

view as a subject of taxation, and as it is just and reasonable that the said land should pay its equal proportion of the public taxes, in the same manner as other lands of the like kind are taxed:

Be it therefore further enacted by the authority aforesaid, That the sum of Four hundred and thirty-seven pounds ten shillings, be, and is hereby levied on the lands lying within the claim aforesaid, which are not liable to be taxed by virtue of any other clause in this act, and shall be paid in the same kind and proportion, as this act requires of the towns and plantations within this Commonwealth; and the Treasurer is hereby directed to send his warrant to the Sheriff of the county of Lincoln, requiring him to collect of the heirs and assigns of the late Brigadier General Waldo, the said sum of Four hundred and thirty-seven pounds ten shillings, in the same manner as Constables and Collectors are authorized and directed to proceed in the collection of taxes laid on non-resident proprietors of unimproved lands, and pay the same to himself on or before the first day of April, one thousand seven hundred and eighty-seven.

March 23, 1786.

1785. — Chapter 75.

[February Session, ch. 34.]

AN ACT FOR REGULATING TOWNS, SETTING FORTH THEIR POWER, AND FOR THE CHOICE OF TOWN OFFICERS, AND FOR REPEALING ALL LAWS HERETOFORE MADE FOR THAT PURPOSE.

Chap. 75

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the bounds of all townships shall be, and remain as heretofore granted, settled and established. And to prevent an interference of jurisdiction, the lines between towns shall be run, and the marks renewed within three years from the last day of March instant, and once every five years forever after, by two or more of the Selectmen of each town, or such other persons as they shall in writing appoint, to run and renew the same; and their proceedings, after every such renewal of boundaries, shall be recorded in the respective town books. The Selectmen of the most ancient town to give notice in writing unto the Selectmen of the adjoining town, of the time and place of

Lines between towns to be run, and marks renewed, once in five years.

meeting for such perambulation, ten days before hand; and the selectmen who shall neglect their duty in notifying or attending, either personally or by their substitutes, to perambulate the line, at the time and place assigned as aforesaid, shall severally forfeit and pay the sum of *Five pounds*, two-thirds to the use of the town which shall comply with their duty as aforesaid, and the other third part unto any two or more of the selectmen of the town so complying, who are hereby empowered to inform or sue therefor, in the Court of Common Pleas for the same county, at any time within two years after the forfeiture shall be incurred, and not afterwards.

And be it further enacted by the authority aforesaid,

Freeholders and other inhabitants of towns, shall meet annually for the choice of town officers.

That the freeholders and other inhabitants of each town in this government, who shall pay to one single tax, besides the poll or polls, a sum equal to two-thirds of a single poll-tax, shall, in the month of *March* or *April* annually, meet and assemble at such time and place, in the same town, as they shall be notified to attend, by the constable or constables of the town, or such others as the Selectmen shall appoint to notify the same; and the said Freeholders, and other inhabitants, shall then and there, by a major vote, choose a Clerk, (who shall be under oath truly to record all votes passed in such and other town meetings during the year, and until another clerk shall be chosen and sworn in his stead, and also faithfully to discharge all the other duties of his said office) three, five, seven or nine able and discreet persons of good conversation, inhabiting in the town, to be Selectmen or Townsmen, and Overseers of the Poor, where other persons shall not be particularly chosen to that office, (which any town may do if they shall think it necessary and convenient) three or more Assessors, two or more judicious persons for Fence-viewers, Treasurer, Surveyors of highways, Surveyors of lumber, Wardens, Tythingmen, Sealers of leather, Measurers of wood, Clerks of the market, Constables, and other usual Town Officers; the said officers to be chosen by ballot, or such other method as the voters agree upon. And the town clerk, or two of the selectmen, shall forthwith make out a list of the names of all those who shall be then chosen into office, of whom an oath is by law required, and deliver the same to some constable or constables of the same town, together with a warrant to him or them directed, who is hereby required, within three days after receiving such warrant,

