the choice of a chairman and clerk; and within one week after the
11 meeting, these officers shall formally notify the commissioner of the

Meetings for
determination
of styles, etc.
Expenses.
1898, 334, § 5.
1901, 364.
R. L. 225, § 55.
1910, 414,
§§ 1, 6.
1912, 565, § 3.
1915, 297, § 1.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

styles, designs and qualities adopted by the meeting for use in each class of offices, departments or institutions. The expenses of attending any of said meetings shall be repaid to the respective officers in the same way as other traveling expenses are paid, and any other expense of the meetings shall be paid from the Prison Industries Funds upon the approval of the commissioner.

Lists of prison-made articles. Arbitration of differences relative to styles, etc. 1910, 414, § 2. 1915, 207, § 2. 1916, 241, § 1. 1919, 350, § 82, 83. 3 Op. A. G. 495.

SECTION 55. Annually in September the commissioner shall issue to the officers in charge of the offices, departments and institutions named in section fifty-three a descriptive list of the styles, designs and qualities of said articles and materials. Any difference between the prison officials and the offices, departments or institutions in regard to styles, designs and qualities shall be submitted to arbitrators, whose decision shall be final. One of said arbitrators shall be named on behalf of the prison by the commissioner, one by the principal officer of the other office, department or institution concerned, and one by agreement of the other two. The arbitrators shall be chosen from the official service, and shall receive no compensation for performance of any duty under this section; but their actual and necessary expenses shall be paid by the prison or office, department or institution against which their award is given.

Annual estimates of articles needed in public offices. 1910, 414, § 3. 1912, 565, § 3. 1915, 207, § 3. 1916, 241, § 1. 1919, 350, § 82, 83.

SECTION 56. Annually in November the officers in charge of all offices, departments and institutions named in section fifty-three shall send to the commissioner an estimate of the quantities of the articles and materials needed for their respective offices, departments or institutions during the ensuing year. Said estimates shall generally observe the styles, designs and qualities named in the descriptive list; and if any special style is desired in considerable quantity, the estimate shall contain a request that the commissioner shall arrange for the manufacture of such special articles as may be needed.

Counties, municipalities, public institutions, etc., to purchase certain prison-made articles. 1887, 447, § 13. 1897, 434. 1898, 334, § 2-4. 1903, 269, R. L. 225, § 54. 1910, 414, § 2, 5, 6. 1912, 565, § 2. 1915, 207, § 2. 1916, 241, § 1. 1919, 350, § 19, 82, 83. 1923, 362, § 83.

SECTION 57. Annually in January the commissioner shall send to the comptroller, to the auditing and disbursing officers of the several counties, and to the auditor and treasurer of each city and town a list of the articles and materials that can be produced by the labor of prisoners for the use of offices, departments and institutions of the commonwealth and of the counties, cities and towns. The requisitions hereinafter provided for shall conform to said list unless it appears that special style, design or quality is needed and shall be on forms provided by the commissioner. The state purchasing agent or the purchasing agent of a city or town shall make requisition therefor to the commissioner; provided, that in the case of articles or materials needed by a state office, department or institution and not required to be purchased by the state purchasing agent, or needed by a county, or by a city or town not having a purchasing agent, the requisition shall be made by the officer in charge of the state, county, city or town office, department or institution in which such articles or materials are needed. The commissioner shall forthwith inform said state, city or town purchasing agent or other officer in what institutions they are produced, and he shall purchase them from any institution so designated. If they are needed immediately and are not on hand, the commissioner shall forthwith so notify him, and he may purchase them elsewhere. No bill for any such articles or materials purchased for the use of said offices, departments or institutions,

23 otherwise than from a prison or from another penal institution, shall be
 24 allowed or paid unless it is accompanied by a certificate from the com-
 25 missioner showing that a requisition therefor has been made and that
 26 the goods cannot be supplied from the prisons. Provisions of any city
 27 charter contrary to this section shall be void.

1 SECTION 58. The price of all articles and materials supplied by the
 2 prisons to the commonwealth, counties, cities and towns shall conform
 3 as nearly as may be to the wholesale market rates for similar goods
 4 manufactured outside of the prisons. Any difference of opinion in
 5 regard to price may be submitted to arbitration in the manner provided
 6 in section fifty-five.

Prices of
such articles.
1888, 334, § 5.
1901, 364
R. L. 225, § 55.
1910, 414,
§§ 4, 6.
1912, 565, § 3.

1 SECTION 59. With the approval of the governor and council, the
 2 commissioner may expend from the Prison Industries Funds any sums
 3 needed to rearrange or enlarge the shops for the purpose of carrying out
 4 the provisions of this chapter relative to making goods for public use.
 5 He may also employ such additional help as the governor and council
 6 shall approve to make the needed arrangements with the offices, depart-
 7 ments and institutions named in sections fifty-three and fifty-seven.

Equipment of
shops, etc.
1912, 565, § 4.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

1 SECTION 60. Any officer who wilfully refuses or neglects to comply
 2 with the provisions of this chapter relative to the purchase of articles and
 3 materials from the prisons shall be punished by a fine of not more than
 4 one hundred dollars.

Penalty.
1912, 565, § 5.

1 SECTION 61. The commissioner and the superintendent of the Mas-
 2 sachusetts reformatory shall endeavor to establish in said reformatory
 3 such industries as will enable prisoners employed therein to learn valuable
 4 trades.

Industries at
Massachusetts
reformatory.
1884, 255, § 28.
1888, 403, § 7.

R. L. 225, § 46. 1916, 241, § 1. 1919, 350, §§ 82, 83.

1 SECTION 62. The number of prisoners in all the institutions named
 2 in section fifty-one who may be employed in manufacturing the following
 3 articles and in the industries hereinafter named, shall be limited as follows:
 4 brushes, not more than eighty; cane chairs with wood frames, not more
 5 than eighty; clothing other than shirts or hosiery, not more than three
 6 hundred and seventy-five; harnesses, not more than fifty; mats, not
 7 more than twenty; rattan chairs, not more than seventy-five; rush chairs,
 8 not more than seventy-five; shirts, not more than eighty, and they shall
 9 be women; shoes, not more than three hundred and seventy-five; shoe
 10 heels, not more than one hundred and twenty-five; trunks, not more
 11 than twenty; in stone cutting, not more than one hundred and fifty; in
 12 laundry work, not more than one hundred.

Limitation of
prison indus-
tries.
1883, 217.
1887, 447, § 8.
1888, 403, § 2.
1891, 371.
1894, 450.
1897, 412, § 1.
R. L. 225, § 47.

1 SECTION 63. Not more than thirty per cent of the number of inmates
 2 of any penal or reformatory institution having more than one hundred
 3 inmates shall be employed in any one industry, except cane seating and
 4 the manufacture of umbrellas.

Limit of num-
ber to be em-
ployed in one
industry.
1897, 412,
§ 2; 480.

R. L. 225, § 48.

1 SECTION 64. The two preceding sections shall not apply to prisoners
 2 engaged in the manufacture of goods for use in the offices, departments
 3 and institutions named in section fifty-three.

Application
of two
preceding
sections
limited.

1897, 412, § 4. R. L. 225, § 49. 1912, 565, § 3.

Bids for piece price contracts.
1894, 451.
1897, 434.
1900, 269
R. L. 225, § 50.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 65. If the commissioner and the warden, superintendent, master or keeper of any institution named in section fifty-one consider the employment of prisoners or a part of them upon the piece price plan expedient, they shall advertise for bids therefor, which shall be opened publicly, and a copy and record thereof shall be kept by the commissioner. If said officers consider it inexpedient to accept any of such bids, contracts may be made with other persons. Copies of all contracts for the employment of prisoners shall be kept by the commissioner, and shall at all times be open to public inspection.

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Purchase of tools and materials.
1887, 447,
§§ 1, 9.
1888, 403, § 3.
1891, 228, § 1.
1897, 434.
1900, 269.
R. L. 225, § 51.
1903, 213.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 66. The tools, implements and materials required for use in manufacturing in any institution named in section fifty-one, and such necessary machinery to replace any which becomes unfit for use, or is destroyed by fire or by malicious acts of prisoners, or to establish new trades or industries, may be purchased by the warden, superintendent, master or keeper thereof, under the supervision of the commissioner, after estimates or requisitions, in such form as he shall require, have been approved by him.

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Sale of manufactured goods.
1887, 447,
§§ 9, 13.
1888, 403, § 3.
1897, 434, § 5;
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1900, 269
R. L. 225, § 52.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 67. Goods manufactured in any of the institutions named in section fifty-one shall, with the approval of the commissioner, be sold by the warden, superintendent, master or keeper thereof at not less than the wholesale market price prevailing at the time of sale for goods of the same description and quality. The proceeds of such sales shall be paid by the purchasers to the respective institutions from which the goods are delivered.

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Purchasing and selling agents
1888, 403, § 3.
R. L. 225, § 53.
1916, 241, § 1.
1919, 350,
§§ 82, 83.
1930, 400,
§§ 5, 7-9.
1931, 301, § 21.

SECTION 68. The warden, superintendent, master or keeper of any institution named in section fifty-one may, with the approval of the commissioner, appoint agents who, under such regulations as the commissioner shall establish, shall purchase tools, implements, materials and machinery and sell manufactured goods as aforesaid. They may be removed at the pleasure of the officer by whom they were appointed. The commissioner shall have no authority to purchase or sell any articles for any institution.

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Report of labor of prisoners.
1898, 334, § 2.
1900, 269.

SECTION 69. The warden, superintendent, master or keeper of each institution named in section fifty-one shall make a full report to the commissioner relative to the labor of the prisoners whenever he requires it.

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R. L. 225, § 54. 1916, 241, § 1. 1919, 350, §§ 82, 83.

Storage room.
1911, 195.
1912, 365, § 3.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 70. There may be expended from the Prison Industries Funds such amounts as the commissioner shall authorize to provide upon prison premises storage room needed in connection with the work of making goods for the use of the offices, departments or institutions described in section fifty-three.

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Accounting for and disposition of receipts.
1904, 303, § 2.
1874, 385, § 23.
P. S. 221, § 59.

SECTION 71. At least once in each month the receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory for women, the prison camp and hospital and the state farm shall be paid to the commonwealth, and the receipts from the

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5 labor of prisoners in a jail or house of correction to the county, and so
 6 much thereof as is necessary to pay the expenses of maintaining the in-
 7 dustries in said institutions shall be expended from the state or county
 8 treasury for that purpose, but not until schedules of such expenses have
 9 been sworn to by the warden or superintendent and approved by the
 10 commissioner. Whenever, in the opinion of the comptroller, the ac-
 11 cumulated funds in the state treasury from the receipts from the labor of
 12 prisoners in the state prison, the Massachusetts reformatory, the re-
 13 formatory for women, the prison camp and hospital and the state farm
 14 exceed the sums necessary to pay the expense of maintaining the indus-
 15 tries by which they were produced, the comptroller shall direct that the
 16 surplus be transferred from these accounts into the general fund or
 17 ordinary revenue of the commonwealth. Receipts from any one of the
 18 institutions shall be applied to paying the bills of that institution only.
 19 The warden or superintendent of the state prison, Massachusetts re-
 20 formatory, reformatory for women or state farm shall, as often as he has
 21 in his possession money to the amount of ten thousand dollars which he
 22 has received under the provisions of sections fifty-three to sixty-seven,
 23 inclusive, and the superintendent of the prison camp and hospital shall,
 24 as often as he has in his possession money to the amount of five thousand
 25 dollars which he has received under the provisions of said sections, pay
 26 it to the commonwealth; and the master or keeper of a jail or house
 27 of correction shall, as often as he has in his possession such money to the
 28 amount of five thousand dollars, pay it into the county treasury.

1884, 255, § 29.
 1887, 447,
 §§ 10, 11.
 1898, 259, 277.
 R. L. 225, § 56.
 1911, 181.
 1914, 669.
 1915, 260, § 2.
 1916, 241, § 1.
 1917, 277, § 1.
 1919, 199, § 1.
 350, §§ 82, 83.
 1923, 362, § 84.
 1927, 302.

1 SECTION 72. Bills for tools, implements, machinery and materials
 2 purchased by, and the salaries of persons employed in, the state prison,
 3 the Massachusetts reformatory, the reformatory for women, prison camp
 4 and hospital and the state farm, under sections fifty-one to seventy,
 5 inclusive, shall be paid monthly by the commonwealth, upon schedules
 6 prepared and sworn to by the warden or superintendent and approved by
 7 the commissioner. Bills for tools, implements, machinery and materials
 8 purchased by, and the salaries of persons employed in, the jails and houses
 9 of correction under said sections shall be paid monthly by the county,
 10 upon schedules prepared and sworn to by the master or keeper and
 11 approved by the commissioner. The schedule of bills for tools, imple-
 12 ments and machinery and of bills for materials and salaries shall be kept
 13 separate from each other and from the schedules of bills incurred for
 14 the maintenance of the prison, reformatory, jail or house of correction.

Payment of
 salaries and
 bills for
 tools, etc.
 1887, 447,
 §§ 3, 4.
 1891, 228, § 3.
 R. L. 225, § 57.
 1915, 260, § 2.
 1916, 241, § 1.
 1919, 199, § 1.
 350, §§ 82, 83.

1 SECTION 73. The warden, superintendent, master or keeper of any
 2 institution named in section fifty-one may sue or be sued upon any con-
 3 tract of purchase or sale made by him under sections fifty-one to seventy,
 4 inclusive. No suit shall abate by reason of a vacancy in any such office,
 5 but the successor of any such officer may, and upon motion of the adverse
 6 party shall, prosecute or defend it. The warden or superintendent,
 7 master or keeper may submit a controversy relative to such contract or
 8 an action thereon to the final determination of arbitrators or referees,
 9 who shall, if the claim or suit is made or brought by or against the war-
 10 den or superintendent, be approved by the governor, or, if made or
 11 brought by or against the master or keeper, be approved by the county
 12 commissioners.

Suits by and
 against
 warden, etc.
 Submission of
 controversies
 to arbitra-
 tion, etc.
 1887, 447, § 12.
 1888, 403, § 4.
 1897, 434
 R. L. 225, § 58.

Preparation of road material.
1898, 365, § 1.
R. L. 225, § 59.
1904, 243, § 1.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 74. The commissioner may cause the prisoners in any jail or house of correction to be employed within the precincts of the prison in preparing material for road making; but no machine except such as is operated by hand or foot power shall be used in connection with such employment.

Department of public works to give instruction.
1898, 365, § 2.
R. L. 225, § 60.
1916, 241, § 1.

SECTION 75. The department of public works shall, at the request of the commissioner, give him such information and instructions as will enable him to direct said employment in a manner which will furnish suitable and proper material for road building.

1919, 350, §§ 82, 83, 111, 113. 1931, 394, § 98.

Sale of road material.
1898, 365, § 3.
R. L. 225, § 61.
1916, 241, § 1.
1919, 350,
§§ 82, 83, 111,
113.
1931, 394, § 99.

SECTION 76. Material so prepared may be sold to the county commissioners or to town officers having the care of public roads. All material not so sold shall be purchased by the department of public works, at such price as it determines is fair and reasonable, for use on state highways; but the commissioner may cause any of said prisoners to be employed upon material furnished by said department, which shall then pay for the labor of preparation such price as may be agreed upon by the commissioner and the department.

Accounting for receipts. Expenses.
1898, 365, § 4.
R. L. 225, § 62.

SECTION 77. All money received under the three preceding sections shall be paid to the county, and the expense of employing prisoners thereunder shall be paid by the county in the manner provided in section seventy-one. Payment for material sold or labor performed thereunder shall be made to the master or keeper of the jail or house of correction where it is prepared or performed.

Prison camp, etc. Disposition of improved land, sale of road material.
1898, 363, § 10.
R. L. 225, § 68.
1906, 243, § 1.
1916, 241, § 1.

SECTION 78. Land reclaimed or improved by prisoners at the prison camp and hospital may be applied to the use of the commonwealth or may be disposed of by the governor and council at public or private sale. Any road material prepared by the prisoners may be sold by the superintendent, with the approval of the commissioner, to the authorities of the commonwealth or of any county, city or town.

1919, 350, §§ 82, 83.

PRISON CAMP AND HOSPITAL.

Removal of prisoners to prison camp and hospital. Detention. Return.
1898, 363, § 7.
R. L. 225, § 96.
1905, 240,
355, § 2.
1906, 243, § 1.
1916, 241, § 1.
1919, 199, § 1;
350, §§ 82, 83.

SECTION 79. The commissioner may remove to the prison camp and hospital any male prisoner in the state prison, the Massachusetts reformatory, the state farm, or in any jail or house of correction appearing by the certificates of the prison physician to be suffering from any disease of a tubercular nature. He may at any time return to the original place of imprisonment any prisoner so removed. A prisoner shall be held in the place to which he is so removed or returned according to the terms of his original sentence.

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Custody of prisoner so removed.
1905, 355, § 4.
1906, 243, § 1.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 80. A prisoner removed to the prison camp and hospital shall be held in the custody of the superintendent thereof, and shall be governed, employed and treated according to rules and regulations to be established by the commissioner, with the approval of the governor and council.

1 SECTION 81. The superintendent of the prison camp and hospital
 2 may, with the approval of the commissioner, employ the prisoners con-
 3 fined in the camp section of the said prison camp and hospital in the
 4 preparation of road material, and may use therefor such machinery as
 5 the commissioner may consider necessary. The department of public
 6 works and the department of agriculture shall, at the request of the
 7 commissioner, give such information as may enable him to prosecute to
 8 the best advantage the work of reclaiming and improving waste land
 9 and of preparing material for road building.

Preparation of
 road material,
 etc.
 1898, 393, § 8.
 R. L. 225, § 66.
 1904, 243,
 § 1, 5.
 1906, 243, § 1.
 1915, 260, § 1.
 1916, 241, § 1.
 1918, 268,
 1919, 350,
 § 34, 82, 83,
 111, 113.

1931, 394, § 100.

4 Op. A. G. 332.

1 SECTION 82. The commissioner may purchase or lease land, with
 2 funds specifically appropriated therefor by the general court, for the
 3 purpose of improving and cultivating the land by the labor of prisoners
 4 from the prison camp and hospital; and the commissioner may also make
 5 arrangements with officials of the commonwealth and officials of towns
 6 to employ the said prisoners on any unimproved land and in the con-
 7 struction, repair and care of public institutions and public ways adjacent
 8 thereto. When prisoners are so employed they shall be in the custody
 9 of the superintendent of the prison camp and hospital. There shall be
 10 paid to the commonwealth monthly, for the labor of any prisoners em-
 11 ployed as above provided, such sums as may be agreed upon between
 12 the commissioner, the superintendent of the prison camp and hospital,
 13 and the other parties in interest. Expenditures from any appropriation
 14 to carry out the purposes of this section shall be made upon schedules,
 15 with vouchers, approved by the superintendent and the commissioner;
 16 but the expenditures in any year shall not exceed the amount of the
 17 receipts during that year from the employment of prisoners as aforesaid.

Labor of
 prisoners
 regulated.
 1917, 129,
 1919, 350,
 § 82-84

OUTDOOR LABOR.

1 SECTION 83. During all times when outdoor labor is practicable, in-
 2 mates of penal institutions required to labor shall be employed, so far as
 3 is possible, in the reclamation of waste places and in cultivating lands
 4 for raising produce to be used in public institutions, and in the reforesta-
 5 tion, maintenance or development of state forests. Prisoners so em-
 6 ployed shall be at all times in the custody and under the direction of the
 7 prison officers.

Outdoor labor
 of
 prisoners.
 1913, 653, § 1.
 1914, 720, § 4
 4 Op. A. G. 332.

1 SECTION 84. The county commissioners of any county may purchase
 2 or lease land, with funds specifically appropriated therefor by the gen-
 3 eral court, for the purpose of improving and cultivating the land by the
 4 labor of prisoners from a jail or house of correction; and the said com-
 5 missioners may also make arrangements with the department of public
 6 works or with the officials of a town to employ said prisoners on any
 7 highway or unimproved land, or with the state forester for the reforesta-
 8 tion, maintenance or development of state forests, or with a private
 9 owner to improve waste or unused land, or land used for agricultural or
 10 domestic purposes, by means of such prison labor. When prisoners
 11 are so employed they shall be in the custody of the sheriff of the county.
 12 When land that is not the property of the county or is a public way or
 13 state forest is so improved, the owners thereof or those having the way

Prison labor
 on waste land,
 etc.
 1913, 633, § 2.
 1914, 180,
 720, § 4.
 1915, 177,
 1918, 159,
 1919, 350,
 § 111, 113.
 1931, 394,
 § 101.
 4 Op. A. G. 332.

or forest in charge shall pay to the county such sums as may be agreed upon between the county commissioners, sheriff, and the other parties in interest for the labor of any prisoners employed thereon.

EMPLOYMENT OF FEMALE PRISONERS.

SECTION 85. The commissioner may, with the consent of a woman serving a sentence in the reformatory for women or in a jail or house of correction, and with the consent of the county commissioners if she is in a jail or house of correction, contract to have her employed in domestic service for such term, not exceeding her term of imprisonment, and upon such conditions, as he considers proper with reference to her welfare and reformation. If in his opinion her conduct at any time during the term of the contract is not good, he may order her to return to the prison from which she was taken.

SECTION 86. If she leaves her place of service, or if, having been ordered by the commissioner to return to prison, she neglects or refuses to do, she shall be held to have escaped from prison, and may be arrested and returned to the prison from which she was taken as if she had escaped therefrom, and shall, upon conviction of such escape, be punished by imprisonment in jail or in a house of correction for not less than three months nor more than one year or in the reformatory for women. The expense of her arrest and return to prison shall be paid in the same manner as the expenses of the arrest and return of a prisoner escaping from prison.

PRIVILEGES.

SECTION 87. Every inmate of a penal or reformatory institution shall be allowed to write letters to the principal officer or to any supervising officer thereof. A locked letter box, accessible to the inmates, shall be placed in each institution, in which they may deposit such letters, and such letters shall be duly delivered according to the address thereon. The keys of the boxes in the state prison, Massachusetts reformatory, reformatory for women, prison camp and hospital and state farm shall be kept by the commissioner, and of those in each of the other institutions by the principal officer thereof.

SECTION 88. An inmate of any prison or other place of confinement or public charitable or reformatory institution shall not be denied the free exercise of his religious belief and the liberty of worshipping God according to the dictates of his conscience in the place where he is confined; and he shall not be required to attend any service or religious instruction other than that of his own religious belief, if religious services and instructions of his own belief are regularly held at the institution; and he may, in illness, upon request to the warden, superintendent, keeper or master, receive the visits of any clergyman whom he may wish. The officers having the management and direction of such institutions shall make necessary regulations to carry out the intent of this section. This section shall not be so construed as to impair the discipline of any such institution so far as may be needful for the good government and safe custody of its inmates, nor prevent the assembling of all the inmates, who do not attend a regularly held religious service of their own belief, in the chapel thereof for such general religious instruction, including the

17 reading of the Bible, as the officer having charge of the institution
18 considers expedient.

1 SECTION 89. The warden of the state prison, with the consent of the
2 commissioner, may cause a sabbath school to be maintained in the
3 prison for the instruction of the prisoners in their religious duties, and
4 may permit such persons as he considers suitable to attend it as instruc-
5 tors, under such regulations as the commissioner may establish. The
6 warden may also, subject to the restrictions and regulations of the com-
7 missioner, maintain schools of instruction for the prisoners at such times,
8 except on Sunday, as he, with the approval of the commissioner, may
9 determine, and for such purpose may expend, from the appropriation
10 made for the support of the prison, not more than two thousand dollars
11 annually.

Sunday school
and other in-
struction.
1838, 152, § 3.
1848, 324, § 3.
G. S. 179, § 43.
1869, 255
1874, 336.
1879, 394, § 34.
P. S. 221, § 30.
1886, 197.
R. L. 225, § 73.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

1 SECTION 90. The department or officers having charge of any prison
2 or other place of confinement or public charitable or reformatory institu-
3 tion shall include as a separate item in their annual requests for appro-
4 priations such sums of money as they deem proper to carry out the two
5 preceding sections and section forty of chapter one hundred and nineteen,
6 relating to the free exercise of their religious beliefs by inmates of such
7 institutions and to the religious instruction of inmates of the state prison.
8 The amounts appropriated and spent for said purposes shall appear as a
9 separate item in the reports of said department or officers.

Appropriation
for religious
services.
1912, 362.
1919, 350, § 82.

1 SECTION 90A. An inmate of a penal institution may, in the dis-
2 cretion of the officer in charge of such institution, be allowed to attend,
3 in the custody of an officer thereof, the funeral of his or her spouse or
4 any next of kin.

1923, 52.

Attendance at
certain funerals
by inmates of
penal institu-
tions regu-
lated.

1 SECTION 91. The superintendent of the Massachusetts reformatory
2 may, subject to the approval of the commissioner, expend annually a
3 sum not exceeding five thousand dollars for the mental instruction of
4 inmates.

1917, 248, §§ 1, 2.

1919, 350, §§ 82, 83.

Instruction at
Massachusetts
reformatory.
P. S. 220, § 46.
R. L. 225, § 74.

1 SECTION 92. The county commissioners, or, in the county of Suffolk,
2 the mayor of Boston, with the sheriff of the county, may, at the expense
3 of their county or city, furnish instruction in reading and writing for
4 one hour each evening, except Sunday, to prisoners in the jails and houses
5 of correction who may be benefited thereby and who wish to receive it.

Instruction in
jails, etc.
1848, 324, § 3.
1854, 448, § 33.
G. S. 178, § 41.
P. S. 220, § 46.
1885, 266, § 6.
R. L. 225, § 75.

1 SECTION 93. The keeper or master of a jail or house of correction shall,
2 at the expense of the county, provide a copy of the Bible or of the New
3 Testament for each prisoner under his charge who is able and wishes to
4 read, which may be used by him at proper seasons during his confine-
5 ment. He may, at the expense of the county, provide books and papers
6 for such prisoners, but not exceeding in cost one hundred dollars a year.
7 The county commissioners may, in their discretion and at the expense of
8 the county, provide moral and religious instruction for such prisoners.

Moral and
religious in-
struction, etc.,
in jails, etc.
1838, 123, § 4.
1854, 151, § 16.
R. S. 143, § 40.
1848, 29, § 1.
G. S. 178, § 40.
1881, 125.
P. S. 220, § 45.
R. L. 225, § 76.

1 SECTION 94. In the assignment of cells to prisoners in a house of
2 correction, due regard shall be had to the accommodation of those who
3 are able and wish to read; and from October first to April first, all

Light for
reading.
1862, 127, § 2.
P. S. 220, § 9.
R. L. 225, § 77.

prisoners confined to labor during the day shall be provided with sufficient light to enable them to read for at least one hour each evening.

Female prisoner may have custody of infant, when
1858, 57, § 1.
G. S. 178, § 29.
P. S. 220, § 34.
R. L. 225, § 78.
1931, 426, § 29.

SECTION 95. If the mother of a child under eighteen months is imprisoned in a jail, house of correction or other place of confinement and is capable and desirous of taking care of it, the keeper or master shall, upon the order of the court or magistrate committing her, or of any member of a board of public welfare, receive the child and place it under the care and custody of its mother.

Removal of such child.
1858, 57, § 2.
G. S. 178, § 30.
P. S. 220, § 35.
R. L. 225, § 79.
1911, 104
1928, 153, § 55.

SECTION 96. If the officers having charge of such institution are of opinion that the health and comfort of such child require its removal, or that it is expedient that it should be removed, they shall give notice to the father or other kindred thereof, or, if no kindred can be found to receive it, to the board of public welfare of the town where it has a legal settlement, who shall receive it. If it has no settlement in the Commonwealth, it shall be sent to the state infirmary.

REMOVALS.

From state prison to Massachusetts reformatory.
Return.

SECTION 97. The commissioner may remove a prisoner held in the state prison upon a sentence for a term of years to the Massachusetts reformatory, and may at any time return him to the state prison.

1884, 255, § 14; 1901, 340. 1919, 350, §§ 82, 83.
431, § 5. R. L. 225, § 80. 148 Mass. 168.
1894, 249, § 1. 1916, 241, § 1.

From state prison to state farm.
Return.
1890, 180, § 1.
R. L. 225, § 81.
1915, 184.

SECTION 98. He may, with the consent of the governor and council, remove to the state farm a prisoner in the state prison who is aged or who is infirm in body or mind, and may at any time return him to the state prison.

1916, 241, § 1. 1919, 350, §§ 82, 83.

From Massachusetts reformatory.

SECTION 99. He may remove a prisoner in the Massachusetts reformatory to the state farm or to any jail or house of correction.

1884, 255, §§ 12, 15. R. L. 225, § 83. 1919, 350, §§ 82, 83.
1887, 292, § 1. 1916, 241, § 1. 238 Mass. 532.

From state farm to Massachusetts reformatory.
Return.

SECTION 100. He may remove a sentenced male prisoner from the state farm to the Massachusetts reformatory, and may at any time return him to the state farm.

1885, 35, § 2 1916, 241, § 1
R. L. 225, § 84 1919, 350, §§ 82, 83.

From state farm to house of correction.
Return.
1890, 278, § 1.

SECTION 101. He may remove a prisoner from the state farm to any house of correction in the county where he was convicted, and may return him to the state farm.

R. L. 225, § 85. 1916, 241, § 1. 1919, 199, § 1; 350, §§ 82, 83.

From jail or house of correction to Massachusetts reformatory.
Return.
1884, 255, § 12.
R. L. 225, § 93.
1916, 241, § 1.
1919, 350,
§§ 82, 83.

SECTION 102. The commissioner may remove a male prisoner in a jail or house of correction to the Massachusetts reformatory, if he might, at the time of such removal, lawfully be sentenced to said reformatory, if the commissioner is of opinion that he is likely to be benefited by its reformatory influences, and he may at any time return him to the place of imprisonment from which he was removed.

- 1 SECTION 103. He may remove a prisoner from one jail to another in
 2 the same or another county, who shall serve the remainder of his sentence
 3 in the place to which he is removed.
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| G. S. 178, § 2.
1870, 370, § 2.
1879, 294, § 3. | P. S. 219, § 4; 220, § 2.
R. L. 225, § 89.
1916, 241, § 1. | 1919, 350, §§ 82, 83.
1 Op. A. G. 516 | From one jail
to another.
R. S. 143, § 43 |
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- 1 SECTION 104. He may remove a sentenced prisoner in jail to a house
 2 of correction.
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| 1881, 220.
P. S. 220, § 2.
1882, 241, § 2. | R. L. 225, § 90.
1916, 241, § 1. | 1919, 350, §§ 82, 83
1 Op. A. G. 516. | From jail
to house of
correction |
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- 1 SECTION 105. He may remove a prisoner from one house of correction
 2 to another in the same or another county.
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| 1870, 370, § 2.
1879, 294, § 3. | P. S. 219, § 4
R. L. 225, § 91. | 1916, 241, § 1
1919, 350, §§ 82, 83 | From one house
of correction
to another. |
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- 1 SECTION 106. He may remove a sentenced prisoner in a house of cor-
 2 rection to a jail.
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| 1882, 241, § 2. | R. L. 225, § 92. | 1916, 241, § 1. | 1919, 350, §§ 82, 83. | From house
of correction
to jail. |
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- 1 SECTION 107. He may remove a prisoner in a jail or house of correc-
 2 tion to the state farm, and may at any time return him to the place of
 3 imprisonment from which he was removed.
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| 1876, 96, § 1.
1879, 294, § 5. | P. S. 219, § 6.
1885, 35, § 1. | 1899, 263, § 1.
R. L. 225, § 94. | 1916, 241, § 1.
1919, 350, §§ 82, 83. | From jail or
house of correc-
tion to state
farm.
Return. |
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- 1 SECTION 108. He may, at the request of the governor and council,
 2 remove to the state farm for treatment a sentenced prisoner in a jail or
 3 house of correction who is suffering from disease which, in the opinion
 4 of the governor and council, cannot be safely and properly treated in the
 5 jail or house of correction, and he may at any time return him to the
 6 place from which he was removed.
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| 1916, 241, § 1. | 1919, 350, §§ 82, 83. | Sick prisoner
may be re-
moved from
jail or house
of correction
to state farm.
Return
1894, 214, § 1.
R. L. 225, § 95. |
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- 1 SECTION 109. He may remove prisoners from the Massachusetts
 2 reformatory, the state farm, and the jails and houses of correction to
 3 the prison camp and hospital, and from the state prison such prisoners,
 4 other than those serving sentences for life, as have shown by their conduct
 5 and disposition that they would be amenable to less rigorous discipline
 6 and would benefit from work in the open air, and may at any time return
 7 them to the place of imprisonment from which they were removed.
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| To prison
camp and
hospital.
Return.
1898, 333, § 7.
R. L. 225, § 96.
1905, 240.
1916, 76;
241, § 1.
1919, 350,
§§ 82, 83.
264 Mass. 490. |
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- 1 SECTION 109A. He may remove prisoners from the Massachusetts
 2 reformatory, the state farm, and the jails and houses of correction to
 3 the state prison colony, and may at any time return them to the place
 4 of imprisonment from which they were removed.
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| To state
prison colony.
Return.
1931, 204, § 1. |
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- [NOTE:—For limited application of this section see 1931, 204, § 3.]
- 1 SECTION 110. He may remove a prisoner in the reformatory for
 2 women to the state farm or to a jail or house of correction.
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| P. S. 219, § 5.
1896, 317. | R. L. 225, § 82.
1911, 181. | 1916, 241, § 1.
1919, 350, §§ 82, 83. | From reforma-
tory for women.
1879, 294, § 4 |
|-------------------------------|--------------------------------|--|--|
- 1 SECTION 111. He may remove a sentenced female prisoner at the
 2 state farm or in a jail or house of correction to the reformatory for women,
 3 and she shall there serve the remainder of her term of sentence.
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| 1879, 294, § 4.
P. S. 219, § 5. | R. L. 225, §§ 86, 97.
1911, 181. | 1916, 241, § 1.
1919, 350, §§ 82, 83. | To reformatory
for women.
1874, 385, § 15. |
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SECTION 112. [REPEALED, 1931, 426, § 30.]

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Removal of prisoners committed by United States courts—1895, 273. R. L. 225, § 99.

SECTION 113. The commissioner may remove from one jail or house of correction to another, or to the Massachusetts reformatory, or to the reformatory for women, a prisoner sentenced to such jail or house of correction by any court of the United States.

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1911, 181. 1916, 241, § 1. 1919, 350, §§ 82, 83.

Commissioner may deport certain prisoners in the state farm. Penalty for return. 1869, 258, § 2. 1877, 147. P. S. 88, § 6. 1808, 443, § 1. R. L. 83, § 31. 1916, 241, § 1. 1919, 199, § 1; 350, §§ 82, 83.

SECTION 114. The commissioner may cause any person committed to the state farm under section fifty-three or sixty-two of chapter two hundred and seventy-two, who has no legal settlement in this commonwealth, to be removed to the state or place where he belongs or whence he came. A person so removed who returns to this commonwealth before the expiration of the period for which he might be held may be re-arrested and returned to the state farm, there to serve out the remainder of such period.

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Sheriff may remove from one jail to another, etc. R. S. 143, § 43.

SECTION 115. The sheriff in any county, except Suffolk, may remove prisoners from one jail to another or from a jail to a house of correction or from a house of correction to a jail in his own county.

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G. S. 178, § 2. P. S. 220, § 2. 1909, 312. 1881, 229. R. L. 225, § 89. 1 Op. A. G. 516.

Terms of original sentence to apply. 1880, 208, § 3. P. S. 89, § 47. 1884, 255, § 15. 1890, 180, § 2; 278, § 2. 1894, 214, § 1; 249, § 2. 1895, 273.

SECTION 116. A prisoner who is removed or returned under any provision of sections ninety-seven to one hundred and fifteen, inclusive, shall be held in the place of imprisonment to which he is so removed or returned under the terms of his original sentence, unless sooner discharged, and the period for which he is so removed shall be reckoned as a part of the term of his imprisonment.

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1899, 263, § 2. R. L. 225, § 104.

Hospital treatment. 1882, 207, § 1. R. L. 225, § 100. 1906, 302, § 1. 1916, 241, § 1. 1919, 350, §§ 82, 83.

SECTION 117. Whenever the physician of any prison certifies that a person held therein for trial or sentence, except for a capital crime, requires medical treatment which cannot safely or properly be given in such prison, the commissioner may temporarily place such person in a hospital.

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Pregnant females. 1894, 416, § 2. 1836, 40. G. S. 178, § 16. P. S. 220, § 17. R. L. 225, § 98. 1906, 302, § 2. 1916, 241, § 1. 1919, 350, §§ 82, 83.

SECTION 118. Whenever it appears that a female under sentence in any prison is about to give birth to a child during her term of imprisonment, the physician of the prison where she is held shall send to the commissioner a certificate of her condition, and he shall thereupon order her removal to a hospital. A prisoner so removed shall be kept in such hospital until the physician thereof shall certify to said commissioner that she may safely be removed, whereupon the commissioner shall issue an order for her return to prison.

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Time in hospital part of sentence. 1882, 207, § 2. R. L. 225, § 100. 1906, 302, § 3.

SECTION 119. Any prisoner placed in a hospital under either of the two preceding sections shall, during his absence from prison, be considered as in the custody of the officer having charge of the prison, and the time of confinement in said hospital shall be considered a part of the term of sentence.

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Order for removal. Mittimus, etc., to go with prisoner.

SECTION 120. Every order of removal of the commissioner shall be signed by him or his deputy, and shall be directed to the officer by whom it is to be executed. All mittimuses, processes and other official papers

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4 by which a prisoner is committed or held, or attested copies thereof, 1876, 96, § 1.
 5 shall at the time of such removal be transferred, with the order of re- 1879, 294,
 6 moval, to the institution to which the prisoner is removed, and be kept §§ 5, 9
 7 therein as if he had been originally committed thereto; but if he is P. S. 219, §§ 6, 6.
 8 returned to the place from which he was removed, they shall be returned 1884, 255, § 16.
 9 with him. 1885, 35, § 2.
 1890, 180, § 3.
 278, § 3.

1894, 214, § 2.
 1895, 273.

1899, 263, § 3.
 R. L. 225, § 105.

1916, 214, § 1.
 1919, 350, §§ 82, 83.

1 SECTION 121. An officer authorized to serve criminal process may Officers qualified
 2 execute an order of removal or return issued under this chapter. to make
 removals.

1844, 120, § 2.
 G. S. 180, § 3.
 1870, 370, § 5.
 1874, 384, § 18.
 1879, 294, § 7.

1880, 250, § 5.
 P. S. 219, § 8;
 222, § 11.
 1884, 255, § 17.
 1885, 320, § 2.

1890, 180, § 3.
 1894, 214, § 2.
 1899, 263, § 3.
 R. L. 225, § 106.

1 SECTION 122. The expense of the commitment of any person sen- Expense of
 2 tenced to imprisonment in the state prison, Massachusetts reformatory, commitment
 3 reformatory for women or state farm shall be paid by the county from 1880, 120, § 2
 4 which the prisoner is committed, and shall be allowed in the same man- P. S. 217, § 4.
 5 ner as other expenses in criminal cases. 1884, 255, § 18.
 R. L. 225,
 § 107.

1911, 181.

1 SECTION 123. The expense of removing a prisoner from one jail or Expense of
 2 house of correction to another shall be paid by the county from which removal.
 3 he is removed. The expense of removing a prisoner to or from a state 1870, 370, § 6.
 4 institution by order of the commissioner shall be paid upon bills approved 1874, 385, § 18
 5 by him, out of the appropriation for the removal of prisoners, except that 1879, 229, § 4;
 6 when a removal is made at the request of the trustees of any institution, 294, § 8.
 7 or under section one hundred and seventeen or one hundred and eighteen, P. S. 219, §§ 9,
 8 the expense thereof shall be borne by the institution from which the 10.
 9 prisoner is removed. The expense of removing a prisoner to the Bridge- 1880, 120, § 4.
 10 water state hospital or to a state hospital shall be paid by the prison 1884, 225, § 18
 11 from which the prisoner is removed. 1885, 35, § 2.
 1890, 278, § 4.
 1894, 214, § 3.
 1895, 273, § 3.
 R. L. 225,
 § 108.
 1903, 354
 1906, 302, § 4;
 324.

1909, 504, § 98.

1916, 241, § 1.

1919, 350, §§ 82, 83.

1 SECTION 124. The expense of supporting a prisoner transferred from Expense of
 2 the Massachusetts reformatory or the reformatory for women to a jail support
 3 or house of correction shall be paid by the commonwealth, if the prisoner 1880, 156, § 2.
 4 was not originally sentenced from the county where such jail or house P. S. 219, § 12.
 5 of correction is situated; but before payment, the bills therefor shall be R. L. 225,
 6 approved by the commissioner. § 109.
 1911, 181.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 83.

1 SECTION 125. The expense of supporting a prisoner transferred from Same subject.
 2 a jail or house of correction in one county to another, removed from the 1866, 280, § 2.
 3 state farm to a house of correction, or sentenced to a jail or house of 1870, 370, § 4.
 4 correction in a county other than that in which he was convicted, shall 1880, 156, § 1.
 5 be paid by the county where he was sentenced. If the amount to be paid P. S. 219, § 11.
 6 cannot be agreed upon by the county commissioners of the two counties, 1890, 278, § 4
 7 it may be determined by the superior court sitting in either county. R. L. 225,
 § 110.

1 SECTION 126. The expense of supporting a prisoner removed from a Same subject.
 2 jail or house of correction to the state farm shall be paid to the common- 1876, 96, § 2.
 3 wealth by the county from which he is removed, and the amount thereof 1879, 294, § 6.
 4 shall be determined by the commissioner. The expense of supporting a P. S. 219, § 7.
 1883, 148, § 1.
 1886, 101, § 4.
 1894, 214, § 3.

1898, 433, § 24.
R. L. 225,
§ 111.
1919, 199, § 1;
350, §§ 82, 83.

sick prisoner removed to the state farm under section one hundred and eight, not exceeding three dollars and twenty-five cents a week, shall be paid by the county from which he is removed.

195 Mass. 42.

Special state police. Powers and duties.
1899, 243.
1901, 185.
R. L. 85, § 40;
225, § 112.
1908, 470.
1916, 241, § 1.
1919, 195; 199,
§ 1; 350, §§ 82,
83.
1923, 150.

SECTION 127. The governor, upon the written recommendation of the commissioner, may appoint any agent or employee of the department of correction or any employee of any penal institution a special state police officer for a term of three years, unless sooner removed. Officers so appointed may serve warrants and orders of removal or transfer of prisoners issued by the commissioner and warrants issued by any court or trial justice in the commonwealth for the arrest of a person charged with the crime of escape or attempt to escape from a penal institution or from the custody of an officer while being conveyed to or from any such institution, and may perform police duty about the premises of penal institutions.

PERMITS TO BE AT LIBERTY AND DISCHARGE.

By whom granted and issued.
1880, 218, § 1.
1881, 40.
P. S. 222, § 20.
1886, 323, § 7.
1894, 258.
R. L. 225,
§ 113.
1913, 829, § 3.
1915, 206.
1916, 241, § 1.

SECTION 128. Permits to be at liberty may be granted as follows: to prisoners in the penal institutions of the commonwealth or transferred therefrom to jails or houses of correction, by the board of parole; to prisoners in jails and houses of correction, except in Suffolk county, by the county commissioners; to prisoners in the jail and house of correction in Suffolk county, by the penal institutions commissioner. All permits shall be issued by the board or officer granting them.

1919, 199, § 2; 1930, 60, § 1. 4 Op. A. G. 228.
350, §§ 82, 83, 85. 13 Gray, 618. Op. A. G. (1915) 9.

Board of parole to grant permits to be at liberty, etc.
1913, 829, § 3.
1915, 206.
1916, 241, § 7.
1919, 199, § 2;
350, §§ 82, 83,
85.

SECTION 129. The commissioner shall furnish to the board of parole all information in his possession relating to any prisoner whose case is under consideration. No permit to be at liberty authorized by section one hundred and thirty-one, and no permit to be at liberty from the Massachusetts reformatory, the reformatory for women, or the prison camp and hospital, shall be granted until the prisoner has been seen by the board. The superintendent of the reformatory for women and the resident physician, or, in the absence of either of them, an official of said reformatory designated by the superintendent, shall be present at all meetings of the board held for examination of the inmates thereof.

Deduction for good conduct. Exceptions.
1857, 284, § 1.
1858, 77.
1859, 108.
G. S. 178, § 47;
179, § 54.
1880, 218,
§§ 1, 3, 4.
1881, 40.
P. S. 222, §§ 20,
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1886, 323, § 7.
1894, 258.
1898, 443, § 1.
R. L. 225,
§ 113.
13 Gray, 618.
148 Mass. 168.
172 Mass. 264.
1 Op. A. G. 9.
4 Op. A. G. 228.

SECTION 130. Every officer in charge of a prison or other place of confinement, except the Massachusetts reformatory, the reformatory for women and the state farm, shall keep a record of the conduct of each prisoner in his custody whose term of imprisonment is four months or more. Every such prisoner, except a prisoner sentenced to the state prison for a crime committed on or after January first, eighteen hundred and ninety-six, whose record of conduct shows that he has faithfully observed all the rules and has not been subjected to punishment shall be entitled to a deduction from the term of his imprisonment, which shall be estimated as follows: upon a sentence of not less than four months and less than one year, one day for each month; upon a sentence of not less than one year and less than three years, three days for each month; upon a sentence of not less than three years and less than five years, four days for each month; upon a sentence of not less than five

15 years and less than ten years, five days for each month; upon a sentence of ten years or more, six days for each month. If a prisoner has two or more sentences, the aggregate of his several sentences shall be the basis upon which the deduction shall be estimated. A prisoner who is entitled to such deduction from the term of his imprisonment shall receive a written permit to be at liberty during the time so deducted, upon such terms as the board which grants the permit shall prescribe. If a prisoner violates any of the rules of his prison or other place of confinement, the board authorized to grant permits shall decide what portion of the time, which would otherwise be deducted from the term of his imprisonment, shall be forfeited by such violation.

1 SECTION 131. The board of parole may grant a special permit to be
2 at liberty from the state prison to a prisoner held therein or transferred
3 therefrom to the Massachusetts reformatory upon a sentence with a
4 minimum term of more than two and one half years, when he has served
5 two thirds of such minimum term, if it appears to the board that the
6 prisoner is likely to lead an orderly life, and they have a reasonable
7 assurance that he will not become a charge upon public or private
8 charity; but no such permit shall be granted to any prisoner until he has
9 served at least two and one half years. A prisoner held in the state
10 prison upon two or more sentences may be eligible for release under
11 this section when he has served two thirds of the aggregate of the mini-
12 mum terms of his sentences. Such permits shall be granted on terms
13 and conditions prescribed by the board.

Op. A. G. (1918) 9.

Op. A. G. (1919) 126.

Special permits to be at liberty from state prison, etc.
1894, 440, § 1.
1895, 252.
1897, 206.
R. L. 225, § 114.
1806, 244.
1911, 451.
§§ 1, 2.
1912, 103.
1913, 829, § 1.
1915, 206.
1916, 241, § 1.
1919, 350, § 85.
1 Op. A. G. 324, 487, 541.
2 Op. A. G. 189.

1 SECTION 132. Any prisoner eligible for a release in accordance with
2 the preceding section may apply for a permit to be at liberty as therein
3 provided. The application shall be transmitted to the board of parole
4 by the warden of the state prison or the superintendent of the Massa-
5 chusetts reformatory, who shall send with it a report of the prisoner's
6 conduct and industry, a statement concerning the prisoner's health, and
7 any other information respecting the case which the warden or superin-
8 tendent can supply; and the board shall not entertain any other form
9 of application or petition for the release of a prisoner under the preceding
10 section.

Application for permit.
1911, 451, § 3.
1912, 103.
1913, 829, § 1.
1915, 206.
1916, 241, § 1.
1919, 350, § 85.
§§ 82, 85.

1 SECTION 133. If the record of a prisoner sentenced to the state prison
2 for a crime committed on or after the first day of January in the year
3 eighteen hundred and ninety-six shows that he has faithfully observed
4 all the rules of the prison and has not been subjected to punishment, the
5 board of parole shall, upon the expiration of his minimum term of sen-
6 tence, grant him a permit to be at liberty therefrom during the unexpired
7 portion of the maximum term of his sentence, upon such terms and
8 conditions as it shall prescribe. If the record shows that he has violated
9 the rules of the prison, he may be given a like permit at such time after
10 the expiration of the minimum term of his sentence as the board shall
11 determine. If the prisoner is held in the prison upon two or more sen-
12 tences, he shall be entitled to receive such permit when he has served a
13 term equal to the aggregate of the minimum terms of the several sen-
14 tences, and he shall be subject to all the provisions of this section until
15 the expiration of a term equal to the aggregate of the maximum terms
16 of said sentences.

Permits to certain prisoners to be at liberty from state prison
1895, 504, § 2.
1897, 294, § 2.
1898, 240.
§ 371.
R. L. 225, § 115.
1913, 829, § 1.
1916, 241, § 1.
1919, 350, § 82, 85.
172 Mass. 264.
Op. A. G. (1918) 67.

Permits to habitual criminals. 1887, 435, § 2. R. L. 225, § 116. 4 Op. A. G. 228.

SECTION 134. If it appears to the governor and council that a prisoner sentenced to the state prison as an habitual criminal has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence, upon such terms and conditions as they prescribe.

Permits to certain prisoners in Massachusetts reformatory. 1884, 255, § 33. 1886, 323, § 4. 1887, 375. 1888, 317. 1894, 249, § 2.

SECTION 135. If it appears to the board of parole that a prisoner in the Massachusetts reformatory, except one transferred thereto from the state prison, or a prisoner who has been removed from the Massachusetts reformatory to a jail or house of correction, has reformed, it may grant him a permit to be at liberty during the remainder of his term of sentence, upon such terms and conditions as it shall prescribe.

R. L. 225, § 117. 1917, 245. 2 Op. A. G. 90. 1906, 244. 1919, 350, §§ 82, 85. 4 Op. A. G. 623. 1913, 829, § 1. 148 Mass. 168. Op. A. G. (1917) 131. 1916, 241, § 1.

