

## HOUSE.....No. 68.

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### Commonwealth of Massachusetts.

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HOUSE OF REPRESENTATIVES, March 29, 1839.

The Committee on the Judiciary, to whom were referred the petition of the overseers of the poor of the town of Danvers, and of other inhabitants of said town, and of the overseers of the poor of the towns of Andover, Billerica and Littleton, severally praying, that where convicts having a legal settlement in any town within this State, are sentenced to confinement in a house of correction for any offence, provision shall be made by law for a notice to be given to the overseers of the poor of such town, and that the overseers of such house of correction shall, on the written application of the said overseers of the poor, be required to permit them to remove such convict to the *work-house* of such town, “or that such other modifications of the law may be made, as will relieve the many inconveniences which now exist.”—And to whom was also referred the Petition of the several overseers of the houses of correction of the counties of Middlesex, Essex, Suffolk and Worcester, praying that all that part of the 24th section

of the 143d chapter of the Revised Statutes, which requires a separate account to be kept of the labor and earnings of each prisoner, and of the cost of materials and other expenses attending the same; and also that the 26th section of said chapter, which requires that the net earnings of each prisoner over and above his expenses, shall be paid to his family, or to him upon his discharge—may be repealed—have considered the several subjects submitted to them, and respectfully submit the following

## R E P O R T :

That the principal reason suggested at the hearing, by the overseers of Danvers and others, for the removal of prisoners from the houses of correction to the work-houses of the towns, was to relieve the towns from liability for the support of such prisoners in the houses of correction.

It was represented by them, that the towns were frequently obliged to pay large sums for the support of such prisoners, particularly in the house of correction in the city of Boston, when the prisoners were fully competent to maintain themselves, and did actually earn sufficient to pay all the expenses of their confinement.

By a reference to the Report of the Attorney General, (Senate document, No. 34,) page 43, it will be seen, that a very unjustifiable and extravagant rule is adopted in some of the houses of correction, in making their charges against the Commonwealth for the support of prisoners. On one side of the account is put, not only the cost of the board, clothing and other personal expen-

ses of the convict, but the whole expenses of all the convicts, both sick and well, able-bodied and infirm, and to this is also added the interest upon the cost of all the buildings and fixtures of the establishment, and the salaries of the officers. And on the other side the net earnings of all the prisoners, and the balance is then averaged upon all the prisoners. And the petitioners in this case represent, that the same rule is adopted in making up the accounts against *towns* liable for the support of prisoners.

The Committee can find no provision of law, and they know of no principle of equity which can justify such a course. If the treasury of the Commonwealth can, from long usage, bear such charges, the towns which complain of them should be entitled to relief in the premises. The mode of relief, however, which the petitioners pray for, is, in the opinion of the Committee, scarcely less exceptionable than the evil complained. The petitioners would transfer the criminal to their own work-houses, and thus change his condition from that of a *convict*, suffering the punishment inflicted by a judicial tribunal for a violation of law, to that of a *pauper*, enjoying the comforts of an alms-house, though nominally put to labor for his support.

It is most manifest, that, in very many of our towns, there is not even a provision for subjecting their paupers to labor for their support. And in few of them are there any work-houses; and in fewer still any adequate provision for the personal confinement of prisoners who might be removed as prayed for. And it might frequently happen that a prisoner thus removed, would be at large in a few days, and perhaps be again committed to the same house of correction from which he had been so removed.

It must be considered also, that in the town work-houses, there can be no means of enforcing many of the salutary provisions of the laws regulating houses of correction. Such for instance, as punishing refractory prisoners by solitary confinement, and keeping them on bread and water only—and keeping males and females apart from each other ; and a variety of other similar provisions, for which a common work-house is wholly unprovided.

There is also one provision in favor of the prisoner, which might be abused or neglected by the overseers of a work-house,—that which authorizes his release for good behavior, before the term of his confinement expires. No tribunal can properly judge upon this subject but the one before whom his trial was had and by which the sentence was ordered. And if he be removed to a remote town, this provision must, in most cases, be merely nominal in its practical operation. Or if, in cases of original commitment by a justice of the peace, where the overseers of the house of correction may thus discharge the prisoner, the same power is transferred to the overseers of the poor having charge of the work-houses, it is often so much for the interest of their towns, to be relieved from support of the prisoners, that this power of discharge may be improperly exercised, or it may be unjustly withheld where the labor of a reformed and orderly prisoner is more than sufficient for his support.

In view of all these difficulties, although solicited by numerous and respectable petitioners, the Committee cannot recommend the removal, under any circumstances, of prisoners to the work-houses of the towns, as prayed for.

The Committee, however, believe that a partial remedy at least, and one proper in itself, may be afforded by the regulation of the charges for the support of prisoners in houses of correction, which they herewith submit.

Upon the petition of the overseers of the several houses of correction committed to them, the Committee are informed that the provisions proposed to be repealed, have never been enforced, and in fact, that it is impossible to comply with them, with a proper regard to the discipline and economical management of the houses of correction. They, therefore, recommend their repeal, and respectfully submit the accompanying bill.

For the Committee,

GEO. BLISS, *Chairman.*



## Commonwealth of Massachusetts.

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In the Year One Thousand Eight Hundred and Thirty-  
Nine.

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### AN ACT

Concerning Houses of Correction.

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

1 SEC. 1. No master or keeper of any house of cor-  
2 rection shall hereafter be required to keep the accounts  
3 which are now required to be kept by them by virtue  
4 of the provisions of the twenty-fourth section of the one  
5 hundred and forty-third chapter of the Revised Stat-  
6 utes ; and the twenty-sixth section of said chapter is  
7 hereby repealed.

1 SEC. 2. No master or keeper of any house of cor-  
2 rection shall have a right to demand and recover of  
3 any city or town in which any person sentenced to

4 such house of correction has a lawful settlement, or of  
5 any kindred of such person, liable by law to maintain  
6 him, any further or greater sum than the amount of  
7 the personal expenses of the maintenance of such per-  
8 son during his confinement therein, deducting there-  
9 from such sum as he may have earned by his personal  
10 labor : *provided*, that this section shall not apply to  
11 any claim which the master or keeper of the house of  
12 correction in the city of Boston may have upon said  
13 city, for expenses incurred in said house of correction.