Persons chosen into office, to be summoned to appear before the town clerk to take the oath prescribed by law.

to notify and summon each of the said persons to appear before the town clerk within seven days from the time of such notice, to take the oath by law prescribed to the office into which they are severally chosen; and every person who shall neglect to appear before the town clerk, within the said seven days, and take the oath of office unto which he is chosen and summoned as aforesaid, which oath the town clerk is hereby authorized to administer, (unless such person is by law exempted from serving in the office) shall forfeit and pay to him or them that will inform or prosecute therefor, the sum of *thirty shillings*, except constables and such other officers, for whose neglect a different penalty is provided, two-thirds for the use of the town, and the other third to the use of the prosecutor.

Forfeiture for neglecting to appear.

Provided always, That any person who shall take the oath of office before a Justice of the Peace, and file a certificate thereof with the town clerk, within the said ten days, shall be exempted from the said fine; and every constable shall, at the expiration of the term of ten days from the time of receiving such warrant, make a return into the clerk's office of the same town, of the warrant to him committed as aforesaid, with his doings thereon, for a neglect of which, he shall forfeit and pay the sum of *forty shillings*, to be to the use of the town; the constable to be allowed such reasonable sum for his services upon this and other town business as the inhabitants shall agree upon.

Proviso.

And be it further enacted, That no person shall be obliged to serve in any town office two years successively; nor shall any person in commission for any office, civil or military, church officer, member of the Council, Senate or House of Representatives, for the time being, nor any one who has served in the office of a constable or collector of any town, district, parish or precinct, within seven years, be obliged to serve in the office of constable; and every person chosen to the office of constable, and not exempted as aforesaid, who shall refuse to take the oath to that office prescribed, and to serve therein, if he be able in person to execute the same, shall forfeit and pay to the use of the town, the sum of *Five pounds*, and if in *Boston, Salem or Newburyport, Ten pounds*, and shall, if present, forthwith declare his acceptance or refusal; and in case he shall not declare his acceptance the town shall proceed to a new choice, and so from time to time until one

Persons exempted from serving as Constables.

Persons not exempted, refusing to serve.

Forfeiture.

shall accept and be sworn; and any person who shall be present and declare his refusal to serve in the office of constable, or who shall neglect, after being summoned as aforesaid, to take the oath of office, for the space of seven days next after such summons, and shall also neglect to pay the fine aforesaid, shall, upon the application of the town treasurer, be summoned before the Court of General Sessions of the Peace in the county in which such town lieth; and a certificate under the hand of the clerk, or two of the selectmen, certifying that such person was legally chosen to the office of constable, shall be admitted as evidence of the fact; and if the person summoned shall make default, or appearing, shall not shew sufficient cause to the Court for his refusal, the Court shall order a warrant under the seal thereof, directed to any of the constables of the same town then in office, to levy the fine by distress and sale of the offenders goods and chattels, returning the overplus, (if any be) together with the costs arising on such prosecution; and for want of goods and chattels, to commit the delinquent to prison until the same shall be paid. And the Town Clerk, shall make a record of such persons as shall from time to time, be sworn into office before him, or of such as shall file certificates of their being sworn as aforesaid.

Town Clerk to record such as are sworn into office.

In case of vacancy in any office, towns may proceed to a new choice.

And be it further enacted. That when by reason of non-acceptance, death or removal of any person chosen to office in any town, at the annual meeting for the choice of town officers, or at any other time, or by reason of a person's becoming *non compos*, there is a vacancy, or want of such officers, the town, being orderly assembled in the manner this act directs, may proceed to a new choice of officers to supply and fill up such vacancy; and the person or persons thus chosen and sworn before the town clerk, or a Justice of the Peace, (in case an oath of office is by law required) shall have the same power and authority to discharge the duties of the office, as though chosen at the annual meeting for the choice of town officers.

Manner of calling town meetings.