Permits to prisoners in reformatory for women. 1880, 221, § 3; 247, § 2. 1881, 90, § 1. P. S. 220, § 68; 221, § 52.

SECTION 136. If it appears to the board of parole that a prisoner in the reformatory for women or a prisoner who has been removed therefrom to a jail or house of correction has reformed, it may grant her a permit to be at liberty during the remainder of the term for which she might be held therein.

1888, 192. 1911, 181. 1917, 245. R. L. 225, § 118. 1913, 829, § 2. 1919, 350, § 85. 1903, 209, § 5. 1916, 241, § 1.

Permits to be at liberty from prison camp and hospital. 1904, 243, § 3.

SECTION 137. The board of parole in its discretion may grant any prisoner held at the prison camp and hospital a permit to be at liberty, upon such terms and conditions as it shall prescribe.

1906, 243, § 1. 1915, 141; 206. 1919, 350, § 85. 1913, 829, § 1. 1916, 241, § 1.

Permits to be at liberty from state prison colony. 1931, 204, § 2.

SECTION 137A. The board of parole in its discretion may grant any prisoner removed to the state prison colony under section one hundred and nine A a permit to be at liberty upon such terms and conditions as it shall prescribe.

Permits to be at liberty from state farm, etc. 1862, 189. 1880, 221, § 3; 247, § 2. P. S. 220, § 68.

SECTION 138. If it appears to the board of parole that a person at the state farm or removed therefrom to a jail or house of correction has reformed, it may grant him a permit to be at liberty during the remainder of the period for which he might be held.

1898, 443, § 2. 1909, 132, § 2. R. L. 85, § 38; 225, § 120. 1919, 199, § 2; 350, §§ 82, 85.

Power to grant permit though prisoner transferred. 1918, 214.

SECTION 139. The power to grant a permit to be at liberty to any person sentenced or transferred to the state prison, the Massachusetts reformatory, the reformatory for women, the prison camp and hospital or the state farm, and to revoke, revise, alter or amend the same, shall remain in the board of parole until the expiration of the maximum term of the sentence for the service of which the person was so committed or transferred, notwithstanding the subsequent transfer of such person to any other institution.

Permits to certain prisoners to be at liberty from jail, house of correction, etc. 1834, 151, § 8. R. S. 113, § 13. G. S. 178, § 17.

SECTION 140. If it appears to the county commissioners, or, in the county of Suffolk, to the penal institutions commissioner of Boston, that a prisoner in a jail or house of correction convicted of an offence named in section fifty-three of chapter two hundred and seventy-two or of drunkenness, and sentenced for a term or for non-payment of a fine,

6 has reformed and is willing and desirous to return to an orderly course
7 of life, they may issue to him a permit to be at liberty during the re-
8 mainder of his term of sentence.

P. S. 220, §§ 66, 68.
1884, 132, § 4.
1885, 375.

1886, 101, § 4.
R. L. 225, §§ 119, 120.

1909, 132, §§ 1, 2.
1931, 426, § 31.

1 SECTION 141. A probation officer may, with the consent of the
2 county commissioners, or, in Suffolk county, of the penal institutions
3 commissioner of Boston, investigate the case of any person imprisoned
4 in a jail or house of correction upon a sentence of not more than six
5 months, or upon a longer sentence of which not more than six months
6 remain unexpired, or for failure to pay a fine, for the purpose of ascer-
7 taining the probability of his reformation if released from imprisonment.
8 If after such investigation he recommends the release of the prisoner,
9 and the court which imposed the sentence, or, if the sentence was imposed
10 by the superior court, the district attorney, certifies a concurrence in
11 such recommendation, the county commissioners or the penal institu-
12 tions commissioner may, if they consider it expedient, release him on
13 parole, upon such terms and conditions as they may prescribe, and may
14 require a bond for their fulfilment. The surety upon any such bond
15 may at any time take and surrender his principal, and the county com-
16 missioners or the penal institutions commissioner may at any time
17 order any prisoner released by them to return to the prison from which
18 he was released. This section shall not apply to persons held upon
19 sentences of the courts of the United States.

Release on
parole from
jails, etc
Bond.
Exception
1880, 129, § 6.
1881, 34,
§§ 1, 2.
P. S. 220, § 69.
1891, 356, § 7.
R. L. 225, § 121.
1902, 227,
1912, 158.
Op. A. G.
(1919) 126.
Op. A. G.
(1920) 39.

1 SECTION 142. Whenever, in the opinion of the physician of any
2 prison or other place of confinement in which is imprisoned a woman
3 who is about to give birth to a child during the term of her imprisonment,
4 the best interests of the woman or of her unborn child require that she be
5 granted a permit to be at liberty or discharged, he may so certify to the
6 board or officer empowered to grant permits to be at liberty or discharges
7 from the institution in which she is imprisoned, and such board or officer
8 may, subject to such terms and conditions as appear necessary, grant the
9 permit to be at liberty or the discharge.

Permits to be
at liberty or
discharge of
pregnant
females.
1918, 79.

1 SECTION 143. The county commissioners, or, in Boston, the penal
2 institutions commissioner, subject to the approval of a justice of the
3 court which imposed the sentence, after six months from the time of
4 sentence, may discharge a person sentenced to the house of correction,
5 upon a conviction under the provisions of section sixty-two of chapter
6 two hundred and seventy-two of being a common nightwalker, if they
7 are satisfied that the prisoner has reformed.

Discharge of
nightwalker
from house of
correction.
1855, 69, § 2.
G. S. 177, § 18.
1877, 147.
P. S. 220, § 67.
1895, 439, § 16.
R. L. 225,
§ 123.

1918, 257, § 402.
1919, 5.

1920, 2.
1931, 426, § 32.

Op. A. G. (1919) 126.
Op. A. G. (1920) 39.

1 SECTION 144. A prisoner confined in a prison or place of confinement
2 for non-payment of a fine or a fine and expenses shall be given a credit of
3 fifty cents on such fine or fine and expenses for each day during which
4 he shall be so confined, and shall be discharged at such time as the said
5 credits, or such credits as have been given and money paid in addition
6 thereto, shall equal the amount of the fine or the fine and expenses; and
7 in such case no further action shall be taken to enforce payment of said
8 fine or fine and expenses.

Discharge of
prisoner com-
mitted for
non-payment
of fine.
1842, 39.
G. S. 180, § 7.
1865, 44, § 1.
P. S. 222, § 15.
1899, 226.
R. L. 225,
§ 124.
1916, 3.

Discharge of
poor prisoners.
1821, 109.
R. S. 87, § 16.
G. S. 180, § 8.
1866, 284.
P. S. 222, § 16.
R. L. 225, § 125.

SECTION 145. Justices of district courts and trial justices may discharge from jail persons confined for the non-payment of fine, or of fine and expenses not exceeding ten dollars, if they are of opinion that such persons are not able to pay the same or that it is otherwise expedient; but no fees shall be allowed to any person for such service.

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Same subject.
1799, 7.
1802, 1.
1805, 69.
1833, 9.
R. S. 145, § 3.
1850, 155.
§§ 1, 2.
G. S. 180, §§ 6,
9, 10.
P. S. 222,
§§ 17-19.
1882, 201.
R. L. 225,
§ 126.
§ Gray, 395.
272 Mass. 113.

SECTION 146. If a poor prisoner has been confined in a jail or house of correction for three months for fine or fine and expenses only, the jailer, master or keeper shall make a report thereof, in Suffolk county to the municipal court of the city of Boston, and in other counties to a district court. The court shall inquire into the truth of the report, and may require the jailer or keeper to bring the prisoner into court. If the court finds that the report is true, and that the prisoner since his conviction has not had any property, real or personal, with which he could have paid the amount for which he was committed, and that he is held for no other cause, the court shall order the sheriff, master or keeper to discharge the prisoner. A person under guardianship may have the benefit of this section, although it appears that he has property held under guardianship, if it also appears that such property is beyond his actual control; and if he is discharged the commonwealth may, in an action of tort brought within one year after the discharge, recover from his guardian, if he has assets, the amount of fine or fine and expenses remaining unpaid.

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Acts rendering
permit void.
1884, 152.
§§ 1, 4; 255,
§ 33.

SECTION 147. The violation by the holder of a permit to be at liberty of any of the terms or conditions of his permit or the violation of any law of the commonwealth shall render his permit void.

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1887, 435, § 2. 1897, 206.
1894, 440, § 1. 1898, 240; 371. R. L. 225, § 127.
1895, 252; 504, § 2. 238 Mass. 532.

Revocation
of permit.
1880, 218, § 1;
221, § 3;
247, § 2.

SECTION 148. The board or officer granting to a prisoner a permit to be at liberty may revoke it at any time previous to its expiration.

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1881, 90, § 1 1894, 258; 440, § 1. 1908, 251, § 1.
P. S. 220, § 68; 1895, 252; 504, § 2. 1915, 141.
221, § 52; 222, § 20. 1897, 206. 1919, 199, § 2.
1884, 152, § 4, 255, § 33. 1898, 371. 148 Mass. 168.
1886, 323, § 4 R. L. 225, § 128. 238 Mass. 532.
1887, 435, § 2. 1903, 209, § 3. 1 Op. A. G. 487.

Arrest for
violation of
permit
1880, 129,
§§ 7, 10; 218,
§ 2, 221, § 4
1881, 90, § 2
P. S. 220, § 70;
221, § 53; 222,
§ 21
1884, 152,
§§ 2, 4, 255,
§ 34
1886, 323, § 4,
1887, 292, § 2;
435, § 3
1888, 192.
1894, 440, § 2.
1895, 504, § 3.
1897, 272.
R. L. 85, § 39;
225, § 129.
1903, 452.
1904, 216.
1911, 454, § 2.
1913, 829,
§§ 1-3
1915, 111; 206.
1916, 241, § 1.

SECTION 149. The board of parole, the county commissioners or, in Suffolk county, the penal institutions commissioner of Boston, if a permit to be at liberty granted or issued by them, respectively, has become void or has been revoked, or if a prisoner on parole under section one hundred and forty-one has been ordered to return to the prison from which he was released, may order the arrest of the holder of such permit or of such prisoner on parole by any officer qualified to serve civil or criminal process in any county, and the return of such holder or of such prisoner on parole to the prison from which he was released. The governor, if a permit to be at liberty issued to an habitual criminal under section one hundred and thirty-four has become void or has been revoked, shall issue his warrant authorizing the arrest of the holder thereof by any officer qualified to serve criminal process, and his return to state prison. A prisoner who has been so returned to his place of confinement shall be detained therein according to the terms of his original sentence. In computing the period of his confinement, the time between his re-

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17 lease upon a permit or on parole and his return to prison shall not be
 18 considered as any part of the term of his original sentence. If at the
 19 time of the order to return to prison or of the revocation of his permit
 20 he is confined in any prison, service of such order shall not be made until
 21 his release therefrom.

1919, 199, § 2.
 359, §§ 82, 85
 1930, 60, § 2
 148 Mass. 168
 238 Mass. 532
 1 Op. A. G.
 228.

1 SECTION 150. A prisoner whose term expires on Sunday shall be dis-
 2 charged on the preceding day.

Discharge if
 term ends on
 Sunday.

1864, 194, § 1. P. S. 222, § 24. R. L. 225, § 130. 4 Op. A. G. 224.

1 SECTION 151. A prisoner who, at the expiration of his sentence, is in
 2 such condition from bodily infirmity or disease as to render his removal
 3 impracticable shall be suitably cared for in the prison or other place of
 4 confinement until he is in a condition to be removed. The expense of
 5 his support, not exceeding three dollars and fifty cents a week, shall be
 6 paid by the town where he has a legal settlement, after notice to the
 7 board of public welfare thereof, or, if he has no legal settlement, to the
 8 department of public welfare, of the expiration of his sentence and of his
 9 condition.

Disabled
 prisoner to
 be cared for
 in prison after
 expiration of
 sentence.
 Expense,
 how paid.
 1853, 388.
 G. S. 71,
 §§ 40-42.
 1864, 169.
 1874, 170, § 1
 P. S. 222, § 25

R. L. 225, § 131. 1906, 243, § 2. 1919, 350, § 87. 1928, 155, § 56.

PARDONS.

1 SECTION 152. In a case in which the governor is authorized by the
 2 constitution to grant a pardon, he may, with the advice and consent of
 3 the council, and upon the petition of the prisoner, grant it, subject to such
 4 conditions, restrictions and limitations as he considers proper, and he may
 5 issue his warrant to all proper officers to carry such pardon into effect.
 6 Such warrant shall be obeyed and executed, instead of the sentence origi-
 7 nally awarded. The governor shall annually transmit to the general
 8 court a list of the pardons granted by him with the advice and consent
 9 of the council during the preceding year.

Pardons by
 governor.
 Annual list
 to general
 court.
 Const. pt. 2,
 c. 2, § 1, art. 8.
 (Const. Rev.
 art. 122.)
 1803, 117.
 R. S. 142, § 12.
 1860, Res. 50
 G. S. 177, § 12.
 P. S. 218, § 12.

R. L. 225, § 132. 1 Op. A. G. 199. 4 Op. A. G. 224.
 135 Mass. 48. 3 Op. A. G. 5.

1 SECTION 153. In all cases of petitions for pardons referred to the
 2 executive council by the governor, where the petitioner is serving a
 3 sentence in the state prison, the executive secretary shall notify the
 4 attorney general, and also the district attorney who prosecuted the case,
 5 and they or their representatives may be present at the hearing on the
 6 petition by the pardon committee of the executive council, examine
 7 the petitioner's witnesses, and present to the pardon committee full
 8 information as to the case of the commonwealth against the petitioner
 9 on which he stands convicted of the crime for which he is serving sentence.

Attorney
 general, etc.,
 to be notified
 of petition for
 pardon of
 prisoner in
 state prison.
 1913, 349.

1 SECTION 154. The board of parole, acting as the advisory board of
 2 pardons, shall consider carefully and thoroughly the merits of all petitions
 3 for pardon or commutation of sentence referred to it by the governor,
 4 and it shall make to him, without publicity, a written report containing
 5 its conclusions and recommendations. No such report shall be made
 6 without the concurrence of a majority of its members. Before consider-
 7 ing any petition for pardon or commutation of sentence, if the conviction
 8 of the prisoner was had in the superior court, the advisory board of par-
 9 dons shall notify the district attorney, who shall report the facts of the
 10 case as they appeared at the trial, or, if the conviction was upon a plea

Duties of board
 of parole, acting
 as advisory
 board of
 pardons.
 1913, 829, § 6.
 1917, 266,
 §§ 1, 2.

of guilty, the facts as he understands them, the names of all witnesses 11
in the case, and his recommendation. If the petitioner is serving a 12
sentence in the state prison the attorney general shall also be notified. 13
If the conviction was in a district court the justice thereof shall make to 14
said board a similar report and recommendation. The attorney general, 15
district attorney or justice, as the case may be, shall be notified of the 16
hearing upon the petition for pardon, and they or their representatives 17
may be present at the hearing, examine the petitioner's witnesses, and 18
be heard. The said board shall not review the proceedings of the trial 19
court, and shall not consider any questions regarding the correctness, 20
regularity or legality of such proceedings, but shall confine itself solely to 21
matters which properly bear upon the propriety of the extension of clem- 22
ency to the petitioner. Said board from time to time may make rules 23
relative to the calling of meetings and to the proceedings thereat. The 24
board or any member of it may summon witnesses and administer oaths 25
or affirmations. The fees of witnesses before the board shall be the same 26
as for witnesses before the superior court, and shall be paid from the 27
appropriation for the expenses of the board of parole. 28

Re-arrest of
pardoned
prisoner
1837, 181, § 2.
G. S. 177, § 14.
1867, 301, § 1.
P. S. 218, § 13.
R. L. 225,
§ 133.

SECTION 155. If a prisoner who has been pardoned upon conditions 1
to be observed and performed by him violates such conditions, the 2
warden, superintendent or keeper, respectively, of the institution in 3
which the prisoner was confined shall forthwith cause him to be arrested 4
and detained until the case can be examined by the governor and council; 5
and the officer who makes the arrest shall forthwith give written notice 6
thereof to the governor and council. 7

Confinement
of such person
for unexpired
term of
sentence.
1837, 181, § 3.
G. S. 177, § 16.
1867, 301, § 2
1881, 164
P. S. 218, § 14.
1882, 197
R. L. 225,
§ 134
111 Mass. 443.
135 Mass. 48.

SECTION 156. The governor and council shall, upon receiving such 1
notice, examine the case of such prisoner; and if it appears by his own 2
admission or by evidence that he has violated the condition of his pardon, 3
the governor, with the advice and consent of the council, shall order him 4
to be remanded and confined for the unexpired term of his sentence, 5
said confinement, if the prisoner is under any other sentence of imprison- 6
ment at the time of said order, to begin upon the expiration of such 7
sentence. In computing the period of his confinement, the time between 8
the conditional pardon and subsequent arrest shall not be taken to be 9
part of the term of his sentence. If it appears to the governor and council 10
that he has not broken the conditions of his conditional pardon, he shall 11
be discharged. 12

Execution of
warrant of
pardon, etc.
R. S. 142, § 13.
G. S. 177, § 17.
P. S. 218, § 15.
R. L. 225,
§ 135.
1 Op. A. G. 516.

SECTION 157. If a prisoner is pardoned or his punishment is com- 1
muted, the officer to whom the warrant for such purpose is issued shall, 2
as soon as may be after executing it, make return thereof, signed by him, 3
with his doings thereon, to the secretary's office, and shall file in the office 4
of the clerk of the court in which the offender was convicted an attested 5
copy of the warrant and return, and the clerk shall subjoin a brief abstract 6
thereof to the record of the conviction and sentence. 7

Duties of
agents to aid
discharged
male prisoners.
1815, 176, § 1.
1818, 82, § 1.
G. S. 179, § 64.
1879, 294, § 27.
P. S. 219, § 26.

SECTION 158. The male agents employed to aid discharged male 1
prisoners shall endeavor to secure employment for prisoners who have 2
been permanently discharged or released on permit from the state prison, 3
the Massachusetts reformatory, the state farm or the prison camp and 4
hospital, provide said prisoners with needed assistance, and perform such 5

6 other duties relative to discharged or released prisoners as the com-
 7 missioner requires. They shall also obtain information for the commis-
 8 sioner relative to prisoners committed to institutions under his super-
 9 vision, especially as to the details of their offences and their previous
 10 character and history. They may for that purpose require of the police
 11 authorities any facts in their possession relative to such prisoners if the
 12 communication thereof will not, in the opinion of said authorities, be
 13 detrimental to the public interest.

1920, 334.

1887, 315, § 1.
 1888, 322, § 2.
 1895, 383.
 1897, 350, § 1.
 R. L. 225,
 1903, 212.
 1909, 295.
 1913, 829, § 5.
 1914, 179.
 1916, 241, § 1.
 1919, 350,
 §§ 82, 83.

1 SECTION 159. The women agents employed for the purpose shall
 2 counsel and advise female prisoners discharged from prisons in the com-
 3 monwealth, or released on permit from the reformatory for women.
 4 assist them in obtaining employment, and, under the direction of the
 5 commissioner, render them pecuniary aid.

Duties of
 agents to aid
 discharged
 female pris-
 oners
 1881, 179
 P. S. 219, § 27.

R. L. 225, § 137. 1909, 295. 1919, 350, §§ 82, 83.
 1905, 255. 1916, 241, § 1. 1920, 334.

1 SECTION 160. The commissioner may expend such sum as may be
 2 annually appropriated for the assistance of prisoners released from the
 3 state prison, the Massachusetts reformatory, the reformatory for women,
 4 the state farm, the prison camp and hospital, or from any institution
 5 to which they were removed therefrom.

Expenditures
 in aiding
 discharged
 prisoners.
 G. S. 179, § 66.
 1861, 78
 1869, 122.

1871, 302, § 1. 1888, 322, § 1; 417. 1909, 295.
 1879, 294, § 27. 1897, 350. 1916, 241, § 1.
 1881, 179, § 1. R. L. 225, §§ 136, 137. 1919, 350, §§ 82, 83.
 P. S. 219, §§ 26, 27. 1903, 212. 1920, 334.
 1884, 255, § 35. 1904, 243, § 4. 1924, 299.
 1887, § 395. 1905, 235.

1 SECTION 161. The commissioner shall cause an account to be kept
 2 of the money expended by the agents for the necessary expenses of the
 3 service required by sections one hundred and fifty-eight and one hun-
 4 dred and fifty-nine, for correspondence and travel in procuring employ-
 5 ment for and furnishing clothing, board and tools to discharged prisoners
 6 and for conveying them to their homes or places of employment, which,
 7 upon approval by the comptroller, shall be paid at the end of each month.

Account of
 expenditures
 by such
 agents
 1845, 176, § 2.
 1848, 82, § 2.
 1852, 213, § 2.
 G. S. 180, § 66.
 1879, 294, § 28.
 P. S. 219, § 28.
 R. L. 225,
 § 138.

1916, 241, § 1. 1919, 350, §§ 82, 83. 1923, 362, § 85.

1 SECTION 162. The warden of the state prison may pay from the
 2 treasury of the prison not more than ten dollars to any prisoner leaving
 3 the prison who, in the opinion of the warden, by his good conduct deserves
 4 it, or he may, in his discretion, pay it to the agents appointed under
 5 section one hundred and fifty-eight, who shall expend for the benefit
 6 of such prisoners what they thus receive, and shall account therefor to
 7 the commissioner. A prisoner who leaves the state prison shall be pro-
 8 vided with decent clothing.

Warden may
 pay over to
 such agent
 money author-
 ized to be paid
 to prisoner.
 1827, 118, § 13.
 R. S. 144, § 53.
 1849, 148.
 1852, 213, § 3.
 G. S. 179, § 63;
 180, § 67.
 1879, 294, § 29.

P. S. 219, § 29; 1916, 241, § 139. 1919, 350, §§ 82, 83.
 221, § 42. 1916, 241, § 1. 1928, 132.

1 SECTION 163. The agents for aiding discharged prisoners shall annu-
 2 ally, on or before December fifteenth, make full and detailed statements
 3 to the commissioner of their doings for the year ending on November
 4 thirtieth, which shall be included by the commissioner in his annual
 5 report.

Annual reports
 of such agents
 1846, 78.
 1857, 40.
 1858, 46.
 G. S. 180, § 68.
 1879, 294, § 30.

P. S. 219, § 30. 1916, 241, § 1. 1919, 5; 350, §§ 82, 83.
 R. L. 225, § 140. 1918, 257, § 476. 1920, 2

Aid by county
commissioners.
1880, 129, § 9.
P. S. 220, § 71.
R. L. 225,
§ 141.

SECTION 164. The county commissioners may provide a prisoner re- 1
leased from prison with such amount of money as in their opinion can 2
be wisely used to encourage his reformation, or they may pay it to a 3
suitable person designated by them to be used for such prisoner. 4

Aid by keeper
of jail, etc.
1881, 126.
P. S. 220, § 64.
R. L. 225,
§ 142.
1 Op. A. G. 281.

SECTION 165. The master or keeper of a jail or house of correction 1
may, with the approval of the county commissioners, expend such 2
amount, not exceeding ten dollars, in aiding a prisoner discharged from 3
his custody as in his opinion will assist such prisoner in his endeavor to 4
reform. He may in his discretion pay it to the prisoner, or to some 5
person selected by the master or keeper, to be expended by him in behalf 6
of the prisoner or for providing the prisoner with board, clothing, trans- 7
portation or tools. The amount so paid by a master or keeper shall be 8
allowed and paid by the county like other prison expenses. 9

TITLE XIX.

AGRICULTURE AND CONSERVATION.

- CHAPTER 128. Agriculture.
- CHAPTER 129. Animal Industry.
- CHAPTER 130. Powers and Duties of the Division of Fisheries and Game, Fisheries.
- CHAPTER 131. Powers and Duties of the Division of Fisheries and Game, Game and Inland Fisheries.
- CHAPTER 132. Forestry.
- CHAPTER 132A. State Parks and Reservations Outside of the Metropolitan Parks District.

CHAPTER 128.

AGRICULTURE.

SECT.	DEFINITIONS.	SECT.	DUTIES, ETC., OF EMPLOYEES.
1.	Definitions.	14.	Department to have access to certain places. Penalty for hindering, etc.
	DEPARTMENT AND COMMISSIONER.	15.	Certain duties of employees.
2.	Certain powers and duties defined.		DIRECTOR OF THE DIVISION OF PLANT PEST CONTROL.
3.	May collect and publish information on available lands.	16.	May enter public or private grounds, when.
4.	Trust funds.	17.	Inspection of nurseries. Certificates.
5.	Annual report. Publication.	18.	Nursery agents to be licensed.
6.	Lectures and publications.	19.	Sale, etc., of nursery stock regulated.
7.	Preparation and distribution of posters containing extracts from certain laws.	20.	Transportation of nursery stock, etc.
8.	Enforcement of provisions relative to packing, etc., of apples, etc.	21.	Director may inspect all stock and fruits coming into commonwealth. Destruction, etc., regulated.
	DEMONSTRATION SHEEP FARMS.	22.	Protection against white pine blister rust.
9.	Establishment of demonstration sheep farms.	23.	Compensation provided for damages incident to checking spread of white pine blister rust.
10.	Conduct of farms.	24.	Inspection of orchards, etc. Procedure if infested.
11.	Compensation from the commonwealth.	25.	Appeal from proposed action under §§ 16-31.
	DIVISION OF DAIRYING AND ANIMAL HUSBANDRY.	26.	Proceedings after appeal.
12.	Duties of division of dairying and animal husbandry.	27.	Powers of director.
13.	Division to report unsanitary condition.	28.	Gypsy and brown tail moth control exempted.
		29.	Penalty.

- Sect.
 30. Prosecutions.
 31. European corn borer, etc. Penalty.
 31A. Same subject. Disposition of corn stubble, etc. Penalty.
- INSPECTOR OF APIARIES.
32. Duties of inspector.
 33. Keeping of infected bees prohibited.
 34. Quarantine and treatment of infected bees.
 35. Regulations concerning shipping or transportation of bees, etc.
 36. Access by inspector and assistants to apiaries, etc.
 37. Record to be kept, etc.
 38. Penalty.

- DIRECTOR OF THE DIVISION OF ORNITHOLOGY.
39. Director of the division of ornithology, duties, etc. Special observers.

- SECT.
 TRUSTEES FOR COUNTY AID TO AGRICULTURE.
40. Trustees for county aid to agriculture. Audit of accounts. Report.
 41. Directors, how chosen.
 42. Trustees, expenditures, duties.
 43. Trustees, appointment of instructors.
 44. Trustees to prepare budget.
 45. Towns may take land.
- AGRICULTURAL AND HORTICULTURAL SOCIETIES, ETC.
46. Agricultural, etc., societies, assignment of police at exhibitions, etc.
 47. Farmers' clubs to receive publications, etc. Annual returns.
 48. Rules, etc., for preservation of peace, etc. Posting.
 49. Booths, etc., gaming, etc., prohibited.
 50. Penalty.

DEFINITIONS.

Definitions.
 1918, 273, § 1.
 1919, 34, § 1;
 350, §§ 34,
 35, 37.

SECTION 1. The following words as used in this chapter shall have the following meanings unless the context otherwise requires: "Commissioner", the commissioner of agriculture. "Department", the department of agriculture. "Director", in sections sixteen to thirty-one, inclusive, the director of the division of plant pest control. "Inspector", in sections thirty-two to thirty-eight, inclusive, the inspector of apiaries. "Trustees", the trustees for county aid to agriculture.

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DEPARTMENT AND COMMISSIONER.

Certain powers and duties defined.
 1852, 142, § 3.
 G. S. 16, § 5.
 P. S. 20, § 6.
 1891, 412, § 11.
 R. L. 89,
 §§ 6, 11.
 1909, 428.
 1910, 427.
 1912, 411.
 1913, 319; 590.
 1914, 267; 298.
 1917, 74,
 § 2; 85.
 1918, 241.
 1919, 350,
 §§ 34, 38.
 1921, 206.
 1929, A. G. 382.
 20p. A. G. 118.

SECTION 2. The department through its proper divisions shall have power to —

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(a) Execute and carry into effect the laws relative to dairy products, animal breeding, apple grading, plant pest control except the gypsy and brown tail moth, ornithology, apiary inspection, and the production, storage, marketing and distribution of agricultural products.

(b) Aid in the promotion and development of the agricultural resources of the commonwealth and the improvement of conditions of rural life, the settlement of farms and the distribution of the supply of farm labor.

(c) Investigate the cost of production and marketing in all its phases, and the sources of supply, of agricultural products, and the production, transportation, storage, marketing and distribution of agricultural products sold, offered for sale, stored or held within the commonwealth.

(d) Collect and disseminate data and statistics as to the food produced, stored or held within the commonwealth, with the quantities available from time to time and the location thereof.

(e) Investigate and aid improved methods of co-operative production, marketing and distribution of agricultural products within the commonwealth.

(f) Offer prizes for and conduct exhibits of flowers, fruit, vegetables, grasses, grains or other farm crops, dairy products, honey, horses, cattle,

23 sheep, swine, poultry, poultry products, rabbits, hares, farm operations,
 24 and canned and dried fruits and vegetables.
 25 It may also publish annually a leaflet relative to trees and birds, which
 26 shall be approved by the commissioner of education, and may distribute
 27 the same to the superintendents and teachers of rural and suburban
 28 public schools prior to Arbor and Bird Day.

1 SECTION 3. The department may collect all necessary information
 2 in regard to the opportunities for developing agricultural resources
 3 through the reoccupancy of idle or partly improved farms and farm
 4 land, and may cause the facts so obtained, and a statement of the ad-
 5 vantages offered, to be circulated where and how it deems for the best
 6 interest of the commonwealth.

May collect and publish information on available lands
 1909, 212, § 1
 1919, 350, § 34

1 SECTION 4. The department may take and hold in trust gifts or
 2 bequests to it for promoting agricultural education or the general in-
 3 terests of husbandry.

Trust funds
 1852, 142, § 3
 G. S. 16, § 5.

P. S. 20, § 6. R. L. 89, § 6. 1918, 268, § 1 1919, 350, § 34

1 SECTION 5. The department shall make an annual report, including
 2 the number of agents, assistants, experts and chemists employed in the
 3 division of dairying and animal husbandry with their expenses and dis-
 4 bursements, of all investigations made by the division, of all cases prose-
 5 cuted with the results thereof and other information advantageous to
 6 the dairy industry. There shall be included the report of the inspector
 7 of apiarics.
 8 Such parts of the report as the commissioner deems best adapted to
 9 promote the interests of agriculture may be published separately, for
 10 general distribution.

Annual report.
 Publication
 1852, 142, § 4
 G. S. 16, § 7
 P. S. 20, § 8
 1891, 412,
 §§ 8, 10
 1895, 214
 1901, 130
 R. L. 9, § 7;
 89, §§ 8, 12
 1908, 416, § 1
 1910, 653, § 7
 1911, 220, § 8
 1914, 291, § 1
 1918, 268, § 1.

1919, 350, §§ 8, 34, 35, 37.

1 SECTION 6. The commissioner may arrange for lectures before the
 2 department, and may issue for general distribution such publications as
 3 he considers best adapted to promote the interests of agriculture.

Lectures and publications
 1869, 96, § 2.
 P. S. 20, § 4.
 1884, 66.

R. L. 89, § 4. 1915, 250. 1917, 286.
 1911, 186. 1916, 46, § 2. 1919, 350, §§ 34, 35.

1 SECTION 7. The commissioner shall cause to be printed on durable
 2 material, suitable to be affixed to trees or otherwise to be posted in the
 3 open air, copies of such extracts from sections one hundred and five,
 4 one hundred and thirteen, one hundred and fifteen, one hundred and
 5 seventeen, one hundred and twenty-two and one hundred and thirty-
 6 one of chapter two hundred and sixty-six as in his opinion will tend
 7 to prevent depredations on farm and forest lands, and shall furnish a
 8 reasonable number of such copies to any owner or tenant of land, upon
 9 application, at a price not less than the cost thereof.

Preparation and distribution of posters containing extracts from certain laws.
 1904, 444,
 §§ 2, 3.
 1914, 239
 1915, 140.
 1919, 350, § 35.
 1920, 202, 241

1 SECTION 8. The commissioner may enforce sections one hundred to
 2 one hundred and seven, inclusive, one hundred and nine, one hundred
 3 and twelve and one hundred and seventeen C of chapter ninety-four,
 4 and prosecute all violations thereof.

Enforcement of provisions relative to packing, etc., of apples, etc.

1918, 169, § 3. 1919, 350, § 35. 1922, 438, § 2

DEMONSTRATION SHEEP FARMS.

Establishment of demonstration sheep farms. 1919, 256, § 1; 350, §§ 34, 35.

SECTION 9. The department may establish demonstration sheep farms in such places as may be selected by the commissioner. Such a farm may be established in co-operation with the owner of any farm who is desirous of conducting it in conformity with this and the two following sections.

Conduct of farms. 1919, 256, § 2; 350, §§ 35, 39.

SECTION 10. Each person conducting a demonstration sheep farm shall maintain under the supervision of and in accordance with such rules and regulations as may be prescribed by the commissioner, a flock of not less than twenty sheep and under his direction may from time to time purchase and sell such sheep as may be considered essential to the proper development of the industry in the locality of such farm, the sheep so purchased or sold to be passed upon by the division of animal industry of the department of conservation as to their condition and freedom from disease.

Compensation from the commonwealth. 1919, 256, § 3.

SECTION 11. The owner of every such farm shall receive a reasonable compensation from the commonwealth for the use of the farm as such demonstration sheep farm, for the labor and expense involved in carrying out this and the two preceding sections, and for any loss involved in the purchase or sale of sheep made in accordance with the preceding section.

DIVISION OF DAIRYING AND ANIMAL HUSBANDRY.

Duties of division of dairying and animal husbandry. 1891, 412, §§ 7, 10, 11. R. L. 89, §§ 11, 12. 1908, 416, § 1. 1916, 46, § 1. 1919, 350, §§ 35, 37, 96. 4 Op. A. G. 175.

SECTION 12. The division of dairying and animal husbandry, under the general direction of the commissioner, shall inquire into the methods of making butter and cheese in creameries or cheese factories, investigate all dairy products and imitation dairy products bought or sold, enforce the laws for the manufacture, transfer and sale of such products, and take such action as will tend to produce a better quality thereof and to improve the dairy industry. It may co-operate with the department of public health and with inspectors of milk, but it shall not interfere with the duties of such department or officers.

Division to report unsanitary condition. 1911, 381, § 2. 1919, 350, §§ 37, 39.

SECTION 13. The division shall report to the director of animal industry each case brought to its attention where any barn, stable or other enclosure, where neat cattle, other ruminants or swine are kept, is found in an unsanitary condition.

DUTIES, ETC., OF EMPLOYEES.

Department to have access to certain places. Penalty for hindering, etc. 1891, 412, §§ 9, 12. 1894, 280, § 5. R. L. 89, § 13. 1912, 608, §§ 1, 2, 4. 1919, 350, §§ 34, 41, 96. 1924, 94, § 1.

SECTION 14. The department and its employees shall have access to each place or vehicle used in the manufacture, storage, transportation or sale of dairy products or imitations thereof, and to each vessel and can used in such manufacture, storage, transportation and sale, and shall have the authority given to the department of public health or its officers, or to inspectors of milk, to enforce and prosecute violations of all laws relating to dairy products or imitations thereof. Whoever hinders, obstructs, or in any way interferes with an officer or duly authorized agent of the department in the performance of his duty shall be

10 punished for a first offence by a fine of one hundred dollars and for a
 11 subsequent offence by a fine of two hundred dollars, to the use of the
 12 commonwealth.

1 SECTION 15. Employees of the department shall visit towns to
 2 inquire into the methods and needs of practical husbandry, ascertain
 3 the adaptation of agricultural products to soil, climate and markets,
 4 encourage the establishment of farmers' clubs, agricultural libraries
 5 and reading rooms, disseminate useful information in agriculture by
 6 lectures or otherwise, and annually in October make detailed reports
 7 to the commissioner.

Certain duties
 of employees.
 1859, 203, § 1.
 G. S. 16, § 9.
 P. S. 20, § 10.
 R. L. 89, § 9.
 1918, 268,
 § 1. 4
 1919, 350, § 34.

DIRECTOR OF THE DIVISION OF PLANT PEST CONTROL.

1 SECTION 16. The director of the division of plant pest control, and
 2 his assistants, may at all times enter any public or private grounds in
 3 the performance of any duty required by sections seventeen to thirty-
 4 one, inclusive.

May enter
 public or pri-
 vate grounds,
 when.
 1902, 495, § 6.

1909, 444, §§ 15, 17. 1912, 507, §§ 14, 16. 1919, 350, § 37.
 [Penalty, § 29.]

1 SECTION 17. The said director, either personally or through his as-
 2 sistants, shall inspect at least once each year each nursery or place
 3 where nursery stock is grown, and if no dangerous insects or fungous
 4 pests are found therein, he shall give a certificate to that effect. If
 5 such pests are found therein the owner of the stock shall take such
 6 measures to suppress the same as the director shall prescribe, and no
 7 certificate shall be given until he has satisfied himself by a subsequent
 8 inspection that all such pests have been suppressed. He shall deter-
 9 mine the season for inspecting nurseries and the form of certificates
 10 to be given but in no case shall he issue a certificate to continue in force
 11 after July first next following the date of inspection.

Inspection of
 nurseries.
 Certificates.
 1902, 495,
 §§ 2, 6
 1909, 444,
 §§ 2, 15, 17.
 1912, 507,
 §§ 2, 14, 16,
 1919, 350,
 § 37.
 [Penalty, § 29.]

1 SECTION 18. Each agent or other person, except a grower, who sells
 2 nursery stock shall make application to the director for an agent's li-
 3 cense, and shall file with him the names and addresses of all persons
 4 or nurseries from which he purchases his stock. On receipt of such
 5 application, the director shall issue an agent's license, valid for one
 6 year, in such form and with such provisions as the department pre-
 7 scribes. The license may be revoked at any time for failure to report
 8 the names and addresses of persons or nurseries from which stock is
 9 purchased, or for such other cause as may be deemed sufficient by the
 10 director and the commissioner. Each person except a grower who sells,
 11 or who takes or solicits orders for, nursery stock shall be regarded as a
 12 nursery agent for the purposes of sections eighteen to thirty-one, inclusive.

Nursery agents
 to be licensed.
 1909, 444, § 3.
 1912, 507,
 §§ 3, 15.
 1916, 91, § 1.
 1918, 268,
 § 1. 4
 1919, 350,
 §§ 34, 35, 37.
 [Penalty, § 29.]

1 SECTION 19. No person shall sell, exchange, give, deliver or ship
 2 within the commonwealth any tree, shrub or plant commonly known as
 3 nursery stock unless such person holds a grower's certificate under
 4 section seventeen or an agent's license under the preceding section, and
 5 unless a copy of such certificate or license, or such other evidence as the
 6 department prescribes, shall accompany each car, box, bundle or pack-
 7 age sold, exchanged, given, delivered or shipped, and unless such certifi-
 8 cate or license is dated within twelve months of the date of such delivery
 9 or shipment; but this section shall not prohibit the selling, giving or

Sale, etc., of
 nursery stock
 regulated.
 1902, 495,
 §§ 3, 4
 1909, 444,
 §§ 4, 17
 1912, 507,
 §§ 4, 16
 1919, 350, § 34.
 [Penalty, § 29.]

exchanging of trees, plants or shrubs by any person who is not a grower of, dealer in, or agent for nursery stock. 11

Transportation of nursery stock, etc. 1902, 495, § 5. 1907, 321, § 2. 1909, 444, §§ 6, 17. 1912, 507, §§ 5, 16. 1919, 331; 350, § 37.

[Penalty, § 29.]

SECTION 20. No nursery stock shall be brought into the commonwealth unless it bears an unexpired certificate of inspection. Each person bringing into the commonwealth, or receiving for transportation to a point within the commonwealth from outside thereof, any car, box, bundle, package or consignment in any form, of living trees, shrubs or plants commonly known as nursery stock, shall immediately notify the director of the fact that such consignment has been received by him and give the name and address of the consignee, together with such further report as may be lawfully required by the director. 1
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Director may inspect all stock and fruits coming into commonwealth. Destruction, etc., regulated. 1909, 444, § 7. 1912, 507, §§ 6, 16. 1915, 161, §§ 1, 2. 1916, 91, § 5. 1919, 350, §§ 35, 37.

[Penalty, § 29.]

SECTION 21. The director, either personally or through his assistants, may inspect at its point of destination all nursery stock coming into the commonwealth, and if such stock is found to be infested with injurious insects or plant disease he may cause it to be destroyed, treated or returned to the consignor at the consignor's expense. He may, either personally or through his assistants, inspect all fruits brought into the commonwealth from outside thereof which were grown on plants, shrubs or trees of any kind which also grow out of doors in this commonwealth, and, if such fruits are found to be infested with injurious insects or plant disease likely to become established herein, he may cause such fruits to be destroyed, treated or returned to the consignor at the consignor's expense. 1
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Each person, except a common carrier, who receives, brings or causes to be brought into this commonwealth any such fruits from such states, provinces or countries as may be designated by the commissioner, shall immediately after the arrival of such fruits notify the director of such arrival, and hold the same until they have been duly inspected. 13
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Protection against white pine blister rust. 1917, 263, § 2. 1919, 350, § 37. 1925, 58, § 1. 1929, 91, § 1.

[Penalty, § 29.]

SECTION 22. If the director, either personally or through his assistants, finds ribes, that is, any variety of currants or gooseberries, whether wild or cultivated, or five leafed pines, which are either infected with white pine blister rust, or so situated that in his opinion they are likely to become so infected, he or his assistants may destroy or cause to be destroyed such ribes or five leafed pines. In carrying out his duties under this section the director shall as far as practicable co-operate with the state forester, local tree wardens, moth superintendents, city foresters and forest wardens. 1
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Compensation provided for damages incident to checking spread of white pine blister rust. 1918, 215, § 1. 1919, 350, §§ 35, 37. 1923, 362, § 86.

[Penalty, § 29.]

SECTION 23. The owner of any cultivated berry-bearing shrubbery destroyed by the director or his assistants under the two preceding sections shall receive compensation therefor from the commonwealth, provided that he has given written notice thereof to the director within thirty days after the accrual of his claim to compensation. The director or an assistant shall thereupon investigate the same, and if the director does not agree with the claimant as to the validity of his claim or as to the amount thereof, the question at issue shall be determined by three arbitrators who shall be the commissioner, the state forester, and an assistant attorney general to be designated by the attorney general. Any award of damages made by said arbitrators, together with the cost of the appraisal, shall be certified to the comptroller, and shall thereupon be paid by the commonwealth in the same manner as other claims. 1
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Gypsy and brown tail moth control exempted. 1907, 321, § 8. 1909, 444, §§ 14, 17.

SECTION 28. Sections sixteen to twenty-seven, inclusive, twenty-nine and thirty, shall not apply to gypsy or brown tail moths in any stage of development except upon places where nursery stock is grown and upon property adjoining the same.

1911, Res. 103. 1912, 507, §§ 13, 16. 1925, 58, § 3.

Penalty. 1902, 495, § 3. 1907, 321, §§ 2, 6. 1909, 444, §§ 11, 17. 1912, 507, §§ 10, 16. 1926, 31, § 2.

SECTION 29. Whoever violates any provision of sections sixteen to twenty-seven, inclusive, or offers any hindrance to the carrying out of any part thereof, or after receipt of written request from the director or any of his assistants unreasonably refuses or neglects to comply with any order or regulation lawfully made under any of said sections, shall be punished by a fine of not less than ten nor more than one hundred dollars to the use of the commonwealth.

Prosecutions. 1907, 321, § 7. 1909, 444, §§ 12, 17. 1912, 507, §§ 11, 16. 1918, 298, § 1, 4.

SECTION 30. All prosecutions under sections sixteen to twenty-seven, inclusive, section thirty-one and section thirty-one A shall be instituted and directed by the commissioner or by a person or persons specially designated for the purpose by him.

1919, 350, § 35. 1923, 147, § 1. 1927, 67.

European corn borer, etc. Penalty. 1919, 95; 350, §§ 35, 37, 358.

SECTION 31. Whenever the director finds that any town or part thereof is infested with the European corn borer or other insect pest, except the gypsy and brown tail moth, or with a plant disease which in his opinion is likely to spread to other parts of the commonwealth or to other states, he may, after a duly advertised public hearing, and with the approval of the commissioner, issue an order stating the insect pest or plant disease to be guarded against, and prohibiting, for such periods and under such conditions as he deems necessary, the transportation to or from such town or part thereof, of any specified trees, plants, shrubs or other vegetable growths or products, and any specified containers or other articles by means of which such an insect pest or plant disease is or is likely to be carried. The order aforesaid shall be advertised in a newspaper published in each town where it is to be effective, or, if no newspaper is published in such town, then in a newspaper of general circulation in the county where the town is situated. Whoever violates any order issued under this section or whoever offers any hindrance to the carrying out of such order shall be punished by a fine of not less than twenty-five nor more than three hundred dollars.

Same subject. Disposition of corn stubble, etc. Penalty. 1923, 147, § 2.

SECTION 31A. In any town or part thereof in which an order issued under the preceding section in connection with the suppression of the European corn borer shall be in effect, every person in possession of land on which corn of any kind has been grown, shall, not later than December first of the year of its growth, plow or cause to be plowed the field in which it was grown, so as to bury the stubble to a depth of at least six inches, or pull up said stubble or cause it to be pulled up and destroy it, or cause it to be destroyed, by burning, and every person having in his possession corn stalks shall, not later than April tenth of the year following that of their growth, completely dispose of such corn stalks by using them as fodder or by burning them. Whoever violates any provision of this section shall be punished by a fine of not less than twenty-five nor more than five hundred dollars.

INSPECTOR OF APIARIES.

1 SECTION 32. With the approval of the commissioner, the inspector of
 2 apiaries shall prepare and distribute from time to time such literature
 3 upon the subject of bee culture as he deems advisable, shall annually
 4 make or cause to be made through his assistants such inspection of the
 5 apiaries throughout the commonwealth as he deems necessary to dis-
 6 cover and suppress all bee diseases of a contagious nature, and may
 7 make and issue reasonable regulations for carrying out this and the six
 8 following sections.

Duties of
 inspector.
 1910, 653, § 2.
 1911, 220, § 2.
 1919, 350, § 35.
 [Penalty, § 38.]

1 SECTION 33. No person shall keep a colony of bees affected with
 2 foul brood, black brood, or any other infectious or contagious disease
 3 harmful to honey bees in the egg, larval, pupal or adult stage, except as
 4 provided in the following section, and each beekeeper, when he becomes
 5 aware of the existence of such a disease among his bees, shall at once
 6 notify the inspector to that effect. No person, knowing that a con-
 7 tagious or infectious disease exists among his bees, shall sell, barter, give,
 8 or in any other way dispose of the same in whole or in part, or any prod-
 9 uct of the same, or any hive, super, frame, section or other appliance
 10 used about the diseased bees, in such manner as to cause the spread of
 11 the disease.

Keeping of
 infected
 bees pro-
 hibited.
 1910, 653, § 3.
 1911, 220, § 3.
 [Penalty, § 38.]

1 SECTION 34. The inspector or his assistants, upon the discovery of
 2 foul brood, black brood or other infectious or contagious disease, in any
 3 apiary or colony, shall give instruction to the owner or caretaker thereof
 4 as to the treatment of the diseased bees, and shall also send to the owner
 5 or caretaker a written order that such bees be held in quarantine until
 6 released by written permit from the inspector, and bees so quarantined
 7 shall not be removed from the premises.

Quarantine and
 treatment of
 infected bees.
 1910, 653,
 §§ 4, 5.
 1911, 220,
 §§ 4, 5.
 [Penalty, § 38.]

8 If upon subsequent inspection the disease is still found to exist the
 9 inspector or his assistants may cause the diseased colonies to be de-
 10 stroyed in such manner as to prevent the spread of the disease.

1 SECTION 35. No colony of bees shall be shipped or transported into
 2 or delivered in this commonwealth from a state or country having an
 3 inspector of apiaries, or other officer charged with similar duties, without
 4 a certificate stating that such officer has inspected said colony and that
 5 it is free from infectious or contagious disease. No transportation com-
 6 pany or common carrier shall accept for transportation into the com-
 7 monwealth, nor shall it deliver to any consignor herein, any such colony
 8 from such state or country, unless such colony is accompanied by such
 9 certificate. In the absence of such a certificate, the consignor upon
 10 the receipt of said colony shall forthwith notify the inspector, who shall
 11 forthwith inspect the same. No transportation company or common
 12 carrier shall be liable in damages for refusing to receive, transport or
 13 deliver any colony of bees when not accompanied by a certificate as
 14 above provided. This section shall not prevent the transportation or
 15 delivery of queen bees when not accompanied by brood or comb.

Regulations
 concerning
 shipping or
 transportation
 of bees, etc.
 1911, 220, § 6
 [Penalty, § 38.]

1 SECTION 36. The inspector and his assistants shall have access to
 2 each place where bees, bee products or supplies or appliances used in
 3 apiaries are kept.

Access by in-
 spector and
 assistants to
 apiaries, etc.

1910, 653, § 6. 1911, 220, § 7.
 [Penalty, § 38.]

Record to be kept, etc.
1910, 653, § 7.
1911, 220, § 8.
1919, 350, § 35.

SECTION 37. The inspector shall keep a detailed record of the number and location of all apiaries visited by him or his assistants, the number and location of all colonies found diseased, the treatment thereof, and the expenditure incurred in the performance of the duties of his office. He shall report to the commissioner annually, and at such other times as he requests.

Penalty.
1910, 653, § 8.
1911, 220, § 9.
1926, 23.

SECTION 38. Whoever violates any provision of sections thirty-two to thirty-six, inclusive, or after receipt of written request from the inspector or any of his assistants unreasonably refuses or neglects to comply with any regulation lawfully made and issued under said section thirty-two, shall be punished for the first offence by a fine of not more than ten dollars, for the second offence by a fine of not more than twenty-five dollars and for a subsequent offence by a fine of not more than fifty dollars.

DIRECTOR OF THE DIVISION OF ORNITHOLOGY.

Director of the division of ornithology, duties, etc.
Special observers.
1908, 245, §§ 2, 3.
1912, 500, § 1.
1914, 424, § 1.
1917, 75.
1919, 350, §§ 35, 37.

SECTION 39. The director of the division of ornithology shall investigate the distribution and food habits of the birds of the commonwealth; shall determine, so far as possible, the relation of birds to outbreaks of insects and animals; shall experiment with a view to discovering the best methods of protecting fruits and crops from birds; and shall serve the department and the people of the commonwealth in an advisory capacity in matters relating to the economic status of birds and to legislation concerning them. He shall report annually to the commissioner. Subject to the approval of the commissioner, he may purchase such supplies and apparatus as may be reasonably necessary in carrying out his duties and may issue special reports and bulletins as the exigencies of his work may require. For the purpose of aiding in the study of the distribution and habits of the birds of the commonwealth he may appoint special observers to serve without compensation.

TRUSTEES FOR COUNTY AID TO AGRICULTURE.

Trustees for county aid to agriculture.
Audit of accounts.
Report.
1918, 273, § 1.
1919, 34.
1920, 103.
1930, 400, § 4.
1931, 301, § 22.

SECTION 40. In each county, except Suffolk and except counties maintaining vocational agricultural schools, there shall be an unpaid board of nine trustees to be known as trustees for county aid to agriculture. The county commissioners of each such county shall annually appoint three trustees, qualified as hereinafter provided, to serve for three years from April first of the year of appointment, and shall fill any vacancy in said board for the unexpired term. All of said trustees shall be residents of the county where they are appointed, one shall always be a county commissioner of said county, and four so far as is possible shall be taken from the directors, chosen as provided in the following section, of such cities and towns as have appropriated funds toward carrying out sections forty to forty-five, inclusive. The accounts of the trustees shall be audited by the director of accounts in the manner in which other county accounts are audited under general law. The trustees shall annually submit to the county commissioners a report for the previous year with a statement of receipts and expenditures in such form and at such time as is required by them, and they shall cause the said report to be printed as a part of their regular annual report.

1 SECTION 41. Choice of the directors mentioned in the preceding sec-
 2 tion shall be made in such towns at the annual town meeting at which
 3 the appropriation is made, or at the next succeeding annual meeting
 4 when the appropriation is made at a special meeting, and in such cities,
 5 by the mayor, not later than fifteen days following the vote authorizing
 6 the appropriation. The directors shall serve for such terms as the
 7 mayor in cities and the voters in towns shall determine.

Directors,
 how chosen.
 1918, 273, § 1.
 1919, 34.

1 SECTION 42. The trustees may receive on behalf of the county and
 2 apply to the purposes of sections forty to forty-five, inclusive, money
 3 appropriated therefor by the general court for any county or by any
 4 town, or by the federal government, and may control the expenditure
 5 thereof either solely or in conjunction with representatives or agents of
 6 the commonwealth or of the United States, or of any department, com-
 7 mission, board or institution created under the statutes of this com-
 8 monwealth or under an act of congress. The trustees may enter into
 9 agreements, arrangements or undertakings with any such departments,
 10 commissions, boards and institutions, relative to extension work with
 11 adults and with boys and girls in agriculture, homemaking and country
 12 life.

Trustees,
 expenditures,
 duties.
 1918, 273, § 2.

1 SECTION 43. The trustees shall maintain one or more agents or in-
 2 structors in agriculture, homemaking and country life, who shall meet
 3 the residents of the county individually and in groups for the purpose
 4 of teaching and demonstrating better practice in agriculture and home-
 5 making, the benefits to be derived from co-operative efforts, better
 6 methods of marketing farm products and the organization of com-
 7 munities to build up country life.

Trustees,
 appointment of
 instructors.
 1918, 273, § 3.

1 SECTION 44. The trustees shall annually prepare and submit to the
 2 county commissioners, not later than the first Wednesday in December,
 3 a budget containing detailed estimates of all sums required by them
 4 for carrying out sections forty to forty-five, inclusive, during the ensu-
 5 ing year. The county commissioners shall include in their annual
 6 estimate of county expenses to be appropriated by the general court and
 7 raised by the annual county tax levy at least one half of such sums as
 8 they deem necessary to carry out said purposes.

Trustees to
 prepare budget.
 1918, 273, § 4.
 1920, 517.
 1930, 400, § 4.
 1931, 301, § 23.

1 SECTION 45. Any town may acquire, by purchase or otherwise, in the
 2 manner in which land may be acquired for school purposes, real estate
 3 for the purpose of carrying on, under the direction of the agents or in-
 4 structors of said trustees, demonstration work in agriculture and home-
 5 making, and may appropriate money to be expended by said trustees
 6 under sections forty to forty-three, inclusive, or for the purpose of
 7 enabling the trustees to acquire necessary real estate, or for the support
 8 of demonstration work, under the direction of the agents or instructors or
 9 of the trustees, on land owned by the town or by any resident thereof.

Towns may
 take land
 1918, 273, § 5.

AGRICULTURAL AND HORTICULTURAL SOCIETIES, ETC.

1 SECTION 46. Upon the application of the president of an incorporated
 2 agricultural or horticultural society to the authorities of a town where

Agricultural,
 etc., societies,
 assignment
 of police

at exhibi- tions, etc. 1892, 180. R. L. 124, § 16.	an exhibition of such society is to be held, such authorities shall assign for special service at such exhibition all police officers or constables necessary to preserve the peace and enforce the law thereat.	3 4 5
Farmers' clubs to receive pub- lications, etc. Annual returns. 1859, 203, § 2. G. S. 66, § 18. P. S. 114, § 19. R. L. 124, § 20. 1919, 350, §§ 34, 35.	SECTION 47. Farmers' clubs which are organized and are holding regular meetings shall, upon application made annually in November to the commissioner, receive copies of the department's report and of its other publications, in proportion to the number of their members and to the applications so made. A club which receives such copies shall annually in October make returns to said commissioner of its agricultural experiments and of the reports of its committees.	1 2 3 4 5 6 7
Rules, etc., for preservation of peace, etc. Posting. 1861, 127, § 1. P. S. 114, § 20. R. L. 124, § 21. 6 Allen, 588 [Penalty, § 50.]	SECTION 48. Each agricultural or horticultural society or farmers' club may establish such regulations, not inconsistent with law, as it considers necessary and expedient for the preservation of peace and good order or for the protection of its interests at its regular or annual meetings, shows, fairs or exhibitions, and shall cause at least five copies of such regulations to be posted in public places on its grounds not less than forty-eight hours before the time of holding each meeting, show, fair or exhibition.	1 2 3 4 5 6 7 8
Booths, etc., gaming, etc., prohibited. 1861, 127, § 2. 1877, 149, § 1. P. S. 114, § 21. R. L. 124, § 22. [Penalty, § 50.]	SECTION 49. No person, during the time of holding a cattle show, fair or exhibition or meeting of a farmers' club and without the consent of the authorities having charge of the same, shall establish within one half mile of the place of holding such show, fair, exhibition or meeting a tent, booth or vehicle of any kind for the purpose of vending any goods, wares, merchandise, provisions or refreshments. No person shall engage in gaming or horse racing or exhibit a show or play during the regular or stated time of holding a cattle show, agricultural fair or meeting of a farmers' club, or engage in pool selling, at or within one half mile of the place of holding the same; but no person having his regular place of business within such limits shall be hereby required to suspend his business.	1 2 3 4 5 6 7 8 9 10 11
Penalty. 1861, 127, § 3. P. S. 114, § 22. R. L. 124, § 23.	SECTION 50. Whoever violates any provisions of the preceding section, or of a regulation established under section forty-eight, shall forfeit not more than twenty dollars.	1 2 3

CHAPTER 129.

ANIMAL INDUSTRY.

SECT.	SECT.
1. Definitions.	9. Duties of agents of Massachusetts Society for Prevention of Cruelty to Animals.
2. Powers and duties of director, orders, etc.	10. Examinations under oath.
3. Records of inspectors.	11. Isolation, etc., of affected animals.
4. Certification of documents by clerk.	12. [Repealed.]
5. Orders, etc., to be sent to inspectors.	12A. Compensation for killing cattle affected with tuberculosis.
6. Aid by sheriffs, etc.	13. Compensation for killing animals affected with glanders.
7. Entry on premises.	
8. Hospitals and quarantine.	

Certification of documents by clerk.
1893, 306, § 7.
1894, 491, § 52.
1899, 408, § 2.
R. L. 90, § 3.
1902, 116, § 3.
1912, 608, § 3.

SECTION 4. The director may designate an employee of the division as clerk who shall keep the records of the division, shall certify copies of such records or of any order, rule or regulation issued by the director, and shall make any certificates of issuing, recording, delivering or publishing of orders required under this chapter.

1913, 329. 1919, 5; 350, §§ 40, 44.
1918, 257, § 313. 1920, 2.

Orders, etc., to be sent to inspectors.
1894, 491, § 40.
1899, 408, § 13.
R. L. 90, § 4.
1902, 116, § 3.
1912, 608, § 4.
1913, 329.

SECTION 5. All orders, rules and regulations made by the director shall be entered on the records of his division and a copy thereof shall be sent to each inspector in the town to which the orders, rules or regulations apply, and shall be published by such inspector in the manner prescribed by the order, rule or regulation.

1919, 350, §§ 40, 44. 2 Op. A. G. 425.

Aid by sheriffs, etc.
1894, 491, § 57.
1899, 408, § 11.
R. L. 90, § 9.
1902, 116, § 3.
1912, 608, § 4.

SECTION 6. Sheriffs, constables and police officers shall upon request of the director or an inspector assist him in the performance of his duties and shall have the same powers and protection, while so engaged, as peace officers.

1913, 329. 1919, 350, §§ 40, 44.

Entry on premises.
1894, 491, § 13.
1899, 408, § 28.
R. L. 90, § 23.
1902, 116, § 3.
1911, 381, § 1, 3.
1912, 608, § 4.
1913, 329.
1918, 257, § 314.
1919, 5; 350, §§ 40, 44.
1920, 2.

SECTION 7. For the purpose of inspecting or examining animals or the places where they are kept, the director, any of his agents or an inspector, duly qualified, may enter any building or part thereof or any enclosure or other place, and may examine or inspect such animals or places. Whoever prevents, obstructs or interferes with such director, agent, inspector or other person having like authority in the performance of any of his duties, or whoever hinders, obstructs or interferes with his making such inspection or examination, or whoever secretes or removes any animal, for the purpose of preventing it from being inspected or examined, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

Hospitals and quarantine.
1890, 224, § 3.
1878, 24, § 1.
P. S. 90, § 14.
1887, 252, § 11.
1894, 491, § 41.
1899, 408, § 6.
R. L. 90, § 5.
1902, 116, § 3.
1912, 608, § 4.
1913, 329.

SECTION 8. The director may establish hospitals or quarantine stations, with proper accommodations, wherein, under prescribed regulations, animals selected by him may be confined and treated for the purpose of determining the characteristics of a specific contagion and the methods by which it may be disseminated or destroyed, and he may direct inspectors to enforce and carry into effect all regulations made from time to time for that purpose.

1919, 350, §§ 40, 44.

Duties of agents of Massachusetts Society for Prevention of Cruelty to Animals.
1910, 590.

SECTION 9. The agents of the Massachusetts Society for the Prevention of Cruelty to Animals may visit all places at which neat cattle, sheep, swine or other animals are delivered for transportation or are slaughtered, for the purpose of preventing violations of any law and of detecting and punishing the same; with power to prosecute any such violation coming to their notice. Any person who prevents, obstructs or interferes with any such agent in the performance of such duties shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

Examinations under oath.
1862, 158, § 1.
1878, 24, § 1.
P. S. 90, § 22.

SECTION 10. The director may examine on oath all persons who are believed to possess knowledge of material facts relative to the existence or dissemination, or danger of dissemination, of contagious diseases among

4 domestic animals, or relative to any other matter within the provisions
 5 of this chapter, and, for the purposes of this chapter, shall have all the
 6 powers vested in justices of the peace by chapters two hundred and
 7 twenty-two and two hundred and thirty-three to take depositions, and
 8 compel witnesses to attend and testify before him and to administer
 9 oaths. Witnesses shall receive the same fees for attendance and travel
 10 as witnesses before the superior court. The expense of procuring the
 11 attendance of such witnesses shall be paid by the commonwealth. Copies
 12 of the records of the division, or of any order, rule or regulation issued
 13 by the director, if duly certified by the clerk, and any certificate by the
 14 clerk of the issuing, recording, delivering or publishing of such orders,
 15 rules or regulations under this chapter, shall be competent evidence of
 16 such fact in any tribunal.

1 SECTION 11. If the director, or one of his agents, by examination of
 2 a case of contagious disease of domestic animals, except foot and mouth
 3 disease, is of opinion that the public good so requires, he shall cause the
 4 diseased animal to be securely isolated or to be killed without appraisal
 5 or payment. An order for killing shall be issued in writing by the di-
 6 rector, may be directed to an inspector or other person, and shall contain
 7 such direction as to the examination and disposal of the carcass and the
 8 cleansing and disinfection of the premises where such animal was con-
 9 demned as the director considers expedient. A reasonable amount may
 10 be paid from the treasury of the commonwealth for the expense of such
 11 killing and burial. If thereafter it appears, upon post mortem exam-
 12 ination or otherwise, that such animal was free from the disease for
 13 which it was condemned, an appraisal of such animal shall be made
 14 and the amount of appraisal value therefor shall be paid to the owner
 15 by the commonwealth, except as otherwise provided in section fourteen
 16 relative to foot and mouth disease.

1885, 148, § 4
 1887, 252, § 17.
 1894, 491, § 49.
 1895, 496, § 12
 1899, 408, § 10.
 R. L. 90, § 8
 1902, 116, § 3
 1912, 608, § 4.
 1913, 329
 1919, 350,
 §§ 40, 44.

Isolation, etc.,
 of affected
 animals.
 1860, 192, § 2;
 219, § 2;
 221, § 7.
 1878, 24, § 1.
 1879, 160.
 1881, 184.
 P. S. 90,
 §§ 17, 18.
 1887, 252,
 §§ 12, 13.
 1892, 195, § 3
 1893, 306, § 2
 1894, 491, § 15.
 1895, 496, § 10
 1899, 408, § 8
 R. L. 90, § 6
 1902, 116, § 3.
 1912, 608, § 4.
 1913, 329.
 1917, 121,
 1919, 350,
 §§ 40, 44.
 1922, 353, § 1.
 152 Mass. 540.

260 Mass. 311.

3 Op. A. G. 208.

1 SECTION 12. [REPEALED, 1922, 353, § 4.]

1 SECTION 12A. If, under section eleven, any cattle affected with
 2 tuberculosis are killed, the full market value thereof at the time of
 3 condemnation, not exceeding twenty-five dollars each, shall be paid to
 4 the owner by the commonwealth if such animal has been owned by
 5 him for a period of not less than sixty days, and has been owned and
 6 kept within the commonwealth for six consecutive months, both periods
 7 being next prior to its killing, or if it has been inspected within said six
 8 months' period and satisfactory proof has been furnished to the director,
 9 by certificate or otherwise, that it was free from disease on the date of
 10 such inspection, and if the owner has not, in the opinion of the director,
 11 by wilful act or neglect, contributed to the spread of tuberculosis.

Compensation
 for killing
 cattle affected
 with tuber-
 culosis.
 1892, 195, § 3.
 1893, 306, § 2
 1894, 491, § 45.
 1895, 496, § 10.
 1899, 408, § 8.
 1901, 252.
 R. L. 90, § 6.
 1920, 470
 G. L. (ed of
 1920) 129, § 12
 1922, 353, § 2.
 1924, 304, § 1.
 260 Mass. 311.

1 Op. A. G. 234, 260, 532.

1 SECTION 13. If under section eleven any horse, mule or ass affected
 2 with glanders is killed, the full value thereof at the time of condemna-
 3 tion, not exceeding fifty dollars, shall be paid to the owner by the com-
 4 monwealth if such animal was owned within the commonwealth for
 5 twelve consecutive months next prior to the killing thereof, and if the
 6 owner thereof has not in the opinion of the director contributed to the
 7 spread of glanders by any wilful act or neglect.

Compensation
 for killing
 animals
 affected
 with glanders.
 1913, 616, § 1.
 1919, 350,
 §§ 40, 44.

Extermination of foot and mouth disease. Appraisals of and payments for property destroyed, etc. 1917, 121, § 1, 2; 1919, 350, §§ 40, 44.

SECTION 14. All neat cattle and other domestic animals, which are affected with, or have been exposed to, foot and mouth disease, shall be destroyed when, in the opinion of the director, the public good so requires, and their carcasses shall be buried or otherwise disposed of. An order for killing and for the disposal of carcasses shall be issued in writing by said director, and may be directed to an agent, an inspector, or other person. The said director shall also issue such directions for the cleansing and disinfection of buildings, premises and places in which foot and mouth disease exists or has existed, and of property which may be on or contained therein, as in his opinion may be necessary or expedient. Any property on such premises which may be, in the opinion of the director or of his agents, a source of contagion may be destroyed by order of the director. The necessary expenses incurred in carrying out this section may be paid from the annual appropriation for the extermination of contagious diseases among domestic animals. The director may appoint 15 persons to make appraisals on live stock and other property the destruction of which is ordered under this section, and fifty per cent of the full value of such live stock and other property, as determined by the appraisal, may be paid from the annual appropriation aforesaid. If the United States government makes an appropriation for payment of a certain portion of the value of any animals and property destroyed under this section, the payment by the commonwealth for such animals or property shall be limited to the difference between such portion and the full value thereof determined as herein provided, which shall not be in excess of fifty per cent of such value.

Appointment of inspector of animals. 1874, 231, § 1; 1875, 29, § 1; 1876, 180, § 1; P. S. 58, § 1; 1892, 195, § 1; 432; 1893, 306, § 6; 1894, 491, § 1.

SECTION 15. The mayor in cities, except Boston, and the selectmen in towns shall annually, in March, nominate one or more inspectors of animals, and before April first shall send to the director the name, address and occupation of each nominee. Such nominee shall not be appointed until approved by the director. In cities at least one such inspector shall be a registered veterinary surgeon.

1899, 408, § 47.	1911, 143	1919, 350, §§ 40, 44
R. L. 90, § 12.	1912, 608, §§ 4, 6.	1 Op. A G 74
1902, 116, § 3.	1913, 329.	4 Op. A G 146.
1908, 378.		

Penalty for refusal or neglect of town to appoint inspectors. Appointment by director. 1893, 306, §§ 5, 6; 1894, 491, § 2; 1899, 408, § 18; R. L. 90, § 13; 1902, 116, § 3.

SECTION 16. A town shall, for each refusal or neglect of its officers to comply with the requirements of the preceding section, forfeit not more than five hundred dollars. The director may appoint one or more inspectors for such town, and may remove an inspector who refuses or neglects to be sworn or who, in the opinion of the director, does not properly perform the duties of his office and may appoint another inspector for the residue of his term.

1912, 608, § 4.	1913, 329.	1919, 350, §§ 40, 44.
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Oath of inspector. Compensation. 1872, 231, § 1; 1875, 29, § 1; 1876, 180, § 1; P. S. 58, § 1; 1892, 306, § 5; 1894, 491, § 2; 1895, 476; 1899, 408, §§ 17, 18, 30; R. L. 90, § 14; 1902, 116, § 3; 1912, 608, § 4; 1913, 329.

SECTION 17. Each inspector shall be sworn to the faithful performance of his official duties, and shall receive from the town for which he is appointed reasonable compensation, if appointed by the town, or such compensation as shall be fixed by the director, but not in excess of five hundred dollars a year, if appointed by the director. Towns having a valuation of less than two and one half million dollars shall be reimbursed by the commonwealth, upon certificate of the selectmen, approved by the director, for one half of such compensation, not exceeding two hundred and fifty dollars for each inspector in any one year.

1919, 350, §§ 40, 44.

1929, 48.

1 SECTION 18. Each inspector shall comply with and enforce all orders
2 and regulations directed to him by the director. If he refuses or neglects
3 so to do, he shall be punished by a fine of not more than five hundred
4 dollars.

Duties of
inspector
1894, 491,
§ 3, 12
1899, 408,
§ 21, 31.

R L. 90, § 16.
1902, 116, § 3.

1912, 608, § 4.
1913, 329

1919, 350, §§ 40, 44

1 SECTION 19. Inspectors shall make regular and thorough inspections
2 of all neat cattle, sheep and swine found within the limits of their respec-
3 tive towns. Such inspections shall be made at such times and in such
4 manner as the director shall from time to time order. They shall also
5 from time to time make inspections of all other domestic animals within
6 the limits of their respective towns if they know, or have reason to sus-
7 pect, that such animals are affected with or have been exposed to any
8 contagious disease, and they shall immediately inspect all domestic
9 animals and any place where any such animals are kept whenever di-
10 rected so to do by the director; but this section shall not apply to the
11 inspection of sheep or swine slaughtered in wholesale slaughtering estab-
12 lishments, or to the obtaining of a license for the slaughtering of such
13 sheep or swine.

Inspection of
domestic
animals
1892, 145, § 2.
1894, 491, § 4
1895, 496, § 1
1899, 408, § 12
R L. 90, § 27
1902, 116, § 3
1912, 608, § 4
1913, 329
1919, 350,
§ 40, 44
3 Op. A. G. 208.

1 SECTION 20. An inspector who is satisfied, upon an examination of
2 any neat cattle, sheep or swine, that they are free from contagious
3 disease, shall deliver to the owner or to the person in charge thereof a
4 written certificate of their condition, in such form as the director shall
5 prescribe, signed by the inspector, and shall enter a copy of said certificate
6 upon his records.

Certificate of
healthy
condition.
1894, 491, § 6.
1895, 496, § 2.
1899, 408, § 23.
R. L. 90, § 18.
1902, 116, § 3.
1912, 608, § 4.

1913, 329.

1919, 350, §§ 40, 44.

1 SECTION 21. An inspector who, upon an examination of a domestic
2 animal, suspects, or has reason to believe, that it is affected with a con-
3 tagious disease shall immediately cause it to be quarantined or isolated
4 upon the premises of the owner or of the person in whose charge it is
5 found, or in such other place as he may designate, and shall take such
6 other sanitary measures to prevent the spread of such disease as may be
7 necessary or as shall be prescribed by any order or regulation of the direc-
8 tor. He shall also deliver to the owner or person in charge of such animal,
9 or to any person having an interest therein, a written notice or order of
10 quarantine signed by him, in such form as the director shall prescribe,
11 and shall enter a copy of said notice upon his records.

Quarantine of
infected
animals.
1890, 219, § 1.
1878, 24, § 1.
P. S. 90, § 1.
1894, 491, § 7.
1899, 408, § 24.
R L. 90, § 19.
1902, 116, § 3.
1912, 608, § 4.
1913, 329.
1919, 350,
§ 40, 44.
3 Op. A. G. 208.

1 SECTION 22. Such notice or order may be served by an inspector or
2 officer qualified to serve civil process, by delivery in hand to, or leaving
3 at the last and usual place of abode of, the owner or person having an
4 interest in or in charge of the animal concerned, or by posting upon the
5 premises where said animal is quarantined or isolated. A copy thereof,
6 with the return of said officer or inspector thereon that such service has
7 been made, shall be competent evidence in any court that such quarantine
8 has been imposed. If an animal has been so quarantined, it shall remain
9 in quarantine until the further order of the director.

Service of
notice of
quarantine
1894, 491, § 8.
1899, 408, § 25.
R L. 90, § 20.
1902, 116, § 3.
1912, 608, § 4.
1913, 329.
1919, 350,
§ 40, 44.

1 SECTION 23. Inspectors shall, in addition to their inspections of ani-
2 mals for contagious diseases, examine the places in which neat cattle are
3 kept, with reference to their situation, cleanliness, light, ventilation and

Examination
of barns, etc.
1899, 408, § 29.
R L. 90, § 24
1902, 116, § 3.

1912, 608, § 4.	water supply, and the general condition and cleanliness of the said neat	4
1913, 329.	cattle, and shall make a detailed report, with names and residences of	5
1919, 350,	owners, to the director.	6
§§ 40, 44.		

Notice of quarantine.	SECTION 24. An inspector who has caused a domestic animal to be	1
1894, 491, § 9.	quarantined, as provided in section twenty-one, shall immediately give a	2
1899, 408, § 27.	written notice thereof, with a copy of the order of quarantine, to the	3
R. L. 90, § 22.	director, and shall give such information to no other person.	4
1902, 116, § 3.		
1912, 608, § 4.		
	1913, 329	1919, 350, §§ 40, 44

Records of inspectors of animals.	SECTION 25. Each inspector shall keep a record of all inspections made	1
1894, 491, § 5.	by him and of his doings therein, and shall make regular returns thereof	2
1899, 408, § 19.	to the division, but such returns need not be retained for more than two	3
R. L. 90, § 15.	years, and may then be destroyed or disposed of by their lawful cus-	4
1902, 116, § 3.	todian, and any proceeds received in the course of their disposal shall be	5
1912, 608, § 4.	paid to the commonwealth. The director shall prescribe the form in	6
1913, 329.	which and the times at which such records and returns shall be made,	7
1916, 147.	and may at any time inspect them and make copies thereof.	8
1919, 350,		
§§ 40, 44.		

Provisions applying to Boston.	SECTION 26. The provisions of this chapter relative to the duties of	1
1912, 608, § 7.	inspectors shall apply to persons officially performing the functions of	2
	inspectors in Boston.	3

Shipping, etc., dairy cattle into commonwealth without inspection, etc. penalized.	SECTION 26A. Whoever ships, drives or transports into the com-	1
1924, 495.	monwealth cattle to be used for dairy purposes, unless they have been	2
	inspected and passed as healthy by a veterinary inspector of the United	3
	States Bureau of Animal Industry or a veterinarian of the state of origin	4
	authorized by the state and approved by said bureau, shall be punished	5
	by a fine of not more than two hundred dollars.	6

Quarantine of imported animals.	SECTION 27. Animals brought into this commonwealth from places	1
1887, 252, § 20.	which in the opinion of the director are infected, may be seized and quar-	2
1894, 491, § 53.	antined by the director at the expense of their owners or consignees, so	3
1899, 408, § 12.	long as the public safety requires; and, if in his opinion safety so requires,	4
R. L. 90, § 10.	he may cause such animals to be killed without appraisal or payment.	5
1902, 116, § 3.		
1912, 608, § 4.		
	1913, 329.	1919, 350, §§ 40, 44.

Notice of contagious diseases.	SECTION 28. The board of health of a town, any member or agent	1
1860, 219, § 9;	thereof or any other person who has knowledge of or reason to suspect	2
221, § 5.	the existence of any contagious disease among any domestic animals in	3
1878, 24.	the commonwealth, or that any domestic animal is affected with a con-	4
1879, 178.	tagious disease, whether such knowledge is obtained by personal exami-	5
P. S. 90, § 9, 15.	nation or otherwise, shall immediately give written notice thereof to the	6
1885, 148, § 1, 2.	director, or to an inspector for the town where the animal is kept. Who-	7
1887, 252, § 6, 7.	ever fails to give such notice shall be punished by a fine of not more than	8
1894, 491, § 29, 30.	one hundred dollars. Upon the receipt of such notice by said inspector,	9
1899, 408, § 14, 15.	he shall proceed as provided in sections twenty-one, twenty-two, twenty-	10
R. L. 90, § 11.	four and twenty-nine. Upon receipt of such notice by the director he shall	11
1902, 116, § 3.	inspect or cause his agent to inspect such animal, and thereafter shall	12
1908, 515, § 1.	proceed as provided in section eleven or fourteen, as the case may be.	13
1912, 608, § 4, 5.		
1913, 329.		
	1919, 350, §§ 40, 44	

Expense of quarantine.	SECTION 29. If animals have been quarantined, collected or isolated	1
1860, 219, § 1.	upon the premises of the owner or of the person in possession of them at	2
1878, 24, § 1.	the time such quarantine is imposed, the expense thereof shall be paid by	3
P. S. 90, § 1.		

4 such owner or person; but if specific animals have been quarantined or
 5 isolated under section eight or twenty-one for more than ten days upon
 6 such premises, as suspected of being affected with a contagious disease,
 7 and the owner is forbidden to sell any of the product thereof for food, or
 8 if animals have been quarantined, collected or isolated on any premises
 9 other than those of such owner or person in possession thereof, the ex-
 10 pense of such quarantine shall be paid by the commonwealth.

1 SECTION 30. An animal which has been quarantined or isolated by
 2 order of the director or of his agent, or of an inspector, shall, during the
 3 continuance of such quarantine or isolation, be deemed to be affected with
 4 a contagious disease. Whenever an animal has been released from quar-
 5 antine by order of the director the same animal shall not again be quar-
 6 antined or isolated by an inspector during the period of thirty days
 7 immediately following such release except upon order of the director.
 8 Whoever knowingly breaks or authorizes or causes to be broken a quar-
 9 antine so imposed, or whoever, contrary to such order of quarantine or
 10 isolation, knowingly removes an animal or authorizes or causes it to be
 11 removed from a building, place or enclosure where it is quarantined or
 12 isolated, or whoever, contrary to an order or notice of quarantine, know-
 13 ingly places or causes or authorizes to be placed any other animals within
 14 a building, place or enclosure where an animal is quarantined, or in
 15 contact therewith, or whoever knowingly conceals, sells, removes or trans-
 16 ports, or knowingly causes or authorizes to be concealed, sold, removed
 17 or transported, an animal, knowing or having reasonable cause to be-
 18 lieve that it is affected with a contagious disease, or whoever knowingly
 19 authorizes or permits such animal to go at large upon any public way
 20 within the commonwealth, or whoever knowingly brings or authorizes
 21 or permits to be brought from another country, state, district or territory
 22 into this commonwealth, an animal which is affected with or has been
 23 exposed to a contagious disease, or whoever disobeys a lawful order or
 24 regulation of the director or of any of his agents or of inspectors in the
 25 performance of their duty under this chapter, shall be punished by a
 26 fine of not more than five hundred dollars or by imprisonment for not
 27 more than one year, or both.

1 SECTION 31. If an owner is entitled to compensation for the killing
 2 of an animal or the destruction of other property under this chapter,
 3 and cannot agree with the director as to its value, the director and the
 4 owner may each select an arbitrator, and if the owner neglects or refuses
 5 to select an arbitrator within twenty-four hours after notice that the
 6 director has selected one, the arbitrator selected by the director may
 7 select another. In each case if the two arbitrators cannot agree as to
 8 the value, they may select a third. The arbitrators shall be sworn to
 9 the faithful performance of their duties and shall determine the value
 10 within the limits provided by sections eleven to fourteen, inclusive, and
 11 the amount so fixed shall be paid to the owner.
 12 If the owner's right to compensation is in dispute, if either party pre-
 13 fers to submit the amount of damages to judicial determination, or if
 14 the award of the arbitrators is unsatisfactory to either party, the owner
 15 or the director may, within thirty days after the killing of such animal
 16 or the destruction of such property, or, if arbitrators have been ap-
 17 pointed, within thirty days after the date of their award, file a petition
 18 for the assessment of damages in the superior court for Suffolk county

Quarantine.
 General pen-
 alties
 1860, 221, § 10.
 1879, 178.
 P. S. 90, § 19.
 1887, 252, § 14.
 1893, 306, § 4.
 1894, 491.
 § 34, 47.
 1899, 408,
 § 32, 36.
 R. L. 90,
 § 23, 29.
 1902, 116, § 3.
 1912, 608, § 4.
 1913, 329
 1918, 39
 1919, 350,
 § 40, 44
 1 Op. A. G. 74.

Assessment
 of damages;
 1894, 491, § 46.
 1895, 496, § 11.
 1899, 408, § 33.
 R. L. 90, § 26.
 1902, 116, § 3.
 1912, 608, § 4.
 1913, 329;
 646, § 2.
 1917, 121, § 2.
 1918, 257,
 § 193.
 1919, 5, 350,
 § 40, 44.
 1920, 2.

or for the county where the killing or destruction occurred. A copy of 19
the petition shall be served upon the adverse party. If upon such peti- 20
tion it appears that the owner is entitled by law to compensation, the 21
damages shall be assessed under chapter seventy-nine within the limits 22
provided by sections eleven to fourteen, inclusive, of this chapter. The 23
damages, costs and expenses incurred by the director in prosecuting or 24
defending the petition shall be paid by the commonwealth. 25

Shipping, etc.,
tuberculin within
the commonwealth
regulated.
Statement
as to use.
Penalty.
Exception.
1927, 215.

SECTION 31A. Every person who, himself or by his servant or agent, 1
ships from a place within the commonwealth or otherwise delivers any 2
tuberculin to a person within the commonwealth shall forthwith file 3
with the director a written statement containing the name and address 4
of the person to whom the same was shipped or delivered as aforesaid 5
and the quantity thereof. Every person receiving tuberculin for use in 6
connection with domestic animals shall forthwith after such use file with 7
the director a written statement containing the name and address of 8
the person whose cattle have been tested with such tuberculin and of 9
the person from whom the same was received, together with records of 10
said test upon blanks furnished by the director. Whoever violates any 11
provision of this section shall be punished for the first offence by a fine 12
of not less than twenty-five nor more than one hundred dollars and for 13
a subsequent offence by a fine of not less than fifty nor more than five 14
hundred dollars. This section shall not apply to common carriers, their 15
servants or agents. 16

Use of tuber-
culin restricted,
etc.
1885, 496, § 14.
1886, 276.
1887, 165.
1889, 408, § 42.
R. L. 90, § 31.
1903, 322.
1927, 335, § 2.

SECTION 32. Tuberculin as a diagnostic agent for the detection of 1
tuberculosis in domestic animals shall be used only upon cattle brought 2
into the commonwealth and upon cattle in quarantine stations at 3
Brighton, Watertown and Somerville; but it may be used as such diag- 4
nostic agent on any animal in any other part of the commonwealth, 5
with the written consent of the owner or person in possession thereof, 6
and upon animals which have been reported as tuberculous upon physi- 7
cal examination by a competent veterinary surgeon, and also as provided 8
in section thirty-three B. Such tests by the use of tuberculin shall be 9
made without charge to citizens of the commonwealth, and in all other 10
cases the expense of such tests shall be paid by the owner of such ani- 11
mals or by the person in possession thereof. 12

Tuberculin
test. Regu-
lating right to
compensation
for reacting
animals.
Rules, etc., for
inspection
Appraisals and
awards.
FACEDENTS.
1897, 499.
1899, 408, § 43.
R. L. 90, § 32.
1902, 116, § 3.
1912, 608, § 4.
1913, 329.
1919, 350,
§§ 10, 44
1922, 353, § 3.
1927, 393;
335, § 3
1928, 332, § 1.
1930, 341.
260 Mass. 311.

SECTION 33. Except as otherwise provided, a person who has ani- 1
mals tested with tuberculin shall not be entitled to compensation from 2
the commonwealth for any animals which react to the tuberculin test 3
unless they have been tested by the director or qualified veterinarians 4
acting under his authorization and have been owned and kept by the 5
owner applying for the test on the premises where tested for a period 6
not less than sixty days next prior to the date of said test or have been 7
admitted to the herd on a test approved by the director. The director 8
may prescribe rules and regulations for the inspection of cattle by the 9
application of the tuberculin test and for the segregation or slaughter of 10
reacting animals; but no inspection by the application of such test 11
shall be made unless an agreement has previously been entered into for 12
such inspection and application with the owner of the animals, except 13
as provided in section thirty-three B. If, in the opinion of the director, 14
any of the animals react to the test and are slaughtered in consequence 15
thereof, the owner shall be reimbursed by the commonwealth in the 16

17 manner hereinafter provided. The director may appoint persons to
 18 make appraisals of reacting cattle in conjunction with the owner or his
 19 authorized representative. Such appraisal shall be subject to the rights
 20 of arbitration and petition set forth in section thirty-one; provided, that
 21 the award or damages shall be within the limits prescribed by this sec-
 22 tion. The commonwealth shall, within thirty days after the filing in the
 23 office of the director of a valid claim for reimbursement in pursuance of
 24 such an appraisal or of an award under section thirty-one, pay to the
 25 owner of any animal slaughtered under authority of any rules or regula-
 26 tions made hereunder, or to any mortgagee or assignee designated in
 27 writing by said owner, one half of the difference between the amount
 28 received by the owner for the carcass of the animal and the value of the
 29 animal as determined by appraisal as aforesaid; provided, that pay-
 30 ment by the commonwealth hereunder shall not exceed fifty dollars for
 31 any grade animal or seventy-five dollars for any pure-bred animal;
 32 and provided, further, that the owner or his representative has not, in
 33 the opinion of the director, by wilful act or neglect, contributed to the
 34 spread of bovine tuberculosis.

1 SECTION 33A. Any bovine animal which reacts to a tuberculin test
 2 shall immediately be tagged for identification by the veterinarian, who
 3 has applied such test, by inserting into the external ear of the reacting
 4 animal a special metal tag provided by the director. Any person who
 5 removes any such tag attached as above provided, or who in any way
 6 disposes of any animal which has reacted to a tuberculin test except for
 7 the purpose of immediate slaughter, or who neglects or refuses to have
 8 slaughtered a reacting animal sold to him for that purpose, shall be
 9 punished by a fine of not more than one hundred dollars or by im-
 10 prisonment for not more than thirty days.

Same subject.
 Tagging, etc.,
 reacting bovine
 animals.
 Removing tag,
 disposing of
 such animals
 except for
 slaughter, etc.,
 1922, 137,
 1924, 156.

1 SECTION 33B. The director may, upon application to him by not
 2 less than seventy-five per cent of the cattle owners owning cattle per-
 3 manently kept in any city or town in a county other than Barnstable, or
 4 upon like application by the owners of eighty-five per cent of such cattle,
 5 declare said city or town a quarantine area and may proceed to test by
 6 the tuberculin test or otherwise all bovine animals within said area. If
 7 the director finds and declares that said city or town is substantially free
 8 from bovine tuberculosis, he may proclaim it to constitute a modified
 9 accredited area and may prescribe rules and regulations, subject to the
 10 approval of the governor and council, prohibiting the shipment or trans-
 11 portation into the same of any bovine animal without a permit and health
 12 certificate issued by the director or some officer designated by the director
 13 for the purpose. Whoever violates the terms and conditions of any such
 14 quarantine or any such rule or regulation shall be punished by a fine
 15 of not more than five hundred dollars or by imprisonment for not more
 16 than one year, or both.

Same subject.
 Tests of all
 bovine animals
 within de-
 clared quaran-
 tine area.
 Modified
 accredited
 areas. Penalty
 for violating
 terms and
 conditions of
 quarantine, etc.
 1927, 335, § 1.
 1930, 123, § 1.

1 SECTION 34. No compensation shall be allowed by the common-
 2 wealth to an owner of condemned cattle who has failed to comply with
 3 the reasonable regulations of the director relative to cleanliness, ventila-
 4 tion, light, disinfection and water supply. An owner of cattle who re-
 5 fuses to comply with any such regulation shall be punished by a fine of
 6 not more than fifty dollars.

No compen-
 sation to
 violators of
 regulations.
 1909, 408, § 44.
 R. L. 90, § 33.

Certain cattle not to be driven on streets, etc. 1876, 137. P. 8 90. §§ 26-28. 1887, 252. §§ 21-23. 1894, 491. §§ 54-56. 1899, 408. R. L. 90, § 30. 1902, 116, § 3.

SECTION 35. Texan, Mexican, Cherokee, Indian or other cattle, which the director has reason to believe may spread contagious disease, shall not be driven on any public way or road, or outside the stockyards connected with any railroad in the commonwealth, contrary to an order of the director, and they shall be kept in different pens from those in which other cattle are kept in all stockyards in the commonwealth. Whoever violates any provision of this section shall be punished by a fine of not less than twenty nor more than one hundred dollars.

1912, 608, § 4. 1913, 329. 1919, 350, §§ 40, 44.

Notice to be given of contagious diseases.

1894, 491, § 35. 1899, 408, § 34. R. L. 90, § 27. 1902, 116, § 3. 1908, 515, § 2. 1913, 329. 1919, 350, § 40, 44.

SECTION 36. Whoever kills an animal or causes it to be killed, without the consent of the owner or person in possession thereof, upon suspicion that it is affected with or has been exposed to a contagious disease, and who, upon the inspection of the carcass thereof, finds or is of opinion that it is affected with a contagious disease, shall forthwith notify such owner or person in possession thereof, and the director or an inspector for the town where such animal was kept, of the existence of such disease, and of the place where the animal was found, the name of the owner or person in possession thereof and of the disposal made of such carcass. Whoever violates any provision of this section shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

Enforcement of provisions. 1894, 491, § 58.

SECTION 37. The superior court shall have jurisdiction in equity to enforce this chapter and restrain violations thereof.

1899, 408, § 41. R. L. 90, § 34.

Annual report. 1887, 252, § 19. 1894, 491, § 51. 1899, 408, § 3, 29.

SECTION 38. The commissioner of conservation shall make an annual report of the acts of the director, including therein the information obtained from inspectors under section twenty-three.

R. L. 90, §§ 3, 24. 1912, 608, § 4. 1913, 329. 1919, 350, §§ 8, 40, 44.

CHAPTER 130.

POWERS AND DUTIES OF THE DIVISION OF FISHERIES AND GAME. FISHERIES.

SECT.

1. Definitions.

GENERAL PROVISIONS.

- 2. [Repealed.]
- 3. [Repealed.]
- 4. [Repealed.]
- 5. [Repealed.]
- 6. [Repealed.]
- 7. [Repealed.]
- 8. [Repealed.]
- 9. [Repealed.]
- 10. [Repealed.]
- 11. [Repealed.]
- 11A. Statistical information and biological research.

SECT.

- 12. [Repealed.]
- 13. [Repealed.]

FISHING LAW.

- 14. [Repealed.]
- 15. [Repealed.]
- 16. [Repealed.]
- 17. [Repealed.]
- 18. [Repealed.]
- 19. [Repealed.]
- 20. [Repealed.]
- 21. [Repealed.]
- 22. [Repealed.]

SECT.

FISHING LICENSE.

23. [Repealed.]

FISHERIES IN GREAT PONDS.

24. [Repealed.]

25. [Repealed.]

26. [Repealed.]

27. [Repealed.]

28. [Repealed.]

28A. [Repealed.]

29. [Repealed.]

30. [Repealed.]

31. [Repealed.]

32. [Repealed.]

33. [Repealed.]

34. [Repealed.]

35. [Repealed.]

CONTROL OF FISHERIES BY RIPARIAN PROPRIETORS.

36. [Repealed.]

37. [Repealed.]

38. [Repealed.]

39. Definition of navigable streams.

40. [Repealed.]

41. [Repealed.]

42. [Repealed.]

43. [Repealed.]

HERRING, ALEWIVES AND SHAD.

44. Towns may open ditches, etc., to create herring fisheries.

45. Towns shall own such fisheries.

46. Penalty for fishing in such fisheries without permission.

47. Rights under contracts, etc., not affected.

48. Penalty for illegal taking of shad or alewives.

TROUT.

49. [Repealed.]

50. [Repealed.]

51. [Repealed.]

52. [Repealed.]

53. [Repealed.]

54. [Repealed.]

54A. [Repealed.]

55. [Repealed.]

SALMON.

56. [Repealed.]

57. [Repealed.]

PICKEREL.

58. [Repealed.]

59. [Repealed.]

60. [Repealed.]

WHITE PERCH.

61. [Repealed.]

SECT.

FINE PERCH.

62. [Repealed.]

62A. [Repealed.]

62B. [Repealed.]

POLLOCK AND MACKEREL.

63. Seining of pollock and spike mackerel. Penalty.

BLACK BASS.

64. [Repealed.]

65. [Repealed.]

66. [Repealed.]

SMELTS.

67. Penalty for selling, etc., smelts between certain dates.

68. Permits to take smelts in great ponds.

69. Penalty for taking smelts except with hook and line.

70. Prohibition not to extend to certain counties, etc.

71. Use of net, seine, etc., for catching smelts in Boston harbor, etc., prohibited.

72. Possession of net, etc., prima facie evidence.

73. Penalties.

74. Searches; seizure and labelling of property.

MISCELLANEOUS PROVISIONS RELATIVE TO FISH.

75. [Repealed.]

76. [Repealed.]

77. [Repealed.]

77A. [Repealed.]

78. [Repealed.]

78A. [Repealed.]

CERTAIN SHELLFISH AND EELS.

79. Taking of scallops regulated.

80. Not to be taken between April first and October first. Exceptions.

81. Taking limited.

82. Modification of close season, etc.

83. Penalty.

84. City and town officers may regulate the taking of certain fish, etc.

84A. Permits to unnaturalized foreign born persons to take shellfish.

85. Cities and towns may grant licenses for the planting, etc., of quahaugs.

86. Additional license may be granted to bed quahaugs, etc.

87. Navigable water not to be obstructed. Hearing. Contents and recording of licenses. Survey, etc.

88. No person except the licensee to take quahaugs, etc.

SECT.

89. Superior court may appoint a commission to determine if licensee is acting in good faith, etc.
90. Licensee to have exclusive use. Action and penalty for taking, etc., without licensee's consent.

CRABS.

- 90A. Taking of crabs regulated.
- 90B. Licenses; term, fee, etc. Marking of buoys.
- 90C. Surrender of license upon second or subsequent conviction.
- 90D. Penalty.

LOBSTERS.

91. Penalty for taking female lobsters.
92. Supervisor to purchase lobsters, with eggs attached, caught along shores of commonwealth, etc.
93. Purchased lobsters to be marked; possession of such lobster, etc., prohibited. Penalty.
94. Sale of lobsters, etc., regulated.
95. Penalty for unlawfully selling, etc., lobster meat.
96. Penalty for unlawful transportation of lobster meat.
97. Lobster meat unlawfully sold, etc., may be confiscated.
98. Sections 94 and 95 not to affect sale of certain lobsters, etc. Permits.
99. Penalty for selling, etc., small lobsters.
100. Penalty for mutilation.
101. State police to enforce § 99.
102. Right of search to enforce § 99.
103. Protection of lobster industry. Penalty.
104. Licenses.
105. Revocation of license.
106. Report by licensee, etc.
107. Hours for drawing lobster pots.
108. Penalty.
109. Investigation of habits of lobsters, etc. Penalty for taking lobster from posted creek, etc.
110. Transportation of lobsters regulated.
111. Penalties.
112. Enforcement of §§ 110 and 111.
113. Proceedings in case of seizure of lobsters.

FISHING FOR LOBSTERS, TACTOG, ETC., IN CERTAIN WATERS.

114. Prohibition of taking lobsters, etc., in certain waters.
115. Boundaries defined.
116. Penalty if certain statutes have been accepted.
117. Prohibition of taking lobsters in waters of Provincetown.

SECT.

OYSTERS.

118. Penalty for unlawfully destroying oysters.
119. Selectmen may give permits to take oysters.
120. Granting of licenses for the cultivation of oysters in Barnstable, Bristol, Dukes and Nantucket. Boundaries, etc.
121. Licensees to make annual report, etc.
122. Application for license, etc.
123. Fees.
124. License number to be displayed.
125. Taking of oysters between certain hours prohibited.
126. Penalty for injuring boundary marks, etc.
127. Penalty for injuring or unlawfully taking planted oysters.
128. Penalty for placing stones, scoopings, etc., on oyster beds, etc.
129. Arrest and detention of offenders.
130. No territory to be granted in polluted waters.
131. Granting of licenses in counties not covered by § 120. Revocation.
132. Hours for taking oysters.
133. Penalty for taking oysters from licensed flats without permission.
134. Penalty for using dredge, etc., upon private oyster beds.

GENERAL PROVISIONS RELATIVE TO SHELL-FISH.

135. Penalty for taking shellfish other than oysters, except, etc.
136. Indians not within prohibition of §§ 118, 119 and 135.
137. Contaminated areas. Determination, publishing, posting, etc.
138. Penalty for taking, etc., shellfish from contaminated areas, improper use of certificate, etc. Enforcement by wardens and courts.
139. Certificates of condition.
140. [Repealed.]
141. [Repealed.]
142. [Repealed.]
- 142A. Taking, purification, etc., of shellfish from contaminated areas regulated. Penalty.
- 142B. Deputy fish and game wardens, appointment, powers, etc.
143. Cities and towns may make appropriations for cultivation, etc., of shellfish. May declare close season, etc.
144. Penalty, etc.
- 144A. Importation and sale of shellfish taken from grounds outside commonwealth regulated. Penalty.

<p>SECT. REGULATION OF FISH WEIRS, NETS, PURSES AND SEINES.</p> <p>145. Town officers may authorize fish weirs, etc.</p> <p>146. Penalty for injuring such fish weirs.</p> <p>147. Penalty for constructing unauthorized fish weirs.</p> <p>148. Owners of fish weirs, lobster pots, etc., to make returns. Lobster cars to be marked. Penalty.</p> <p>MISCELLANEOUS PROVISIONS.</p> <p>149. Penalty for taking fish, etc., from traps, etc.</p>	<p>SECT.</p> <p>150. [Repealed.]</p> <p>151. [Repealed.]</p> <p>152. Officers to prosecute.</p> <p>153. [Repealed.]</p> <p>154. [Repealed.]</p> <p>155. Bounty on seals. Certificate. Penalty.</p> <p style="text-align: center;">KELP AND SEAWEED.</p> <p>156. Kelp, etc., adrift.</p> <p style="text-align: center;">GENERAL PROVISION.</p> <p>157. Special laws not repealed.</p>
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1 SECTION 1. In this chapter, the following words shall have the following meanings: Definitions.

2

3 "Angling", fishing with hand line or rod, with naturally or artificially

4 baited hook.

5 "Deputy", a deputy fish and game warden appointed under section 1905, 407.

6 seven of chapter twenty-one.

7 "Director", director of the division of fisheries and game of the 1919, 350,

8 department of conservation. §§ 40, 43.

9 "Supervisor", the supervisor of marine fisheries appointed under 1929, 372, § 2.

10 section eight A of chapter twenty-one.

11 "Warden", a fish and game warden appointed under section seven of 1912, 465, § 1.

12 chapter twenty-one.