And be it further enacted by the authority aforesaid, That when there shall be occasion of a town meeting, the constable or constables, or such other person as shall be appointed for the purpose, by warrant from the Selectmen, or the major part of them, shall summon and notify the inhabitants of such town to assemble at such time and place, in the same town, as the Selectmen shall order, the

manner of summoning the inhabitants to be such as the town shall agree upon; and when ten or more of the freeholders of a town shall signify in writing their desire to have any matter or thing inserted in a warrant for calling a meeting, the Selectmen are hereby required to insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of considering thereof; and no matter or thing shall be acted upon in such a manner as to have any legal operation whatever, unless the subject matter thereof be inserted in the warrant for calling the meeting; and in case the Selectmen shall unreasonably deny to call a meeting upon any public occasion, any ten or more of the freeholders of such town may apply to a Justice of the Peace within and for the same county, who is hereby authorized and empowered to issue his warrant under his hand and seal, directed to the Constable or Constables of the town, if any such there be, otherwise to any of the freeholders applying therefor, directing him or them to notify and warn the inhabitants qualified to vote in town affairs, to assemble at such time and place in the same town as the said Justice shall in his said warrant direct, and for the purpose in the same warrant expressed. And when by reason of death, removal or resignation of Selectmen, a major part of the number originally chosen shall not remain in office within any town, in every such case, a major part of the survivors, or of such as remain in office, shall have the same power to call a town meeting as a major part of the whole number first chosen.

And be it further enacted by the authority aforesaid, That at every town meeting, a Moderator shall be first chosen by a majority of votes, who shall be thereby empowered to manage and regulate the business of the meeting; and when a vote, declared by the Moderator, shall immediately after such declaration, be scrupled or questioned by seven or more of the voters present, the Moderator shall make the vote certain, by polling the voters, or such other way, as the meeting shall desire. And no person shall speak in the meeting before leave first had and obtained from the Moderator, nor when any other person is orderly speaking; and all persons shall be silent at the desire of the Moderator, on pain of forfeiting *five shillings* for the breach of every such order, to the use of the town: and if any person shall, after notice from the Moderator,

Town Meetings
regulated.

persist in his disorderly behaviour, then it shall be lawful for the Moderator to direct such disorderly person to withdraw from the meeting; and such disorderly person, upon his refusal or neglect to withdraw, shall forfeit and pay a fine of *twenty shillings*, to the use of the same town; and may also, by direction of the Moderator, be carried out of the meeting by some Constable of said town, and put into the stocks, cage, or some other place of confinement, and there be detained for the space of three hours, unless the town meeting shall sooner adjourn or dissolve. And all suits and informations for fines incurred by a breach of this act, not exceeding *forty shillings*, may be heard and determined before any Justice of the Peace in the same county, not an inhabitant of the same town, unto whom the penalty or any part thereof is given, who, upon conviction, may enforce the payment thereof by a similar process, as is herein prescribed in the Court of General Sessions of the Peace for persons who refuse to serve in the office of Constable.

Proviso.

Provided always, That town meetings for the choice of Governor, Lieutenant Governor, and Senators, shall be regulated as the constitution directs, and for the choice of Representatives as is otherwise by law prescribed; any thing in this act contained to the contrary notwithstanding. And the Moderator of any town meeting, chosen as aforesaid, is hereby authorized, in case no Justice of the Peace be present, to administer to the Clerk, in open town meeting, the oath by law prescribed to the same office.

And be it further enacted by the authority aforesaid, That the freeholders, and other inhabitants of each respective town, qualified as aforesaid, at the annual meeting, for the choice of town officers, or at any other town meeting regularly warned, may grant and vote such sum or sums of money, as they shall judge necessary for the settlement, maintenance and support of the ministry, schools, the poor, and other necessary charges, arising within the same town; to be assessed upon the polls and property within the same, as by law provided; and they are also hereby empowered to make and agree upon such necessary rules, orders and by-laws, for the directing, managing and ordering the prudential affairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the observance of the same, not exceeding *thirty shillings* for one offence; to

Towns empowered to grant & assess money for necessary charges.