13 In construing this chapter, the fact that possession of various species 1922, 187, § 1.

14 of fish is forbidden thereby during certain periods of the year shall not

15 be held to prohibit a resident of the commonwealth who has legally

16 taken or come into possession of such fish from having the same or parts

17 thereof in possession, for his own personal use and not for sale, during

18 the first ten days of the closed season for such species; but the burden

19 shall be on him to prove that such possession was lawful in its origin.

20 In construing this chapter, the fact that possession of various species 1922, 187, § 1.

21 of fish is forbidden thereby during certain periods of the year shall not

22 be held to prohibit a person from bringing into this commonwealth, for

23 his own personal use and not for sale, game fish or parts thereof which were

24 lawfully taken in another state, province or country, or from having

25 such game fish or parts thereof in possession for the aforesaid purpose for

26 ten days after the arrival thereof in this commonwealth; provided, that

27 before any such game fish or parts thereof are so imported they shall be

28 tagged or marked in accordance with the laws of such other state, prov-

29 ince or country and with the federal laws relative to interstate com-

30 merce, and provided that no person shall so import more game fish at

31 one time than is permitted by the laws of such other state, province or

32 country to be exported therefrom.

GENERAL PROVISIONS.

1 SECTION 2. [REPEALED, 1930, 393, § 1.]

1 SECTION 3. [REPEALED, 1930, 393, § 1.]

1 SECTION 4. [REPEALED, 1930, 393, § 1.]

SECTION 5.	[REPEALED, 1930, 393, § 1.]	1
SECTION 6.	[REPEALED, 1930, 393, § 1.]	1
SECTION 7.	[REPEALED, 1930, 393, § 1.]	1
SECTION 8.	[REPEALED, 1930, 393, § 1.]	1
SECTION 9.	[REPEALED, 1927, 280, § 4.]	1
SECTION 10.	[REPEALED, 1930, 393, § 1.]	1
SECTION 11.	[REPEALED, 1930, 393, § 1.]	1

Statistical
information
and biological
research
1929, 372, § 8.

SECTION 11A. The supervisor shall devise a system of statistical information useful to the marine fish industries of the commonwealth, including the shellfish industry, and shall compile information obtained thereunder. Upon the request of the supervisor the commissioner may require for such purposes the attendance of witnesses and the production of books and documents, and the commissioner or the supervisor may examine witnesses on oath; and such witnesses shall be examined in the same manner and paid the same fees as in the superior court. He shall prepare from time to time and distribute bulletins and reports embodying statistical and other information relative to marine fisheries, including shellfish, and the state secretary shall cause to be printed for distribution to such industries such numbers of such bulletins and reports as the commission on administration and finance may approve. The supervisor may also conduct, with the approval of the governor and council, certain biological research for the purpose of conserving and increasing the supply of marine fish, including shellfish, in the coastal waters of the commonwealth. He shall also assist and co-operate with local authorities in the promulgation of rules and regulations for the purpose of better control and conservation of such marine fish.

SECTION 12. [REPEALED, 1930, 393, § 1.] 1

SECTION 13. [REPEALED, 1930, 393, § 1.] 1

FISHING LAW.

SECTION 14. [REPEALED, 1930, 393, § 1.] 1

SECTION 15. [REPEALED, 1930, 393, § 1.] 1

SECTION 16. [REPEALED, 1930, 393, § 1.] 1

SECTION 17. [REPEALED, 1930, 393, § 1.] 1

SECTION 18. [REPEALED, 1930, 393, § 1.] 1

SECTION 19. [REPEALED, 1930, 393, § 1.] 1

SECTION 20. [REPEALED, 1930, 393, § 1.] 1

1 SECTION 21. [REPEALED, 1930, 393, § 1.]

1 SECTION 22. [REPEALED, 1930, 393, § 1.]

FISHING LICENSE.

1 SECTION 23. [REPEALED, 1930, 393, § 1.]

FISHERIES IN GREAT PONDS.

1 SECTION 24. [REPEALED, 1930, 393, § 1.]

1 SECTION 25. [REPEALED, 1930, 393, § 1.]

1 SECTION 26. [REPEALED, 1930, 393, § 1.]

1 SECTION 27. [REPEALED, 1930, 393, § 1.]

1 SECTION 28. [REPEALED, 1930, 393, § 1.]

1 SECTION 28A. [INSERTED, 1924, 191; REPEALED, 1930, 393, § 1.]

1 SECTION 29. [REPEALED, 1930, 393, § 1.]

1 SECTION 30. [REPEALED, 1930, 393, § 1.]

1 SECTION 31. [REPEALED, 1930, 393, § 1.]

1 SECTION 32. [REPEALED, 1930, 393, § 1.]

1 SECTION 33. [REPEALED, 1930, 393, § 1.]

1 SECTION 34. [REPEALED, 1930, 393, § 1.]

1 SECTION 35. [REPEALED, 1930, 393, § 1.]

CONTROL OF FISHERIES BY RIPARIAN PROPRIETORS.

1 SECTION 36. [REPEALED, 1930, 393, § 1.]

1 SECTION 37. [REPEALED, 1930, 393, § 1.]

1 SECTION 38. [REPEALED, 1930, 393, § 1.]

1 SECTION 39. For the purposes of this chapter, no tidal stream shall
 2 be considered navigable above the point where, on the average through-
 3 out the year, it has a channel less than forty feet wide and four feet
 4 deep during the three hours nearest the hour of high tide.

Definition
 of navigable
 streams.
 1869, 384, § 14.
 P. S. 91, § 28.
 R. L. 91, § 30.

1 SECTION 40. [REPEALED, 1930, 393, § 1.]

1 SECTION 41. [REPEALED, 1930, 393, § 1.]

SECTION 42. [REPEALED, 1930, 393, § 1.]	1
SECTION 43. [REPEALED, 1930, 393, § 1.]	1

HERRING, ALEWIVES AND SHAD.

Towns may open ditches, etc., to create herring fisheries. 1866, 187, § 3. P. S. 91, § 63. R. L. 91, § 34. 167 Mass. 115.	SECTION 44. A town may open ditches, sluiceways or canals into any pond within its limits for the introduction and propagation of herring or alewives, and for the creation of fisheries for the same; and may take by eminent domain land within its limits for such ditches, sluiceways or canals.	1 2 3 4 5
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Towns shall own such fisheries. 1866, 187, § 4. P. S. 91, § 64. R. L. 91, § 35.	SECTION 45. A town creating such fishery shall own it, may make regulations concerning it and may lease it for not more than five years, on terms agreed upon. A town may lease for a like period, and on like terms, any fishery owned by it or any public fishery regulated and controlled by it.	1 2 3 4 5
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Penalty for fishing in such fisheries without permission. 1866, 187, §§ 5-7. P. S. 91, §§ 65, 66. R. L. 91, § 36.	SECTION 46. Whoever takes, kills or hauls on shore any herring or alewives in a fishery created by a town, without its permission or that of its lessees, or in a fishery created by a corporation, without the permission of such corporation, shall be punished by a fine of not less than five nor more than fifty dollars. Prosecutions under this section shall be commenced within thirty days after the commission of the offence.	1 2 3 4 5 6
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Rights under contracts, etc., not affected. 1866, 187, § 8. P. S. 91, § 67. R. L. 91, § 37.	SECTION 47. The three preceding sections shall not impair the rights of any person under any law passed before April twenty-fifth, eighteen hundred and sixty-six, or under any contract then existing, or authorize a town to enter upon or build canals or sluiceways into a pond which is private property.	1 2 3 4 5
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Penalty for illegal taking of shad or alewives. 1754-5, 31, § 1. 1764-5, 34, § 1. 1809, 384, §§ 24, 29. 1871, 293. P. S. 91, § 55.	SECTION 48. Whoever takes shad or alewives, except in the Connecticut, Taunton Great, Nemasket and Merrimack rivers and their tributaries in any other manner than by angling on Sunday, Tuesday or Thursday and whoever between June fifteenth and March first takes shad, except in the Connecticut and Merrimack rivers, or alewives, shall forfeit for each shad five dollars, and for each alewife twenty-five cents.	1 2 3 4 5 6
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1895, 88, § 2.

R. L. 91, § 42.

TROUT.

SECTION 49. [REPEALED, 1930, 393, § 1.]	1
SECTION 50. [REPEALED, 1930, 393, § 1.]	1
SECTION 51. [REPEALED, 1930, 393, § 1.]	1
SECTION 52. [REPEALED, 1930, 393, § 1.]	1
SECTION 53. [REPEALED, 1930, 393, § 1.]	1
SECTION 54. [REPEALED, 1930, 393, § 1.]	1

1 SECTION 54A. [INSERTED, 1926, 19, § 3; REPEALED, 1930, 393, § 1.]

1 SECTION 55. [REPEALED, 1930, 393, § 1.]

SALMON.

1 SECTION 56. [REPEALED, 1930, 393, § 1.]

1 SECTION 57. [REPEALED, 1930, 393, § 1.]

PICKEREL.

1 SECTION 58. [REPEALED, 1930, 393, § 1.]

1 SECTION 59. [REPEALED, 1930, 393, § 1.]

1 SECTION 60. [REPEALED, 1930, 393, § 1.]

WHITE PERCH.

1 SECTION 61. [REPEALED, 1930, 393, § 1.]

PIKE PERCH.

1 SECTION 62. [REPEALED, 1930, 393, § 1.]

1 SECTION 62A. [INSERTED, 1923, 212; REPEALED, 1930, 393, § 1.]

1 SECTION 62B. [INSERTED, 1929, 82; REPEALED, 1930, 393, § 1.]

POLLOCK AND MACKEREL.

1 SECTION 63. No person shall seine in the harbors and rivers of the
2 commonwealth pollock weighing less than three quarters of a pound, or
3 spike mackerel weighing less than one quarter of a pound. Violation of
4 any provision of this section shall be punished by a fine of not less than
5 twenty-five nor more than fifty dollars or by imprisonment for not less
6 than one nor more than two months, or both.

Seining of
pollock and
spike
mackerel.
Penalty.
1915. 49.

BLACK BASS.

1 SECTION 64. [REPEALED, 1930, 393, § 1.]

1 SECTION 65. [REPEALED, 1930, 393, § 1.]

1 SECTION 66. [REPEALED, 1930, 393, § 1.]

SMELTS.

1 SECTION 67. Whoever, between March fifteenth and June first, sells
2 or offers or exposes for sale or has in his possession a smelt taken between
3 said dates in the commonwealth, shall forfeit one dollar for every such
4 smelt; and the possession of a smelt between said dates shall be prima
5 facie evidence of violation of this section.

Penalty for
selling, etc.,
smelts
between
certain dates
1874. 153.
§§ 1, 2.

Permits to take smelts in great ponds.
1919, § 7;
350, § 43.

SECTION 68. The director may permit the taking of smelt in great ponds of the commonwealth, subject to rules and regulations made by him and approved by the governor and council. Violation of any such rule or regulation shall be punished by a fine of not less than five dollars.

Penalty for taking smelts except with hook and line.
1868, 179, § 1.
1869, 64;
384, § 31.
1872, 290,
1875, 211.
1874, 153, § 2.

SECTION 69. Except as provided in section seventy-three and in chapter three hundred and six of the acts of nineteen hundred and eleven, whoever takes a smelt in any other manner than by angling shall forfeit one dollar for each smelt so taken; and in all prosecutions under this section the burden of proof shall be upon the defendant to show that smelts taken by him were legally caught.

P. S. 91, § 58.
R. L. 91, § 72.

108 Mass. 452.
151 Mass. 60.

153 Mass. 396.

Prohibition not to extend to certain counties, etc.
1869, 75.
1875, 264
1874, 153, § 2.
P. S. 91, § 59.
1891, 128.

SECTION 70. Sections sixty-seven and sixty-nine shall not apply to smelts taken in a seine or net in Bristol, Barnstable, Nantucket or Dukes county during the time and in the manner in which fishing is allowed for perch, herring or alewives, nor to smelts lawfully taken under chapter three hundred and six of the acts of nineteen hundred and eleven.

R. L. 91, § 73.

Use of net, seine, etc., for catching smelts in Boston harbor, etc., prohibited.
1818, 109
1825, 41, § 1.
1894, 189, § 1.
R. L. 91, § 74.

SECTION 71. Except as provided in chapter three hundred and six of the acts of nineteen hundred and eleven, no person shall set, draw, use or attempt to set, draw or use any net, seine, trap or device for catching smelts, other than a naturally or artificially baited hook, in the waters of Boston harbor, Hingham harbor, Weir river, Weymouth Fore river, Weymouth Back river, Neponset river, Charles river, Mystic river, or in any cove, bay, inlet or tributary thereof; but this section shall not prohibit the use of traps for catching lobsters.

Possession of net, etc., prima facie evidence.
1894, 189, § 2.
R. L. 91, § 75.

SECTION 72. Possession of any net, seine, trap or device for catching fish, other than a naturally or artificially baited hook, in or upon said harbors, rivers or tributaries, or on the banks of the same, if adapted to and apparently intended for the present catching of smelts, shall be deemed prima facie evidence of a violation of the provisions of the preceding section, and the possession of any fresh smelts, not apparently caught by the use of a hook, in or upon said harbors, rivers or tributaries, or on the banks of the same, after sunset or under other suspicious circumstances, shall be deemed prima facie evidence that said smelts were caught contrary to such provisions by the person in whose possession they are found.

Penalties.
1894, 189, § 3.
R. L. 91, § 76.

SECTION 73. Whoever violates any provision of section seventy-one or receives smelts knowing or having reasonable cause to believe that the same have been taken contrary to any provision of said section shall, for a first offence, be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not less than six nor more than twelve months, or both, and, for a subsequent offence, by both said fine and imprisonment.

Searches; seizure and libelling of property.
1894, 189, § 4.
1897, 288, § 1.
R. L. 91, § 77.

SECTION 74. The director, supervisor, warden, deputy, any member of the state police, sheriff, deputy sheriff, police officer or constable, within his jurisdiction, may search for and seize, without warrant, any smelts which he has reason to suspect were taken contrary to any pro-

5 vision of section seventy-one, and the net, seine, trap or other device
 6 and the vessel, boat, craft or other apparatus used in connection with
 7 such receiving, or other violation of said section, and the cask, barrel or
 8 other vessel or wrapper containing said smelts. Said officer may libel
 9 said property according to law, or, at his discretion, sell the same or any
 10 part thereof at private sale or by public auction, and libel the net pro-
 11 ceeds of such sale according to law, in the same manner and with the
 12 same effect as if such proceeds were the property itself.

1905, 407
 1910, 575, § 1.
 1912, 165, § 1.
 1913, 250.
 1919, 330.
 §§ 43, 102.
 1929, 372, § 12

MISCELLANEOUS PROVISIONS RELATIVE TO FISH.

- 1 SECTION 75. [REPEALED, 1930, 393, § 1.]
- 1 SECTION 76. [REPEALED, 1930, 393, § 1.]
- 1 SECTION 77. [REPEALED, 1930, 393, § 1.]
- 1 SECTION 77A. [INSERTED, 1922, 108; REPEALED, 1930, 393, § 1.]
- 1 SECTION 78. [REPEALED, 1930, 393, § 1.]
- 1 SECTION 78A. [INSERTED, 1921, 188; REPEALED, 1930, 393, § 1.]

CERTAIN SHELLFISH AND EELS.

1 SECTION 79. No person shall take from the flats or waters of the
 2 commonwealth scallops other than adult scallops, or sell or offer for sale
 3 or have in possession such scallops so taken. For the purposes of this
 4 section an adult scallop shall be a scallop with a well defined raised
 5 annual growth line. Scallops taken from the tide waters of the com-
 6 monwealth shall be culled when taken, and all scallops other than adult
 7 scallops shall immediately be returned alive to tide water which is at
 8 least three feet deep at mean low water; but it shall not be unlawful
 9 to sell or have in possession scallops other than adult scallops unavoid-
 10 ably left in the catch after it has been culled, to the amount of not more
 11 than five per cent of the total catch remaining. All scallops taken in
 12 accordance with this section shall be taken ashore in the shell. This and
 13 the following section shall not apply to seed and adult scallops carried
 14 by storm and tide from the natural beds and deposited on beaches and
 15 flats where, in the opinion of the supervisor, they cannot survive, but
 16 the taking and sale of the said seed and adult scallops may be authorized
 17 by him at any season of the year, subject to section eighty-four. The
 18 supervisor shall prescribe rules and regulations governing the taking and
 19 sale of the said seed and adult scallops by special permits or otherwise, to
 20 prevent the sale of seed scallops at any time, or the sale of adult scallops
 21 between April first and October first, except as authorized herein.

Taking of
 scallops
 regulated.
 1887, 96, § 2
 1896, 298, § 2.
 R. L. 91, § 84.
 1906, 288.
 1907, 297, § 2.
 1909, 403,
 §§ 1, 4.
 1910, 177,
 §§ 1, 5
 1919, 334;
 350, § 43.
 1929, 372, § 13.

1 SECTION 80. Except as provided in sections seventy-nine and eighty-
 2 two, no person shall take scallops between April first and October first
 3 from the flats or waters of the commonwealth, or buy or sell or have in
 4 possession scallops so taken; but this section shall not apply to the
 5 taking of scallops for bait in the waters adjacent to the town of Nantucket
 6 from April first to May fifteenth, inclusive, nor shall it apply to the
 7 taking of scallops by hand for food for his own personal or family use by

Not to be
 taken between
 April first and
 October first.
 Exceptions.
 1885, 220, § 4.
 1887, 96, § 1.
 1888, 238.
 1896, 298, § 1.
 1901, 237.
 R. L. 91, § 83.
 1908, 270, § 2.

1909, 403, a person who holds a permit from the aldermen or selectmen of the city 8
 §§ 2, 4, or town wherein taken authorizing him to take scallops in such manner 9
 1910, 177, and for such use. 10
 §§ 2, 5
 1928, 113, § 1.

Taking SECTION 81. No person shall take more than ten bushels of scallops 1
 limited. including shells in one day. 2
 1910, 177, § 3.

Modification of SECTION 82. The provisions of the two preceding sections in respect 1
 close season, to the open and close season and in respect to the number of scallops 2
 etc. that may be taken may be modified if, on petition of the aldermen or 3
 1920, 130, selectmen to the supervisor, the supervisor, after investigation, deter- 4
 1928, 372, § 14. mines that, owing to unusual circumstances, such modification is ex- 5
 pedient. In that case, in his discretion, he may authorize, for a pre- 6
 scribed period, the aldermen or selectmen to issue permits to inhabitants 7
 of their respective cities or towns to take scallops in such quantities and 8
 at such times as he deems expedient. 9

Penalty. SECTION 83. Whoever violates any provision of the four preceding 1
 1885, 220, § 4. sections shall be punished by a fine of not more than twenty-five dollars. 2
 1887, 96. Possession of scallops, other than adult scallops, except as is otherwise 3
 1896, 268. provided in section seventy-nine, shall be prima facie evidence that 4
 R. L. 91, such scallops were unlawfully taken. 5
 §§ 83, 84.
 1906, 288.
 1907, 297, § 3.
 1908, 270, § 1.

1909, 403, §§ 3, 4

1910, 177, §§ 4, 5.

City and town SECTION 84. The aldermen or selectmen, if so instructed by their 1
 officers may regulate the taking of 2
 certain fish, etc. eighty-three, inclusive, control, regulate or prohibit the taking of eels, 3
 1880, 200. soft-shelled clams, quahaugs, razor fish, so-called, and scallops within the 4
 1881, 103. same; and may grant permits prescribing the times and methods of 5
 P. S. 91, taking eels and such shellfish within such cities and towns and make 6
 §§ 68, 69. such other regulations in regard to said fisheries as they deem expedient. 7
 1889, 391. But an inhabitant of the commonwealth, without such permit, may take 8
 1905, 282, § 3. eels, soft-shelled clams, quahaugs, razor fish, and, from October first to 9
 R. L. 91, § 85. the following April first, both dates inclusive, scallops, for his own family 10
 1913, 517. use from the waters of his own or any other city or town, not exceeding 11
 1915, 86. one half bushel of quahaugs and of soft-shelled clams, including shells, in 12
 1928, 113, § 2. any one day, or one bushel of each, including shells, in any one week, and 13
 1929, 304; 372, not exceeding one and one half bushels of scallops, including shells, in 14
 § 28. any one week, and may take from the waters of his own city or town 15
 155 Mass. 10. any of such shellfish for bait, subject to the general rules of the aldermen 16
 174 Mass. 29. and selectmen, respectively, as to the times and methods of taking such 17
 270 Mass. 69. fish; provided, that no person shall take scallops exceeding in quantity 18
 one and one half bushels, including shells, in any one week from the 19
 waters of any city or town by dredging without first obtaining a written 20
 permit from the aldermen or selectmen of such city or town. This 21
 section shall not authorize the taking of fish in violation of the provisions 22
 of sections forty-four and forty-five of chapter ninety-one of the Revised 23
 Laws. Whoever takes any eels or any of said shellfish without such 24
 permit, and in violation of any of the foregoing provisions of this sec- 25
 tion, shall be punished by a fine of not less than three nor more than 26
 fifty dollars. This section shall not affect section one of chapter two 27
 hundred and fifty-five of the acts of eighteen hundred and ninety-three. 28
 Whoever shall take or have in possession quahaugs or soft-shelled clams 29

30 less than two inches in longest diameter to the amount of more than five
 31 per cent of any batch shall be punished by a fine of not less than three
 32 nor more than fifty dollars; provided, that it shall not be unlawful to
 33 take such quahaugs or soft-shelled clams or have the same in possession
 34 under authority of a permit, which the supervisor is hereby authorized
 35 to grant, for replanting for seed purposes in waters or flats within the
 36 commonwealth.

1 SECTION 84A. No permit for the taking of shellfish for commercial
 2 purposes shall be issued under the preceding section to an unnaturalized
 3 foreign born person unless he has been a resident of the county, wherein
 4 the city or town to the officials of which he applies for a permit is situ-
 5 ated, for at least five years next preceding the date of his application
 6 therefor, or has taken shellfish as an article of commerce for said period.
 7 This section shall not prohibit any such person from taking for his own
 8 family use the shellfish allowed for such use to all inhabitants of the
 9 commonwealth under the preceding section.

Permits to
unnaturalized
foreign born
persons to
take shellfish.
1922, § 0.

1 SECTION 85. Upon written application, the aldermen or selectmen
 2 may grant a written license subject to such rules and regulations as are
 3 approved by the city council of a city, or by the voters of a town at a
 4 town meeting, for the purpose of planting and cultivating quahaugs
 5 upon and in the flats and creeks of their respective cities and towns
 6 below mean low water mark and within the limits to be specified in the
 7 license, for a term of not less than five nor more than ten years, to any
 8 person who has resided in the commonwealth or has been a taxpayer
 9 in the city or town for not less than one year preceding the date of his
 10 application; and all such licenses may, with the written consent of the
 11 aldermen or selectmen, be assigned by the licensee to any person who
 12 has been a resident of the commonwealth or a taxpayer in the city or
 13 town for not less than one year preceding the date of the assignment.

Cities and
towns may
grant licenses
for the plant-
ing, etc., of
quahaugs.
1909, 469, § 1.

1 SECTION 86. The aldermen or selectmen may grant a licensee under
 2 the preceding section an additional license for the purpose of bedding
 3 quahaugs and of gathering the seed from the same between high and low
 4 water mark for such period, not exceeding five years, and under such
 5 conditions as they deem proper. The territory to be covered by the said
 6 license shall not include more than one half acre.

Additional
license may be
granted to bed
quahaugs, etc.
1909, 469, § 2.

1 SECTION 87. The licenses provided for in the two preceding sections
 2 shall not be granted if their exercise would materially obstruct navigable
 3 water. No license shall be granted under said sections, until after a
 4 public hearing, due notice of which has been posted in three or more
 5 public places, and published in a newspaper, if any, published in the city
 6 or town where the premises are situated, at least ten days before the time
 7 fixed for the hearing, stating the name and residence of the applicant,
 8 the date of the filing of the application, and the location, area and de-
 9 scription of the grounds applied for. Such a license shall describe by
 10 metes and bounds the waters, flats and creeks to which the license is
 11 applicable, and shall have no force until recorded with the clerk of the
 12 city or town granting the same, and the licensee shall pay annually to
 13 the city or town a fee of not less than one nor more than five dollars per
 14 acre for the license, as the aldermen or selectmen determine. A record-
 15 ing fee of fifty cents shall be paid to the city or town clerk for recording

Navigable
water not to
be obstructed.
Hearing.
Contents
and recording
of licenses.
Survey, etc.
1909, 469,
§§ 3, 5, 6.

each license or an assignment thereof. Each license and any assignments thereof shall be recorded in a book kept therefor in the office of the said clerk, which shall be open to public inspection. Forms for licenses and assignments shall be provided by the aldermen or selectmen at the expense of the city or town. Before granting any such license the aldermen or selectmen shall cause to be made a survey and plan of the territory within which licenses are to be granted, and shall cause to be marked upon a copy of such plan to be kept in the office of the city or town clerk the territory covered by any license issued by them. The licensee upon receiving his license shall cause the territory covered thereby to be plainly marked out by stakes, buoys, ranges or monuments which shall be maintained by him during the term of the license. Failure to place or to maintain the same shall be sufficient cause for revocation of the license.

No person except the licensee to take quahaugs, etc. 1909, 469, § 4.

SECTION 88. No person, except the licensee or his agents or assignees, shall dig or take quahaugs or quahaug seed within or remove the same from territory covered by such a license.

Superior court may appoint a commission to determine if licensee is acting in good faith, etc. 1909, 469, § 7.

SECTION 89. If it appears to the aldermen or selectmen granting a license that the licensee or his assignee does not actually occupy and use in good faith for the purposes specified in sections eighty-five and eighty-six the territory covered by the license, they shall petition the superior court of the county where the territory is situated to appoint a commission of one or more persons to investigate and report to the court as to the use and occupancy of such territory; and the court shall appoint a commission of one or more persons who, after twelve days' notice to the petitioners and the respondent, shall hear the petitioners and respondent and shall transmit their findings to the court. If the court finds that the said territory is not used and occupied in good faith for the purpose stated in the license, the court may order that use of the territory shall revert to the city or town and that all stakes or buoys or other appliances marking the same shall be removed. The costs upon said petition shall be assessed as the court may direct.

Licensee to have exclusive use. Action and penalty for taking, etc., without licensee's consent 1909, 469, § 8.

SECTION 90. The licensee, his heirs or assigns shall for the purposes described in the license have the exclusive use of the territory described therein during the term of the license and may in tort recover treble damages of any person who, without his or their consent, digs or takes quahaugs or other shellfish in the territory covered by the license or removes the same therefrom. Whoever so digs, takes or removes quahaugs or other shellfish shall, in addition, be punished by a fine of twenty dollars.

CRABS.

Taking of crabs regulated. 1930, 414, 1931, 328.

SECTION 90A. No person, either as principal, agent or employee, shall at any time catch crabs in, or take them from, any waters within the jurisdiction of the commonwealth, or place, set, keep, maintain, supervise, lift, raise or draw in or from the said waters, or cause to be placed, set, kept, maintained, supervised, lifted, raised or drawn in or from the said waters any pot, trap or other contrivance designed for, or adapted to, the taking of crabs, unless licensed so to do as provided in the following section, nor unless he is a citizen of the commonwealth or is an alien residing in the commonwealth who, prior to June first, nine-

10 ten hundred and thirty, has filed his declaration of intention to become
 11 a citizen of the United States; provided, that if any such alien shall not
 12 become a citizen of the United States within the term of five years and
 13 ninety days next subsequent to such filing he shall not thereafter be
 14 entitled to receive or to act under a license issued under authority of the
 15 following section. Nothing in this or the following section shall be con-
 16 strued to prohibit or regulate the taking of crabs solely for bait purposes,
 17 or the taking thereof by a person for his own family use.

1 SECTION 90B. The clerk of any town in Essex, Middlesex, Suffolk, Licenses;
 2 Norfolk, Plymouth, Barnstable, Bristol, Dukes or Nantucket county, term, fee,
 3 situated on the shores of the commonwealth, shall grant licenses in the etc. Marking
 4 form prescribed and upon a blank furnished by the supervisor, to catch of buoys.
 5 or take crabs from the waters of the commonwealth within three miles 1930, 414.
 6 of the shores of the county where the town lies. Licenses hereunder shall
 7 expire on December thirty-first next succeeding the granting of the same
 8 unless sooner made void as provided in the following section. The
 9 town clerk granting a license shall collect therefor a fee of five dollars,
 10 which, less fifteen cents to be retained by him, shall be forwarded to the
 11 supervisor on the first Monday of the following month, together with
 12 coupons to be provided by the supervisor for a description of the licensee
 13 and his buoys, and for such other information as may be required. All
 14 books of forms furnished to town clerks under this section shall be re-
 15 turned to the supervisor on January first of each year. Each applicant
 16 for a license shall state the color scheme or other special markings of the
 17 buoys to be used by him which shall be set forth in his license, and all
 18 buoys used by him shall be marked accordingly and also with the li-
 19 censee's initials or name which shall be branded or cut into the surface
 20 of the buoy. A licensee under this section shall at all times, while acting
 21 in pursuance of the license, exhibit his license upon demand of any officer
 22 qualified to serve criminal process.

1 SECTION 90C. If a licensee under the preceding section is convicted Surrender of
 2 a second or subsequent time within a period of three years of violation license upon
 3 of the same or any other provision of the fish and game laws he shall second or
 4 immediately surrender his license to the officer who secured the second subsequent
 5 or subsequent conviction, and the license shall be void, and the licensee conviction.
 6 shall not receive another such license until after the expiration of one 1930, 414.
 7 year from the date of the second or subsequent conviction.

1 SECTION 90D. Violation of any provision of section ninety A or Penalty.
 2 ninety B shall be punished by a fine of not less than ten dollars. 1930, 414.

LOBSTERS.

1 SECTION 91. Whoever at any time takes or has in possession with Penalty for
 2 intent to sell, or sells, any female lobster bearing eggs shall be punished taking female
 3 by a fine of not less than ten nor more than one hundred dollars or by lobsters.
 4 imprisonment for not less than one nor more than three months; but a 1881, 270,
 5 person who takes any such lobster and immediately returns it alive to §§ 1-3
 6 the waters from which it was taken shall not be subject to such penalty. P. S. 91,
 7 This section shall not apply to lobsters spawning in lobster cars if they §§ 81-83.
 8 are immediately returned alive to the waters from which they were 1882, 98.
 9 taken nor to the taking, possession or sale of lobsters as provided in the 1884, 212, § 5.
1889, 109, § 1.
1901, 193,
R. L. 91,
§§ 86, 87,
155 Mass. 278,
2 Op. A. G. 321.

following section. Exposure for sale or possession otherwise than as herein provided shall be prima facie evidence of an intent to sell. Aldermen, selectmen, police officers and constables shall enforce this section in their respective cities and towns.

Supervisor to purchase lobsters, with eggs attached, caught along shores of commonwealth, etc.
1904, 408,
1917, 235,
§§ 1, 3
1918, 257,
§ 320.
1919, 5; 350,
§ 43.
1920, 2
1928, 263, § 1.
1929, 372, § 15.

SECTION 92. The supervisor, with the approval of the director, shall, except as provided in the following section, purchase to the extent of the money provided therefor, and at a rate not above the wholesale market price of other lobsters, lobsters with eggs attached taken along the shores of the commonwealth. Whoever takes or handles any such lobsters with eggs attached which are not marked as provided in the following section may safely store the same in lobster cars or sections of cars used for such purpose only, and shall keep them separate from other lobsters until such time as the supervisor or his agents gather and pay for the same. The supervisor or his agents shall liberate said lobsters in the vicinity of their place of purchase. The commissioner of conservation in his annual budget estimates, filed pursuant to section three of chapter twenty-nine, shall include a statement of appropriation or appropriations recommended by him for the purpose of carrying out the provisions of this section.

Purchased lobsters to be marked, possession of such lobster, etc., prohibited.
Penalty.
1917, 235, § 2.
1919, 350, § 43.
1928, 263, § 2.
1929, 372, § 16.

SECTION 93. The supervisor or his agents shall, before its release, mark each lobster purchased under the preceding section by punching a hole in the middle flipper of its tail, and any lobster so marked shall not again be purchased. Any person having in possession any lobster so marked, except for the purposes of release as aforesaid, or any lobster mutilated in such manner as to hide or obliterate the said mark, shall be punished by a fine of not less than fifty nor more than two hundred dollars.

Sale of lobsters, etc., regulated.
1913, 643, § 1.

SECTION 94. All lobsters or parts of lobsters sold for use in or export from the commonwealth shall be sold and delivered in the shell, except as provided in section ninety-eight.

Penalty for unlawfully selling, etc., lobster meat.
1913, 643, § 2.

SECTION 95. No person shall sell, give away, ship or buy lobster meat after the same has been taken from the shell, except as provided in section ninety-eight. Whoever violates this section shall be punished by a fine of not more than twenty-five dollars.

Penalty for unlawful transportation of lobster meat.
1913, 643, § 3.

SECTION 96. No common carrier shall carry from one place to another any lobster meat unless the same has been legally taken from the shell; and whoever knowingly violates this section shall be punished by a fine of not more than fifty dollars.

Lobster meat unlawfully sold, etc., may be confiscated.
1913, 643, § 4.

SECTION 97. Any lobster meat unlawfully sold, given away, shipped, bought or transported shall be liable to seizure and may be confiscated.

Sections 94 and 95 not to affect sale of certain lobsters, etc.
Permits
1913, 643, § 5.
1919, 350, § 43.
1928, 111
1929, 372, § 17.

SECTION 98. Sections ninety-four and ninety-five shall not prohibit the sale of lobsters legally canned, or of lobsters sold for food by licensed victuallers, or of lobsters removed from the shell on the premises where they are eaten. Said sections shall not prohibit the sale of lobster meat by wholesale or retail dealers in lobsters; provided, that the meat is

6 removed from the shell at their regular place of business where lobsters
 7 are bought and sold, and that said dealers have a written permit for such
 8 sale from the supervisor, and that the lobster meat is so removed and
 9 sold under such conditions and regulations as he prescribes; and pro-
 10 vided, that the premises where the meat is so removed or sold are at all
 11 times open to the inspection of the director, supervisor, wardens and
 12 deputies. Such a permit may be granted for the period of one year upon
 13 written application to the supervisor and the payment of a fee of ten
 14 dollars, and may be revoked by him for the violation by the holder thereof
 15 of any provision of the fish and game laws.

1 SECTION 99. Whoever sells or offers for sale or has in possession an
 2 uncooked lobster less than nine inches in length, or a cooked lobster less
 3 than eight and three quarters inches in length, measuring from the end
 4 of the bone protruding from the head to the end of the bone of the middle
 5 flipper of the tail of the lobster, extended on its back its natural length,
 6 shall be punished by a fine of not less than two nor more than five dollars
 7 for every such lobster, one half to the use of the town where the offence
 8 is committed and one half to the commonwealth; and in all prosecutions
 9 under this section any mutilation of a lobster, cooked or uncooked, which
 10 affects its measurement shall be prima facie evidence that the lobster is
 11 less than the required length and the possession of any lobster, cooked
 12 or uncooked, not of the required length shall be prima facie evidence of
 13 violation of this section. This section shall not apply to common carriers
 14 having lobsters in possession for the purpose of transportation.

Penalty for
selling, etc.
small lobsters.
1873, 110, § 1.
1877, 75.
P. S. 91, § 84.
1884, 212,
§§ 1, 2.
1887, 314, § 1.
1900, 428
R. L. 91, § 88.
1907, 303.
1916, 61
143 Mass. 560.
155 Mass. 278.
165 Mass. 396.
170 Mass. 197.
2 Op. A. G. 321.

1 SECTION 100. Whoever, before a lobster is cooked, mutilates it by
 2 severing the tail from the body, or has such tail in possession, shall be
 3 punished by a fine of five dollars; and in all prosecutions under this
 4 section the possession, by any person, of the tail of any uncooked lobster
 5 so severed from the body shall be prima facie evidence of violation of
 6 this section.

Penalty for
mutilation.
1890, 293.
1891, 122.
R. L. 91, § 89.

1 SECTION 101. The commissioner of public safety, upon written re-
 2 quest of the commissioner, may detail one or more of the state police to
 3 enforce section ninety-nine.

State police to
enforce § 99.
1884, 212, § 4.

R. L. 91, § 90. 1919, 350, §§ 43, 100, 101. 1929, 372, § 18.

1 SECTION 102. To enforce section ninety-nine, the supervisor, a
 2 warden, deputy, or member of the state police may search in suspected
 3 places for, seize and remove lobsters unlawfully taken, held or offered
 4 for sale.

Right of
search to
enforce § 99.
1885, 256.
1897, 288, § 1.

R. L. 91, § 91. 1912, 465, § 1. 1929, 372, § 19.
 1905, 407 1913, 250. 203 Mass. 516.
 1910, 575, § 1. 1919, 350, §§ 43, 102. 2 Op. A. G. 321.

1 SECTION 103. No person either as principal, agent or employee shall
 2 at any time catch lobsters in, or take them from any waters within the
 3 jurisdiction of the commonwealth, or place, set, keep, maintain, supervise,
 4 lift, raise, or draw in or from the said waters, or cause to be placed, set,
 5 kept, maintained, supervised, lifted, raised or drawn in or from the said
 6 waters any pot, trap, or other contrivance designed for, or adapted to,
 7 the taking of lobsters, unless licensed so to do as provided in the fol-
 8 lowing section.

Protection
of lobster
industry.
Penalty.
1892, 403.
1893, 183.
1900, 230.
R. L. 91, § 92.
1909, 265.
1917, 212,
§ 1, 7.
1920, 434,
§§ 1, 8.

Licenses.
 1909, 265.
 1917, 312,
 §§ 2, 3, 7.
 1918, 212.
 1920, 434,
 §§ 2, 3.
 1921, 116, § 1.
 1922, 161.
 1924, 96, § 1.
 1928, 263, § 3.
 1929, 372, § 20.
 Op. A. G.
 (1918) 17.

SECTION 104. The clerk of any town in Essex, Middlesex, Suffolk, 1
 Norfolk, Plymouth, Barnstable, Bristol, Dukes or Nantucket county, 2
 situated on the shores of the commonwealth, shall grant licenses in the 3
 form prescribed and upon a blank furnished by the supervisor, to catch 4
 or take lobsters from the waters of the commonwealth within three 5
 miles of the shores of the county where the town lies. Except as herein- 6
 after provided, such licenses shall be granted only to individuals who are 7
 citizens of the commonwealth and who have resided therein for at least 8
 one year next preceding the date of the same. The clerk of any such 9
 town may grant such a license to any individual who is an alien and who 10
 resides in the county where the town lies; provided, that such alien 11
 has resided in said county, and has been actually engaged in lobster 12
 fishing in the waters of any of the aforesaid counties, for five years next 13
 preceding December first, nineteen hundred and twenty. A non-resid- 14
 ent citizen of the United States temporarily residing in any town 15
 granting such licenses may, during June, July, August and September in 16
 each year, upon payment of the fee required by this section procure a 17
 license to take lobsters for consumption by the licensee and his family 18
 only. Licenses, except those granted to non-residents, shall expire on 19
 December thirty-first next succeeding the granting of the same unless 20
 sooner revoked as provided in the following section. The town clerk 21
 granting a license shall collect therefor a fee of five dollars, which, less 22
 fifteen cents to be retained by him, shall be forwarded to the supervisor 23
 on the first Monday of the following month, together with coupons 24
 provided by the supervisor for a description of the licensee and his 25
 buoys, and for such other information as may be required. All books 26
 of forms furnished to town clerks under this section shall be returned 27
 to the supervisor on January first of each year. Each applicant for a li- 28
 cense shall state the color scheme or other special markings of the buoys 29
 to be used by him which shall be set forth in his license, and all buoys 30
 used by him shall be marked accordingly and also with the licensee's 31
 initials or name which shall be branded or cut into the surface of the 32
 buoy. A licensee under this section shall at all times, while acting in 33
 pursuance of the license, exhibit his license upon the demand of any 34
 officer qualified to serve criminal process. 35

Revocation of
 license.
 1917, 312, § 4.
 1920, 434, § 4.
 1928, 21.

SECTION 105. If a licensee under the preceding section is convicted 1
 a second or subsequent time within a period of three years of violation 2
 of the same or a different provision of the fish and game laws he shall 3
 immediately surrender his license to the officer who secured the second 4
 conviction, and the license shall be void, and the licensee shall not receive 5
 another such license until after the expiration of one year from the date 6
 of the second conviction; provided, that a conviction of having short 7
 lobsters in possession shall not be counted as a conviction under this 8
 section unless more than two per cent in count of the lobsters in posses- 9
 sion by the licensee were short lobsters. 10

Report by
 licensee, etc.
 1917, 312, § 5.
 1919, 359, § 40.
 1920, 434, § 5.
 1929, 372, § 21.

SECTION 106. A licensee under section one hundred and four shall, 1
 before receiving a new license, file on or before October twentieth of that 2
 year, a report of his catch with the supervisor as provided in section one 3
 hundred and forty-eight. Any person refusing, or knowingly or wilfully 4
 neglecting, to make the said report shall not receive a new license until 5
 the report is made. The commissioner of conservation shall state in his 6

7 annual report the number of licenses granted under section one hundred
8 and four.

1 SECTION 107. No person shall tend, lift, raise or draw a lobster pot
2 or trap or take lobsters from such pots or traps except during the period
3 from one half hour before sunrise until one half hour after sunset except
4 that traps may be taken up by the owner at any time when they are
5 endangered by storms. Hours for
drawing
lobster pots.
1920, 434, § 6.

1 SECTION 108. Violation of any provision of sections one hundred and
2 three to one hundred and seven, inclusive, shall be punished by a fine of
3 not less than ten dollars. Penalty.
R. L. 91, § 92.
1909, 265, § 2.
1917, 312, § 6.
1920, 434, § 7.

1 SECTION 109. The supervisor may occupy and use any small estu-
2 aries or creeks within the commonwealth, not exceeding six, for the
3 scientific investigation of the habits, propagation and distribution of
4 lobsters, if such occupation and use does not impair the private rights
5 of any person or materially obstruct any navigable waters. Notice of
6 such occupation shall be conspicuously posted and maintained by the
7 supervisor at the nearest points to said estuaries and creeks, and
8 shall be recorded in the registry of deeds in the county where they are
9 situated. Investigation
of habits of
lobsters, etc.
Penalty for
taking lobster
from posted
creek, etc.
1889, 109,
§§ 4, 5.
R. L. 91,
§§ 93, 94.
1919, 350, § 43.
1929, 372, § 22.

10 Whoever, after the posting and recording of such notice, takes any
11 lobster from any estuary or creek so occupied as aforesaid shall be
12 punished as provided in section ninety-one.

1 SECTION 110. All barrels, boxes or other packages in transit con-
2 taining lobsters shall be marked with the word "LOBSTERS" in capital
3 letters at least one inch in length, together with the full name of the
4 shipper. Said marking shall be placed in a plain and legible manner on
5 the outside of such barrels, boxes or other packages, and in case of seizure
6 by any duly authorized officer of any barrels, boxes or other packages in
7 transit, containing lobsters, which are not so marked, or in case of seizure
8 by any such officer of barrels, boxes or other packages in transit con-
9 taining lobsters less than the prescribed length, such lobsters as are
10 alive and less than the prescribed length shall be liberated, and all such
11 lobsters as are of the prescribed length found in such barrels, boxes or
12 packages shall be held and disposed of as provided in section one hundred
13 and thirteen. Transportation
of lobsters
regulated.
1913, 569, § 1.

1 SECTION 111. Whoever ships lobsters without having the barrels,
2 boxes or other packages in which the same are contained marked as pre-
3 scribed in the preceding section shall for a first offence be punished by a
4 fine of not more than twenty-five dollars, and for a subsequent offence
5 by a fine of not more than fifty dollars; and any common carrier who
6 knowingly carries from place to place lobsters in barrels, boxes or other
7 packages not so marked shall be punished by a fine of not more than
8 fifty dollars, and lobsters shipped in violation of this or the preceding
9 section shall be forfeited to the commonwealth. Penalties.
1913, 569, § 2.

1 SECTION 112. In order to enforce the two preceding sections, the
2 supervisor, a warden, deputy, or state police officer may, without a Enforcement
of §§ 110
and 111.

1913, 569, § 3. warrant, search any boat, car, box, locker, crate or package and any 3
 1919, 350, building where he has reason to believe any lobsters are being trans- 4
 §§ 43, 102. ported or held for transportation in violation of law, and may seize 5
 1929, 372, § 23. and hold any lobsters illegally transported; provided, that this section 6
 shall not authorize the entering of a dwelling house, and shall not apply 7
 to lobsters passing through this commonwealth under authority of 8
 the laws of the United States. 9

Proceedings
 in case of
 seizure of
 lobsters
 1913, 569, § 4.

SECTION 113. When any lobsters are seized by virtue of the three pre- 1
 ceding sections, the officer making the seizure shall immediately notify 2
 the shipper thereof, if known, and shall forthwith proceed to enforce, in 3
 accordance with chapter two hundred and fifty-seven, the forfeiture 4
 of such lobsters, so seized, as he is not required to liberate. He shall 5
 cause the appraisal required by section thirteen of said chapter to be 6
 made within twenty-four hours after the time of such seizure, and after 7
 said appraisal may sell the said lobsters at such time or in such manner 8
 as he deems proper. He shall pay the proceeds thereof into the court 9
 before which the libel for forfeiture is pending, and the court may decree 10
 a forfeiture of said proceeds, or payment thereof to a claimant, or any 11
 other appropriate disposition thereof. 12

FISHING FOR LOBSTERS, TAUTOG, ETC., IN CERTAIN WATERS.

Prohibition of
 taking lobsters,
 etc., in certain
 waters
 1821, 97, § 1.
 R. S. 55, § 5.
 G. S. 83, § 4.
 P. S. 91, § 86.
 R. L. 91, § 95.

SECTION 114. No person living without this commonwealth shall 1
 take any lobsters, tautog, bass or other fish within the harbors, streams, 2
 or waters of Fairhaven, New Bedford, Dartmouth or Westport for the 3
 purpose of carrying them thence in vessels or smacks of any size what- 4
 ever owned without this commonwealth, nor in any of more than fifteen 5
 tons burden owned within this commonwealth, under a penalty of ten 6
 dollars for each offence and a forfeiture of all fish and lobsters so taken. 7

Boundaries
 defined
 1821, 97, § 2.
 R. S. 55, § 6.
 G. S. 83, § 5.
 P. S. 91, § 87.
 R. L. 91, § 96.

SECTION 115. For the purposes of the preceding section, the waters 1
 and shores of the places therein mentioned shall be deemed to extend 2
 from the line of the state of Rhode Island to the line of Plymouth county, 3
 and to include all the waters, islands and rocks lying within one mile of 4
 the main land. 5

Penalty if
 certain statutes
 have been
 accepted.
 1839, 85,
 § 1, 3.
 G. S. 83, § 6.
 P. S. 91, § 88.
 R. L. 91, § 97.

SECTION 116. If, within the harbors, streams, or waters of any town 1
 on the sea coast which accepts this section or has accepted corresponding 2
 provisions of earlier laws, a person who lives without the commonwealth 3
 takes, for the purpose of carrying thence, any lobsters, tautog, bass, 4
 bluefish or scuppaug, or if a person who lives in this commonwealth takes 5
 and carries away from such place any such fish or lobsters in vessels or 6
 smacks of more than fifteen tons burden, he shall forfeit not more than 7
 twenty dollars, and all the fish and lobsters so taken. 8

Prohibition of
 taking lobsters
 in waters of
 Provincetown.
 1821, 102, § 1.
 R. S. 55,
 §§ 7-9.
 G. S. 83,
 §§ 7-9.
 P. S. 91,
 §§ 80-91.
 R. L. 91, § 98.

SECTION 117. No person shall take lobsters within the waters and 1
 shores of Provincetown for the purpose of carrying them from said 2
 waters in a vessel or smack of more than fifteen tons burden, or for the 3
 purpose of putting them on board of such vessel or smack to be trans- 4
 ported to any place, unless a permit is first obtained therefor from the 5
 selectmen of said town, who may grant the same for such amount, to 6
 be paid to the use of the town, as they deem proper. Whoever violates 7
 this section shall forfeit ten dollars; and a further amount of ten dollars 8

9 for every hundred lobsters over the first hundred taken or found on board
 10 of any such vessel or smack, and in that proportion for any smaller
 11 number. For the purposes of this section, the waters and shores of
 12 Provincetown shall be deemed to be as follows: beginning at Race
 13 Point, one half mile from the shore, and thence running by said shore to
 14 the end of Long Point which forms the harbor of Provincetown, and
 15 from the end of Long Point one half mile and including the harbor
 16 within the town of Provincetown.

OYSTERS.

1 SECTION 118. Whoever takes oysters from their beds, or destroys
 2 them or wilfully obstructs their growth therein, except as is provided in
 3 the following sections, shall forfeit two dollars for every bushel of oysters,
 4 including the shells, so taken or destroyed.

Penalty for
 unlawfully
 destroying
 oysters
 1764-5, §
 1764-5,
 25, § 1.

1771-2, 13, §§ 1, 2.
 1795, 71, § 1.

R. S. 55, § 11.
 G. S. 83, § 11.

P. S. 91, § 93.
 R. L. 91, § 109.

13 Allen, 541.
 221 Mass. 323.

1 SECTION 119. The aldermen of a city or selectmen of a town where
 2 there are oyster beds may grant a written permit to any person to take
 3 oysters from their beds at such times, in such quantities and for such
 4 uses as they shall express in their permit; but every inhabitant of such
 5 city or town, except Yarmouth, may, without such permit, take oysters
 6 from the beds therein for the use of his family, from September first to
 7 June first, not exceeding in any week two bushels, including the shells.

Selectmen may
 give permits to
 take oysters
 1764-5, 25,
 §§ 1, 2,
 1795, 71, § 1.
 R. S. 55, § 12.
 G. S. 83, § 12
 1879, 105.
 P. S. 91, § 94.
 1892, 74
 R. L. 91, § 101.

7 Met. 438.

221 Mass. 323.

1 SECTION 120. The aldermen of any city, or the selectmen of any
 2 town, in Barnstable, Bristol, Dukes or Nantucket county, may, after a
 3 public hearing, grant to any inhabitant of such city or town, or to a
 4 firm composed of inhabitants thereof, or to a domestic corporation, a
 5 license for a period of fifteen years to plant, grow and dig oysters, or to
 6 plant shells for the purpose of catching oyster seed upon and in any
 7 territory below mean low water mark, within the limits of the city or
 8 town, and within the limits specified in the license, on such terms and
 9 conditions as they deem proper, not, however, so as materially to ob-
 10 struct navigable waters. Such license, when granted, may be trans-
 11 ferred to any person to whom it might originally have been granted,
 12 subject to the approval of the authorities granting it. Any such license
 13 may, within two years before the expiration of the same, be renewed for
 14 a further term of fifteen years, after a public hearing. All territory for
 15 which a license is granted shall be designated by suitable bounds, con-
 16 sisting of stakes or buoys, one at each of the several corners of every
 17 grant, so that the boundaries thereof may be evident at high and low
 18 tide; and the said bounds shall be maintained by the licensee under
 19 penalty of forfeiture of the license. The aldermen and selectmen shall
 20 keep at their offices records open to public inspection of each license,
 21 describing by metes and bounds the waters, flats and creeks so licensed,
 22 and a map or chart of all such licensed property.

Granting of
 licenses for the
 cultivation of
 oysters in
 Barnstable,
 Bristol, Dukes
 and Nantucket.
 Boundaries,
 etc.
 1914, 597.
 §§ 1, 2.

1 SECTION 121. Every licensee shall be required to submit on oath
 2 to the aldermen, or selectmen, or to a duly authorized inspector appointed
 3 by them, an annual report of the total number of bushels of oysters
 4 planted or produced upon the territory covered by the license, and an
 5 estimate of the total number of bushels of oysters at that time planted

Licenses to
 make annual
 report, etc
 1914, 597, § 3.

or growing upon said territory, and if the total amount falls below fifty bushels per acre, on any grant less than six acres, or if said inspector, after due examination, finds that the quantity of oysters planted or growing is less than fifty bushels per acre on any grant less than six acres, or less than five hundred bushels on any grant over six acres, for three consecutive years, then the license may be declared forfeited and the grant shall revert to the place where situated.

Application for license, etc. 1914, 597, § 4.

SECTION 122. Any inhabitant, firm or corporation, qualified as provided in section one hundred and twenty and desiring to obtain a license thereunder, shall present to the aldermen or selectmen a written application setting forth the name and address of the applicant, a reasonably definite description of the desired territory, and shall petition that the applicant be registered, that the territory be surveyed, that a plan or map be made, and that such license be granted to the applicant. When such license is granted, the authorities granting it shall, after the survey is made, locate the corners for the licensee without charge, but the relocation of corners shall be at his expense.

Fees. 1914, 597, § 5.

SECTION 123. Every such licensee shall pay an annual fee per acre, the amount of which shall be fixed for the term of five years according to a just and equitable valuation by the authorities granting such license or by their duly appointed agents, under penalty of forfeiture of the license if the rental is not paid within six months after it becomes due. The money received from the annual fees may be expended, so far as may be necessary, for the protection and surveying of the grants, and the remainder shall be paid to the city or town.

License number to be displayed. 1914, 597, § 6.

SECTION 124. Every such licensee shall have the number of his license painted in letters at least two inches in height in a conspicuous place on his buoys, or on flags attached to stakes.

Taking of oysters between certain hours prohibited. 1914, 597, § 7.

SECTION 125. No licensee or other person shall dig, take or carry away any oysters or shells from any waters, flats or creeks, between one hour after sunset and one hour before sunrise, by any method whatever.

Penalty for injuring boundary marks, etc. 1914, 597, § 8.

SECTION 126. Whoever wilfully injures, defaces, destroys or removes any mark or bound used to define the extent of any such license or grant, or places any unauthorized mark thereon, or ties or fastens any boat or vessel thereto, shall be punished by a fine of not less than three nor more than twenty dollars and shall be liable in tort for double damages and costs to the licensee injured by such act.

Penalty for injuring or unlawfully taking planted oysters. 1914, 597, § 9.

SECTION 127. Whoever works a dredge, oyster tongs or rakes, or any other implement for the taking of oysters upon any territory officially designated as licensed, or in any way disturbs the growth of planted oysters, without the consent of the licensee during the continuance of such license, or discharges any substance which may directly or indirectly injure the planted oysters, shall for the first offence be punished by a fine of not less than five nor more than one hundred dollars, and for a subsequent offence by a fine of not less than one hundred nor more than two hundred dollars or by imprisonment for not more than six months, or both.

- 1 SECTION 128. Whoever wilfully breaks up, damages or injures any
 2 bed of oysters, or any tract of land leased from the commonwealth or
 3 licensed by any town for an oyster bed, by depositing thereon earth,
 4 stones or dredging, or scoopings, shall be punished by a fine of not less
 5 than twenty-five nor more than five hundred dollars.
- 1 SECTION 129. The supervisor, a warden, deputy, police officer or
 2 constable witnessing the commission of any act prohibited by the nine
 3 preceding sections shall, without a warrant, arrest the offender and de-
 4 tain him until an application for a warrant may be made.
- 1 SECTION 130. To protect the purity of oysters, no territory in pol-
 2 luted water shall be granted for the growing of oysters for market. The
 3 licensing authorities and inspectors appointed under section one hun-
 4 dred and twenty-one may make examinations necessary to ascertain
 5 the sanitary condition of the waters over and adjacent to the oyster pro-
 6 ducing area, and may give written certificates of the sanitary condition
 7 thereof.
- 1 SECTION 131. In cities and towns in counties not mentioned in sec-
 2 tion one hundred and twenty, the aldermen or selectmen may grant a
 3 written license for a term not exceeding fifteen years to any inhabitant
 4 thereof to plant, grow and dig oysters at all times of the year, or to plant
 5 oyster shells for the purpose of catching oyster seed, upon and in any
 6 waters, flats and creeks therein, at any place where there is no natural
 7 oyster bed; not, however, impairing the private rights of any person, nor
 8 materially obstructing any navigable waters. Such license shall describe
 9 by metes and bounds the waters, flats and creeks so appropriated and
 10 shall be recorded by the city or town clerk before it shall have any force,
 11 and the licensee shall pay to the aldermen or selectmen, to the use of
 12 the city or town, two dollars, and to the clerk fifty cents. The shore
 13 line of such licensed premises shall be the line of mean low water for
 14 the planting and growing of oysters, and the line of high water for the
 15 planting of oyster shells, but this section shall not authorize the placing
 16 of such shells upon the land of a riparian owner between high and low
 17 water mark without his written consent. Such license shall not be granted
 18 until after a public hearing, due notice of which shall have been posted
 19 in three or more public places in the city or town where the premises
 20 are situated at least seven days before the time fixed for such hear-
 21 ing, and shall be granted, assigned or transferred only to inhabitants
 22 of the city or town where the licensed premises are situated, and shall
 23 not be assigned or transferred without the written consent of the alder-
 24 men or selectmen. The licensee, his heirs and assigns shall, for the pur-
 25 poses aforesaid, have the exclusive use of the waters, flats and creeks
 26 described in the license during the time therein specified; and may, in
 27 tort, recover treble damages of any person who, without his or their
 28 consent, digs or takes oysters or oyster shells from such waters, flats
 29 or creeks during the continuance of the license. If the licensee fails
 30 for two years after the license has been granted to plant and grow oysters
 31 or to plant oyster shells in the waters, flats or creeks described in the
 32 license, it shall be revoked by the officers who granted it and the revo-
 33 cation shall be recorded by the city or town clerk.

Penalty for placing stones, scoopings, etc., on oyster beds, etc. 1914, 597, § 10.

Arrest and detention of offenders. 1914, 597, § 11. 1929, 372, § 21.

No territory to be granted in polluted waters. 1914, 597, § 12.

Granting of licenses in counties not covered by § 120. 1848, 152. G. S. 85, §§ 16-18. 1869, 172, § 8. P. S. 91, §§ 97-99. 1884, 284. 1885, 220, §§ 1, 2. 1886, 299, § 1. 1895, 282. R. L. 91, §§ 104-109. 1913, 549. 132 Mass. 297. 158 Mass. 120. 181 Mass. 227. 224 Mass. 307. 229 Mass. 185. 2 Op. A. G. 431. [Penalties, §§ 132, 133.]

Hours for taking oysters. 1878, 179, § 1. P. S. 91, § 100. 1884, 284, § 1. 1886, 209, § 2, 3. 1895, 282, § 1. R. L. 91, § 110. 229 Mass. 185.

SECTION 132. No person shall dig, take or carry away any oysters or oyster shells between one hour after sunset and one hour before sunrise, by any method whatever, from any waters, flats or creeks for which a license has been granted under the preceding section. A licensee violating said section shall, in addition to the other penalties provided, forfeit his license and the oysters remaining on the licensed premises.

Penalty for taking oysters from licensed flats without permission. 1878, 179, § 2. P. S. 91, § 101. 1884, 284, § 1. 1895, 282, § 1. R. L. 91, § 111. 136 Mass. 456.

SECTION 133. Whoever violates the preceding section, or whoever, without the consent of the licensee, digs or takes any oysters or oyster shells from any waters, flats or creeks described in any license granted under section one hundred and thirty-one during the continuance of such license, shall be punished by a fine of not more than one hundred dollars or by imprisonment for not less than one nor more than six months, or both.

Penalty for using dredge, etc. upon private oyster beds. 1885, 220, § 5. R. L. 91, § 112.

SECTION 134. Whoever works a dredge, oyster tongs or rakes, or any other implement for the taking of shellfish of any description, upon any oyster grounds or beds covered by a license under section one hundred and thirty-one, without the consent of the licensee, lessee or owner thereof, or whoever, while upon or sailing over any such grounds or beds, casts, hauls, or has overboard any such dredge, tongs, rake or other implement for the taking of shellfish of any description, under any pretence or for any purpose whatever, without the consent of the licensee, lessee or owner, shall, for the first offence, be punished by a fine of not more than twenty dollars or by imprisonment for not more than one month, and for a subsequent offence, by a fine of not more than fifty dollars or by imprisonment for not more than six months.

GENERAL PROVISIONS RELATIVE TO SHELLFISH.

Penalty for taking shellfish other than oysters, except, etc. 1771-2, 13, § 3. 1795, 71, § 2. 1798, 14, § 1. 1799, 19, § 1. 1808, 28. 1830, 2. R. S. 55, § 13. 1838, 110; 113. 1839, 84. 1849, 9. 1842, 16. G. S. 84, § 13. P. S. 91, § 95.

SECTION 135. Whoever takes any shellfish, other than oysters, from their beds, or destroys them or wilfully obstructs their growth therein, except as is provided in this chapter, shall forfeit one dollar for every bushel of such shellfish, including the shells. But the aldermen of a city or selectmen of a town may at any time give a written permit to any person to take such shellfish from their beds therein, at such times, in such quantities and for such uses as they shall express in their permit; but every inhabitant of each of said places may, without such permit, take such other shellfish from the beds therein for the use of his family.

R. L. 91, § 102.	13 Allen, 541.	221 Mass. 323.
7 Met. 438.	155 Mass. 10.	224 Mass. 39.

Indians not within prohibition of § 8 118, 119 and 135. 1795, 71, § 5. 1798, 14, § 2. R. S. 55, § 15. G. S. 84, § 13. 1867, 70. 1872, 46, § 2.

SECTION 136. Sections one hundred and eighteen, one hundred and nineteen and one hundred and thirty-five shall not deprive native Indians of the privilege of digging shellfish for their own consumption, or prevent a fisherman, an inhabitant of the commonwealth, from taking shellfish which he may need for bait, not exceeding at any one time seven bushels, including the shells.

P. S. 91, § 96.	R. L. 91, § 103.	13 Allen, 541.
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Contaminated areas. Determination, publishing, posting, etc.

SECTION 137. The department of public health, in this and the two following sections called the department, shall examine from time to time the tidal waters and flats in the commonwealth and samples of the

4 shellfish therein in order to determine what areas thereof are so contami-
 5 nated that shellfish obtained therefrom are unfit for food or dangerous
 6 to the public health. The department shall determine and promulgate
 7 definite bounds of areas found to be contaminated as aforesaid and
 8 shall publish in a newspaper published in the town in which or adjacent
 9 to which any such contaminated area is situated, the results of its
 10 examination in relation thereto, and shall cause to be posted at points
 11 on or near any such area a description thereof specifying said bounds,
 12 and a statement that such area is contaminated. The department shall
 13 also notify the division of fisheries and game of the department of con-
 14 servation of its determination as aforesaid.

1901, 138,
 § 1, 2.
 R. L. 91, § 113.
 1919, 350, § 96.
 1926, 370, § 1.
 221 Mass. 323.
 261 Mass. 510.

1 SECTION 138. Whoever, without the written approval of the super-
 2 visor, digs or takes shellfish for any purpose from any area determined
 3 under the preceding section, or corresponding provisions of earlier laws,
 4 to be contaminated and while such determination is in force, or who-
 5 ever knowingly transports or causes to be transported or has in pos-
 6 session shellfish so taken, or whoever makes use of a certificate issued
 7 under section one hundred and thirty-nine after its revocation or can-
 8 cellation as therein provided or wilfully fails to surrender the same at
 9 the request of said supervisor, shall be punished by a fine of not less
 10 than twenty nor more than one hundred dollars or by imprisonment
 11 for not more than thirty days, or both. The provisions of this section
 12 shall be enforced, under the direction of the supervisor, by fish and
 13 game wardens and deputy fish and game wardens of the division of
 14 fisheries and game of the department of conservation assigned to en-
 15 force the shellfish laws and by all other officers authorized to make
 16 arrests. The superior court shall have jurisdiction in equity to enforce
 17 the provisions of this section and section one hundred and thirty-nine
 18 and of the rules and regulations of the department of public health made
 19 under said section one hundred and thirty-nine, and to restrain the vio-
 20 lation thereof. In any prosecution for a violation of the provision of
 21 this section prohibiting the digging or taking, without the written
 22 approval of the supervisor, of shellfish from areas determined to be
 23 contaminated, possession, except by a common carrier, of shellfish
 24 apparently so dug or taken shall be prima facie evidence of a violation
 25 of such provision.

Penalty for
 taking, etc.,
 shellfish from
 contaminated
 areas, im-
 proper use of
 certificate,
 etc. Enforce-
 ment by
 wardens and
 courts.
 1901, 138, § 3.
 R. L. 91, § 114.
 1907, 285, § 4.
 1913, 504.
 1926, 370, § 1.
 1928, 266, § 1.
 1929, 372, § 25.
 221 Mass. 323.
 261 Mass. 510.

1 SECTION 139. Subject to such rules and regulations as it may
 2 promulgate, the department shall issue certificates relative to the con-
 3 dition of the tidal waters and flats and shellfish taken therefrom, in
 4 respect to contamination, and, upon the request of and the payment
 5 of a fee of ten dollars by a person who buys shellfish or maintains an
 6 establishment for packing shellfish and desires to ship the same out-
 7 side the commonwealth, and, upon the request of and the payment of
 8 a fee of two dollars by a person who digs or takes shellfish and desires
 9 to ship the same outside the commonwealth, the department may an-
 10 nually issue certificates relative to the condition of the establishment
 11 or equipment of such person. The said certificates shall be in such
 12 form as will most effectively safeguard the public health and meet the
 13 provisions of the laws, rules, regulations or requirements of the United
 14 States as to interstate commerce in shellfish and of other states in rela-
 15 tion to the importation, inspection and consumption of shellfish within
 16 their respective limits. The department may also promulgate rules

Certificates of
 condition.
 1926, 370, § 1.
 1928, 266, § 2.
 261 Mass. 510.
 [Jurisdiction of superior
 court, § 138.]

and regulations relative to the form, contents and use of said certificates to such extent as may be necessary to safeguard the public health and to enable the shellfish industry to comply with the said provisions. The commissioner of public health may revoke and cancel and require the surrender of any certificate issued under this section, if, in his opinion, after a hearing by the said commissioner or some person designated by him, the holder thereof is guilty of violating any such rule or regulation or any provision of this or the preceding section, or upon a change in the facts and conditions set forth in such certificate. Pending the hearing the certificate shall be deemed to be suspended.

SECTION 140. [REPEALED, 1926, 370, § 1.] 1

SECTION 141. [REPEALED, 1926, 370, § 1.] 1

SECTION 142. [REPEALED, 1926, 370, § 1.] 1

Taking, purification, etc., of shellfish from contaminated areas regulated. Penalty. 1928, 323. 1930, 235.

SECTION 142A. The supervisor may grant and revoke written permits for the digging or taking of shellfish from an area determined under section one hundred and thirty-seven or corresponding provisions of earlier laws to be contaminated, upon the express condition, which shall be set forth in the permit, that all shellfish dug or taken therefrom by the holder of such a permit shall, before being used or disposed of for consumption as food, be purified at a plant approved in writing by the commissioner of public health as to the location, construction and operation thereof and as to the person in immediate charge thereof; provided, that said commissioner shall not so approve any such plant unless requested in writing so to do by the city council or the selectmen of the city or town wherein said plant is located. Said commissioner may revoke approval of a plant at any time upon receipt of evidence satisfactory to him of violation of any condition upon which such approval is based or of any rule or regulation promulgated by the department of public health under this section, and such revocation shall be final. Said department may from time to time promulgate rules and regulations to carry out the provisions of this section. Violation of a condition contained in a permit granted by the supervisor hereunder shall render the holder thereof liable to the penalties set forth in section one hundred and thirty-eight.

Deputy fish and game wardens, appointment, powers, etc. 1928, 323. 1929, 372, § 26.

SECTION 142B. At the request of the city council of a city or the selectmen of a town, the supervisor may appoint from a list of names to be submitted to him by said city council or selectmen one or more deputy fish and game wardens who shall supervise the digging, taking and purification of shellfish provided for by section one hundred and forty-two A and enforce all laws, rules and regulations relative to shellfish, and for such purpose they shall have all the powers of deputy fish and game wardens appointed under section seven of chapter twenty-one. Deputy fish and game wardens appointed hereunder shall serve without compensation from the commonwealth, but may be paid by the city or town for which they are appointed such compensation as shall be determined by it.

1 SECTION 143. Cities by a two thirds vote of the city council, and
 2 towns by a two thirds vote at a town meeting, may appropriate money
 3 for the cultivation, propagation and protection of shellfish. The alder-
 4 men or selectmen, when so authorized by their respective cities or towns,
 5 may declare from time to time a close season for shellfish for not more
 6 than three years in such waters or flats within the limits of their respective
 7 cities and towns as they deem proper, and may plant and grow shellfish
 8 in such waters and flats; provided, that no private rights are impaired,
 9 and provided, that when any close season, declared as aforesaid, shall
 10 have ended, the flats and waters so closed shall be opened subject to
 11 section eighty-four and any special laws.

Cities and towns may make appropriations for cultivation, etc., of shellfish. May declare close season, etc. 1904, 282, § 1.

1 SECTION 144. Whoever takes shellfish in violation of the preceding
 2 section shall be punished by a fine of not less than three nor more than
 3 fifty dollars. Any officer qualified to serve criminal process, and con-
 4 stables designated under section one hundred and fifty-two, shall, with
 5 all the powers conferred by said section, enforce this section.

Penalty, etc. 1904, 282, § 2.

1 SECTION 144A. No person shall transport, or cause to be trans-
 2 ported, into this commonwealth, for consumption as food, any shell-
 3 fish taken or dug from grounds outside the commonwealth, or sell, cause
 4 to be sold, or offer or expose for sale, for consumption as aforesaid, any
 5 shellfish so taken or dug, unless there is on file in the department of pub-
 6 lic health a paper, approved by said department, in which the state
 7 board or department of health or other board or officer having like
 8 powers of the state where such grounds are situated states that such
 9 grounds are free from contamination and also a paper approved as
 10 aforesaid in which such state board or department of health or other
 11 board or officer having like powers states that the establishment and
 12 equipment of the person shipping the same into the commonwealth are
 13 in good, sanitary condition; provided, that the foregoing provisions
 14 relative to transportation shall not apply to common carriers, their
 15 servants or agents. No such paper shall be approved by the depart-
 16 ment of public health which does not meet the provisions of the laws,
 17 rules, regulations and requirements of the United States as to interstate
 18 commerce in shellfish. Whoever violates any provision of this section
 19 shall be punished by a fine of not less than twenty nor more than fifty
 20 dollars, or by imprisonment for not more than thirty days, or both.
 21 The provisions of this section shall be enforced by local boards of health.

Importation and sale of shellfish taken from grounds outside commonwealth regulated. Penalty. 1928, 269.

REGULATION OF FISH WEIRS, NETS, PURSES AND SEINES.

1 SECTION 145. The aldermen of a city and the selectmen of a town
 2 lying upon tide water, may, in writing, authorize any person to con-
 3 struct weirs, pound nets or fish traps in tide water in locations not only
 4 where no harbor lines exist but also in locations beyond established har-
 5 bor lines, within the limits of such city or town, for a term not exceed-
 6 ing five years, upon such terms and subject to such regulations, as
 7 the aldermen and the selectmen may, in their discretion impose, but no
 8 authority or license so given shall be valid unless approved in writing
 9 by the department of public works, upon such terms and subject to such
 10 conditions as it may, in its discretion, impose.

Town officers may authorize fish weirs, etc. 1856, 50, § 1. P. S. 91, § 70. 1893, 205, § 11. R. L. 91, § 116. 1913, 523. 1917, 54. 1918, 27. 1919, 350, § 113. 1921, 24. 1931, 394, § 102. 16 Gray, 200.

Penalty for
injuring such
fish weirs.
1856, 50, § 2.
P. S. 91, § 71.
R. L. 91, § 117.

SECTION 146. Whoever wilfully destroys or injures any such weir, pound net or fish trap, or takes fish therefrom without the consent of the owner, shall forfeit not more than twenty dollars to the use of the owner, and shall be liable in an action to the person injured.

Penalty for
constructing
unauthorized
fish weirs.
1877, 119.
P. S. 91, § 72.
R. L. 91, § 118.

SECTION 147. Whoever constructs or maintains a weir, pound net or fish trap in tide water without the authority mentioned in section one hundred and forty-five and, if from an island in tide water, without written authority from the aldermen of every city and the selectmen of every town which is distant not over two miles from said island, shall forfeit ten dollars for each day he maintains such weir, pound net or fish trap; and he may be enjoined therefrom.

Owners of fish
weirs, lobster
pots, etc., to
make returns.
Lobster cars
to be marked.
Penalty.
1876, 104.
1881, 28.
P. S. 91,
§§ 73-75.
1889, 109,
§§ 2, 3.
1901, 290.
R. L. 91, § 119.
1929, 372, § 27.

SECTION 148. The owner of every pound net, weir, fyke net or similar contrivance, of every fishing pier, seine, drag or gill net, lobster pot or trap used in any of the waters of the commonwealth for fishing purposes, shall annually, on or before October twentieth, make a written report, on oath, to the supervisor of the number of pounds and the value of each kind of edible fish caught by his pound net, weir, fyke net or similar contrivance, pier, seine, drag or gill net, and the number and value of lobsters taken by him in pots or traps, during the year last preceding the date of said report, and the number and value of the devices used in such catching or taking, and the number of persons employed therein; and for such purpose, the supervisor shall annually, on or before March fifteenth, provide him, upon his application, with suitable blank forms for such reports, so arranged that each month's catch may be separately recorded thereon; and, in filling out such reports, such owner shall give the results of each month's fishing, so far as practicable. Such owner shall apply to the supervisor for such blank forms. The owner of any cars or other contrivances used for keeping lobsters shall have his name and residence legibly marked thereon. Whoever knowingly and wilfully violates any provision of this section shall be punished by a fine of not less than ten nor more than one hundred dollars.

MISCELLANEOUS PROVISIONS.

Penalty for
taking fish,
etc., from
traps, etc.
1882, 53.
R. L. 91, § 131.

SECTION 149. Whoever takes any fish or lobster from a trap, trawl or seine set for catching fish or lobsters, without the consent of the owner thereof, and whoever wilfully molests or interferes with such trap, trawl or seine, shall, for the first offence, be punished by a fine of not less than five nor more than twenty-five dollars or by imprisonment for one month, or both; and for a subsequent offence, by a fine of not less than twenty nor more than fifty dollars or by imprisonment for two months, or both.

SECTION 150. [REPEALED, 1930, 393, § 1.] 1

SECTION 151. [REPEALED, 1930, 393, § 1.] 1

Officers to
prosecute.
1885, 220, § 6.
R. L. 91, § 134.
193 Mass. 280.

SECTION 152. The mayor of a city or the selectmen of a town may designate one or more constables for the detection and prosecution of any violation of the laws of the commonwealth relative to shellfisheries. Such constables may arrest without a warrant any person found violat-

5 ing such laws, and detain him until a warrant for arrest for such viola-
6 tion may be applied for; and may seize any boat or vessel used in such
7 violation, and her tackle, apparel, furniture and implements, which
8 shall be forfeited.

1 SECTION 153. [REPEALED, 1930, 393, § 1.]

1 SECTION 154. [REPEALED, 1930, 393, § 1.]

1 SECTION 155. A bounty of two dollars shall be paid to every person
2 killing a seal in the commonwealth provided that within ten days there-
3 after he exhibits to any town treasurer the whole skin of the seal, with
4 the nose in the same condition as at the time of the killing, and signs and
5 makes oath to a certificate stating the date and place of killing, that
6 he killed the seal and that it was killed in this commonwealth. The
7 treasurer shall thereupon cause to be cut off and burned the nose of the
8 seal, wholly destroying it, and shall pay the said bounty, taking the
9 claimant's receipt therefor and shall then forward to the state treasurer
10 the said certificate with a statement that he has paid the said bounty in
11 accordance herewith, and that the claimant personally appeared before
12 him and made oath as aforesaid. The state treasurer shall then pay to
13 the town treasurer the sum of two and one half dollars, of which sum
14 fifty cents shall be retained by the town treasurer as a fee for his serv-
15 ices hereunder. Whoever obtains the bounty herein provided for by
16 a false representation, or whoever brings into the commonwealth a seal,
17 whether alive or dead which was not taken or killed in this common-
18 wealth or in the waters thereof, for the purpose of obtaining the said
19 bounty, shall be punished by a fine of not less than fifty nor more than
20 five hundred dollars.

Bounty
on seals.
Certificate.
Penalty.
1888, 287.
1892, 234.
R. L. 91, § 139
1908, 76
1919, 200.

KELP AND SEAWEED.

1 SECTION 156. Any person may take and carry away kelp or other
2 seaweed between high and low water mark while it is actually adrift in
3 tide waters; but for such purpose no person shall enter on upland or on
4 lawfully enclosed flats without the consent of the owner or lawful occu-
5 pant thereof. This section shall not apply to any town where the sub-
6 ject matter thereof is regulated by special laws.

Kelp, etc.,
adrift.
1859, 247.
G. S. 83, § 20.
P. S. 91, § 106.
R. L. 91, § 140.
2 Allen, 549.

GENERAL PROVISION.

1 SECTION 157. This chapter shall not affect any provisions or penalties
2 contained or any privileges granted in any special statutes relating to
3 fisheries in particular places.

Special laws
not repealed.
G. S. 83, § 2.

1869, 384, §§ 7, 22, 26.

P. S. 91, § 105.

R. L. 91, § 138.

CHAPTER 131.

POWERS AND DUTIES OF THE DIVISION OF FISHERIES AND GAME.
GAME AND INLAND FISHERIES.

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3.	Disposition of certain fines, etc.	31.	Seizure and removal of illegal obstructions to the passage of salt water fish. Examination of dams, etc. Court enforcement of orders.
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7.	Same subject. To whom granted, etc.	36.	Great ponds to be public.
8.	Same subject. Fees. Annual reports.	37.	Director may occupy certain ponds.
9.	City or town clerk's fee.	38.	Notice of such occupation.
10.	Duplicate license. Fee.	39.	Penalty.
11.	Record of licenses issued. Penalty.	40.	Stocking great ponds with fish.
12.	Non-resident licensees entitled to carry from state fish, etc., legally taken.	41.	Setting apart portions of great ponds as breeding areas authorized. Penalty.
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19.	Search warrants.	49.	Restrictions on taking of fish frequenting fresh water, etc. Penalty.
20.	Display of fish, etc., upon demand. Penalty.	50.	Fishing with sweep seines.
21.	Same subject. Additional penalty.	51.	Permits for possession, etc., of fish artificially propagated.
22.	Destruction of certain old documents.	52.	Enclosure of non-navigable brooks or streams.
23.	Investigation as to fish, birds or mammals.	53.	Ownership of fish artificially propagated.
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24.	Establishment of properties for propagation of fish, etc.	55.	Owners of certain streams to control fisheries. Obstruction of passage for salt water fish prohibited.
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26.	Stocked waters to be free for public fishing.	57.	Possession, etc., of trout regulated.
27.	Penalty for illegally entering buildings, etc., used in scientific investigations or for propagation.	58.	Hours for fishing for trout established.
		59.	Limit of catch.

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 59A. [Now § 105A.]
 60. Restricted trout-breeding areas in Deerfield river.
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 62. Close season for pickerel.
 63. Restrictions as to taking, etc., of certain fish. Pickerel.
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 65. Same subject. Wall-eyed pike or pike perch.
 66. Same subject. Great northern pike or muscallonge.
 67. Same subject. Black bass.
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 69. Penalty for fishing with floats.
 70. Penalty for introduction of certain fish into state waters.
 71. Taking shiners for bait regulated. Duplicate certificate, fee.
 72. Penalty for violations of §§ 24-71.
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HUNTING AND TRAPPING.

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 79. Possession of body or feathers of birds penalized.
 80. Protection of homing pigeons.
 81. Close seasons, etc., in times of drought. Proclamation, etc.
 82. Certain laws in force during such close seasons. Penalties.
 83. Sunday to be close season. Exception.
 84. Close season for ruffed grouse.
 85. Close season for quail.
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 87. Restrictions as to hunting, etc., of shore birds, etc.
 88. Importation or liberation of live game birds, etc., regulated. Penalty. Confiscation of diseased birds, etc.
 89. Hunting, etc., of pheasants regulated.
 90. Open season for pheasants.
 91. Pheasant doing damage may be killed.
 92. Districts wherein permits to hunt ruffed grouse may be used, board to define, etc. Powers, duties, etc.

- SECT.
 93. Close season, etc., for gray squirrels. Bag limit.
 94. Hunting, etc., of hares and rabbits regulated.
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 106. Failure to visit trap penalized.
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 109. Open season for deer. Penalty.
 110. Penalty for hunting moose.
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 112. Hunting of birds or mammals with firearm, or by aid of dog, regulated.
 113. Payment by commonwealth for damages caused by deer or moose regulated.
 114. Hunting of birds or mammals within public lands regulated.
 115. Wild life sanctuaries, establishment, trust funds, etc.
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 118. Publication of order establishing close season or sanctuary.
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 120. Possession of firearms, etc., upon sanctuary, etc., penalized.
 120A. Migratory game refuges, acquisition by federal government consented to. Reservations.
 121. Birds illegally killed not to be sent out of state.
 122. Extermination of English sparrow. Penalty for interference.
 123. Penalty for fishing, hunting, etc., on posted land.
 124. Sale, etc., of certain birds penalized.

SECT.	SECT.
125. Hares or rabbits taken outside of state, sale regulated.	131. Penalties for violations of §§ 125-130.
126. Buying, selling, etc., of skins of minks, otters, muskrats, etc., regulated.	132. Museums, etc., exempt from § 124. Application of certain sections.
127. Possession, sale, etc., of protected live birds or mammals regulated.	133. Bonus for killing of wildcat, Canada lynx or loupevier.
128. Forfeiture of licenses.	134. Gunning stands or blinds regulated. Penalty.
129. Possession, sale, etc., by dealers.	135. Training of hunting dogs authorized. Permits.
129A. Sale of deer, moose, etc., lawfully taken outside of state regulated.	136. Penalty for violations of §§ 74-135. Forfeitures.
130. Dealers' licenses.	

DEFINITIONS.

Definitions.
1909, 421, § 2;
508, § 2.
1919, 350,
§§ 39, 40, 43.
G. L. (ed. of
1920) 131,
§§ 1, 40
1922, 187, § 2.
1930, 393, § 2.
1931, 436, § 1.

SECTION 1. In this chapter the following words shall have the following meanings and the following rules of construction shall apply:	1
“Angling”, fishing with hand line or rod, with naturally or artificially baited hook, except that not more than three flies may be used on a single leader.	2
“Birds”, wild or undomesticated birds.	3
“Close season”, the time during which fish, birds and mammals cannot lawfully be taken.	4
“Commissioner”, the commissioner of conservation.	5
“Department”, the department of conservation.	6
“Deputy”, a deputy fish and game warden appointed under section seven of chapter twenty-one.	7
“Director”, the director of the division of fisheries and game.	8
“Division”, the division of fisheries and game.	9
“Fish” or “fishing”, to take or to attempt to take fish by any method or means, whether or not such method or means results in their capture; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take fish, except operating a boat or assisting a person licensed under this chapter, by cutting holes in the ice for ice fishing.	10
“Game”, any wild bird or mammal commonly hunted for food or sport.	11
“Great pond”, a natural pond the area of which is twenty acres or more.	12
“Hook”, any lure or device capable of taking not more than one fish at a time.	13
“Hunt” or “hunting” includes pursuing, shooting, killing and capturing mammals and birds, and all lesser acts such as disturbing, harrying or worrying, or placing, setting, drawing or using any device commonly used to take mammals and birds, whether or not they result in taking; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take mammals and birds.	14
“Mammals”, wild or undomesticated mammals.	15
“Open season”, the time during which fish, birds and mammals may lawfully be taken.	16
“Supervisor”, the state supervisor of marine fisheries appointed under section eight A of chapter twenty-one.	17
“Warden”, a fish and game warden appointed under section seven of chapter twenty-one.	18
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40 A person who counsels, aids or assists in a violation of any of the pro-
 41 visions of this chapter, or knowingly shares in any of the proceeds of
 42 said violation by receiving or possessing either fish, birds or mammals,
 43 shall be deemed to have incurred the penalties provided in this chapter
 44 against the person guilty of such violation.

45 Whenever the taking of fish, birds or mammals is allowed by law,
 46 reference is had to taking by lawful means and in lawful manner.

47 Unless the context otherwise requires, any reference to the taking or
 48 having in possession of a fish, bird or mammal shall include the taking
 49 or having in possession of any part or portion thereof.

50 In construing this chapter, the fact that possession of various species
 51 of fish, birds and mammals is forbidden thereby during certain periods
 52 of the year shall not be held to prohibit a resident of the commonwealth
 53 who has legally taken, killed or come into possession of such fish, birds
 54 or mammals from having the dead bodies or carcasses or parts thereof
 55 in possession, for his own personal use and not for sale unless prohibited
 56 by federal legislation or regulation so to do; but the burden shall be on
 57 him to prove that such possession was lawful in its origin.

58 In construing this chapter, the fact that possession of various species
 59 of fish, birds and mammals is forbidden thereby during certain periods
 60 of the year shall not be held to prohibit a person from bringing into this
 61 commonwealth, for his own personal use and not for sale the dead bodies
 62 or carcasses of fish, birds or mammals or parts thereof which were law-
 63 fully taken or killed in another state, province or country, or from hav-
 64 ing such fish, birds or mammals or parts thereof in possession for the
 65 aforesaid purpose after the arrival thereof in this commonwealth unless
 66 prohibited by federal legislation or regulation so to do; provided, that
 67 before any such fish, birds or mammals or parts thereof are so imported
 68 they shall be tagged or marked in accordance with the laws of such
 69 other state, province or country and with the federal laws relative to
 70 interstate commerce, and provided, further, that no person shall so
 71 import more such fish, birds or mammals at one time than is permitted
 72 by the laws of such other state, province or country to be exported
 73 therefrom; but the burden shall be on him to prove that such possession
 74 was lawful in its origin.

GENERAL PROVISIONS.

1 SECTION 2. Licenses or permits issued by the director may be sus-
 2 pended or revoked by him for cause. Suspension,
etc., of licenses,
etc.

1912, 567, § 8. G. L. (ed. of 1920) 131, § 87.
 1919, 350, §§ 39, 40, 43. 1930, 393, § 2.

1 SECTION 3. All fines, penalties and forfeitures recovered in prosecu-
 2 tions under the laws relative to fish, birds and mammals, except section
 3 ninety-nine of chapter one hundred and thirty, shall be equally divided
 4 between the county where such prosecution is made and the town
 5 where the offence is committed; provided, that if the prosecuting officer
 6 is a warden receiving compensation from the commonwealth, such fines,
 7 penalties and forfeitures shall be paid to the commonwealth. Disposition
of certain
fines, etc.

1879, 209, § 11.	1898, 205.	1910, 575, § 1.
1880, 61, § 3.	1899, 360.	1912, 465, § 1.
1881, 276, § 3.	R. L. 91, § 137;	1913, 250
P. S. 91, §§ 85, 104;	92, § 20	G. L. (ed. of 1920) 130, § 13.
92, § 11.	1905, 445.	1930, 101, § 1; 393, §§ 1, 2.
1886, 276, § 9.	1907, 300.	108 Mass. 133.
1890, 390.	1908, 330.	Op. A. G. (1920) 87.

Authorized entry upon private lands. 1809, 384, § 6. P. S. 91, § 9.

SECTION 4. The director, his wardens and deputies, and the supervisor, may, in the performance of their duties, enter upon and pass through or over private lands, whether or not covered by water.

R. L. 91, § 14.
1919, 350, § 43.

G. L. (ed. of 1920) 130, § 22.
1922, 124.

1929, 372, § 11.
1930, 393, §§ 1, 2.

LICENSES.

Licensing of hunters, trappers and fishermen regulated. 1905, 317, § 1. 1907, 198, §§ 1, 2. 1908, 402, § 1; 484, §§ 1, 3. 1909, 262, § 1; 325. 1910, 614, § 1. 1911, 235, § 1; 614, §§ 1, 13. 1919, 296, §§ 1, 14; 350, § 43. G. L. (ed. of 1920) 131, § 3. 1921, 467, § 1. 1925, 295, § 2. 1926, 352, § 1. 1930, 393, § 2. 1931, 393, § 2. 257 Mass. 195.

SECTION 5. Except as provided in section ninety-one, ninety-two, ninety-six, ninety-nine or one hundred and eight, no person shall hunt any bird or mammal, and no person, unless he is under fifteen years of age, shall fish, except as hereinafter provided, in any of the inland waters of the commonwealth, and no person shall use, set, tend or maintain any trap, or take or attempt to take any mammal by means thereof, without first having obtained a sporting or a trapping license, as the case may be, authorizing him so to do, as provided in the three following sections; provided, that nothing in sections five to twelve, inclusive, shall be construed as affecting in any way the general laws relating to trespass, or as authorizing the hunting, or the possession of, birds or mammals, contrary to law, or the taking of fish, or the possession thereof, contrary to law. But said last mentioned sections shall not prohibit any person who is a legal resident of the commonwealth or any member of his immediate family, residing on land owned or leased by him, from hunting or trapping on such land or from fishing in any inland waters bordered by such land; provided, that he is or they are actually domiciled thereon, and that the land is used exclusively for agricultural purposes, and not for club, shooting or fishing purposes; and provided, further, that the burden of proof shall rest upon the person claiming such exemptions to show that he is entitled thereto.

Sporting or trapping licenses. Form, contents. Penalty. 1905, 317, § 2. 1907, 198, §§ 3, 4. 1908, 402, § 2; 484, § 2. 1910, 614, § 3. 1911, 235, § 2; 614, §§ 2, 13. 1917, 26, §§ 2, 14. G. L. (ed. of 1920) 131, § 4. 1921, 467, § 2. 1925, 295, § 3. 1930, 393, § 2. 1931, 393, § 1; 393, § 3.

SECTION 6. Upon the application of any person entitled to receive a sporting or a trapping license and upon payment of the fee hereinafter specified therefor and the furnishing of an affidavit by any non-resident desiring to be classified under clause (2) of section eight, the director or the clerk of any town shall issue to such person a sporting license or a trapping license, as the case may be, in the form prescribed upon a blank furnished by the division. A sporting license shall authorize the licensee to hunt birds and mammals and to fish, subject to existing laws; provided, that a sporting license to fish only issued to a minor between the age of fifteen and eighteen shall authorize the licensee to fish only. A trapping license shall authorize the licensee to trap mammals, subject to existing laws. Each license issued hereunder shall bear, in addition to any other data, the name, place of residence, citizenship, birthplace, signature and identifying description, and, in the case of a male person, the age, of the licensee, a statement that the holder has not been convicted of a violation of this chapter or any provision thereof, or of any corresponding provision of earlier laws, within one year of the date of the license, and each applicant shall furnish such information to the director or the town clerk issuing such license. Each license shall be valid for use to and including the following December thirty-first. No person holding a sporting or trapping license shall transfer or loan such license, and every holder thereof shall, while fishing, hunting or trapping, carry upon his person his license and shall produce it for examination upon the demand of any warden, deputy warden or other officer

25 qualified to serve criminal process, or upon the demand of an owner or
 26 lessee of land upon which the licensee is fishing, hunting or trapping,
 27 or upon the demand of the agents of such owner or lessee. Whoever,
 28 upon such demand, fails or refuses to produce a license or whoever for
 29 the purpose of procuring a license falsely makes any representation or
 30 statement required by this section, shall be punished by a fine of not
 31 less than ten nor more than fifty dollars, or by imprisonment for not
 32 more than one month, or both.

1 SECTION 7. Except as herein provided, any citizen of the United
 2 States and any unnaturalized foreign born person resident in this com-
 3 monwealth for at least ten consecutive days and owning real estate in
 4 the commonwealth assessed for taxation at not less than five hundred
 5 dollars may be granted a sporting license and/or a trapping license. No
 6 sporting license or trapping license shall be granted to a minor under
 7 the age of fifteen, nor, as a matter of right, shall a sporting license or a
 8 trapping license be granted to a minor between the ages of fifteen and
 9 eighteen, but the director or any town clerk may issue a sporting license
 10 to any minor between the ages of fifteen and eighteen, if such minor has
 11 been a resident in this commonwealth for at least six months and is a
 12 citizen of the United States, and a trapping license to any minor between
 13 the ages of fifteen and eighteen, if such minor has been a resident in this
 14 commonwealth for at least six months. Every application for a license
 15 hereunder from a minor under the age of eighteen shall be in writing and
 16 shall be accompanied by the written consent thereto of the parent or
 17 guardian, which shall be preserved by the town clerk or by the director,
 18 as the case may be.

Same subject.
 To whom
 granted, etc
 1911, 255, § 2,
 614, §§ 7, 13,
 1916, 74
 1919, 296,
 §§ 8, 14
 1920, 300,
 G. L. (ed. of
 1920) 131, § 6.
 1921, 467, § 3.
 1925, 295, § 5.
 1926, 352, § 2.
 1930, 393, § 2.
 Op. A G.
 (1920) 176.

1 SECTION 8. Sporting and trapping licenses shall be issued to the
 2 following classes of persons upon payment of the following fees:

1925, 295, § 8. 1930, 393, § 2. 1931, 263, § 2; 436, § 2.

Same subject.
 Fees. Annual
 reports.

3 (1) A citizen of the United States, resident in this commonwealth for
 4 at least six months, for which the fee shall be two dollars and seventy-
 5 five cents for a sporting license and five dollars and twenty-five cents
 6 for a trapping license except as hereinafter provided for a trapping license,
 7 or a sporting license entitling the holder to fish only, to a minor between
 8 the ages of fifteen and eighteen, and except that there shall be no fee for
 9 a sporting license if such person has reached age seventy.

Resident
 citizens.
 1908, 484, § 3.
 1909, 325, § 1
 1910, 614, § 1.
 1911, 614,
 §§ 5, 13,
 1919, 296,
 §§ 6, 14.
 G. L. (ed. of
 1920) 131,
 §§ 8, 9.

1921, 467, § 5. 1926, 352, § 3. 1931, 263, § 2;
 1925, 295, §§ 7, 8. 1930, 393, § 2. 436, § 2.

10 (2) A citizen of the United States, not a resident of this commonwealth
 11 for at least six months, for which the fee shall be ten dollars and twenty-
 12 five cents; but if the state of which he is a resident or in which he last
 13 resided requires a resident of this commonwealth to pay a larger fee
 14 for a similar privilege in such state, the fee for such a non-resident shall
 15 be equal to that charged by such state. If such non-resident comes
 16 within one of the four following classes and resides or last resided in a
 17 state extending like privileges to citizens of this commonwealth, the fee
 18 shall be three dollars and twenty-five cents for a sporting license and five
 19 dollars and twenty-five cents for a trapping license: *Class A.* Owner
 20 of real estate in the commonwealth assessed for taxation at not less
 21 than five hundred dollars. *Class B.* Member of any club or association
 22 incorporated prior to nineteen hundred and seven, for the purpose of

Non-resident
 citizens.
 1907, 198,
 §§ 2, 7.
 1909, 262.
 1911, 614,
 §§ 4, 13.
 1913, 479,
 1919, 296,
 §§ 5, 14
 G. L. (ed. of
 1920) 131, § 9.
 1921, 467, § 6.
 1925, 295, § 8.
 1926, 352, § 3.
 1930, 393, § 2.
 1931, 263, § 2;
 393, § 4;
 436, § 2.
 Class A.
 Class B.

hunting, fishing or trapping upon land owned by such corporation; provided, that the land owned is equal in value to five hundred dollars for each member and that the membership list of the corporation shall be filed from time to time upon request, and at least annually, with the clerks of the various towns within which such land is located and with the director. *Class C.* Invited guest of a club or association conducting fox hunts and incorporated under the laws of this commonwealth who, on the written invitation of a member of said club or association, attends its meetings for the sole purpose of hunting foxes; provided, that the membership list of such club or association shall be filed from time to time upon request, and at least annually, with the clerk of the town where the hunt takes place and with the director; also, a non-resident member of any such club or association. *Class D.* A citizen of the United States, not a resident of this commonwealth for at least six months, who desires to fish only.

Class C.

Class D.

Unnaturalized foreign born residents.
 1905, 317, § 2.
 1908, 402, § 2.
 1910, 614, § 3.
 1911, 614, § 3, 13.
 1915, 240.

(3) An unnaturalized foreign born person, resident in this commonwealth for at least ten consecutive days, provided that he is the owner of real estate in the commonwealth assessed for taxation at not less than five hundred dollars, for which the fee shall be fifteen dollars and twenty-five cents.

1919, 296, §§ 4, 14.	1921, 467, § 4.	1930, 393, § 2.
G. L. (ed. of 1920)	1925, 295, §§ 6, 8.	1931, 263, § 2; 436, § 2.
131, §§ 7, 9.	1926, 352, § 3.	

Fee for trapping license issued to minor.
 1920, 300.
 G. L. (ed. of 1920) 131, §§ 6, 9.

The fee for a trapping license, or a sporting license to fish only, issued to a minor between the ages of fifteen and eighteen, if he is a resident of this commonwealth for at least six months, shall be one dollar and twenty-five cents.

1921, 467, § 3.	1926, 352, § 3.	1931, 263, § 2; 436, § 2.
1925, 295, §§ 5, 8.	1930, 393, § 2.	

Hunting or trapping licenses to make annual report, etc.
 1925, 185.
 [G. L. 131, § 51A].
 1930, 393, § 2.
 1931, 263, § 2;
 436, § 2.

No person shall be granted a sporting or trapping license unless he files with the town clerk or the director a written report upon blanks furnished by the director stating the number of birds or mammals, if any, taken by him in the preceding calendar year. The town clerk shall on the first Monday of each month forward such reports to the director.

City or town clerk's fee.
 1908, 484, § 3.
 1909, 325.
 1910, 614, § 1.

SECTION 9. Any town clerk issuing any license under authority of this chapter may, except as otherwise provided by law, retain for his own use twenty-five cents from the fee for each such license.

1911, 614, §§ 6, 13.	G. L. (ed of 1920)	1925, 295, § 9.
1919, 296, §§ 7, 14.	131, § 10.	1930, 393, § 2.
1920, 300.	1924, 325.	

Duplicate license. Fee.
 1911, 614, § 8.
 1919, 296, §§ 9, 14; 350, § 43.
 G. L. (ed. of 1920) 131, § 11.
 1925, 295, § 10.
 1930, 393, § 2.

SECTION 10. Whoever loses or by mistake or accident destroys his license may, upon application to the director or to the clerk of the town wherein it was issued, and upon payment of a fee of fifty cents, receive a duplicate license; provided, that such application is accompanied by an affidavit setting forth the circumstances of said loss and also, in case application is made to the director, by a statement from the person who issued the original license or his successor in office, which statement shall contain the number and form of the license, the date of its issue and a personal description of the license.

Record of licenses issued. Penalty.

SECTION 11. The director and the clerk of every town shall make a record, in books kept therefor, of all licenses issued by them, and shall

3 date each license as of the date of issue; and no other date shall be
 4 placed on such license. Such books shall be supplied by the division,
 5 shall be the property of the commonwealth, shall be open to public in-
 6 spection during the usual office hours of the town clerk or the director,
 7 as the case may be, and shall be subject at all times to audit and in-
 8 spection by the director, by the state auditor or by his or their agents.
 9 Every such clerk shall, on the first Monday of every month, pay to the
 10 division all moneys received by him for licenses issued during the month
 11 preceding, except the fees retained under section nine. All remittances
 12 shall be by check, United States post office money order, express money
 13 order, or in lawful money of the United States; and every such clerk shall,
 14 within thirty days next succeeding January first in each year, return to
 15 the division all license books received during the year preceding, includ-
 16 ing all stubs and void and unused licenses. Any such clerk violating
 17 any provision of this section shall be punished by a fine of not less than
 18 fifty nor more than five hundred dollars, or by imprisonment for not less
 19 than one month nor more than one year, or both.

1905, 317, § 2.
 1907, 198, § 3.
 1908, 402, § 2;
 484, § 4
 1910, 614,
 §§ 2, 3
 1911, 614,
 §§ 9, 13
 1915, 212, § 1.
 1919, 296,
 § 10, 14.
 1920, §§ 39, 40,
 43
 G. L. (ed. of
 1920) 131, § 12.
 1925, 295, § 11.
 1930, 393, § 2.
 4 Op. A. G. 152.