To make by-laws, &c.

enure to such uses as they shall therein direct; provided they be not repugnant to the general laws of the government; and provided also, such orders and by-laws shall have the approbation of the Court of General Sessions of the Peace of the same county: And may also allow and approve of any town or private way laid out by the Selectmen of the same town; or alter or discontinue any town or private way, heretofore laid out and improved as such, when it shall appear that the same is unnecessary for the inhabitants of such town. *Saving always*, to any person aggrieved, or who thinks himself injured, liberty of applying for remedy to the Court of General Sessions of the Peace in the same county, who are hereby empowered and directed, to enquire into and determine the matter by a jury, thereunto appointed, as well with respect to the necessity and convenience, by such discontinuance, laying out, or alteration, as to the damage that may happen or accrue, to any particular person or persons thereby; and thereupon to assess damages for the party injured, to be paid by such town; unless it appears, that the person on whose behalf application has been made, had no just cause of complaint; in which case the complainant shall pay all such costs and charge as may arise by such application to the Court of Sessions. And the verdict of a jury being received and recorded, shall be final and conclusive. *Provided*, such application be made to the Court of General Sessions of the Peace, within twelve months after such way is approved, altered, or discontinued as aforesaid, and not otherwise.

Proviso.

Court of Sessions may approve or discontinue any town or private way, laid out by Selectmen.

And be it further enacted by the authority aforesaid, That the inhabitants of every town within this government, are hereby declared to be a body politic and corporate; and as such, may commence and prosecute any suit or action in any Court proper to try the same; and may also defend any suit or action commenced against them, and for this purpose, the said inhabitants, qualified and convened in manner aforesaid, may nominate and appoint one or more agents or attorneys. The choice of the agent or attorney certified by the Town Clerk, shall be deemed and taken sufficient evidence of such appointment. And when any suit shall be commenced against any town, (or other body corporate) a copy of the writ or original summons, or such other legal process as may issue against them, shall be left with the Clerk of such town, or with one or

Inhabitants of every town, declared a body politic.

more principal inhabitants thereof, (or with the Clerk or some principal member of the body corporate) thirty days at least before the day of the sitting of the Court, unto which the same shall be returnable.

Privileges and powers of districts.

And be it further enacted by the authority aforesaid, That all places incorporated by the name of Districts, before the first day of *January*, one thousand seven hundred and seventy-seven, are hereby declared to be towns to every intent and purpose whatever; and places incorporated by the name of Districts since the same first day of *January*, one thousand seven hundred and seventy-seven, or such places as may hereafter be incorporated by the name of District, are and shall be entitled to all the privileges, and vested with all the powers in this act expressed, as amply to every intent and purpose as they could have been if expressly named herein.

And whereas in divers laws, provision is made relating to the annual meetings in March, which it is necessary should be extended to the meetings holden in the month of April, in case the annual meeting of any town should be holden in that month:

Matters and things, by law directed to be done at March meetings, may be transacted in April.

Be it therefore enacted by the authority aforesaid, That all matters and things, which by any law or resolve of this Commonwealth, are directed to be done, and transacted at the town meetings in *March*, may hereafter be done, and transacted at a town meeting in *April*; any thing in such law or resolve, to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, That all laws heretofore made for the purposes mentioned in this act, be, and they hereby are repealed, and rendered null and void.

March 23, 1786.

1785. — Chapter 76.

[February Session, ch. 35.]

Chap. 76 AN ACT DIRECTING THE TIME AND MANNER OF APPOINTING COUNTY TREASURERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That there shall be annually chosen in each county within this Commonwealth, in the month of *March* or *April*, by the written votes of such persons as are by the constitution qualified to vote for Representatives in the

County Treasurer to be annually chosen.