1 SECTION 12. Except as prohibited or limited by federal legislation
 2 or regulation, any person who holds a sporting or trapping license issued
 3 to him as a non-resident may carry from the commonwealth such fish,
 4 birds or mammals as have been legally taken within the common-
 5 wealth.

Non-resident
 licensees
 entitled to
 carry from
 state fish,
 etc., legally
 taken.

1907, 198, § 5.	G. L. (ed. of 1920)	1925, 295, § 12.
1911, 614, §§ 10, 13.	131, § 13.	1930, 393, § 2.
1919, 296, §§ 11, 14; 350, § 43.	1921, 467, § 7.	

1 SECTION 13. Whoever violates any provision of this section or of
 2 sections five to twelve, inclusive, for which no specific penalty is pro-
 3 vided, or is in any way directly or indirectly a party to any such violation,
 4 shall be punished by a fine of not less than ten nor more than fifty dollars
 5 or by imprisonment for not more than one month, or both. Every
 6 license issued under said sections five to twelve, inclusive, held by any
 7 person found guilty of a violation of any provision of this chapter, shall
 8 be void, and shall immediately be surrendered to the officer securing such
 9 finding. The officer shall forthwith forward such void licenses to the
 10 director. No person shall be given a license under authority of said
 11 sections during the period of one year from the date of his being found
 12 guilty as aforesaid, and any such license so issued shall be void and shall
 13 be surrendered on demand of any officer authorized to enforce this
 14 chapter. No fee received for a license made void under this section
 15 shall be returned to the holder of such license.

Penalties for
 violation of
 §§ 5-12.
 1905, 317,
 § 3, 5.
 1907, 198,
 § 4, 5.
 1908, 484, § 5.
 1911, 235,
 § 3; 614, § 11.
 1912, 379.
 1913, 249.
 1919, 296, § 12;
 350, §§ 39, 40,
 43.
 G. L. (ed. of
 1920) 131, § 14.
 1921, 467, § 8.
 1925, 295, § 13.
 1930, 393, § 2.
 1931, 436, § 3.
 3 Op. A. G. 514.
 Op. A. G. (1919)
 96, 106.

MISCELLANEOUS POWERS AND DUTIES OF DIRECTOR, WARDENS, ETC.

1 SECTION 14. The director, wardens, deputies and members of the
 2 state police shall enforce the laws relating to fish, birds and mammals.
 3 Each warden, when on duty, shall wear and display a metallic badge
 4 bearing the seal of the commonwealth and the words "fish and game
 5 warden", and each deputy, when on duty, shall wear and display a
 6 metallic badge bearing the words "deputy fish and game warden",
 7 together with a number to be assigned by the director. The director,
 8 with the approval of the governor, may in writing authorize any warden
 9 to have in his possession and carry a revolver, club, billy, handcuffs and

Enforcement
 of laws.
 Badges,
 weapons, etc.
 1869, 384, § 3.
 P. 8, 91, § 3.
 1884, 212, § 3.
 1886, 276, § 7.
 1895, 56
 1897, 288, § 1.
 R. L. 91, § 3;
 92, § 19
 1905, 407.
 1908, 317,
 § 1, 3
 1910, 575, § 1.

1912, 465, § 1. twisters, or any other weapon or article required in the performance of 10
 1913, 250 his official duty. 11
 1917, 271, § 1.

1919, 350, §§ 29, 43, 102. 1929, 372, § 3.
 G. L. (ed. of 1920) 1930, 393, §§ 1, 2.
 130, § 2; 131, § 2. 153 Mass. 171.

Penalty for impersonation, etc. SECTION 15. Whoever, not being a warden or deputy, possesses or 1
 wears any badge described in the preceding section or in any way im- 2
 personates a warden or deputy shall be punished by a fine of ten dollars. 3
 1908, 417, § 2.
 1910, 575, § 1.

1912, 465, § 1. G. L. (ed. of 1920) 1930, 393, §§ 1, 2.
 1913, 250. 130, § 3.

Powers of director, supervisor, etc. SECTION 16. The director, supervisor, wardens and deputies shall 1
 have and exercise throughout the commonwealth, for the enforcement 2
 of the laws relating to fish, birds and mammals, including dogs, all the 3
 powers of constables, except the service of civil process, and of police 4
 officers. 5
 1912, 465, § 1.
 1913, 250.

G. L. (ed. of 1920) 1929, 372, § 4.
 130, § 4. 1930, 393, §§ 1, 2.

Arrest without warrant. SECTION 17. The director, supervisor, wardens, deputies, members of 1
 the state police and all officers qualified to serve criminal process may 2
 arrest without a warrant any person found violating any provision of 3
 this chapter or chapter one hundred and thirty. 4
 1886, 276, § 8.
 1893, 105.
 1897, 288, § 1.
 R. L. 91, § 4.
 1905, 407.

1906, 327. 1919, 350, §§ 43, 102. 1930, 393, §§ 1, 2.
 1910, 575, § 1. G. L. (ed. of 1920) 158 Mass. 149.
 1912, 465, § 1. 130, §§ 5, 12. 193 Mass. 280.
 1913, 250. 1929, 372, § 5. Op. A. G. (1920) 215.

Search and seizure of fish, birds or mammals illegally taken. SECTION 18. The director, supervisor, wardens, deputies or members 1
 of the state police, may search any boat, vehicle, car, box, locker, crate 2
 or package, and any building other than a dwelling house, where he has 3
 or they have reason to believe any fish, birds or mammals unlawfully 4
 taken or held may be found, and may seize any fish, birds or mammals 5
 so taken or held, which shall be disposed of in such manner as the di- 6
 rector deems for the best interests of the commonwealth; provided, that 7
 this section shall not apply to fish, birds or mammals passing through 8
 this commonwealth under authority of the laws of the United States. 9
 1904, 367, § 1.
 1910, 548;
 575, § 1.
 1912, 465, § 1.
 1913, 250.
 1919, 350,
 § 102.
 G. L. (ed. of 1920) 130, § 6.
 1924, 184.
 1929, 372, § 6.

1930, 393, §§ 1, 2. 203 Mass. 516. Op. A. G. (1920) 177.

Search warrants. SECTION 19. A court or justice authorized to issue warrants in 1
 criminal cases shall, upon a sworn complaint that the complainant be- 2
 lieves that any fish, birds or mammals unlawfully taken or held are 3
 concealed in a particular place, other than a dwelling house, if satisfied 4
 that there is reasonable cause for such belief, issue a warrant to search 5
 therefor. The warrant shall designate and describe the place to be 6
 searched and the articles for which search is to be made, and shall be 7
 directed to any officer named in the preceding section commanding 8
 him to search the place where the fish, birds or mammals for which he 9
 is required to search are believed to be concealed, and to seize such fish, 10
 birds or mammals. 11
 1904, 367, § 2.
 G. L. (ed. of 1920) 130, § 7.
 1930, 393,
 §§ 1, 2.

Display of fish, etc., upon demand. Penalty. SECTION 20. The director, supervisor or a warden or deputy warden 1
 may request any person whom he reasonably believes to be engaged in 2
 unlawfully hunting, fishing, trapping or possessing fish, birds or mam- 3
 mals to forthwith display for inspection all fish, birds and mammals 4
 1908, 255.
 1910, 575, § 1.
 1912, 465, § 1.

5 then in his possession; and said director, supervisor, warden or deputy
6 warden may arrest without warrant a person refusing to comply with such
7 request.

1929, 372, § 7. 1930, 393, §§ 1, 2. 1931, 436, § 4. 203 Mass. 516.

[Additional penalty, § 21.]

1 SECTION 21. Any person violating any of the provisions of the pre-
2 ceding section shall be punished by a fine of not less than ten nor more
3 than twenty-five dollars.

1930, 393, § 2.

1 SECTION 22. The director may destroy from time to time license
2 books, stubs, licenses and license blanks, after the same have been
3 properly audited by the state auditor, and such other documents as the
4 director deems advisable, after the same have been noted on the official
5 records.

Destruction of
certain old
documents.
1913, 269.
G. L. (ed. of
1920) 130, § 10.
1930, 393,
§§ 1, 2.

1 SECTION 23. The director may investigate questions relating to fish,
2 birds or mammals, and may, personally or by assistants, institute and
3 conduct inquiries pertaining to such questions.

1902, 178.

G. L. (ed. of 1920) 130, § 11.

1930, 393, §§ 1, 2.

Investigation
as to fish,
birds or
mammals.

FISH AND FISHING.

1 SECTION 24. The director may establish and maintain properties
2 at such places within the commonwealth as he may select for the purpose
3 of propagating and rearing fish, birds and mammals.

1917, 228.

1919, 350, § 43.

G. L. (ed. of 1920) 130, § 54.

1930, 393, §§ 1, 2.

Establishment
of properties
for propagation
of fish, etc.

1 SECTION 25. For the purpose of providing public fishing grounds,
2 the director may acquire by gift, and shall in his discretion acquire by
3 lease or purchase, fishing rights and privileges in any brook or stream
4 in the commonwealth or may acquire by gift, lease or purchase lands
5 necessary for such purposes, except a brook or stream which is a source
6 of or a tributary to a public water supply. The director may also acquire
7 by gift, lease or purchase lands necessary for such purposes, together
8 with such rights of ingress to and egress from such a brook or stream
9 as may be necessary or proper.

Acquisition of
fishing rights
in brooks, etc.
Rules and
regulations;
penalty.
1930, 393, § 2.
1931, 436, § 5.

10 Said director may, subject to the provisions of section thirty-seven
11 of chapter thirty, make rules and regulations relative to fishing in any
12 water acquired under authority of this section, may provide a penalty,
13 to consist of a fine not to exceed twenty dollars, for any violation of any
14 such rule or regulation, and may from time to time close or open such
15 waters, or any part thereof, for fishing.

1 SECTION 26. Except as otherwise provided in section forty-five, no
2 person shall be provided by the director with fish or fish spawn to stock
3 waters owned or leased by such person or under his control unless he
4 first agrees in writing with the director that waters so stocked shall be
5 free for the public to lawfully fish therein; and the public may there-
6 after fish in such waters.

Stocked waters
to be free for
public fishing.
1883, 59.
R. L. 94, § 65.
G. L. (ed. of
1920) 130, § 55.
1930, 393,
§§ 1, 2.

1 SECTION 27. Whoever without right enters in or upon any building
2 or other structure or any area of land or water set apart and used by or
3 under authority of the director or supervisor for conducting scientific

Penalty for
illegally enter-
ing buildings,
etc., used in
scientific in-

vestigations or for propagation.
 1906, 357.
 G. L. (ed. of 1920) 130, § 12.
 1920, 372, § 9.
 1930, 393,
 §§ 1, 2.

experiments or investigations or for propagation after the director or supervisor has caused printed notices of such occupation and use and the purposes thereof to be placed in a conspicuous position adjacent to any such areas of land or water or upon any such building or other structure, and whoever injures or defaces any such building or other structure or any notice posted as aforesaid, or injures or destroys any property used for such purposes, or otherwise interferes therewith, shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than six months.

Director, etc., may take fish, etc., for certain purposes.
 1908, 139, § 3;
 179, § 2.
 1869, 76, § 2;
 384, § 5.

SECTION 28. The director or supervisor, or their agents when so authorized by him or them, may take fish, birds or mammals at any time or in any manner for purposes connected with propagation or scientific observation.

P. S. 91, § 20.
 R. L. 91, § 6.
 G. L. (ed. of 1920) 130, § 14.
 1929, 372, § 10.
 1930, 393, §§ 1, 2.

Discharge of waste material into certain inland waters regulated.
 Penalty.
 1890, 129.
 R. L. 91, § 8.
 1906, 356.
 1910, 460.
 1919, 350, § 40.
 G. L. (ed. of 1920) 130, § 16.
 1930, 393,
 §§ 1, 2.
 189 Mass. 247.
 211 Mass. 10.

SECTION 29. If the director determines that the fisheries of any inland waters of the commonwealth are of sufficient value to warrant the prohibition or regulation of the discharge or escape of sawdust, shavings, garbage, ashes, acids, sewage, dyestuffs, and/or other waste material from any sawmill, manufacturing or mechanical plant, or dwelling house, stable or other building, which may, directly or indirectly, materially injure such fisheries, he shall by a written order to the owner or tenant thereof prohibit or regulate the discharge or escape therefrom of sawdust, shavings, garbage, ashes, acids, sewage, dyestuffs, and/or other waste material into such inland waters. Such order may be revoked or modified by him at any time. Before any such order is made the director shall, after reasonable notice to all parties in interest, give a public hearing in the county where the sawmill, manufacturing or mechanical plant, dwelling house, stable or other building to be affected by the order is located, at which hearing any person shall be heard. Upon petition of any party aggrieved by such order, filed within six months after its date, the superior court may, in equity, after such notice as it deems sufficient, hear all interested parties and annul, alter or affirm the order. If such petition is filed by the party aggrieved within ten days after the date of said order, said order shall not take effect until altered or affirmed as aforesaid. Whoever, having so been notified, discharges sawdust, shavings, garbage, ashes, acids, sewage, dyestuffs, and/or other waste material, or suffers or permits it to be discharged or to escape from said plant under his control, into inland waters of the commonwealth in violation of the order of the director, or of said court, if an appeal is taken, shall be punished by a fine of not less than fifty nor more than two hundred dollars.

Penalty for poisoning, etc., fish.
 Exceptions.
 1830, 43.
 R. S. 35, § 1.
 G. S. 835, § 1.
 P. S. 91, § 44.
 R. L. 91, § 133.
 1903, 246.
 1913, 439.
 G. L. (ed. of 1920) 130, § 151.
 1930, 393,
 §§ 1, 2.

SECTION 30. Whoever puts or throws into any of the inland waters of the commonwealth any oil, or any poisonous substance, whether simple, mixed or compound, which may directly or indirectly materially injure the fish therein, or takes any such fish by such means, or whoever kills or destroys fish in inland waters by the use of dynamite or other explosives, or takes any such fish by such means, or explodes dynamite or powder in such waters, shall be punished by a fine of not less than fifty nor more than five hundred dollars or by imprisonment for not more than one year. This section shall not apply to operations of the United

10 States, or of the commonwealth or a political subdivision thereof, nor
11 to the use of explosives for raising the body of a drowned person.

1 SECTION 31. The director, supervisor, wardens, deputies and mem-
2 bers of the state police may seize and remove, summarily if need be, at
3 the expense of the owner using and maintaining the same, all illegal
4 obstructions, except dams, mills or machinery, to the passage of salt
5 water fish coming into fresh water to spawn. The director may ex-
6 amine all dams or obstructions upon brooks, rivers and streams where
7 the law requires fish ways to be maintained, or where in his judgment
8 fish ways are needed, and he shall determine whether the fish ways, if
9 any, are suitable and sufficient for the passage of such fish in such brooks,
10 rivers and streams or whether a fish way is needed for the passage of such
11 fish over such dam or obstruction; and shall prescribe by written order
12 what changes or repairs, if any, shall be made therein, and where, how
13 and when a new fish way shall be built, and at what times the same shall
14 be kept open, and shall serve a copy of such order upon the owner of the
15 dam or obstruction. A certificate of the director that service has been so
16 made shall be sufficient proof thereof. The supreme judicial or superior
17 court shall, on petition of the director, have jurisdiction in equity or other-
18 wise to enforce any such order and to restrain any violation thereof.

Seizure and removal of illegal obstructions to the passage of salt water fish
Examination of dams, etc.
Court enforcement of orders.
1745-6, 21, §§ 1, 2
1741-2, 16, §§ 1, 2, 5
1743-4, 26, 1745-6, 20, §§ 1, 2, 5
1764-5, 31, § 2.
1811, 175, § 4.
1866, 238, §§ 2, 6
1867, 344, § 1
1869, 384, § 3
1876, 50, P. S. 91, §§ 3, 4, 5
1884, 212, § 3
1897, 288, § 1
1899, 103, R. L. 91, §§ 3, 9, 10.
1904, 363.

1905, 407.	1917, 271, § 1	1929, 372, § 3
1908, 417, § 1.	1919, 350, §§ 40, 43.	1930, 393, §§ 1, 2.
1910, 575, § 1.	G. L. (ed. of 1920)	1931, 393, § 5.
1912, 465, § 1.	130, §§ 2, 17.	104 Mass. 446.
1913, 250.		

1 SECTION 32. Any owner of such a dam or obstruction who refuses
2 or neglects to keep open or maintain a fish way at the times prescribed
3 by the director shall forfeit fifty dollars for each day of such refusal or
4 neglect.

Penalty for not keeping fish way open.
1735-6, 21, § 1, 2.

1741-2, 16, §§ 1, 3.	1867, 344, § 2.	G. L. (ed. of 1920) 130, § 18
1745-6, 20, § 4.	P. S. 91, § 6.	1930, 393, §§ 1, 2.
1811, 175, § 4.	R. L. 91, § 11.	5 Pick 199
1866, 238, § 15.	1919, 350, § 43.	10 Pick. 383.

1 SECTION 33. If the director deems that a passage for fish should be
2 provided or if he finds that there is no fish way or an insufficient fish
3 way in or around a dam where a fish way is required by law to be main-
4 tained, he may enter with workmen and materials upon the premises
5 of the person required to maintain a fish way there and may, at the ex-
6 pense of the commonwealth, if in his opinion the person required by
7 law to construct or maintain such fish way is unable to afford such
8 expense, otherwise at the expense of the owner of such dam, improve
9 an existing fish way, or cause one to be constructed if none exists, and
10 may, if necessary, take the land of any other person who is not obliged
11 by law to maintain said fish way; and if a fish way has been constructed
12 in accordance with this section, he shall not require the owner of the
13 dam to alter such fish way within five years after its completion.

Improvement or construction of fish ways, etc.
1735-6, 21, § 2.
1741-2, 16, § 4.
1743-4, 26, 1811, 175, § 4.
1866, 238, §§ 7, 8, 12.
1869, 384, § 4.
1876, 50, P. S. 91, § 7.
1900, 344, R. L. 91, § 12.
1919, 350, § 43.
G. L. (ed. of 1920) 130, § 19.
1930, 393, § 1, 2.

1 SECTION 34. All damages caused by taking land under the pre-
2 ceding section shall, upon the application of either party, be recovered
3 from the commonwealth under chapter seventy-nine. The amount so
4 recovered shall be a charge against the person required by law to con-
5 struct and maintain such fish way and shall be recovered in contract in
6 the name of the commonwealth, with costs and with interest at the rate
7 of twelve per cent per annum.

Compensation for land taken.
1866, 238, §§ 7, 8
1869, 384, § 4.
P. S. 91, § 8.
R. L. 91, § 13.
G. L. (ed. of 1920) 130, § 20.

Screening of ponds, brooks and streams regulated. 1920, 382. G. L. (ed. of 1920) 130, § 21. 1930, 393, §§ 1, 2.

SECTION 35. The director may screen such ponds, brooks and streams of the commonwealth not used as sources of water supply by towns as he deems necessary for the protection of fish therein. This section shall not affect any right existing on April thirtieth, nineteen hundred and twenty, to use such waters for mercantile or manufacturing purposes.

Great ponds to be public. B. L. 16. C. L. 90, § 2. 1869, 384, § 8. P. S. 91, § 11. R. L. 91, § 15.

SECTION 36. A great pond shall be public, except as hereafter provided, for the purpose of fishing, hunting and boating thereon and all persons shall be allowed reasonable means of access thereto for such purpose.

G. L. (ed. of 1920) 130, § 24. 1930, 393, §§ 1, 2.

7 Allen. 158. 170 Mass. 509.

2 Op. A. G. 239. Op. A. G. (1920) 233.

Director may occupy certain ponds 1869, 384, § 9. 1876, 62, § 1. P. S. 91, §§ 12, 17. 1886, 248, § 2. R. L. 91, § 16. 1919, 350, § 43. G. L. (ed. of 1920) 130, § 25. 1930, 393, §§ 1, 2.

SECTION 37. The director may occupy, manage and control not more than six great ponds for the purpose of propagating fish and of distributing them within the commonwealth; and may occupy not more than one tenth part of each such pond with enclosures and appliances for such cultivation; but this privilege shall not affect any public rights to such ponds, other than the right of fishing, and the appliances and enclosures shall be so placed as not to interfere with or prevent ingress to or egress from such ponds at proper places.

108 Mass. 441.

110 Mass. 175.

119 Mass. 300.

146 Mass. 5.

Notice of such occupation. 1876, 62, § 2. P. S. 91, § 18. R. L. 91, § 17. 1918, 257, § 315. 1919, 5, 350, § 43. 1920, 2.

SECTION 38. If the director determines so to occupy and improve any such pond, he shall post a notice of such purpose in a public place in each of the towns where said pond is situated and file a like notice in the office of the clerk of each of said towns and in the office of the state secretary. The affidavit of an officer qualified to serve civil process that such notice has been posted shall be deemed full proof thereof.

G. L. (ed. of 1920) 130, § 26.

1930, 393, §§ 1, 2.

Penalty. 1876, 62, § 3. P. S. 91, § 19. R. L. 91, § 18. G. L. (ed. of 1920) 130, § 27. 1930, 393, §§ 1, 2.

SECTION 39. After such notice has been so filed and posted, any violation of any of the rights of said director under section thirty-seven shall be punished by a fine of not less than ten nor more than twenty-five dollars.

Stocking great ponds with fish. 1897, 208. R. L. 91, § 19. 1903, 274. 1907, 306. 1911, 285, §§ 1, 2. 1919, 350, § 43. G. L. (ed. of 1920) 130, § 28. 1930, 393, §§ 1, 2. 2 Op. A. G. 223, 552.

SECTION 40. The director may occupy any great pond, except in Dukes and Nantucket counties, to be stocked with such fish as he judges best suited to the waters thereof and, on petition of the aldermen of any city or the selectmen of any town where a great pond or a part thereof is situated, shall cause the pond to be so stocked; provided, that a public hearing upon the matter has previously been given within such city or town by the mayor and aldermen, or by the selectmen, notice of which hearing has been posted, at least ten days before the day of the hearing, in three or more public places, and published in a newspaper, if any, in such city or town. If a town at a meeting has instructed the selectmen to file such petition, such hearing need not be given. When a great pond is not situated wholly within a city or town, the director shall not proceed under this section with respect to such pond unless a majority of the cities and towns bordering upon such pond have filed petitions as aforesaid. In every such instance the director shall thereupon prescribe, for a period not exceeding three years, and enforce, such reasonable regulations relative to fishing in the pond and its tributaries, with

18 such penalties, not exceeding twenty dollars for each offence, as he deems
 19 for the public interest; but this section shall not apply to ponds used as
 20 sources of public water supply. The director may restock such ponds
 21 and may extend such reasonable regulations, for periods not exceeding
 22 three years each, and shall so restock and extend whenever he receives
 23 a petition therefor as herein provided.

1 SECTION 41. The director may, except in Dukes and Nantucket
 2 counties, and shall on petition of the aldermen of any city or the select-
 3 men of any town where a great pond not used as a source of public water
 4 supply is situated, or, in case such pond is not wholly within a single
 5 city or town, on petition of the aldermen or selectmen of a majority of
 6 the cities and towns wherein such pond is situated, cause not exceeding
 7 twenty-five per cent of the area of any such pond to be set apart, for
 8 such period of years as he may determine, as a breeding area for such
 9 fish as he may judge best suited to its waters. The provisions of the
 10 preceding section relative to public hearings and notice thereof in the
 11 petitioning cities and towns shall apply to proceedings under this section.
 12 Whoever fishes in a breeding area while set apart as aforesaid shall forfeit
 13 his license and shall be punished as provided in section seventy-two.

Setting apart
 portions of
 great ponds as
 breeding areas
 authorized.
 Penalty
 1924, 191
 [G. L. 130,
 § 28A]
 1930, 393,
 §§ 1, 2

1 SECTION 42. The director may occupy and control Mill pond, in
 2 Yarmouth, for the purpose of cultivating fish for distribution within
 3 the commonwealth. Whoever, without his written consent, fishes in
 4 said pond in any other manner than by angling, shall be punished as
 5 provided in section seventy-two.

Fishing in
 Mill pond.
 1809, 107.
 R. L. 91, § 20.
 G. L. (ed. of
 1920) 130, § 29.
 1930, 393,
 §§ 1, 2.

1 SECTION 43. The state department of public works shall annually, in
 2 July, upon the request and at the expense of any person claiming to be
 3 interested in a pond, cause a measurement thereof to be made which
 4 shall be recorded in the office of the city or town clerk of each city or
 5 town within the limits of which any part of such pond is situated; and
 6 no arm or branch shall be included as a part of such a pond unless such
 7 arm or branch is at least fifty feet in width and one foot in depth.

Measuring
 of ponds.
 1869, 384, § 11.
 1878, 134
 P. 8, 91.
 §§ 21, 22
 R. L. 91,
 §§ 21, 22,
 1918, 257,
 § 316.

1919, 5. 1920, 2. G. L. (ed. of 1920) 130, §§ 30, 31. 1930, 393, §§ 1, 2.

1 SECTION 44. Except as provided in the following section and in sec-
 2 tion fifty-one, the riparian proprietors of any pond, other than a great
 3 pond, and the proprietors of any pond or parts of a pond created by
 4 artificial flowing, shall have exclusive control of the fisheries therein.

Exclusive fish-
 ery of riparian
 owners.
 1869, 384,
 §§ 7, 12.
 P. S. 91, § 10.

R. L. 91, § 23. 1930, 393, §§ 1, 2.
 G. L. (ed. of 1920) 130, § 32. 119 Mass. 300.

1 SECTION 45. The director may cause any natural or artificial pond,
 2 other than a great pond, or any brook or stream, to be stocked with such
 3 fish as he judges best suited to the waters thereof; provided, that in
 4 respect to all privately owned ponds such stocking shall only be with the
 5 written consent of the owner or lessee thereof, and shall not prevent
 6 such owner or lessee from drawing down or making such use of said
 7 waters for commercial or other purposes as appear to him to be advisable;
 8 and provided, further, that such stocking shall not prohibit such owner
 9 or lessee from excluding the public from such waters if and when this
 10 action appears to him necessary for the proper control and utilization
 11 thereof.

Stocking ponds
 with fish
 1900, 284.
 R. L. 91, § 5.
 G. L. (ed. of
 1920) 130, § 15.
 1930, 393,
 §§ 1, 2.

Acquisition of
exclusive
fishery
1869, 384, § 13.
P. S. 91, § 23.
R. L. 91, § 24.
1918, 257,
§ 317.
1919, 5.
1920, 2.
G. L. (ed. of
1920) 130, § 33.
1930, 393,
§§ 1, 2.

SECTION 46. A pond other than a great pond, bounded in part by land belonging to the commonwealth or to a county, city or town, shall become the exclusive property of the other proprietors as to the fisheries therein only upon payment to the state treasurer, or to the county, city or town treasurer, as the ease may be, of a just compensation for their respective rights therein, to be determined by three arbitrators, of whom one shall be appointed by the director, one shall be an individual riparian proprietor of said pond or an officer of a corporation which is such proprietor, and one shall be the chairman of the county commissioners of the county where the pond, or the largest part of the area thereof, is situated, if the riparian proprietors include the commonwealth, or one or more counties, or two or more cities or towns, or one or more cities and one or more towns, or the mayor or chairman of the board of selectmen, respectively, if only one city or town is such part proprietor.

Penalty for
taking fish in
certain ponds
1874, 82,
§§ 1, 2.
1879, 127.
P. S. 91, § 24.
R. L. 91, § 25.
§§ 1, 2.

SECTION 47. Whoever, without the written consent of the proprietor or lessee of a natural pond which is not a great pond, or of an artificial pond of any size, where fish are lawfully propagated or maintained, takes any fish therefrom, shall be punished as provided in section seventy-two.

G. L. (ed. of 1920) 130, § 34. 1930, 393, §§ 1, 2.

Use of nets in
inland waters
regulated.
1884, 318,
§§ 1, 3.
R. L. 91, § 26.
1903, 294.
1904, 308.
1906, 239, § 2.
1918, 257, § 318.
1919, 5.
1920, 2.

SECTION 48. Except as permitted by law, whoever draws, sets, stretches or uses a fish trap, gill net, drag net, set net, purse net, seine or trawl or sets or uses more than ten hooks for fishing in any inland water, or aids in so doing, shall be punished by a fine of not less than twenty nor more than fifty dollars. This section shall not affect any rights conferred by section forty-four or the corporate rights of any fishing company.

G. L. (ed. of 1920) 130, § 35. 1928, 8.
1926, 195, § 2. 1930, 393, §§ 1, 2.

Restrictions
on taking of
fish frequenting
fresh water, etc.
Penalty.
1741-2,
20, § 1.
1754-5, 31,
§§ 1, 2.
1764-5, 34,
§§ 1, 2.
1822, 21.
R. S. 55, § 2.
1857, 30.
G. S. 83, § 2.
1869, 384, § 26.
P. S. 91, § 48.
R. L. 91, § 132.
1908, 492.
1917, 53.
1919, 33.

SECTION 49. Whoever, except as otherwise permitted by law, takes any fish which at any season frequent fresh water, in any other manner than by angling, shall be punished by a fine of not less than twenty nor more than fifty dollars; but towns may permit the use of nets and seines for taking herring and alewives or of pots for the taking of eels. This section shall not prohibit spearing eels, carp or those species of fish commonly known as "suckers". The possession by any person in or upon inland waters or upon the banks of the same, except as allowed by law, of any net, trap, trawl, or other device adapted for taking fish shall be prima facie evidence of a violation of this section. This section shall not apply to ponds or waters now or hereafter held under lease from the department.

G. L. (ed. of 1920) 130, § 150. 1926, 195, § 3. 1930, 393, §§ 1, 2.

Fishing with
sweep seines.
1869, 384, § 22.
1872, 229, § 2.
P. S. 91, § 41.
1884, 199, § 2.
R. L. 91, § 52.
G. L. (ed. of
1920) 130, § 43.
1930, 393,
§§ 1, 2.

SECTION 50. Whoever uses a sweep seine or combination of sweep seines in such a manner as at any moment to close or seriously obstruct more than two thirds of the width of a brook or stream at the place where used, or delays or stops in paying out or hauling a sweep seine, or hauls a sweep seine within one half mile of a point where such seine has been hauled within an hour, shall be punished by a fine of not less than twenty nor more than fifty dollars; but this section shall not apply to seines lawfully used in the smelt fisheries, or to the fisheries for shad or alewives

9 in the Taunton Great river, or to the fisheries in North river in Plymouth
10 county.

1 SECTION 51. The director, upon written application to him, may
2 issue a permit to any person to have in possession, buy, sell or otherwise
3 dispose of, at any season of the year, fish artificially propagated and
4 maintained, under such rules and regulations, approved by the governor
5 and council, as may be made by the director.

R. L. 91, §§ 64, 66.	1909, 377, §§ 2, 4.	G. L. (ed of 1920) 130,
1902, 544, § 11.	1912, 129, § 2.	§§ 52, 65
1905, 190.	1918, 36, §§ 4, 6.	1930, 393, §§ 1, 2.
1907, 296.	1919, 350, § 43.	

Permits for possession, etc., of fish artificially propagated 1895, 277, § 1. 1901, 121.

1 SECTION 52. A riparian proprietor of a non-navigable brook or
2 stream may, within the limits of his own premises, enclose the waters
3 thereof for the propagation of fish if he furnishes a suitable passage for
4 salt water fish naturally frequenting such waters to spawn.

P. S. 91, § 25. R. L. 91, § 27. G. L. (ed. of 1920) 130, § 36. 1930, 393, §§ 1, 2.

Enclosure of non-navigable brooks or streams 1869, 384, § 16.

1 SECTION 53. Fish artificially propagated or maintained shall be the
2 property of the person propagating or maintaining them. A person
3 legally engaged in their culture and maintenance may take them in his
4 own waters at pleasure or authorize others so to do.

P. S. 91, § 26. R. L. 91, § 28. G. L. (ed. of 1920) 130, § 37. 1930, 393, §§ 1, 2.

Ownership of fish artificially propagated. 1869, 384, §§ 18, 20.

1 SECTION 54. Whoever, without the permission of the proprietors,
2 fishes in that portion of a pond, stream or other water where fish are
3 lawfully cultivated or maintained shall be punished as provided in
4 section seventy-two.

1869, 384, § 19.	G. L. (ed. of 1920)	108 Mass. 441.	130 Mass. 469.
P. S. 91, § 27.	130, § 38.	110 Mass. 175.	142 Mass. 71.
R. L. 91, § 29.	1930, 393, §§ 1, 2.	119 Mass. 300.	162 Mass. 219.

Penalty for fishing where fish are artificially propagated.

1 SECTION 55. The riparian proprietor on a non-navigable tidal brook
2 or stream, enclosed or unenclosed, in which fish are lawfully cultivated
3 or maintained shall have the control of the fishery thereof within his
4 own premises and opposite thereto to the middle of the stream, and a
5 riparian proprietor at the mouth of such stream shall also have control
6 of the fishery thereof beyond and around the mouth of the stream so far
7 as the tide ebbs, if it does not ebb more than eighty rods; and whoever
8 fishes within such limits without permission of the owner shall be punished
9 as provided in section seventy-two.

Owners of certain streams to control fisheries. Obstruction of passage for salt water fish prohibited 1871, 281, § 2. P. S. 91, § 31. 1890, 231. R. L. 91, § 33. G. L. (ed. of 1920) 130, § 42. 1930, 393, §§ 1, 2. 119 Mass. 526.

10 No such proprietor shall obstruct, or permit the obstruction of, a
11 suitable passage for salt water fish through so much of any such stream
12 as is within his control.

1 SECTION 56. No person shall buy, sell, offer or expose for sale, or
2 have in possession for the purpose of sale, any trout, black bass, horned
3 pout, yellow perch, pickerel, white perch, great northern pike or mus-
4 callonge, or wall-eyed pike or pike perch, taken from the waters of this
5 commonwealth. Nothing in this section shall be construed to prohibit
6 the sale of white perch taken from the coastal waters of the common-
7 wealth or from the waters of Dukes or Nantucket counties, or from
8 waters now or hereafter held under lease from the department. Nothing
9 in this section shall be deemed to prohibit the director from issuing per-

Buying, selling, etc., of certain fish regulated. 1862, 161. 1866, 249. 1869, 384, § 28. 1874, 186. 1876, 241, § 1. 1880, 361. P. S. 91, §§ 51, 53. 1884, 171. 1888, 276. 1890, 193. 1891, 138. 1892, 252.

1895, 277, § 2.	mits as to black bass under section fifty-one, or to penalize any person	10
1896, 229.	acting under authority of any license so issued.	11
1901, 121; 142.	R. L. 91, §§ 62-64, 70.	1916, 25.
	1902, 137; 544, § 11.	1917, 27.
	1905, 190.	1918, 30, §§ 1, 6.
	1906, 263; 314, §§ 1, 2.	G. L. (ed. of 1920) 130,
	1909, 377, §§ 1, 4.	§§ 49, 58, 61, 64.
	1910, 469.	1921, 197; 224.
	1912, 110; 129, §§ 1, 2, 4.	1922, 148; 444.
	1913, 573, §§ 1, 2.	1923, 212 [G. L. 130,
	1915, 54.	§ 62A]; 268, § 3; 269.
		1926, 19, § 1.
		1927, 5.
		1928, 74, § 1.
		1929, 82 [G. L. 130,
		§ 62B].
		1930, 393, §§ 1, 2.
		160 Mass. 157.
		164 Mass. 477.
		Op. A. C. (1920) 107.

Possession, etc., of trout regulated.	SECTION 57. Except as provided in section fifty-one, no person shall take or have in possession trout between July thirty-first in any year and April fifteenth of the year following, or between September first and May twenty-ninth of the year following, if taken from the Deerfield river or its diverted waters within the commonwealth, nor shall any person have in possession at any time a trout less than six inches in length, or trout less than twelve inches in length if taken from the Deerfield river or its diverted waters within the commonwealth, unless taken by a person lawfully fishing and immediately returned alive to the water whence it was taken.	1 2 3 4 5 6 7 8 9 10
1862, 161.		
1866, 249.		
§§ 1, 3.		
1869, 384, § 28.		
1874, 186.		
1876, 221, § 1.		
1880, 86.		
P. S. 91,		
§§ 51, 53.		
1884, 171.		
1888, 276.		
1890, 193.		
1891, 138.		
1892, 232.		
1895, 277, § 2.		
	1901, 121; 142.	1916, 25.
	R. L. 91, §§ 62-64.	1918, 30, §§ 1, 6.
	1902, 137; 544, § 11.	G. L. (ed. of 1920) 130,
	1905, 190.	§ 49.
	1906, 263; 314, §§ 1, 2.	1923, 269.
	1909, 377, §§ 1, 4.	1925, 19, § 1.
	1910, 469.	1927, 5.
		1928, 74, § 1.
		1930, 393, §§ 1, 2.
		1931, 393, § 5A.
		160 Mass. 157.
		164 Mass. 477.
		Op. A. C. (1920) 107.

Hours for fishing for trout established.	SECTION 58. No person shall take trout at any other time than between one hour before sunrise and two hours after sunset.	1 2
	R. S. 55, §§ 2, 3.	
	1857, 30.	P. S. 91, §§ 49, 51.
	1859, 106.	R. L. 91, §§ 61, 62.
	G. S. 83, § 2.	1906, 314, § 1.
	1869, 384, § 28.	1909, 377, §§ 1, 4.
	1874, 186.	1910, 469.
		1917, 188, § 1.
		1918, 30, §§ 2, 6;
		257, § 319.
		1919, 5.
		1920, 2.
		G. L. (ed. of 1920) 130, § 50.
		1930, 393, §§ 1, 2.

Limit of catch.	SECTION 59. No person shall in any one day take from the waters of the commonwealth a total of more than fifteen trout, nor shall any person in any one day take more than five trout from the Deerfield river or its diverted waters within the commonwealth.	1 2 3 4
1917, 188, § 1.		
1918, 30,		
§§ 3, 6.		
G. L. (ed. of 1920) 130, § 51.		
1926, 19, § 2.	1928, 74, § 2.	1930, 393, §§ 1, 2.
		1931, 393, § 6.

SECTION 59A. [INSERTED, 1930, 428; NUMBER CHANGED TO SECTION 105A, 1931, 426, § 242.]

Restricted trout-breeding areas in Deerfield river.	SECTION 60. For the purpose of breeding and developing trout, the director may establish restricted areas in the Deerfield river or its diverted waters within the commonwealth, and, subject to approval by the governor and council, make rules and regulations for the taking of fish within such area.	1 2 3 4 5
1926, 19, § 3		
[G. L. 130,		
§ 54A].		
1928, 74, § 3.		
1930, 393,		
§§ 1, 2.		
		1931, 393, § 7.

Regulations for taking of salmon.	SECTION 61. The director may, with the approval of the governor and council, make such rules and regulations as he may deem expedient for the taking of any species of salmon in the rivers and coastal waters and great ponds of the commonwealth and in any private waters which have been stocked by the commonwealth under an agreement with the owner. The director shall conspicuously post such rules and regulations on the shores of such waters and shall file with the town clerk of each	1 2 3 4 5 6 7
Penalty.		
1869, 384, § 27.		
P. S. 91, § 47.		
R. L. 91, § 58.		
1909, 377,		
§§ 1, 3, 4.		
1910, 469, § 1.		
1918, 34,		
§ 1, 4.		

8 town which borders on such waters a copy thereof for public inspection. 1920, 339,
 9 Whoever violates any provision of said rules and regulations shall be § 1, 2.
 10 punished by a fine of not less than twenty nor more than fifty dollars. G. L. (ed. of
 1920) 130, § 56.
 1930, 393,
 §§ 1, 2.

1 SECTION 62. No person shall take pickerel between March first and Close season
 2 May first in any year, or have in possession pickerel taken in this com- for pickerel.
 3 monwealth during said period unless taken by a person lawfully fishing 1912, 119.
 4 and immediately returned alive to the water whence it was taken. The 1913, 573.
 5 possession of a pickerel during said period shall be prima facie evidence G. L. (ed. of
 6 of such unlawful taking. 1920) 130, § 58.
 1923, 268, § 1.
 1930, 393,
 §§ 1, 2.

1 SECTION 63. No person shall take from the waters of the common- Restrictions as
 2 wealth a pickerel less than twelve inches in length or have in possession to taking, etc.,
 3 any such pickerel; nor shall any person take or have in possession more of certain fish.
 4 than ten pickerel taken from the waters of the commonwealth in any one Pickerel
 5 day. In prosecutions under this section the possession of pickerel less 1895, 199.
 6 than twelve inches in length shall be prima facie evidence of such un- R. L. 91, § 67.
 7 lawful taking. 1904, 329.
 1914, 6.
 G. L. (ed. of
 1920) 130, § 59.

1923, 268, § 2.

1926, 27.

1930, 393, §§ 1, 2.

1 SECTION 64. No person shall take from any inland water of the com- Same subject.
 2 monwealth any white perch between March first and June first in any White perch.
 3 year, or have in possession a white perch so taken between said dates, 1915, 54.
 4 nor shall he take from any such inland water any white perch less than 1917, 27.
 5 seven inches in length or have the same in possession, nor shall he take G. L. (ed. of
 6 therefrom a total of more than fifteen white perch in any one day. 1920) 130, § 61.
 7 This section shall not apply to Dukes or Nantucket counties, nor to 1922, 148.
 8 waters now or hereafter held under lease from the department. 1923, 268, § 3.
 1930, 393,
 §§ 1, 2.

1 SECTION 65. No person shall take from the waters of this common- Same subject.
 2 wealth or have in possession a wall-eyed pike, sometimes called a pike Wall-eyed pike
 3 perch so taken, between March first and April thirtieth, both dates or pike perch.
 4 inclusive, or at any time take from said waters or have in possession a 1923, 212 (G. L.
 5 wall-eyed pike or pike perch less than twelve inches in length so taken 130, § 62A).
 6 unless taken by a person lawfully fishing and immediately returned 1930, 393,
 7 alive to the water whence it was taken; nor shall any person take or §§ 1, 2.
 8 have in possession more than five wall-eyed pike or pike perch taken
 9 from the waters of the commonwealth in any one day.

1 SECTION 66. No person shall, between February first and May first Same subject.
 2 following, take from the waters of the commonwealth, or have in posses- Great northern
 3 sion, a great northern pike or muscallonge; nor shall any person at any pike or
 4 time take or have in possession a great northern pike or muscallonge muscallonge.
 5 less than twenty inches in length so taken unless taken by a person 1929, 82 (G. L.
 6 lawfully fishing and immediately returned alive to the water whence it 130, § 62B).
 7 was taken. 1930, 393,
 §§ 1, 2.

1 SECTION 67. No person shall take or have in possession a black bass Same subject.
 2 between February first and June thirtieth, both dates inclusive, of any Black bass.
 3 year, or at any time have in possession a black bass less than ten inches 1896, 229.
 4 in length unless such bass was taken by a person lawfully fishing and is R. L. 91, § 70.
 5 immediately returned alive to the water whence it was taken; nor shall 1912, 129,
 §§ 1, 4.
 G. L. (ed. of
 1920) 130, § 64.
 1921, 197.

1922, 444.
1930, 393,
§§ 1, 2.

any person take or have in possession more than six black bass taken from the waters of the commonwealth in any one day. 6
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Same subject.
Horned pout or yellow perch.
1921, 188 (G. L. 130, § 78A).
1923, 268, § 4.
1927, 6.
1929, 47.
1930, 393,
§§ 1, 2.

SECTION 68. No person shall take or have in possession more than thirty horned pout or thirty yellow perch taken from the waters of the commonwealth in any period of twenty-four consecutive hours, nor shall he take from said waters or have in possession horned pout between March first and June fifteenth in any year or yellow perch between March first and April first in any year. 1
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Penalty for fishing with floats
1922, 108
(G. L. 130,
§ 77A).
1930, 393,
§§ 1, 2.

SECTION 69. Whoever fishes with floats, otherwise known as toggle fishing, in any inland water of the commonwealth shall be punished by a fine of not less than twenty nor more than fifty dollars; provided, that this section shall not prohibit the use of traps for ice fishing in accordance with law. For the purposes of this section, a "float" shall mean any device floating with a line and hook attached, baited with natural or artificial bait and not under the direct control of the hands of the person fishing. 1
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Penalty for introduction of certain fish into state waters.
1911, 185.
G. L. (ed. of
1920 130, § 78.
1930, 393,
§§ 1, 2.

SECTION 70. Whoever puts into any of the inland waters of the commonwealth other than ponds not great ponds any species of fish, or spawn thereof, except those species naturally frequenting such waters, without having first secured the written approval of the director, shall be punished by a fine of not less than twenty nor more than fifty dollars. 1
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Taking shiners for bait regulated.
Duplicate certificate, fee.
1906, 239, § 1.
G. L. (ed. of
1920 130, § 75.
1926, 195, § 1.
1930, 393,
§§ 1, 2.
1931, 436, § 6.

SECTION 71. Shiners may be taken for bait in any of the inland waters of the commonwealth by means of a circular or hoop net not exceeding six feet in diameter, or by means of a rectangular net other than a seine, containing not more than thirty-six square feet of net surface, and shiners and suckers may be taken for bait in any of said waters by means of a net containing not more than two hundred square feet of net surface if each person engaged in operating such net is thereto authorized by a permit issued by the division, which permit the division is hereby authorized to issue upon receipt of a fee of five dollars, which shall be paid into the treasury of the commonwealth; provided, that any fish taken by any such net, other than those permitted by this section to be taken thereby, are immediately returned alive to the water. Permits granted under this section shall expire on the thirty-first day of December in the year of issue. Any person who loses or by mistake or accident destroys any certificate issued under authority of this section may, upon application to the director, accompanied by an affidavit setting forth the circumstances of such loss, receive a duplicate certificate upon the payment of a fee of fifty cents. 1
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Penalty for violations of
§§ 24-71.
1930, 393, § 2;
1931, 393, § 9;
436, § 7.

SECTION 72. Unless the context otherwise requires, a violation of any provision of sections twenty-four to seventy-one, inclusive, or of any rule or regulation made under authority thereof, for which no other penalty is provided, shall be punished by a fine of not less than ten nor more than twenty-five dollars for each fish in respect to which such violation occurs or each provision, rule or regulation in respect to which such violation occurs. Any net, seine, trawl or other similar device used by any person in violation of any provision of said sections, and any 1
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9 fish taken in violation thereof, shall be forfeited to the commonwealth
10 and disposed of as the director shall determine.

[NOTE:—In the revision of the fish and game laws made by chapter 393 of the acts of 1930 certain penalty provisions appearing in sections 15, 28A, 29, 34, 38, 42, 58, 59, 61, 62A, 62B, 66, 75 and 78A of chapter 130 of the General Laws (as existing immediately prior to such revision) were omitted and are now covered by the general penalty provision in the foregoing section. For the history of the earlier penalty provisions so omitted see the marginal references opposite the several sections above referred to.]

1 SECTION 73. Sections five to seventy-one, inclusive, shall not affect
2 any provisions or penalties contained, or any privileges granted, in any
3 special statute relating to fisheries in any particular place.

Sections 5-71
not to affect
certain pro-
visions or
penalties.

1930, 393, § 2.

HUNTING AND TRAPPING.

1 SECTION 74. No unnaturalized foreign born person, unless he has
2 resided within the commonwealth for ten consecutive days next preced-
3 ing the doing of any of the acts referred to in this section, owns real
4 estate in the commonwealth assessed for taxation at not less than five
5 hundred dollars, and has received a license under sections five to twelve,
6 inclusive, authorizing him so to do, shall hunt any bird or mammal of
7 any description, except in defence of the person, nor shall he have in
8 possession any such bird or mammal or, within the commonwealth, own
9 or have in his possession or under his control a firearm; and any firearm
10 owned by him or in his possession or under his control in violation of
11 this section shall be forfeited to the commonwealth. Violation of any
12 provision of this section shall be punished by a fine of fifty dollars or
13 by imprisonment for not more than one month, or both. If, in any
14 prosecution for violation of any provision of this section, the defendant
15 alleges that he has been naturalized, or that he owns real estate in the
16 commonwealth to the value of five hundred dollars or more, the burden
17 of proving the same shall be upon him.

Certain alien
residents pro-
hibited from
hunting, etc.
Penalty.
1915, 240,
§§ 1, 2
G. L. (ed. of
1920) 134, § 16.
1923, 68,
1925, 295, § 14.
1930, 393, § 2.
232 U. S. 138.
Op. A. G.
(1920) 87.

1 SECTION 75. Notice of the seizure of any firearm owned by or found
2 in the possession or under the control of any person violating any pro-
3 vision of the preceding section, together with the firearm itself, shall be
4 sent to the director by the officer making the seizure immediately after
5 the guilt of such person shall be established by a final adjudication in
6 any prosecution brought against him for such violation, and any firearm
7 so seized shall be sold at the discretion of the director, who shall pay
8 the proceeds to the commonwealth.

Director
to be notified
of seizure of
firearms, etc.
1915, 240, § 3.
1919, 350,
§§ 39, 40, 43.
G. L. (ed. of
1920) 131, § 17.
1930, 393, § 2.

1 SECTION 76. The director, wardens, deputies, members of the state
2 police, and all other officers qualified to serve criminal process shall
3 arrest, without warrant, any person found with a firearm in his possession
4 if they have reason to believe that he is a foreign born person described
5 in section seventy-four. If the arrest be made upon Sunday, or upon
6 a legal holiday, the person so arrested may be committed for safe keeping
7 to a jail or lockup for that day; but he shall be taken before a magistrate
8 and proceeded against on the next day which is not Sunday or a legal
9 holiday; and any such officer may, if he has reason to believe that a
10 firearm is being concealed by a foreign born person described in said
11 section seventy-four, apply to any court having jurisdiction of the

Arrests.
1907, 198, § 6.
1911, 614, § 13.
1915, 240, § 4.
1919, 350,
§§ 39, 40, 43,
69, 101, 102.
G. L. (ed. of
1920) 131, § 18.
1930, 393, § 2.

offence, and the court, upon receipt of proof, made by affidavit, of 12
probable cause for believing that there is such concealment by such 13
person, shall issue a search warrant and cause a search to be made in 14
any place where such firearm may be concealed; and to that end the 15
said officer may, after demand and refusal, cause any building, room or 16
enclosure to be broken open and entered, and any receptacle to be 17
opened and its contents examined. 18

Penalty for
killing wild
birds.
Exceptions.
1817, 163, § 1.
1821, 16, § 1.
1835, 136, § 1.
R. S. 55, §§ 1, 5.
1849, 158,
§§ 2-4.
1850, 296.
G. S. 82,
§§ 5, 10.
1869, 246,
§§ 4, 7.
1870, 304,
§§ 4, 5.
1877, 95,
§§ 3, 4.
1879, 209,
§§ 3-5.
1881, 297, § 3.
P. S. 92,
§§ 4-6.
1883, 36.
1886, 276,
§§ 2, 4.
1901, 178.
R. L. 92,
§§ 5, 7.
1903, 162; 287.
1905, 414
1906, 274.

SECTION 77. Whoever, except as provided in section eighty-four, 1
eighty-five, eighty-seven or ninety, hunts or has in his possession a wild 2
or undomesticated bird except an English sparrow, crow blackbird, crow, 3
jay, starling, birds not found wild within the commonwealth or the 4
following named birds of prey,—sharp-shinned hawk, cooper's hawk, 5
goshawk, red-tailed hawk, red-shouldered hawk, duck hawk, pigeon 6
hawk, barred owl and great horned owl,—or wilfully destroys, disturbs 7
or takes a nest or eggs of any wild or undomesticated bird, except such 8
as are not protected by this section, shall be punished by a fine of not 9
less than twenty nor more than fifty dollars for each bird taken, killed 10
or had in possession or for each nest or egg disturbed, destroyed or 11
taken; but a person who has a certificate from the director that he is 12
engaged in the scientific study of ornithology or is collecting in the 13
interests of a scientific institution may at any season take or kill, or 14
take the nests or eggs of, a wild or undomesticated bird, except wood- 15
cock, ruffed grouse and quail; but this section shall not authorize a 16
person to enter upon private grounds without the consent of the owner 17
thereof for the purpose of taking nests or eggs or killing birds. 18

1907, 99; 250, § 1.	1917, 20.	G. L. (ed. of 1920) 131.	1926, 151, § 1.
1909, 508, § 3.	1919, 350.	§§ 19, 21, 23, 24, 26-28.	1928, 20.
1910, 472.	§§ 39, 40, 43.	1921, 75.	1930, 393, § 2.
1916, 15.	1920, 208.		

Taking of
woodcock, etc.,
for scientific
purposes
regulated.
1926, 151, § 5
[G. L. 131,
§ 35A].
1930, 393, § 2.

SECTION 78. Upon request of the governing board of any educational 1
institution within the commonwealth having power to grant the degree 2
of M.D., Ph.D. or D.S. the director may issue written instructions to 3
wardens to take, for the sole purpose of scientific investigation of diseases, 4
woodcock, ruffed grouse and quail. Such instructions shall specify the 5
number of such birds that may be taken, the times and places of taking, 6
the persons to whom the same shall be delivered for such investigation 7
and the manner in which the carcasses shall be finally disposed of. 8

Possession of
body or
feathers of
birds penalized.
1897, 524
1898, 339
R. L. 92, § 8.
1903, 329
G. L. (ed. of
1920) 131, § 22.
1930, 393, § 2
1 Op. A. G. 478.

SECTION 79. Whoever, except as provided in section seventy-seven, 1
has in possession the body or feathers of a bird, the taking or killing of 2
which is prohibited by said section seventy-seven, whether taken in the 3
commonwealth or elsewhere, or wears such feathers for the purpose of 4
dress or ornament, shall be punished as provided in section one hun- 5
dred and thirty-six; but this section shall not apply to non-residents 6
of the commonwealth passing through it or temporarily dwelling therein. 7

Protection of
homing pigeons.
1911, 198
G. L. (ed. of
1920) 131, § 25.

SECTION 80. No person, except the owner, shall detain, hunt, injure 1
or in any way interfere with a homing or carrier pigeon, or remove any 2
identification mark, band or other thing from it. 3

1930, 393, § 2.

Close seasons,
etc., in times
of drought.

SECTION 81. Whenever it shall appear to the governor that by 1
reason of extreme drought there is danger of fires resulting from hunting, 2

3 trapping, fishing or other cause, he may, with the advice and consent of
 4 the council, by proclamation suspend the opening or continuance of any
 5 or all open seasons established by this chapter, or any authorized ex-
 6 tension thereof, and proclaim a close season on any or all birds, fish or
 7 mammals, for such time as he may therein designate, and may therein
 8 prohibit hunting, trapping, fishing and the possession of firearms on
 9 property of another during the same time, and he may, by the same
 10 or another proclamation and with like advice and consent, proclaim
 11 that any or all sections of the woodlands in the commonwealth where
 12 danger of fire might exist shall be closed for such time as he may therein
 13 designate to hunters, trappers, fishermen and such other persons as he
 14 deems proper under the circumstances, except the owners or tenants of
 15 such property and their agents and employees, or persons holding written
 16 permission from any such owner or tenant to enter thereon for any lawful
 17 purpose other than hunting, trapping or fishing. As soon as the fire
 18 hazard is deemed to be over the governor, for the purpose of providing
 19 just and reasonable facilities for hunting, trapping and fishing, in like
 20 manner and with like advice and consent, may extend any such open
 21 season for a period or periods not exceeding, in the aggregate, the time
 22 of such suspension, and if by reason of any such extension such open
 23 season in whole or in part coincides with any other open season in such
 24 manner as to cause any conflict in the laws relating thereto, he may in
 25 like manner and with like advice and consent postpone such other open
 26 season for such time as may be necessary to avoid such conflict.
 27 Every such proclamation shall take effect as therein stated. A
 28 proclamation issued under this section shall be published in such news-
 29 papers or posted in such places and in such manner under the direction
 30 of the department as the governor may order; but failure to comply
 31 with the provisions of this paragraph shall not in any way invalidate
 32 any proclamation made under authority of this section.
 33 This section shall not apply to hunting on coastal waters.

Proclamation, etc.
 1909, 422.
 § 1, 3.
 1919, 350, § 39.
 G. L. (ed. of
 1920) 131,
 § 29, 31.
 1921, 107, § 1.
 1925, 249, § 1.
 1930, 393, § 2.
 1931, 393, § 8.

1 SECTION 82. During a close season on any birds, fish or mammals
 2 proclaimed as aforesaid, all laws relating to the close season established
 3 thereon by statute shall be in force, and whoever violates any provision
 4 of such laws shall be subject to the penalty prescribed for such violation.
 5 Whoever violates any provision of a proclamation issued under authority
 6 of and in accordance with the preceding section shall, if no penalty is
 7 otherwise provided, be punished by a fine of not less than twenty nor
 8 more than one hundred dollars.

Certain laws
 in force during
 such close seasons
 Penalties.
 1909, 422, § 2.
 G. L. (ed. of
 1920) 131, § 30.
 1921, 107, § 2.
 1925, 249, § 2.
 1930, 393, § 2.

1 SECTION 83. Sunday shall be close season on all wild birds and
 2 mammals. No person on Sunday shall set traps or hunt any bird or
 3 mammal of any kind or carry on that day upon his person a rifle or shot-
 4 gun in any place where birds or mammals might be found, except that
 5 mammals caught in traps may be removed.
 6 This section shall not prohibit the killing or attempted killing of a
 7 bird or mammal actually damaging or likely to damage property, sub-
 8 ject, however, to the same conditions and restrictions as would render
 9 such killing or attempted killing lawful on a secular day; nor shall it
 10 render unlawful the possession or carrying of a rifle or shotgun for such
 11 purpose or for the purpose of using the same in a sport or game lawfully
 12 conducted under the provisions of law authorizing sports and games on
 13 Sunday.

Sunday to be
 close season.
 Exception.
 1899, 116.
 R. L. 92, § 1.
 1904, 176.
 1918, 53.
 G. L. (ed. of
 1920) 131, § 32.
 1930, 393, § 2.
 1931, 372.

Close season for ruffed grouse.
1817, 103, § 1.
R S. 53, § 1.
1849, 158, § 2.
1850, 296.
1855, 197, § 1.

SECTION 84. Except as provided in section seventy-eight or section ninety-two, no person, except between the twentieth of October and the twentieth of November, both inclusive, shall hunt a ruffed grouse, commonly called partridge.

G. S. 82, § 1.	1890, 249.	1911, 236, §§ 1, 2.
1865, 158.	1891, 142.	1912, 203.
1868, 126.	1893, 189.	1917, 170, § 1.
1869, 246, § 1.	1894, 205.	1919, 153, § 1.
1870, 304, § 1.	1898, 195.	G. L. (ed. of 1920)
1874, 77, § 1.	1900, 379, §§ 1, 2, 5.	131, § 33.
1877, 95, § 1.	R. L. 92, §§ 2, 21.	1924, 211, § 1.
1879, 209, § 1.	1903, 206.	1926, 151, § 3.
1881, 297, § 1.	1908, 441, §§ 1, 4.	1930, 393, § 2.
P. S. 92, § 2.	1909, 272.	128 Mass. 410.
1886, 276, §§ 1, 3.	1910, 365.	Op. A. G. (1920) 107.
1888, 292.		

Close season for quail.
1817, 103, § 1.
R S. 53, § 1.
1855, 197, § 1.
G S 82, § 1.
1865, 158.
1867, 257.
1868, 126.

SECTION 85. Except as provided in section seventy-eight, no person, except between the twentieth of October and the twentieth of November, both inclusive, shall hunt a quail, nor shall any person hunt a quail at any time in Essex, Hampden, Hampshire, Middlesex, Nantucket, Norfolk or Worcester county.

1869, 246, § 2.	1900, 379, § 3.	1917, 170, § 2.
1871, 269.	R. L. 92, § 3.	1919, 153, § 2.
1879, 209, § 1.	1902, 165.	G. L. (ed. of 1920)
1881, 297, § 1.	1905, 406.	131, § 34.
P S. 92, § 2	1906, 303.	1926, 151, § 4.
1886, 276, § 1.	1908, 441, §§ 1, 4.	1928, 72.
1888, 292.	1909, 272.	1930, 393, § 2.
1890, 249, § 1.	1910, 365.	128 Mass. 410.
1893, 189; 398.	1911, 356, §§ 1, 5.	161 U. S. 519.
1894, 205.	1912, 270.	Op. A. G. (1920) 107.
1898, 195.		

Bag limit for ruffed grouse and quail.
1912, 523,
§§ 1, 2.
G. L. (ed. of 1920) 131, § 36.

SECTION 86. Except as provided in section seventy-eight or section ninety-two, no person shall take or kill more than three ruffed grouse in one day, or more than fifteen in one year; or more than four quail in one day, or more than twenty in one year.

1926, 151, § 6.	1930, 393, § 2.
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Restrictions as to hunting, etc., of shore birds, etc.
1818, 103, § 1.
1821, 10, § 1.
R S. 53, § 1.
1849, 158,
§§ 2, 3.
1850, 296.
1855, 197, § 1.
G. S. 82,
§§ 1, 5.
1865, 158.
1867, 257.
1868, 126.
1869, 246, § 1.
1870, 304,
§§ 3, 4.
1874, 77, § 1.
1875, 172.
1877, 95,
§§ 1, 2.
1879, 209,
§§ 1-3.

SECTION 87. No person shall hunt any species of the limicolae, commonly known as shore birds or woodcock, or any species of the rallidae, commonly known as rails, coots or gallinules, or of the anatidae, commonly known as ducks, geese, brants or swans, or have in possession any of said species, except as provided in this chapter. The director shall declare from time to time an open season on any such species, subject to such rules or regulations as he may prescribe; provided, that such open seasons and such rules and regulations shall at all times conform to the federal laws and regulations relative thereto.

Nothing in this section shall be construed to prohibit the hunting of any species of the anatidae between one half hour before sunrise and one half hour after sunset of any day during any open season on such species, nor to permit the director to make or issue any rule or regulation prohibiting such hunting.

1881, 297, §§ 1, 2.	1903, 162; 206.	1919, 153, § 1.
P. S. 92, §§ 1-4.	1905, 414.	G. L. (ed. of 1920)
1886, 276, §§ 1, 2.	1906, 301, §§ 1, 2.	131, §§ 33, 36-39.
1888, 292.	1907, 99.	1922, 171, § 1.
1890, 249.	1908, 441, §§ 1, 4.	1925, 307, §§ 1, 2.
1891, 142.	1909, 272; 421, § 1;	1924, 211, § 1.
1893, 189; 398.	508, §§ 1, 3.	1926, 151, §§ 3, 6.
1894, 205.	1910, 365.	1928, 271.
1898, 195.	1911, 188; 236, §§ 1, 2.	1930, 193, § 2; 393, § 2.
1900, 379, §§ 1, 2, 4, 5.	1912, 203; 523, § 1.	128 Mass. 410.
R. L. 92, §§ 2, 4, 5, 21.	1917, 73, § 1; 170, § 1.	Op. A. G. (1920) 107.

Importation or liberation of live game birds, etc., regulated. Penalty. Con-

SECTION 88. No person shall bring or cause to be brought into the commonwealth any live game bird or any live fur-bearing or game mammal unless he first obtains a permit so to do from the director, nor

4 shall any person liberate any bird or mammal, other than birds used as
 5 decoys at the time of such liberation, except in accordance with the
 6 provisions of an outstanding permit issued to him. The director may,
 7 in his discretion, issue such a permit and may include therein reasonable
 8 conditions as to the importation, inspection and liberation of birds or
 9 mammals; and he may at any time revoke such a permit. He may make
 10 reasonable rules and regulations relative to the issue of such permits and
 11 to the importation, inspection and liberation of birds and mammals.
 12 Whoever violates any condition of a permit granted hereunder shall be
 13 punished as provided in section one hundred and thirty-six.
 14 Any such bird or mammal which is brought into the commonwealth
 15 in violation of this section, or which is so brought under authority of a
 16 permit granted hereunder and is found upon inspection to be diseased,
 17 may be confiscated by any officer empowered to enforce this chapter
 18 and shall be forfeited and be disposed of as the director deems best.

fiseation of dis-
 eases, etc.
 1909, 421, § 2;
 508, § 2
 1911, 343,
 §§ 2, 3.
 1919, 350,
 §§ 39, 40, 43.
 G. L. (ed. of
 1920) 131,
 §§ 40, 41,
 1921, 99
 (G. L. 131,
 § 82A)
 1929, 44
 1930, 393, § 2.

1 SECTION 89. No person shall hunt a pheasant of any kind, except as
 2 provided in the two following sections.

1895, 55.	1906, 482	G. L. (ed. of 1920)
1900, 64.	1908, 477, §§ 1, 3, 4.	131, § 42
R. L. 92, § 16.	1909, 309, §§ 1, 3, 4.	1930, 393, § 2.
1905, 73.		

Hunting, etc.,
 of pheasants
 regulated.

1 SECTION 90. The director may declare an open season on pheasants
 2 in any county where such open season seems advisable, and may make
 3 such rules and regulations relating to bag limit, time and length of open
 4 season and varieties to be taken, and all other matters connected with
 5 such open season as he may deem necessary or expedient.

1914, 401, §§ 1, 3	G. L. (ed. of 1920) 131, § 43.
1919, 350, §§ 39, 40.	1930, 393, § 2.

Open season
 for pheasants.
 1908, 477, § 2.
 1909, 309,
 § 2, 4
 1912, 567,
 §§ 2, 3.

1 SECTION 91. A person may hunt, upon land owned or occupied by
 2 him, a pheasant which he finds in the act of doing damage to any crop
 3 on cultivated land, or may authorize a member of his family or person
 4 permanently employed by him on such land so to do. The person by
 5 whom or under whose direction a pheasant is so hunted shall within
 6 twenty-four hours thereafter make a written report to the director,
 7 stating the time, place and the number of pheasants so killed. Failure
 8 to make such report shall be punished as provided in section one hundred
 9 and thirty-six.

Pheasant
 doing damage
 may be killed.
 1914, 401,
 §§ 2, 3
 1919, 350,
 § 39, 40.
 G. L. (ed. of
 1920) 131, § 44.
 1930, 393, § 2.

1 SECTION 92. A board, consisting of the commissioner of conservation,
 2 the commissioner of agriculture and the director of the division of orni-
 3 thology, acting in person or through their duly authorized agents, to-
 4 gether with a representative of the Massachusetts Fruit Growers Associa-
 5 tion, Inc., and of The Massachusetts Fish and Game Association,
 6 may from time to time determine and define the limits of districts within
 7 the commonwealth wherein permits to hunt ruffed grouse, as hereinafter
 8 provided, may be used. Said board shall serve without compensation
 9 and shall not incur any expense on account of the commonwealth. Upon
 10 application to the director, upon blank forms furnished by the division,
 11 by the owner or occupant of land in a district wherein a permit as afore-
 12 said may be used, the director may grant to him a permit authorizing
 13 him, or a member of his family authorized by him so to do or a person
 14 permanently employed by him on such land if authorized as aforesaid,
 15 to hunt on such land, but only for such period between December first

Districts
 wherein per-
 mits to hunt
 ruffed grouse
 may be used,
 board to
 define, etc.
 Powers,
 duties, etc.
 1924, 211, § 2
 (G. L. 131,
 § 44A).
 1930, 393, § 2.

and April fifteenth following as may be specified in such permit, any ruffed grouse which he may find in the act of doing damage to fruit trees. There shall be no fee for granting any such permit. The person by whom or under whose direction a ruffed grouse is so hunted shall, within twenty-four hours thereafter, make a written report to the director, stating the time, place and the number of grouse so killed. Such person shall retain possession of such grouse or the carcasses thereof for a period of five days, within which the director shall effect the disposition of the same for scientific purposes. The holder of any permit granted under this section who violates any provision thereof or any provision of this section shall forfeit such permit.

Close season, etc., for gray squirrels.
Reg limit.
1879, 209, § 8.
P. S. 92, § 9
1886, 276, § 5.
1894, 97
1901, 102.
R. L. 92, § 9.
1907, 166.
1909, 466, § 2.
1910, 564.
1911, 172.
1912, 523.
1913, 270.
1917, 179, § 3.
1919, 153, § 3.

SECTION 93. Except as otherwise provided in this chapter, no person shall, except between October twentieth and November twentieth, both inclusive, hunt or have in possession the carcass of a gray squirrel, or at any time take, kill or have in possession the carcasses of more than five gray squirrels in one day or more than fifteen in one year, or take or kill at any time a gray squirrel by means of a trap or net, or for the purpose of taking or killing a gray squirrel construct or set a trap or net. This section shall not apply to the owner or occupant of any dwelling house or other building finding any gray squirrel doing damage to the same or to any fruit tree, or to grain or other growing cultivated crop.

G. L. (ed. of 1920) 131, § 45. 1923, 99, § 4. 1930, 393, § 2. 1931, 436, § 8.

Hunting, etc., of hares and rabbits regulated.
1879, 209, § 8.
P. S. 92, § 9
1886, 276, § 5.
1894, 97
1901, 102.
R. L. 92, § 9.
1907, 166.
1908, 413.
1909, 466, § 1, 2.
1911, 118,
§ 1, 4.
1914, 120.
1917, 179,
§ 4, 196.

SECTION 94. No person, otherwise than as provided in section ninety-six, shall hunt or have in possession the carcass of a hare or rabbit, except between October twentieth and the last day of February, both inclusive, in Nantucket county or between October twentieth and February fifteenth, both inclusive, in any other county, or during such open seasons kill or have in possession the carcasses of more than two northern varying hares, otherwise known as Canada hares, snow-shoe rabbits or white rabbits, or more than five rabbits in any one day. This section shall not apply to European hares in the county of Berkshire, which may be taken or killed at any time.

1919, 153, § 4. 1921, 152. 1926, 88.
1920, 425, §§ 1, 3, 5. 1922, 117, § 2, 160. 1930, 393, § 2.
G. L. (ed. of 1920) 1925, 179. 1931, 27, § 1; 436, § 9.
131, § 46.

Hares or rabbits not to be trapped, etc. Use of ferret regulated.
1874, 57
1879, 209, § 6.
1881, 297, § 4.
P. S. 92, § 7
1886, 276, § 6.
1891, 254
1898, 124
R. L. 92, § 11.
1906, 211.
1909, 328.
1910, 533.
§ 2, 4, 5
1911, 118,
§ 2, 4, 5.
1919, 83
1920, 425, § 4.
G. L. (ed. of 1920) 131, § 48.

SECTION 95. No person shall remove or attempt to remove a hare or a rabbit from any hole in the ground, stone wall, from under any ledge, stone, log or tree, and, except as provided in the following section, no person shall take or kill a hare or a rabbit by a trap or net, or for that purpose construct, tend or set a trap or net or use a ferret; and no person shall have in possession a ferret without a permit. The director may upon application issue to a person a permit authorizing him to have ferrets in his possession, and may revoke said permit at any time if he has reason to believe that said ferrets are kept or used for hunting hares or rabbits. No person shall have in possession a ferret in a place where hares or rabbits might be taken or killed. Ferrets used or had in possession in violation hereof shall be confiscated.

1923, 99, § 2. 1924, 130. 1930, 393, § 2. 1931, 436, § 10.

Hunting or trapping of rabbits or hares

SECTION 96. An owner or tenant of land, or, if authorized by such owner or tenant, any member of his family or person permanently em-

3 ployed thereon, may, upon such land, hunt, or take by means of a box
 4 trap, a rabbit or hare which such owner or tenant, or member or person
 5 so authorized, has reasonable cause to believe has damaged or is about
 6 to damage any vegetable, crop, fruit tree or other valuable growth on
 7 such land. An owner or tenant by whom or by whose authority hares
 8 or rabbits are so hunted or trapped shall, within twenty-four hours
 9 thereafter, make a written report to the director, stating the time and
 10 place and the number of hares and rabbits so taken and the disposition
 11 made of them. Failure to make such a report as aforesaid shall be
 12 punished as provided in section one hundred and thirty-six.

doing damage
to fruit trees
regulated.
1887, 300,
1900, 379, § 1.
1901, 141,
R. L. 92, § 12.
1906, 278,
1910, 533,
§§ 3, 5.
1911, 118, § 3
1919, 350, § 43.
G. L. (ed. of
1920) 131, § 49.
1926, 181,
1930, 393, § 2

1 SECTION 97. No person shall, except as provided in section ninety-
 2 nine, hunt or trap, or have in possession the living or dead bodies of
 3 minks, otters, muskrats, skunks or raccoons, except that such animals
 4 may be taken by shooting or trapping between November first and
 5 March first, both dates inclusive, and that raccoons may also be taken
 6 with the aid or by the use of dogs or guns in October, but not more than
 7 twenty raccoons shall be taken by one person in one season.

Close season
for certain
fur-bearing
animals.
1919, 66, § 1.
1920, 437,
§§ 1, 2, 9.
G. L. (ed. of
1920) 131, § 51.
1921, 121.

1925, 104; 320, § 2.

1930, 393, § 2.

1 SECTION 98. No person shall, between March second and October
 2 thirty-first, both dates inclusive, set, tend, use or maintain a trap adapted
 3 for trapping fur-bearing mammals, and no person shall set or maintain
 4 any trap on the improved or enclosed land of another, or on land posted
 5 as provided in section one hundred and twenty-three, without the written
 6 consent of the owner or occupant, nor shall any trap be placed in a public
 7 way, cart road or path commonly used as a passageway for human beings
 8 or domestic animals. No trap shall be placed within ten feet of a musk-
 9 rat house, nor shall a muskrat house be torn open, disturbed or destroyed.
 10 Every trap shall be marked with the name of the person using the same,
 11 in such a manner that it shall be legible at all times. Any trap set in
 12 violation of law shall be confiscated by any officer empowered to enforce
 13 this chapter and shall be declared forfeited and sold by the director,
 14 or at his order, and the proceeds shall be paid to the commonwealth.

Restrictions
as to setting
traps
1913, 626, § 3.
1920, 437, § 3.
G. L. (ed. of
1920) 131,
§§ 54, 60.
1930, 393, § 2.
1931, 393, § 10.

1 SECTION 99. Owners of property which has been damaged or injured
 2 or which the owners reasonably believe is likely to be injured by any
 3 mammal, except deer, may, at any time and in such manner as may be
 4 necessary to protect said property from said mammals, place or authorize
 5 the placing of traps, for the purpose of taking said mammals, of the size
 6 and kind not forbidden by section one hundred and five, on the said
 7 land; provided, that the carcasses and skins of all protected mammals
 8 so taken during other than the open season shall not be sold. A written
 9 report shall be sent by every such owner to the director on or before
 10 January thirty-first in each year, stating the number and kinds of mam-
 11 mals taken under authority of this section.

Setting traps
to protect
property.
Reports.
1920, 437, § 4.
G. L. (ed. of
1920) 131, § 55.
1930, 393, § 2.

1 SECTION 100. Violation of any provision of sections ninety-seven to
 2 ninety-nine, inclusive, shall be punished by a fine of not less than twenty
 3 nor more than one hundred dollars, in addition to any other penalty or
 4 forfeiture which may be imposed for taking, killing or having in possession
 5 any birds or mammals at times or by means contrary to law.

Penalties for
violations of
§§ 97-99.
1919, 66, § 2.
1920, 437,
§§ 7, 9.

G. L. (ed. of 1920) 131, § 56.

1930, 393, § 2.

Penalty for discharging firearms upon or near certain highways.
1930, 393, § 2.
1931, 436, § 11.

SECTION 101. Whoever, for the purpose of hunting, taking or killing any bird or mammal, discharges any firearm upon any state or paved highway, or within fifty yards of any such highway, shall be punished by a fine of not less than twenty nor more than fifty dollars.

Taking of birds by snares, etc., penalized.
1835, 136, § 2.
R. S. 53, § 6.
1855, 197, § 2.
G. S. 82, §§ 2, 11.
1870, 304, § 6.
1877, 95, § 5.
1879, 209, § 6.
1881, 297, § 4.
P. S. 62, § 7.
1886, 276, § 6.
1891, 254.
1892, 162, § 2.
1897, 184.
1901, 174.

SECTION 102. Whoever constructs, sets, places, maintains or tends a trap, net or snare for the purpose of taking or killing a bird, or takes a bird by such means, or whoever hunts any bird with a swivel or pivot gun, or by the use of a torch, jack or artificial light, or by the aid or use of any vehicle, boat or floating device propelled by sail, steam, naphtha, gasoline, electricity, compressed air or similar motive power, or whoever, for the purpose of taking or killing a wild bird, places or causes to be placed upon the shores or foreshores of, or in or upon, any waters within the commonwealth grain of any kind shall be punished as provided in section one hundred and thirty-six.

R. L. 92, § 11.	1911, 101.	G. L. (ed. of 1920) 131, § 57.
1906, 241.	1916, 110.	1928, 24
1909, 328	1919, 65; 83.	1930, 393, § 2.
1910, 533, §§ 1, 4.	1920, 437.	3 Op. A. G. 189.

Use of poison in killing mammals penalized.
1913, 626, § 1.
G. L. (ed. of 1920) 131, § 58.
1923, 99, § 3.
1925, 334.
1928, 220.
1929, 83.
1930, 393, § 2.
1931, 436, § 12.

SECTION 103. Whoever places poison in any form whatsoever for the purpose of killing any mammal or bird shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or both; provided, that this section shall not prohibit any person from placing in his orchard or in or near his house, barn or other buildings poison for the purpose of destroying rats, woodchucks or other pests of like nature, or from placing with like intent under the surface of his lands carbon disulphide in any of its forms or any other poison applied in a manner similar to that in which carbon disulphide is applied. Possession of the raw fur of any mammal or the dead body of any bird killed by poison, except rats, woodchucks or other pests of like nature, shall be prima facie evidence that the person having such possession has violated this section.

Use of snares, etc., in killing mammals penalized.
Exception.
1913, 626, § 1.
G. L. (ed. of 1920) 131, § 58.
1923, 99, § 3.
1925, 334
[G. L. 131, § 58A].
1929, 83.
1930, 393, § 2.
1931, 436, § 13.

SECTION 104. Whoever constructs, erects, sets, repairs or tends any snare for the purpose of catching or killing any mammal, or takes a mammal by such means or by the aid or use of any motor vehicle or artificial light, shall be punished by a fine of not less than fifty nor more than two hundred dollars. The construction, erection, setting, repairing or tending of any snare by any person shall be prima facie evidence of a violation by him of this section. Nothing in this section shall be construed to prohibit the hunting of raccoons or skunks or any unprotected mammal in a lawful manner with artificial light, provided no motor vehicle is used therefor.

Use of certain traps penalized.
1913, 626, § 2.
G. L. (ed. of 1920) 131, § 59.
1930, 393, § 2.

SECTION 105. Whoever sets, places, maintains or tends a trap, commonly called a steel or jaw trap, with a spread of more than six inches, or a trap with teeth jaws, or a "stop-thief", "dead-fall" or choke trap with an opening of more than six inches, shall be punished by a fine of not less than twenty nor more than one hundred dollars.

Same subject.
Exception.
1910, 128.
[G. L. 131, § 59A].

SECTION 105A. Whoever uses, sets or maintains any trap or other device for the capture of fur-bearing animals which is likely to cause continued suffering to an animal caught therein, and which is not de-

4 signed to kill such animal at once or to take it alive unhurt, shall be fined 1931, 426,
 5 fifty dollars for each offense; but this section shall not apply to traps or § 242.
 6 other devices for protection against vermin if set or maintained not more
 7 than fifty yards from any building or cultivated plot of land to the use
 8 of which the presence of vermin may be detrimental.

[NOTE:— This section was inserted as section 59A by 1930, 428, and the number changed to section 105A by 1931, 426, § 242.]

1 SECTION 106. Whoever fails to visit at least once in twenty-four Failure to
 2 hours a trap set or maintained by him shall be punished by a fine of not visit trap
 3 less than twenty nor more than one hundred dollars. penalized.

1913, 626, § 3.

G. L. (ed. of 1920) 131, § 60.

1930, 393, § 2.

1 SECTION 107. Whoever sets, places, locates, maintains or tends a Use of
 2 trap of any kind with a scent or scented bait upon the premises of another scented bait
 3 shall be punished by a fine of not less than twenty nor more than fifty penalized.
 4 dollars or by imprisonment for not more than one month, or both. 1911, 215.
 5 Nothing in this section shall be construed to prevent the using as bait G. L. (ed. of
 6 of fruit, vegetables, fish, birds or mammals, or parts thereof, provided 1920) 131, § 61.
 7 nothing is added thereto and that such bait is used in its natural state. 1922, 183.
 1930, 393, § 2.

1 SECTION 108. Whoever, except as provided in this chapter, hunts or Deer not to
 2 has in possession the carcass of a deer shall be punished by a fine of one be killed
 3 hundred dollars; provided, that any person may, on land owned or except when
 4 occupied by him, or, with the consent of the owner, upon land adjacent doing damage.
 5 thereto, hunt any deer which he has reasonable cause to believe has Penalty.
 6 damaged or is about to damage crops, fruit or ornamental trees, except Reports.
 7 grass growing on uncultivated land; and he may authorize any member 1898, 151.
 8 of his family, or any person employed by him so to hunt a deer under the R. L. 92, § 17.
 9 circumstances above specified. In the event of the wounding or killing 1903, 245.
 10 of a deer as aforesaid, the person by whom or under whose direction 1905, 419.
 11 deer was wounded or killed shall, within twenty-four hours thereafter, 1907, 307.
 12 send to the director a written report, signed by him, of the facts relative 1908, 377.
 13 to the said wounding or killing, including the time and place thereof, 1909, 396.
 14 and the kind of tree or crop injured or destroyed, or about to be injured 1910, 545,
 15 or destroyed by the deer. §§ 1, 4, 5,
 1913, 529,
 §§ 1, 4, 5,
 1914, 453,
 1919, 350,
 §§ 39, 40, 43,
 G. L. (ed. of
 1920) 131, § 62.
 1930, 393, § 2.
 1931, 436, § 14.
 257 Mass. 195.

1 Op. A. G. 523.

4 Op. A. G. 512.

1 SECTION 109. Any person duly authorized to hunt in the common- Open season
 2 wealth may, except in Nantucket county, between one half hour before for deer.
 3 sunrise and one half hour after sunset of each day beginning with the Penalty.
 4 first Monday in December and ending with the following Saturday, or, 1910, 545,
 5 in Berkshire, Franklin, Hampden or Hampshire county, between one §§ 2, 5,
 6 half hour before sunrise and one half hour after sunset of each day, be- 1912, 388,
 7 ginning with the first Monday in December and ending with the second 1913, 529,
 8 following Saturday, hunt, by the use of a shotgun or bow and arrow, a §§ 2, 5,
 9 deer, subject to the following restrictions and provisions: No person 1917, 139,
 10 shall, except as provided in the preceding section, kill more than one 1919, 350,
 11 deer. No deer shall be hunted on land posted in accordance with section §§ 39, 40, 43,
 12 one hundred and twenty-three, or on land under control of the metro- 123.
 13 politan district commission, or in any state reservation subject to section G. L. (ed. of
 14 one hundred and fourteen except as provided therein. No person shall 1920) 131, § 63.
 15 make, set or use any trap, torch light or jack light, salt lick or other 1925, 320, § 3.
 1926, 66, § 2.
 1928, 215.
 1929, 138.
 1930, 393, § 2.
 1931, 436, § 15.
 257 Mass. 195.

device for the purpose of ensnaring, enticing, taking, injuring or killing a 16
 deer. No person shall carry on his person an arrow adapted for hunting 17
 purposes unless it is plainly marked with his name and permanent ad- 18
 dress. Whoever violates any provision of this section shall be punished 19
 by a fine of not less than fifty nor more than one hundred dollars. 20

Penalty for
 hunting
 moose.

SECTION 110. Whoever hunts a moose shall be punished by a fine of 1
 not less than fifty nor more than one hundred dollars. 2
 1913, 529, § 5; 744. G. L. (ed. of 1920) 131, § 64. 1930, 393, § 2.

Dogs chasing
 deer.

1693-4, 19,
 §§ 3, 5, 15,
 1698, 21, §§ 1-3.
 1717-18,
 12, § 1
 1739-40, 3, § 1.
 1754-5, 7.
 1763-4, 28, § 2.
 1802, 15.
 1806, 45.
 1817, 58
 1823, 74
 G. S., 53, §§ 7,
 8, 82, §§ 12, 13.
 1869, 246, § 8.
 1870, 304,
 §§ 7, 8
 1871, 320.

SECTION 111. The director, wardens, deputies, any member of the 1
 state police, or any officer qualified to serve criminal process, may kill 19
 a dog found chasing or hunting deer at any time, if the dog is so chasing 3
 or hunting with the knowledge and consent of his owner or keeper, and 4
 the owner or keeper shall be punished by a fine of not less than twenty 5
 nor more than fifty dollars. If a dog has twice been found chasing or 6
 hunting deer, and the owner or keeper of the dog has been notified on 7
 each occasion by the director, and the same dog is thereafter found 8
 chasing or hunting deer, it shall be prima facie evidence that such chas- 9
 ing or hunting was with the knowledge and consent of the said owner 10
 or keeper. 11

1874, 77, § 2. 1882, 199. 1919, 350, §§ 39, 40, 43,
 1877, 95, §§ 6, 8. R. L., 92, § 18. 99, 101, 102.
 1879, 209, §§ 7, 10. 1902, 154. G. L. (ed. of 1920) 131, § 65.
 1881, 297, § 5. 1905, 245. 1930, 393, § 2.
 P. S., 92, §§ 8, 10. 1913, 552. 1 Op. A. G. 523.

Hunting of
 birds or mam-
 mals with
 firearm, or
 by aid of dog,
 regulated.
 1913, 512, § 1.
 1916, 7.
 G. L. (ed. of
 1920) 131, § 66.
 1922, 128.
 1930, 393, § 2.

SECTION 112. No person shall between one half hour before sunrise 1
 on the first Monday in December and one half hour after sunset on the 2
 following Saturday, or, in Berkshire, Franklin, Hampshire or Hampden 3
 county, between one half hour before sunrise on the first Monday in 4
 December and one half hour after sunset on the second following Satur- 5
 day, hunt a bird or mammal with a rifle, revolver or pistol or by the aid 6
 of a dog, or have in his possession, or under his control, in any wood or 7
 field, a rifle, revolver or pistol, or a dog adapted to the hunting or pur- 8
 suing of birds or mammals, or, while in pursuit of birds or mammals, 9
 have in his possession, or under his control, on any highway, any such 10
 firearm or dog. 11

Payment by
 commonwealth
 of damages
 caused by deer
 or moose
 regulated.
 1905, 407.
 1912, 438.
 G. L. (ed. of
 1920) 131, § 67.
 1921, 257, § 1.
 1927, 194.
 1928, 361.
 1930, 393, § 2.
 1931, 436, § 16.

SECTION 113. Whoever suffers loss by the eating, browsing or tram- 1
 pling of his fruit or ornamental trees, vegetables, produce or crops by 2
 deer or moose, if the damage is done in a city may inform the officer of 3
 police thereof who shall be designated to receive such information by the 4
 mayor, and if the damage is done in a town may inform the chairman 5
 of the selectmen of such town, declaring the amount of such damage as 6
 nearly as he can determine the same. If the amount so declared does 7
 not exceed twenty dollars, the officer or chairman shall proceed to the 8
 premises and determine whether the damage was inflicted by such deer 9
 or moose, and, if so, appraise the amount thereof and within ten days 10
 after such appraisal is made return to the director a certificate of the 11
 damages fixed by such appraisal. If the amount of said damage is 12
 declared by the owner of the damaged property to exceed twenty dollars, 13
 said owner shall notify the director of said damage. The director, within 14
 eight days after receiving such notice, shall determine whether the dam- 15
 age was inflicted by such deer or moose, and, if so, he shall at once pro- 16
 ceed to have an appraisal made under oath by three persons, one of 17

18 whom shall be designated by the owner of the damaged property, one by
 19 the director and the third by the trustees for county aid to agriculture
 20 or for the county agricultural school of the county in which the damage
 21 occurred. Within ten days after such appraisal is made, the appraiser
 22 designated by the director as aforesaid shall return to the director a
 23 certificate of the damages fixed by such appraisal. The director shall,
 24 within thirty days after receiving such certificate, if he finds the claim
 25 to be just and the appraisal correct, endorse his approval thereon and
 26 transmit the same, with the cost of appraisal added, to the comptroller,
 27 and the amount so certified shall be paid by the commonwealth; pro-
 28 vided, that if any doubt exists, the director may summon the appraisers
 29 and all parties interested and make such examination as he thinks proper
 30 and may cause the appraisers to review their appraisal or cause a new
 31 appraisal or appraisals to be made as aforesaid by other appraisers desig-
 32 nated and proceeding in the same manner as the original appraisers.
 33 Each appraiser, except when a paid official or employee of the common-
 34 wealth or of a county, shall receive compensation from the common-
 35 wealth at the rate of sixty-five cents per hour for not more than eight
 36 hours in any one day while acting as such and ten cents a mile for his
 37 necessary travel.

38 Any tree appraised in the manner above referred to as having been
 39 totally damaged, and for which compensation has been paid by the
 40 commonwealth under this section, may thereafter be removed by the
 41 director without further compensation therefor, or the director may
 42 mark or cause to be marked in a suitable manner trees for which com-
 43 pensation has been paid.

1 SECTION 114. No person shall hunt, or in any manner molest or
 2 destroy any bird or mammal within the boundaries of any state reser-
 3 vation, park, common or any land owned or leased by the common-
 4 wealth or any political subdivision thereof or any land held in trust for
 5 public use, except that the authorities or persons having the control
 6 and charge of such reservations, parks, commons or other lands may,
 7 with such limitations as they may deem advisable, authorize persons to
 8 hunt within said boundaries any of the birds named in section seventy-
 9 seven, or the fur-bearing mammals, except muskrats, mentioned in
 10 section ninety-seven, or foxes, weasels or wildcats, and except that
 11 deer may be hunted in any state forest reservation subject to this section
 12 during the open season for deer, if the commissioner with the approval
 13 of the governor and council declares such open season effective therein.
 14 Such authorizations, except for hunting deer on state forest reservations
 15 as aforesaid, shall be by written license, revocable at the pleasure of the
 16 authorities or persons granting it. The boards, officials and persons
 17 having charge of such reservations, parks, commons or lands owned or
 18 leased or held for public use shall enforce this section.

19 This section shall not apply to state forests acquired under section
 20 thirty or section thirty-three of chapter one hundred and thirty-two.

1 SECTION 115. For the purpose of protecting any species of useful
 2 birds, mammals or fish, and for aiding the propagation thereof, the com-
 3 missioner may acquire in fee by purchase, gift or devise, or may lease,
 4 or, with the consent of the owners, may control any land, water or shore
 5 or the right to use the same, including the right of the public in such
 6 land or on such water or shore, as a wild life sanctuary. The commis-

Hunting of
 birds or mam-
 mals within
 public lands
 regulated.
 1909, 362.
 1920, 604, § 4.
 G. L. (ed. of
 1920) 131, § 68.
 1925, 320, § 1.
 1926, 66, § 1.
 1930, 393, § 2.
 Op. A. G.
 (1920) 72, 215.

Wild life
 sanctuaries,
 establishment,
 trust funds, etc.
 1911, 410, § 1.
 1919, 350,
 § 39, 40.
 G. L. (ed. of
 1920) 131, § 69.
 1925, 301, § 1.
 1930, 393, § 2.

sioner, with the approval of the governor and council, may receive in trust for the commonwealth any grant or devise of land or any gift or bequest of personal property for the purpose of aiding in the propagation and protection of any useful birds, mammals or fish; provided, that, unless approved by the general court, no obligation shall be imposed on the commonwealth to expend in the carrying out of any trust more than the income of the trust property, or more than the income and principal thereof if by the terms of the trust the principal may be expended. Any such gift or bequest of money or securities shall be transferred forthwith to the state treasurer, who shall administer it as provided by section sixteen of chapter ten.

Reservations and sanctuaries. Rules, etc. Penalty. 1911, 410, §§ 3, 9. 1919, 350, §§ 39, 40, 43. G. L. (ed. of 1920) 131, § 71. 1930, 393, § 2. 1931, 393, § 11.

SECTION 116. In respect to any territory mentioned in the two preceding sections, the director may make such use of the land, water or shore within the territory as he deems best for the purpose of improving the feeding and nesting environment of birds or mammals, and may from time to time make such rules and regulations relating to such use as he deems proper, and such rules and regulations, when approved by the governor and council, shall have the force of law. The director may liberate birds within the limits of the said territories, and, when in his opinion such action is advisable, co-operate with land owners within such territory in experiments in the propagation of birds or mammals. Whoever violates any provision of such rules or regulations shall be punished by a fine of not less than twenty nor more than one hundred dollars or by imprisonment for not more than two months, or both.

Public shooting grounds. 1931, 436, § 17.

SECTION 116A. For the purpose of providing public shooting grounds, the director may acquire by gift, and shall in his discretion acquire by leases not to exceed five years, lands and waters, except a brook or stream which is a source of or a tributary to a public water supply, within the commonwealth, or either of them, or shooting rights thereon or therein, together with such rights of ingress to and egress from such lands or water as may be necessary and proper. Said director may, subject to the provisions of section thirty-seven of chapter thirty, make rules and regulations relative to hunting in any lands or waters acquired under authority of this section, may provide a penalty, to consist of a fine not to exceed twenty dollars, for any violation of any such rule or regulation, and may from time to time close or open such lands or waters, or any part thereof, for hunting.

Hunting or trapping harmful mammals or birds. 1911, 410, § 4. 1919, 350, §§ 39, 40, 43. G. L. (ed. of 1920) 131, § 72. 1921, 55. 1930, 393, § 2.

SECTION 117. The director may authorize in writing any warden or deputy or the owner or occupant of any land within any such territory or any other responsible person to hunt or trap within the said territory and under the direction of the director any mammals or birds which he may consider harmful to other birds and mammals or to agriculture, or to take or remove the nests or eggs of any such first mentioned birds.

Publication of order establishing close season or sanctuary. 1911, 410, § 5. 1919, 350, §§ 39, 40. G. L. (ed. of 1920) 131, § 73. 1930, 393, § 2. 1931, 393, § 12.

SECTION 118. If an order is made by the commissioner establishing a wild life sanctuary, as provided in section one hundred and fifteen, he shall cause a copy of the order to be published once a week for two successive weeks in one or more newspapers published in the counties embracing the territory, and shall cause copies of the order to be posted in conspicuous places within the towns where the territory is situated, and also within the limits of the territory itself. If a great pond or any part

8 thereof, or any seashore, is included within the territory, a copy of the
 9 order shall be filed in the office of the clerk of any town bordering upon
 10 the pond or seashore, and also in the office of the state secretary. An
 11 order made by the commissioner in accordance herewith shall take effect
 12 when posted as above provided, and shall contain a full description of
 13 the territory so established and the period for which it is closed.

1 SECTION 119. Whenever such wild life sanctuary has been established
 2 by an order as above provided, no person, except as provided in section
 3 one hundred and seventeen, shall hunt or trap any bird or mammal
 4 within the said territory, or disturb or injure any nest, eggs or young of
 5 such bird or mammal, or remove the eggs or young from the nest. Who-
 6 ever violates any provision of this section shall be punished by a fine of
 7 not less than twenty nor more than one hundred dollars or by imprison-
 8 ment for not more than two months, or both.

Penalty for
violating close
season or
sanctuary.
1911, 410,
§ 7, 9.
G. L. (ed. of
1920) 131, § 74.
1930, 393, § 2.
1931, 393, § 13.

1 SECTION 120. Except as provided in section one hundred and seven-
 2 teen, no person shall enter with a firearm or any device adapted for
 3 killing or injuring birds or mammals or with a trap or snare upon any
 4 territory established in accordance with section one hundred and fifteen
 5 as a wild life sanctuary. Whoever violates any provision of this section
 6 shall be punished as provided in the preceding section.

Possession of
firearms, etc.,
upon sanc-
tuary, etc.,
penalized.
1911, 410, § 8.
G. L. (ed. of
1920) 131, § 75.
1930, 393, § 2.

1931, 393, § 14.

1 SECTION 120A. Consent of the commonwealth of Massachusetts is
 2 hereby given to the acquisition by the United States, by purchase, gift,
 3 devise or lease, of such areas of land or water, or of land and water, in
 4 Massachusetts, as the United States may deem necessary for the estab-
 5 lishment of migratory bird reservations in accordance with the act of
 6 congress approved February eighteenth, nineteen hundred and twenty-
 7 nine, known as the migratory bird conservation act, reserving, however,
 8 to the commonwealth of Massachusetts full and complete jurisdiction
 9 and authority over all such areas not incompatible with the administra-
 10 tion, maintenance, protection and control thereof by the United States
 11 under the terms of said act of congress.

Migratory
game refuges,
acquisition by
federal
government
consented to.
Reservations.
1931, 183.

1 SECTION 121. No person shall transport or cause to be transported
 2 out of the commonwealth any bird or mammal protected by this chap-
 3 ter which has illegally been taken or killed therein.

Birds illegally
killed not to
be sent out
of state.

1886, 276, § 10.
R. L. 92, § 22.

1902, 236.
G. L. (ed. of 1920) 131, § 77.

1930, 393, § 2.

1 SECTION 122. Officers in charge of public buildings in cities and such
 2 officers as the selectmen designate and appoint in towns may take such
 3 reasonable means and use such appliances, except poison, as in their
 4 judgment will effectively exterminate the English sparrow and starling
 5 in such cities and towns, but nothing herein shall authorize an officer
 6 to enter on private property without the consent of the owner or occu-
 7 pant thereof. Whoever wilfully resists such officers while engaged in
 8 such duties or knowingly interferes with the means used by them for
 9 such purpose shall be punished by a fine of not less than twenty nor more
 10 than fifty dollars.

Extermination
of English
sparrow.
Penalty for
interference.
1890, 443.
R. L. 92, § 21.
G. L. (ed. of
1920) 131, § 78.
1930, 393, § 2.

1 SECTION 123. Whoever fishes, hunts or traps on private land with-
 2 out permission of the owner or tenant thereof, after such owner or tenant

Penalty
for fishing,
hunting, etc.,

on posted land.
1884, 308, § 1, 3.
R. L. 92, § 14.

has conspicuously posted thereon notices, bearing thereon the name of such owner or tenant, stating that fishing or hunting thereon is prohibited, shall be punished by a fine of not more than twenty dollars.

G. L. (ed. of 1920) 131, § 79. 1930, 393, § 2 4 Op. A. G. 518.

Sale, etc., of certain birds penalized.
1817, 163, § 1.
1830, 69.
R. S. 53, § 1.
1849, 158, § 2.
1850, 296.
1855, 197, § 1.
G. S. 82, § 1.
1869, 246, § 1.
1870, 304, § 1.
1877, 95, § 1.
1879, 209, § 1.
1881, 297, § 1.
P. S. 92, §§ 2, 4.

SECTION 124. No person, except as provided in section one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-nine, one hundred and twenty-nine A or one hundred and thirty, shall buy, sell, barter, exchange, or in any way deal in or trade with respect to, the dead or living bodies of birds or mammals, protected by the law in this commonwealth, whenever and wherever taken or killed. Whoever violates any provision of this section shall be punished by a fine of not less than fifty nor more than one hundred dollars.

1884, 308, §§ 2, 3.	1903, 206.	1913, 270.
1886, 276, §§ 3, 5.	1904, 269.	1917, 179, §§ 1, 3.
1893, 189, 398.	1905, 406.	1919, 153, §§ 1, 3.
1894, 97, 205.	1906, 303, §§ 1, 2.	G. L. (ed. of 1920)
1898, 195.	1907, 166.	131, § 81.
1900, 379, §§ 2, 5.	1908, 441, §§ 2, 4.	1922, 171, § 2.
1901, 102.	1910, 564, § 1.	1925, 307, § 3.
R. L. 92, §§ 2, 3,	1911, 172, § 1; 236.	1930, 393, § 2.
6, 9, 15.	§§ 1, 2; 356, §§ 3, 5.	1931, 291, § 2.
1902, 165.	1912, 203; 567, §§ 1, 9.	4 Op. A. G. 518.

Hares or rabbits taken outside of state, sale regulated.

SECTION 125. Hares or rabbits lawfully taken without the commonwealth may be sold; provided, that the sale thereof is lawful in the state or country in which they are taken.

1901, 102.	1914, 120.	1921, 152.
R. L. 92, § 9.	1917, 170, § 4; 196.	1922, 117, §§ 1 [G. L. 131,
1907, 166.	1919, 153, § 4.	§ 46A], 2; 160.
1908, 413.	1920, 425, §§ 1, 3, 5.	1925, 179.
1909, 468, §§ 1, 2.	G. L. (ed. of 1920)	1926, 88.
1911, 118, §§ 1, 4.	131, § 46.	1930, 393, § 2.

Buying, selling, etc., of skins of minks, otters, muskrats, etc., regulated.
1920, 437, § 5.
G. L. (ed. of 1920) 131, § 52.
1930, 393, § 2.

SECTION 126. The skins of minks, otters, muskrats, skunks and raccoons which have been legally taken or legally propagated in the commonwealth or legally taken and transported from any other state or country which does not prohibit their sale or export may be bought or sold at all times, but the burden of proof that such skins were lawfully taken shall be upon the person possessing them.

Possession, sale, etc., of protected live birds or mammals regulated.
1906, 301, § 1.
1908, 477, § 2.
1909, 309, §§ 2, 4; 421, §§ 1, 3.
1911, 19, § 2; 356, § 2.
1912, 567, §§ 2, 3, 9.
1919, 350, §§ 39, 40, 43.
G. L. (ed. of 1920) 131, §§ 82, 83.
1930, 393, § 2.
1931, 393, § 13.

SECTION 127. Except as otherwise provided, no person shall have in his possession at any time a live bird or mammal which is protected by this chapter; but a permit to possess within an enclosure such a bird or mammal may be issued by the director in his discretion to any person. Birds and mammals had in possession under any such permit may be sold at any time, except that if sold for food they shall be killed, and shall be tagged as follows: To the carcass of each bird and to each quarter of each mammal shall be affixed a numbered tag, to be supplied by the director at a cost of five cents each; and an accurate account of birds and mammals so killed and tagged shall be kept by the licensee and submitted to the director on or before December thirty-first of each year, together with the names of any persons to whom they were sold or transported. Every package containing birds or mammals killed under this section shall be plainly labelled with the name of the holder of a permit by whom such birds or mammals were killed, with the name of the consignee, and with a statement of the number and kind of birds or mammals contained therein. All carcasses or parts thereof shall remain entire and unplucked until the time when they are prepared for consumption as food. The sale of any carcass, or part thereof, not

20 having at the time affixed thereto the tag required by this section, shall
 21 be punished as provided in section one hundred and thirty-six.
 22 Nothing herein shall be construed to permit the possession of a live
 23 bird or mammal by a person purchasing or receiving such bird or mam-
 24 mal from a holder of a permit unless such purchaser or receiver shall also
 25 hold a permit under this chapter or be otherwise authorized by this
 26 chapter to so possess.

1 SECTION 128. Any person holding a permit or license under section
 2 one hundred and twenty-seven or one hundred and thirty, convicted of
 3 any violation of this chapter or of corresponding provisions of earlier
 4 law, shall forfeit such permit or license and be debarred from securing
 5 a new permit or license for a period of one year from the date of con-
 6 viction, in addition to being subject to the penalties provided in sections
 7 one hundred and thirty-one and one hundred and thirty-six. No person
 8 shall be eligible to hold such a permit or license if he has been convicted
 9 of any violation of this chapter or of corresponding provisions of earlier
 10 law within one year prior to application therefor.

Forfeiture of
 license
 1912, 567, § 4.
 G. L. (ed. of
 1920) 131, § 84.
 1930, 393, § 2.
 1931, 393, § 16.
 449. A. G.
 518.

1 SECTION 129. Any person licensed under section one hundred and
 2 thirty may have in possession and sell the unplucked entire bodies of
 3 the following species of birds imported from without the United States,
 4 namely, pheasants, mallard ducks, Scotch grouse, European black game,
 5 European black plover, European or gray partridge, red-legged partridge,
 6 and Egyptian or migratory quail; provided, that such birds were legally
 7 killed in the country whence they were imported. Any such person may
 8 buy, sell and have in possession deer, moose, caribou and elk legally
 9 killed outside of the commonwealth and legally transported therein;
 10 provided, that there is attached to some part of the body of such deer,
 11 moose, caribou or elk the game warden's tag allowing the same to be
 12 shipped from the state or country in which it was killed; and provided,
 13 further, that before any such bird or mammal is sold in the common-
 14 wealth, there shall be affixed to each carcass or body, or part thereof, a
 15 numbered tag, to be supplied at a cost of five cents each by the director,
 16 and said tag shall be affixed to said body or carcass upon its entry into
 17 the commonwealth and be kept thereon while the same is within the
 18 commonwealth.

Possession,
 sale, etc.,
 by dealers.
 1912, 567, § 5.
 1919, 350, § 43.
 G. L. (ed. of
 1920) 131, § 85
 1921, 150.
 1930, 393, § 2.

1 SECTION 129A. Any person may sell to a person licensed under
 2 section one hundred and thirty to deal therein the whole or any part of
 3 a deer, moose, caribou or elk legally killed by him outside of the com-
 4 monwealth and legally transported therein; provided, that there is
 5 attached to some part of the body of such deer, moose, caribou or elk
 6 the game warden's tag allowing the same to be shipped from the state
 7 or country in which it was killed.

Sale of deer,
 moose, etc.,
 lawfully taken
 outside of
 state-regulated.
 1931, 291, § 1.

1 SECTION 130. The director may in his discretion grant to any person
 2 a dealer's license authorizing the holder thereof to engage in the business
 3 of selling and offering for sale the dead bodies of birds or mammals pro-
 4 tected by this chapter and tagged in accordance with section one hun-
 5 dred and twenty-seven or imported under section one hundred and
 6 twenty-nine; but a person holding a permit issued under authority of
 7 said section one hundred and twenty-seven may sell or offer for sale

Dealers'
 licenses.
 1883, 276, § 3.
 1891, 142, § 1.
 1893, 398.
 1894, 205.
 1900, 379,
 §§ 2, 4.
 R. L. 92,
 §§ 3, 4, 6.
 1902, 165.
 1904, 369.

1905, 406.
1906, 301, §§ 1, 2; 303, §§ 1, 2.
1908, 441, § 2.
1909, 421, §§ 1, 3; 508, § 1.
1911, 356, § 3.
1912, 567,
§§ 6, 9.

birds or mammals, alive or dead, in accordance with said section without procuring a license hereunder. No license shall be required of any person purchasing any such dead body, or part thereof, from a person holding a license hereunder or a permit under section one hundred and twenty-seven.

1919, 350, §§ 39, 40, 43.
G. L. (ed. of 1920) 131, § 86.

1930, 393, § 2
1931, 393, § 17.

Penalties for violations of §§ 125-130.
1817, 103, § 1.
R. S. 53, § 1.
1837, 170, § 1.
1844, 156, § 1.
1855, 197, § 1.
G. S. 82,
§§ 1, 5, 6.
1869, 246,
§§ 1, 3.

SECTION 131. Whoever violates any provision of sections one hundred and twenty-five to one hundred and thirty, inclusive, or counterfeits or uses again any tags used as therein provided, shall for the first offence be punished as provided in section one hundred and thirty-six and for a subsequent offence by imprisonment for not more than three months.

1870, 304, §§ 1-4.

1900, 379, § 5.

1908, 441, §§ 3, 4; 477, § 3.

1877, 95, §§ 1-3.

1901, 102.

1909, 309, §§ 3, 4; 421,

1879, 209, §§ 1-3.

R. L. 92, §§ 2-4, 6, 9, 15.

§§ 3, 4; 508, §§ 3, 4.

1881, 291, § 1.

1902, 165.

1910, 564, § 3.

P. S. 92, §§ 1-4.

1903, 206.

1911, 19, § 3; 172, §§ 3, 4;

1884, 308, § 3.

1904, 369.

236, §§ 2, 3; 356, §§ 4, 5.

1886, 276, §§ 3, 5.

1905, 406.

1912, 567, §§ 9, 10.

1893, 189.

1906, 301, §§ 2, 3;

G. L. (ed. of 1920) 131, § 88.

1894, 97; 205.

303, §§ 2, 3.

1930, 393, § 2.

1898, 195.

1907, 166.

1931, 393, § 18.

Museums, etc., exempt from § 124
Application of certain sections.
1897, 524.
1898, 339.
R. L. 92, § 8.

SECTION 132. Section one hundred and twenty-four shall not apply to natural history associations and museums nor to holders of the certificates provided for in section seventy-seven, and sections one hundred and twenty-four to one hundred and thirty, inclusive, shall not apply to the sale of feathers or fur.

1903, 244, § 2; 329

1912, 567, § 7.

G. L. (ed. of 1920) 131, § 89.

1909, 421, § 1; 508, § 1.

1917, 73.

1930, 393, § 2.

Bonus for killing of wildcat,
Canada lynx or loupervier.
1905, 344.
G. L. (ed. of 1920) 131, § 90.
1925, 199.
1930, 393, § 2.

SECTION 133. Whoever in any town kills a wildcat, Canada lynx or loupervier not being in captivity shall, upon producing satisfactory evidence of such killing, be entitled to receive from the treasury of the town the sum of ten dollars; and all sums so paid out shall be repaid to the town treasurer by the treasurer of the county where the town is situated; provided, that a sworn statement thereof shall be transmitted by the town treasurer to the county treasurer.

Gunning stands or blinds regulated.
Penalty
1930, 393, § 2.
1931, 393, § 19;
436, § 18.

SECTION 134. No person shall conduct or maintain a gunning stand or blind unless it is registered as hereinafter provided. For the purposes of this section, a gunning stand or blind shall mean any building or blind, so called, conducted and maintained for the purpose of taking anatidae by the use of live duck and goose decoys on the shore of any body of water or on any tidal marshes, flats or beaches. Whoever violates any provision of this paragraph shall be punished by a fine of not less than twenty nor more than one hundred dollars.

The director shall, upon application of any person, issue a certificate of registration of a gunning stand or blind. Such application shall be signed by the applicant, or, if the applicant is an association or corporation, by all the members thereof, shall be made upon a blank furnished by the director, shall contain such information as may be required by the director and shall be accompanied by a fee of two dollars and seventy-five cents. The certificate of registration shall bear the name and address of the person conducting or maintaining such stand or blind and its location. Said certificate shall be valid for use to and including the

18 following December thirty-first, shall not be transferable and shall be
 19 produced for examination upon the demand of any authorized person.
 20 The director may, after a hearing, revoke any such certificate of regis-
 21 tration if it appears to him that there has been any violation of this
 22 chapter upon the registered premises, and shall not restore such a certifi-
 23 cate for a period of one year following its revocation. Any person who
 24 loses or by mistake or accident destroys any certificate issued under
 25 authority of this section may, upon application to the director, accom-
 26 panied by an affidavit setting forth the circumstances of such loss,
 27 receive a duplicate certificate upon the payment of a fee of fifty cents.

1 SECTION 135. Nothing in this chapter shall be construed to prohibit
 2 the training of hunting dogs, so called, between September first in any
 3 year and the following April first; provided, that no firearms may be
 4 carried, except during the open seasons provided by this chapter, by the
 5 person so training such dogs. Nothing in this chapter shall be construed
 6 to prevent the holding of field trials for such dogs, during any part of
 7 the year, if authorized by a permit from the director and conducted in
 8 accordance with such rules and regulations as he may prescribe. Author-
 9 ity is hereby granted to the director to issue such permits and to make
 10 such rules and regulations.

Training of
 hunting dogs
 authorized.
 Permits
 1930, 393, § 2.
 1931, 270.

1 SECTION 136. Unless the context otherwise requires, a violation of
 2 any provision of sections seventy-four to one hundred and thirty-five,
 3 inclusive, or of any rule or regulation made under authority thereof, for
 4 which no other penalty is provided, shall be punished by a fine of not
 5 less than twenty nor more than fifty dollars for each fish, bird or mammal
 6 in respect to which such violation occurs or each provision, rule or regu-
 7 lation in respect to which such violation occurs. Any net, trap, snare,
 8 jacklight or other similar device used by any person in violation of any
 9 provision of said sections or of any such rule or regulation and any bird
 10 or mammal taken in violation of any provision of said sections or of any
 11 such rule or regulation shall, upon a finding of guilty, be forfeited to the
 12 commonwealth and shall be disposed of as the director shall determine.

Penalty for
 violations of
 §§ 74-135
 Forfeitures.
 1930, 393, § 2
 1931, 393, § 20.
 436, § 19.

[NOTE:— In the revision of the fish and game laws made by chapter 393 of the acts of 1930 certain penalty provisions appearing in sections 22, 25, 32 to 34, 36 to 44, 44A, 45, 48, 49, 57, 60, 66, 68 and 77 of chapter 131 of the General Laws (as existing immediately prior to such revision) were omitted and are now covered by the general penalty provision in the foregoing section. For the history of the earlier penalty provisions so omitted see the marginal references opposite the several sections above referred to.]

CHAPTER 132.

FORESTRY.

SECT.	SECT.
1. Duties of state forester.	23. Abatement.
2. Gifts and bequests.	24. Record of abatement.
3. Payment of forest wardens for certain investigations. Conventions of forest wardens.	25. Tent caterpillar, leopard moth and elm beetle.
4. Report.	26. Entry on land. Assessment for cost of work.
5. Management of forest land.	27. Arsenate of lead furnished at cost.
6. Advice to owners of forests.	28. Collection of amount charged.
7. Labor on state forests.	29. Forester to furnish arsenate of lead.
8. Agents destroying gypsy moths may enter on any land.	30. State forests. Fire observation towers.
9. Nurseries of forest trees.	31. Management of state forests.
10. [Repealed.]	32. Appropriation.
11. Gypsy and brown tail moths declared public nuisances. Regulations for their suppression.	33. Additional lands for state forests. Temporary assistants.
12. Penalty for interfering with moth work.	34. Rules as to use of state forests. Penalty.
13. Local gypsy moth superintendents.	34A. Sale, etc., of state forest land and interests therein. Light and power transmission lines.
14. Reimbursement of cities and towns.	35. Forests in cities and towns.
15. Accounts.	36. Appropriation.
16. Sums to be spent by cities and towns.	37. Duties of local forest wardens.
17. Same subject.	
18. Notice to land owners. Assessment of cost of work.	
19. Assessment of special benefits.	
20. Appeal.	
21. Abatement of assessment.	
22. Application for abatement.	

STATE TRAILS OR PATHS.

38. State trails or paths.
39. Same subject. Contributions by cities, etc.

Duties of state forester.
1904, 409, § 2.
1905, 381, § 3.
1906, 268, § 1.
1908, 591, § 1.
1909, 263, §§ 1, 2.
1917, 63.
1919, 359, § 42.
1931, 144, § 6.
224 Mass. 28.
241 Mass. 1.

SECTION 1. The state forester, in this chapter called the forester, shall act for the commonwealth in suppressing the gypsy and brown tail moths; shall promote the perpetuation, extension and proper management of the public and private forest lands of the commonwealth; shall give such a course of instruction to the students of the Massachusetts state college on the art and science of forestry as may be arranged by the trustees of the college and the forester; and shall perform such other duties as may be imposed upon him by the governor and council.

Gifts and bequests.
1908, 478, § 3.
1910, 155.
1919, 350, §§ 39-41.
1924, 284, § 1.
1931, 126, § 1.

SECTION 2. The commissioner of conservation, in this chapter called the commissioner, with the approval of the governor and council, may accept on behalf of the commonwealth bequests or gifts to be used for the purpose of advancing the forestry interests of the commonwealth, under the direction of the governor and council, or for the laying out, construction or maintenance of state trails or paths, in such manner as to carry out the terms of the bequests or gifts. The commissioner shall forthwith transfer any such bequest or gift of money or securities to the state treasurer, who shall invest, reinvest and administer it in the manner provided by section sixteen of chapter ten and shall be liable on his bond for the faithful management thereof. The commissioner may, subject to the approval of the deed and title by the attorney general, 1

13 accept on behalf of the commonwealth gifts of land to be held and man-
 14 aged for experiment and illustration in forest management and for re-
 15 forestation in accordance with such rules and regulations as the com-
 16 missioner, with the approval of the governor and council, may prescribe.
 17 A donor of such land may reserve the right to buy back the land in ac-
 18 cordance with such terms and conditions as may be agreed upon by and
 19 between such donor and the commissioner; but in the absence of such
 20 reservation in his deed of gift he shall not have such right.

1 SECTION 3. The forester shall from the money appropriated annually
 2 for the expenses of his office recompense the forest wardens for the time
 3 spent by them in making investigations under his direction, as required
 4 by section thirty-seven of this chapter and section twenty-five of chapter
 5 forty-eight; provided, that he shall not be liable to make any such pay-
 6 ment except upon the presentation of a duly itemized account or to pay
 7 for such investigations at a rate greater than that approved by him or
 8 in excess of the appropriation available for such payment. He may also
 9 expend such sums as are annually appropriated in making necessary
 10 arrangements for conventions of forest wardens to be held at a place
 11 within the commonwealth and in paying wholly or in part the traveling
 12 expenses to and from their towns of such forest wardens who attend these
 13 conventions; provided, that no money shall be expended in paying the
 14 traveling expenses of any one warden to or from more than one convention
 15 in one year.

Payment of
 forest wardens
 for certain
 investigations.
 Conventions
 of forest
 wardens
 1907, 475,
 §§ 4, 8,
 1919, 350, § 42.

1 SECTION 4. The commissioner shall make an annual report of the acts
 2 of the forester. The report shall separate so far as practicable the expend-
 3 itures on work against the gypsy moth from those on work against the
 4 brown tail moth in each town. It shall include the account of all money
 5 invested in each state forest and of the annual income and expense thereof,
 6 and the report of the state fire warden required by section twenty-eight
 7 of chapter forty-eight.

Report.
 1904, 409, § 5.
 1905, 381, § 2.
 1909, 263, § 2.
 1911, 722, § 42.
 1914, 720, § 3.
 1916, 97,
 1919, 350,
 §§ 8, 39, 42.

1 SECTION 5. The forester shall replant or otherwise manage all land
 2 acquired by the commonwealth and held by it under section ten in such
 3 manner as will produce the best forest growth both as to practical forestry
 4 results and protection of water supplies.

Management
 of forest land
 1908, 478, § 8
 1919, 350, § 42.

1 SECTION 6. The forester may give to any person owning or controlling
 2 forest lands aid or advice in the management thereof. Any recipient of
 3 such aid or advice shall be liable to the commonwealth for the necessary
 4 expenses of travel and subsistence incurred by him or his assistants. The
 5 forester may publish the particulars and results of any investigation made
 6 by him or his assistants as to any lands within the commonwealth, and
 7 the advice given.

Advice to
 owners of
 forests.
 1904, 409, § 42.
 1919, 350, § 42.
 224 Mass. 28.

1 SECTION 7. The forester, in the reforestation, maintenance and
 2 development of lands purchased under section thirty or thirty-three,
 3 shall, so far as practicable, obtain the labor necessary therefor under
 4 sections eighty-three and eighty-four of chapter one hundred and
 5 twenty-seven.

Labor on
 state forests.
 1914, 720, § 4
 1919, 350, § 42.

1 SECTION 8. The clerks, assistants and agents employed by the fore-
 2 ster may, for the purpose of carrying out the provisions of this chap-

Agents
 destroying
 gypsy moths

may enter on any land.
1905, 381, § 3.
1906, 268, § 1.
1908, 591, § 1, 2.
1909, 263, § 2.
1915, 124.
1919, 350, § 42.
241 Mass. 1.

ter relative to the suppression of gypsy and brown tail moths, enter upon any land; and any local superintendent appointed as provided in section thirteen or any agent or employee of such superintendent may enter upon any land within the said town for the purpose of determining if such land is infested with said moths or the extent to which such land is so infested.

Nurseries of forest trees.
1904, 409, § 3.
1912, 577.
1919, 350, § 42.
1926, 164.

SECTION 9. The forester may establish and maintain nurseries for the propagation of forest tree seedlings upon such lands of the commonwealth at any state institution as the superintendent or trustees thereof may set apart for this purpose and upon such other lands as may be acquired under this section. Superintendents of institutions where land is set apart therefor may furnish without charge the labor of their inmates necessary to establish and maintain said nurseries. Seedlings from these nurseries shall be furnished to the commonwealth without expense for use upon reservations set aside for the propagation of forest growths for other than park purposes. All stock grown in nurseries established under this section shall be used within the commonwealth and shall be furnished to state institutions without charge. The forester may distribute seeds and seedlings to land owners, citizens of the commonwealth, under such conditions and restrictions as he may determine, subject to the approval of the governor and council. The forester, with the advice and consent of the governor and council, may expend from time to time such sum as is appropriated therefor by the general court in purchasing, for the establishment of nurseries provided for by this section, lands situated within the commonwealth and adapted to the propagation of forest tree seedlings.

SECTION 10. [REPEALED, 1931, 126, § 4.]

Gypsy and brown tail moths declared public nuisances. Regulations for their suppression.
1905, 381, § 1, 3.
1906, 268, § 1.
1908, 591, § 1.
1909, 263, § 2.
1919, 350, § 39-41.
241 Mass. 1.
244 Mass. 93.
2 Op. A. G. 589.
3 Op. A. G. 536.

SECTION 11. The forester may, subject to the approval of the governor, make rules and regulations governing all operations by towns or persons for the purpose of suppressing the gypsy and brown tail moths, their pupae, nests, eggs and caterpillars, which are hereby declared public nuisances. He may make contracts on behalf of the commonwealth; may act in co-operation with any person, any other state, the United States, or any foreign government; may conduct investigations and gather and distribute information concerning said moths; may use and require the use of all other lawful means of suppressing said moths; may lease real estate when he deems it necessary, and, with the approval of the authority in charge, may use any real or personal property of the commonwealth; may at all times enter upon any land, and may use all reasonable means in suppressing said moths; and, in the undertakings aforesaid, may, in accordance with this chapter, expend the funds appropriated or donated therefor; but no expenditure shall be made or liability incurred in excess of such appropriations and donations. No owner or occupant of an estate infested by the aforesaid nuisances shall by reason thereof be civilly or criminally liable except to the extent and in the manner and form set forth in this chapter.

Penalty for interfering with moth work.
1902, 57, § 3.
1905, 381, § 11.
1906, 268, § 6.

SECTION 12. Whoever wilfully resists or obstructs the forester or any officer of a town, or a servant or agent duly employed by said forester or by any of said officers while engaged in suppressing the gypsy and brown tail moths, elm leaf beetle, or any other tree or shrub destroying pest,

5 or knowingly fails to comply with any of the rules or regulations issued
6 by the forester, shall be punished by a fine of not more than twenty-five
7 dollars.

1909, 263, § 2.
1919, 350,
§ 39, 41.

1 SECTION 13. The mayor in cities and the selectmen in towns shall
2 annually in the month of January appoint a local superintendent for
3 the suppression of gypsy and brown tail moths. Said superintendents
4 shall, under the advice and general direction of the forester, destroy
5 the eggs, caterpillars, pupæ and nests of the gypsy and brown tail moths
6 within their limits, except in parks and other property under the control
7 of the commonwealth, and except in private property, save as other-
8 wise provided herein. The appointment of a local superintendent
9 shall not take effect unless approved by the forester; and when so
10 approved notice of the appointment shall be given by the mayor or the
11 selectmen to the person so appointed.

Local gypsy
moth superin-
tendents.
1905, 381, § 4.
1906, 268, § 2.
1907, 521, § 1.
1910, 150,
1913, 600, § 2.
1919, 350, § 42.

1 SECTION 14. When any city or town in which one twenty-fifth of one
2 per cent of the valuation is more than five thousand dollars shall have
3 expended within its limits city or town funds to an amount in excess of
4 five thousand dollars in any one year ending November thirtieth in sup-
5 pressing gypsy or brown tail moths, the commonwealth shall reimburse
6 such city or town to the extent of fifty per cent of such excess above said
7 five thousand dollars.

Reimburse-
ment of cities
and towns.
1905, 381,
§ § 4, 12.
1906, 268, § 2.
1907, 521,
§ § 1, 2, 4.
1909, 263, § 2.
1910, 150,
1911, 474,
1913, 600, § 2.
1919, 350, § 42.
1923, 311,
472, § 2
1931, 426, § 60.
244 Mass. 93.

8 Cities or towns in which one twenty-fifth of one per cent of the valu-
9 ation is less than five thousand dollars, and in which such valuation is
10 greater than six million dollars, shall be reimbursed by the common-
11 wealth to the extent of eighty per cent of the amount expended by such
12 cities or towns of city or town funds in suppressing said moths in any
13 one such year, in excess of said twenty-fifth of one per cent.

14 In towns in which the valuation is less than six million dollars, after
15 they have expended in any one such year town funds to an amount equal
16 to one twenty-fifth of one per cent of their valuation, the commonwealth
17 shall expend within the limits thereof for the suppression of said moths
18 such an amount in addition as the forester, with the advice and consent
19 of the governor, shall determine. The commonwealth shall reimburse
20 cities and towns every sixty days.

21 No city or town shall be entitled to any reimbursement from the
22 commonwealth until it has submitted to the comptroller itemized ac-
23 counts and vouchers showing the definite amount expended by it for the
24 purpose of suppressing said moths, nor shall any money be paid out of
25 the state treasury to cities or towns until said vouchers and accounts
26 have been approved by the forester and the comptroller, nor unless said
27 expenditure shall have been duly authorized and approved by the
28 forester.

29 For the purposes of this section and section sixteen, the valuation of a
30 city or town shall mean the valuation of such city or town, as determined
31 by the last preceding valuation made for the purpose of apportioning the
32 state tax.

1 SECTION 15. Every city or town in rendering the account required
2 by the preceding section shall deduct from such amount as it has expended
3 the total amount it has assessed for work performed under section eighteen
4 during the term covered by the account, if such work was performed

Accounts.
1905, 381, § 7.
1906, 268, § 3.
1907, 521, § 3.

under such conditions as require reimbursement in whole or in part by the commonwealth. 5
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Sums to be spent by cities and towns.
1905, 381, § 5.
1906, 268, § 3.
1907, 521, § 2.
1909, 263, § 2.
1911, 474
1919, 550, § 42.
1923, 472, § 3.
2 Op. A. G. 594.

SECTION 16. When, in the opinion of the forester, any city or town is not expending a sufficient amount for the abatement of said nuisance or is not conducting the necessary work in a proper manner, the forester shall, with the advice and consent of the governor, order such city or town to expend such an amount as the forester shall deem necessary, and in accordance with such methods as the forester, with the consent of the governor, shall prescribe; provided, that no city or town where the valuation exceeds six million dollars shall be required to expend, exclusive of any reimbursement received from the commonwealth, during any one full year more than one fifteenth of one per cent of such valuation, and that no town where the valuation is less than six million dollars shall be required to expend, exclusive of any reimbursement received from the commonwealth, during any one full year more than one twenty-fifth of one per cent of such valuation. 1
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Same subject.
1905, 381, § 5.
1906, 268, § 3.
1907, 521, § 2.
1909, 263, § 2.
1911, 474.
1919, 550, § 42.
1934, 426, § 76.

SECTION 17. Any city or town failing to comply with the directions of the forester in the performance of said work within the date specified by him shall pay a fine of one hundred dollars a day for failure so to do, said fine to be collected by information brought by the attorney general in the supreme judicial court for Suffolk county. 1
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In case of emergency, or where there is great or immediate danger of the increase or spread of moths due to the neglect of any city or town to comply with the provisions of this chapter relating to the suppression of gypsy and brown tail moths, the forester, with the consent of the governor, may initiate or continue the work of suppression within such city or town for such a period as he may deem necessary. The cost of such work, including that done on private estates, less any sum due from the commonwealth by way of reimbursements on account of said work, shall be certified by the forester to the state treasurer, and be collected by him as an additional state tax upon the city or town so failing to comply with the requirements of the law. The forester may also in case of emergency, subject to the approval of the governor, carry on wholly or in part such operations as may be necessary to check the spreading of the gypsy or brown tail moth in parks not under the control of the commonwealth, and in cemeteries, woodlands and other places of public resort. The amount to be so expended in any one year shall not exceed ten per cent of the appropriations made for the year by the commonwealth for the purpose of suppressing said moths. The forester may also take complete control of the work of suppressing the gypsy and brown tail moths in such cities and towns as may through the proper officials request it. The cost of such work shall be certified by the forester to the state treasurer, and shall be collected by him as an additional state tax upon the city or town wherein such work is performed; provided, that no city or town shall be required to pay more for such work than would have been its liability as defined by section sixteen. 6
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Notice to land owners. Assessment of cost of work.
1905, 381, § 6.
1906, 268, § 4
1908, 591, § 2.
1909, 263, § 2.
1913, 124

SECTION 18. The mayor of every city and the selectmen of every town shall, on or before November first in each year, and at such other times as he or they shall see fit or as the forester may order, cause a notice to be sent to the owner, so far as can be ascertained, of every parcel of land therein which is infested with said moths; or, if such notification appears 1
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6 to be impracticable, by posting such notice on said parcels of land, re-
 7 quiring that the eggs, caterpillars, pupæ and nests of said moths shall be
 8 destroyed within a time specified therein. The publication of the notice
 9 in newspapers published or circulated in the city or town at least three
 10 times during the month of October shall be deemed a compliance with the
 11 law, if in the opinion of the mayor or selectmen such publication will be
 12 a sufficient notice.

1919, 350, § 42.
 218 Mass. 394
 241 Mass. 1
 2 Op. A. G. 594.

13 When, in the opinion of the mayor or selectmen, the cost of destroying
 14 such eggs, caterpillars, pupæ or nests on land contiguous and held under
 15 one ownership in a city or town shall exceed one half of one per cent of
 16 the assessed value thereof, a part of said premises on which said eggs,
 17 caterpillars, pupæ or nests shall be destroyed may be designated in such
 18 notice, and such requirement shall not apply to the remainder of said
 19 premises. The mayor or selectmen may designate the manner in which
 20 such work shall be done, but all work done under this section shall be sub-
 21 ject to the approval of the forester.

22 If the owner shall fail to destroy such eggs, caterpillars, pupæ or nests
 23 as required by said notice, the city or town, acting by the local superin-
 24 tendent appointed under section thirteen, shall, subject to the approval
 25 of the said forester, destroy the same, and the amount actually expended
 26 thereon, not exceeding one half of one per cent of the assessed valuation
 27 of said lands, as heretofore specified in this section, shall be assessed upon
 28 the said lands; and such an amount in addition as shall be required shall
 29 be apportioned between the city or town and the commonwealth in
 30 accordance with section fourteen. The amounts to be assessed upon
 31 private estates as herein provided shall be assessed and collected, and
 32 shall be a lien on said estates, in the same manner and with the same
 33 effect as in the case of assessments for street watering.

1 SECTION 19. If, in the opinion of the assessors of a city or town, any
 2 land therein has received, by reason of the abatement of said nuisances
 3 thereon by said forester or by said city or town, a special benefit beyond
 4 the general advantage to all land in the city or town, then the said as-
 5 sessors shall determine the value of such special benefit and shall assess the
 6 amount thereof upon said land; provided, that no such assessment on
 7 lands contiguous and held under one ownership shall exceed one half of
 8 one per cent of the assessed valuation of said lands; and provided, that
 9 the owner or owners shall have deducted from such assessment the
 10 amount paid and expended by them during the twelve months last pre-
 11 ceding the date of such assessment toward abating the said nuisances on
 12 said lands, if, in the opinion of the assessors, such amount has been ex-
 13 pended in good faith. Such assessment shall be a lien upon the land for
 14 three years from the first day of January next after the assessment has
 15 been made, and shall be collected under a warrant of the assessors to
 16 the collector of taxes of such city or town, in the manner and upon the
 17 terms and conditions and in the exercise of the powers and duties, so
 18 far as they may be applicable, prescribed by chapter sixty, and real
 19 estate sold under such warrant shall be subject to the provisions of said
 20 chapter relative to land sold for taxes.

Assessment
 of special
 benefits.
 1905, 381, § 7.
 1909, 263, § 2.
 1919, 350, § 42.

1 SECTION 20. A person aggrieved by such assessment may appeal to
 2 the superior court for the county where the land lies, by entering a com-
 3 plaint in said court within thirty days after he has had actual notice
 4 of the assessment, which complaint shall be determined as other causes

Appeal.
 1905, 381, § 7.

by the court without a jury. The complaint shall be heard at the first sitting of said court for trials without a jury after its entry; but the court may allow further time, or may advance the case for speedy trial, or may appoint an auditor as in other cases. The court may revise the assessment, may allow the recovery of an amount wrongfully assessed which has been paid, may set aside, in a suit begun within three years from the date thereof, a collector's sale made under an erroneous assessment, may award costs to either party, and may render such judgment as justice and equity require.

Abatement of assessment. 1905, 381, § 7. 1906, 268, § 5. 1907, 521, § 3. **SECTION 21.** If, in the opinion of the assessors, the owner of an estate upon which an assessment has been made is, by reason of age, infirmity or poverty, unable to pay the assessment, they may upon application abate the same.

Application for abatement. 1911, 242, § 1. **SECTION 22.** A person aggrieved by the taxes assessed upon him for the suppression of gypsy and brown tail moths, pursuant to section eighteen or nineteen, may, within six months after the date of the first tax bill issued on account of the taxes complained of, apply to the assessors for the abatement thereof, who may make such abatement as they deem reasonable.

Abatement. 1911, 242, § 2. **SECTION 23.** The assessors shall not abate a tax under the preceding section except upon the written recommendation of the local superintendent who certified the assessment in question to the assessors or provided them with the information as to the work performed, upon which such tax was assessed, unless the error or excess complained of originated in the work of the assessors who laid the tax.

Record of abatement. 1911, 242, § 3. **SECTION 24.** The assessors shall keep a record of all such taxes abated and shall preserve for three years all written recommendations received under the preceding section. They shall furnish the collector of taxes with a certificate of each abatement, which shall relieve him from the collection of the sum abated.

Tent caterpillar, leopard moth and elm beetle. 1902, 57, § 1. 1914, 404, § 1. **SECTION 25.** The city forester, superintendent or other person having charge of the suppression of gypsy and brown tail moths in each city and town in the commonwealth, or, where there is no such person, the tree warden may destroy within the limits of his city or town the tent caterpillar, leopard moth and elm beetle or any other tree or shrub destroying pest, if authorized so to do by the mayor and city council or by the selectmen in towns.

Entry on land. Assessment for cost of work 1902, 57, § 1. 1914, 404, § 2. **SECTION 26.** The city forester or other officer designated in the preceding section may enter upon private land, and the owners of private land may be taxed for work done under said section as provided by sections eighteen and nineteen; provided, however, that nothing contained in this section shall require the commonwealth to pay any part of any such expense other than for the suppression of the gypsy and brown tail moths, that no land shall be assessed hereunder which has been assessed the maximum amount provided by said sections eighteen and nineteen for the suppression of the gypsy and brown tail moths, and that the aggregate assessment on any parcel of private land for the sup-

11 pression of the tent caterpillar, leopard moth, elm beetle and gypsy
12 and brown tail moths shall not exceed the maximum provided by said
13 sections.

1 SECTION 27. To assist in exterminating gypsy and brown tail moths,
2 the local moth superintendent in any city or town may furnish, at cost,
3 to any owner of real estate situated within such city or town arsenate of
4 lead. It shall be used only for the suppression of gypsy and brown tail
5 moths and only upon land of the purchaser.

Arsenate of lead furnished at cost
1913, 605, § 1.
1915, 80.

1 SECTION 28. The amounts due for material furnished under the
2 preceding section shall be charged by the local moth superintendent to
3 the owners of private estates, and shall be collected in the same way as
4 amounts assessed for private work, and shall be a lien on said estates in
5 the same manner as said assessments. The amount thus charged shall
6 be deducted from the total amount expended in each city or town in the
7 suppression of the gypsy and brown tail moths as provided in section
8 fifteen.

Collection of amount charged
1913, 605, § 2

1 SECTION 29. To assist in exterminating insect pests the city forester,
2 local moth superintendent or tree warden in any city or town may obtain
3 from the forester, at cost, arsenate of lead. It shall be used only for the
4 suppression of gypsy and brown tail moths, the tent caterpillar, leopard
5 moth and elm beetle, and only upon lands owned or controlled by the
6 city or town. The cost of said material shall be certified by the forester
7 to the state treasurer, and shall be collected by him as an additional state
8 tax upon the city or town making such purchase.

Forester to furnish arsenate of lead
1915, 171.
1919, 350, § 42.

1 SECTION 30. The commissioner, with the approval of the advisory
2 council of the department of conservation, may acquire for the com-
3 monwealth, by purchase or otherwise, and hold, or, with the approval of
4 the governor and council, may take in fee by eminent domain under
5 chapter seventy-nine, any woodland or land suitable for timber culti-
6 vation within the commonwealth or any land necessary for the erection
7 and operation of forest fire observation towers. The average cost of
8 land so purchased shall not exceed five dollars an acre.

State forests. Fire observa-
tion towers.
1914, 720, § 2.
1916, 136.
1919, 350,
§§ 39-42
1922, 185.
1923, 288, § 1.

1 SECTION 31. Lands acquired under section thirty or thirty-three
2 shall be known as state forests, and shall be under the control and man-
3 agement of the forester. Lands acquired by purchase for experiment and
4 illustration in forest management and for reforestation under the pro-
5 visions of chapter four hundred and seventy-eight of the acts of nine-
6 teen hundred and eight and amendments thereof, or of the corresponding
7 provisions of later laws, as to which the period limited for repurchase by
8 their original owners, or their heirs or assigns, in accordance with said
9 provisions shall have expired without such repurchase, shall also be
10 known as state forests and shall be under the control and management
11 of the forester to the same extent as if acquired under section thirty.
12 He shall reforest and develop such lands, and may, subject to the ap-
13 proval of the commissioner and advisory council of the department of
14 conservation, make all reasonable regulations which in his opinion will
15 tend to increase the public enjoyment and benefit therefrom and to
16 protect and conserve the water supplies of the commonwealth.

Management of state forests
1914, 720, § 3.
1919, 350, § 42
1931, 126, § 2.

Appropriation.
1914, 720, § 6.
1919, 350, § 42.

SECTION 32. The forester, subject to the approval of the commissioner and advisory council of the department of conservation, may expend such sums as are annually appropriated for the necessary expenses incurred under section thirty-one.

Additional
lands for
state forests.
Temporary
assistants.
1920, 604,
§§ 1-3.
1921, 238.
1923, 288, § 2.
1930, 274.

SECTION 33. In addition to lands acquired under section thirty the commissioner may purchase or, with the approval of the governor and council, take by eminent domain under chapter seventy-nine and hold for state forests lands within the commonwealth suitable for the production of timber to the extent of not more than one hundred and fifty thousand acres. The land shall be purchased before August fifth, nineteen hundred and thirty-five, at a rate not exceeding an average cost of five dollars per acre or at such price as the general court may from time to time determine. The forester shall reclaim the said lands by replanting or otherwise in order to produce timber and to protect the water supply of the commonwealth. The forester may employ temporarily such persons as foresters, assistant foresters, engineers, surveyors, forest fire observers and foremen as he deems necessary to assist him in carrying out his duties under this section, and the employment of such persons shall not be subject to chapter thirty-one.

Rules as to
use of state
forests.
Penalty.
1920, 604, § 4.
1928, 87.

SECTION 34. The commissioner may make rules and regulations relative to hunting and fishing or other uses of any such land, provided that such rules and regulations shall be consistent with all laws in relation to the protection of fish, birds and quadrupeds. Whoever violates any provision of any such rule or regulation shall be punished by a fine of not more than twenty-five dollars.

Sale, etc., of
state forest
land and
interests
therein.
Light and
power trans-
mission lines.
1923, 288, § 3.
1931, 120, § 3.

SECTION 34A. The commissioner, with the approval of the governor and council, and after a public hearing, may sell or exchange any land acquired by the commonwealth under section thirty or thirty-three, chapter three hundred and forty-four of the acts of nineteen hundred and twenty-one, or chapter four hundred and seventy-eight of the acts of nineteen hundred and eight and amendments thereof or corresponding provisions of later laws, and may in like manner grant rights of way for public highways over any such land, if in his judgment such sale, exchange or grant is advantageous to the commonwealth, and may execute such deeds of conveyance or other papers as may be necessary; and the commissioner may also grant over or across any such lands such locations as shall be found by order of the department of public utilities after public hearing to be required by public necessity or convenience for telephone, telegraph or electric light or power transmission lines, and as in his judgment are necessary and will serve the public interest, and may execute such papers as may be necessary; provided, that no sale or exchange of any land or interest therein acquired by the commonwealth under said chapter four hundred and seventy-eight and its amendments or corresponding provisions of later laws, which is subject to an option of repurchase, and that no grant either of right of way or location over or across the same, shall be made unless the holder of such option joins in the sale, exchange or grant.

At the request of the commissioner, and after public hearing, the department of public utilities may by order alter or revoke any such

25 location whenever in its opinion the public interest or the rights of the
 26 commonwealth so require; provided, that before so doing notice of said
 27 hearing shall be given to the grantee of the location and all persons
 28 interested, and provided, further, that the grantee or any person inter-
 29 ested in such order may appeal therefrom to the governor and council
 30 within fourteen days after the filing of a copy of such order as provided
 31 in the following paragraph.

32 The commissioner within fourteen days after granting any such loca-
 33 tion shall file a copy of the grant of the same, together with a copy of the
 34 order of the department of public utilities that the location is required
 35 by public necessity or convenience, in the office of the clerk of the town
 36 where the location is granted, and the department of public utilities
 37 shall file in the office of said clerk any order altering or revoking such
 38 location, and the clerk of such town shall receive and record the same.

1 SECTION 35. Towns may acquire by purchase, gift or bequest lands
 2 for the purpose of forestation and may reclaim and plant such lands.
 3 The said department may upon application in such form as the forester
 4 may prescribe furnish such towns free of charge with seedlings for the
 5 planting of their lands.

Forests
in cities and
towns.
1920, 604, § 5.
1924, 24.

1 SECTION 36. To meet the expenditures authorized by sections thirty-
 2 three to thirty-five, inclusive, the said department may expend before
 3 August fifth, nineteen hundred and thirty-five, such sums not exceeding
 4 three million dollars as the general court may from time to time appro-
 5 priate.

Appropriation.
1920, 604, § 6.

1 SECTION 37. Every local forest warden, in addition to his duties
 2 prescribed by chapter forty-eight, shall investigate the values of forest
 3 lands, the character and extent of woodcutting operations, the preva-
 4 lence of insect pests injurious to forest growths, and other matters
 5 affecting the extent and condition of woodlands in his town, and shall
 6 report thereon to the forester at such times and in such form as he
 7 requires.

Duties of
local forest
wardens.
1917, 475, § 2.
1919, 350, § 12.

STATE TRAILS OR PATHS.

1 SECTION 38. The commissioner may lay out, construct and main-
 2 tain trails or paths through or over lands in state forests and in public
 3 reservations and trails or paths leading to important mountains and
 4 other objects and places of special interest and beauty and he may con-
 5 nect such trails or paths in order to make them continuous so far as
 6 practicable. The commissioner on behalf of the commonwealth may
 7 purchase such lands or easements therein as may be necessary for the
 8 aforesaid purposes. He may post such trails or paths, erect signs thereon
 9 and construct suitable rest camps or shelters at appropriate places. He
 10 may by special permit in writing allow portions of such trails or paths
 11 to be enclosed and used by the owner of adjoining land, for any use not
 12 interfering with public passage on foot, during the whole or any part of
 13 the year upon such conditions as the commissioner may prescribe and
 14 such permits may be revoked at his pleasure. The commonwealth shall
 15 not be liable for injury or damage sustained on such trails or paths.

State trails
or paths.
1924, 284, § 2.

Same subject.
Contributions
by cities, etc.
1924, 284, § 2.

SECTION 39. The mayor, selectmen or road commissioners, or the board or officer having charge of the maintenance and care of highways, if so authorized by the city council or by the town, may agree in writing, on behalf of such city or town, to contribute money, labor or materials toward the laying out or construction of any state trail or path which the commissioner may lay out and construct within such city or town.

CHAPTER 132A.

STATE PARKS AND RESERVATIONS OUTSIDE OF THE METROPOLITAN PARKS DISTRICT.

SECT.

1. Gifts and bequests.
2. Assumption of care and maintenance by department of conservation.
3. Acquiring land. Recreational facilities. Sale or exchange of land. Sale of products.
4. Apportionment of expenses, etc., among certain cities and towns, how determined.

SECT.

5. Estimate of expenses, etc., and assessment.
6. "Valuation" and "population" defined.
7. Rules and regulations. Penalty. Concessions.
8. Director of division of parks to act in advisory capacity.
9. Annual report.

Gifts and
bequests.
1931, 391, § 3.

SECTION 1. The commissioner of conservation, in this chapter called the commissioner, with the approval of the governor and council, may accept in trust, on behalf of the commonwealth, bequests or gifts to be used for the purpose of advancing the recreational and conservation interests and policies of the commonwealth, and shall administer the same in such manner as to carry out the terms of such bequests or gifts, and he may, subject to like approval, accept on behalf of the commonwealth, gifts of land outside of the metropolitan parks district to be held and managed for recreational and conservation purposes. All moneys and securities received hereunder shall be transferred forthwith to the state treasurer, who shall administer the same as provided by section sixteen of chapter ten.

Assumption
of care and
maintenance
by department
of conservation.
1931, 391, § 3.

SECTION 2. The commissioner, with like approval, on petition of any board or commission charged with the care and maintenance of any park or reservation owned by the commonwealth outside of the metropolitan parks district, with the approval of the county commissioners of the county or counties wherein such park or reservation is situated, except in cases where said county commissioners are the petitioners, may, on behalf of the commonwealth and acting through the division of parks of the department of conservation, in the following seven sections called the division, assume the care and maintenance of such park or reservation, and thereafter shall expend for the care and maintenance thereof such sums as may be appropriated therefor.

Acquiring
land. Recrea-
tional facili-
ties. Sale or
exchange of

SECTION 3. The commissioner may, from time to time within the limits of appropriations made therefor, acquire for the commonwealth, otherwise than by eminent domain, any lands suitable for purposes of

4 conservation or recreation lying outside of the metropolitan parks dis- land. Sale
5 trict, and may lay out and maintain such lands for such purposes and of products,
6 erect and maintain such structures and other facilities thereon as may 1931, 391, § 3.
7 be necessary to render such lands reasonably available and accessible
8 therefor. The commissioner may, with the approval of the governor
9 and council, sell or exchange any land acquired under this section which
10 in his judgment can no longer be advantageously used for purposes of
11 recreation or held for purposes of conservation. He may, at any time,
12 sell such wood, timber or other product of the lands controlled by the
13 division as the economical management of said lands may require. All
14 moneys received under this section shall be paid into the state treasury.

1 SECTION 4. The proportion in which each city and town of the com- Apportionment
2 monwealth, exclusive of those comprising the metropolitan parks dis- of expenses, etc.,
3 trict, but including Cohasset, shall annually pay money into the treasury among cer-
4 of the commonwealth to meet the expenses incurred under this chapter, tain cities
5 and the cost of maintaining the division, and any deficiency in the amounts and towns,
6 previously paid in, shall annually be determined by the state treasurer how deter-
7 according to the average percentage of valuation and population, de- 1931, 391, § 3.
8 termined as to any city or town by adding together the percentage which
9 the valuation of the same bears to the total valuation of the cities and
10 towns of the commonwealth, exclusive of those comprising said district,
11 but including Cohasset, and the percentage which the population of
12 such city or town bears to the total population of the cities and towns of
13 the commonwealth, exclusive of those comprising said district, but
14 including Cohasset, and dividing this sum by two.

1 SECTION 5. The amount of money required each year from every Estimate of
2 such city and town to meet the expenses and cost aforesaid, and the expenses, etc.,
3 deficiency, if any, shall be estimated by the comptroller, and assessed and assessment,
4 by the state treasurer in accordance with the proportions determined as 1931, 391, § 3.
5 aforesaid, and shall be included and made a part of the sum charged to
6 such city or town, and shall be paid by such city or town into the state
7 treasury at the time required for the payment of its proportion of the
8 state tax.

1 SECTION 6. For the purposes of section four, the word "valuation" "Valuation"
2 shall mean taxable valuation of property last established next prior to and "popula-
3 the determination therein provided for, by the general court as a basis tion" defined,
4 of apportionment for state and county taxes, and the word "population" 1931, 391, § 3.
5 shall mean the population as determined by the latest census, state or
6 national, next prior to such determination.

1 SECTION 7. The commissioner, with the approval of the governor Rules and
2 and council, may make rules and regulations for the government and regulations.
3 use of all property under the control of the division, including rules and Penalty
4 regulations relative to hunting and fishing not inconsistent with the Concessions.
5 laws protecting fish, birds and mammals. Such rules and regulations 1931, 391, § 3.
6 may also provide for the payment of fees and other charges for the park-
7 ing of vehicles and for the enjoyment of other special privileges within
8 the territory under such control. The commissioner shall cause such
9 rules and regulations to be posted in the territory to which they apply.
10 The sworn certificate of the director of the division of parks of the de-

partment of conservation, in the following two sections called the di- 11
 rector, that the same have so been posted shall be prima facie evidence 12
 thereof. Violation of such a rule or regulation shall be punished by a 13
 fine not exceeding twenty dollars. The commissioner may grant con- 14
 cessions for the sale of refreshments and other articles and the furnishing 15
 of services within any such territory. 16

Director of
 division of
 parks to act
 in advisory
 capacity.
 1931, 391, § 3.

SECTION 8. The director shall, in an advisory capacity, assist boards 1
 and commissions charged with the care and maintenance of parks or 2
 reservations owned by the commonwealth outside of the metropolitan 3
 parks district, which are not placed under the care and control of the 4
 division. 5

Annual report.
 1931, 391, § 3.

SECTION 9. The commissioner shall make an annual report of the 1
 acts of the director. 2

