

sum to be raised, and each respective town's proportion of the same, as near as may be according to the rule for raising of money for the province charges, and shall issue forth their order unto the selectmen of the respective towns to assess the same upon the inhabitants of such town, each one his due and equal proportion thereof according to the rule before mentioned, as near as may be, to be paid in money or equivalent thereto; and to make a distinct list of each person's name and proportion under their hands, and such list commit unto the constable or constables of such town, with a warrant signed by the town clerk, directed unto the said constable or constables to levy and collect the said assessment of each one his respective proportion; and to pay in their said collections unto the county treasurer, or his order, within the time set for the same; and to make distress upon every person neglecting or refusing to make payment. And in default of goods or chattels whereon to make distress, to commit the party to the common goal of the county, until he make payment or otherwise be released by the justices in quarter sessions. And if any person or persons think themselves over-rated in any such assessment, they shall be eased by the assessors, making the same to appear, or in default thereof, by the court of quarter sessions.

And further it is enacted,

[SECT. 3.] That all monies so collected be improved and employed for the ends within mentioned, as the court of quarter sessions shall, from time to time, by their order in writing, direct and appoint. And the county treasurer in each respective county, shall account unto the court of quarter sessions, or whom they shall appoint, for all his receipts and payments. [*Passed November 18.*]

CHAPTER 28.

AN ACT FOR REGULATING OF TOWNSHIPS, CHOICE OF TOWN OFFICERS, AND SETTING FORTH THEIR POWER.

Be it ordained and enacted by the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

Bounds of townships to continue as heretofore granted, and to be run and marks renewed once in three years, under a penalty.
 § Gray, 466.

[SECT. 1.] That the bounds of all townships shall be and continue as heretofore granted and settled respectively, and shall be run betwixt town and town, and marks renewed once in three years, by two of the selectmen of each town, or any other two persons whom the selectmen shall appoint: the selectmen of the most ancient town to give notice unto the selectmen of the next adjacent towns of the time and place of meeting for such perambulation six days beforehand, on pain of forfeiting five pounds by the selectmen of any town that shall neglect their duty in any of the particulars aforesaid, two-thirds thereof unto the use of the poor of such town, and the other third unto the selectmen of any of the next adjacent towns that shall inform and sue for the same in the inferiour court of [common] pleas within the same county, to be recovered by action or information.

[And] be it further enacted by the authority aforesaid,

Proprietors of lands unfenced or in common fields to run the lines once in two years.

[SECT. 2.] That each proprietor of lands lying unfenced, or in any common field, shall once in two years, on six days' warning before given him by the next proprietor or proprietors adjoining, run the lines, make and keep up the bounds between them, by sufficient mete-stones, on pain that every party so neglecting or refusing shall forfeit the sum of ten shillings, one-half to the party moving, and the other half to the use of the poor of the town, being convented and convicted of such

neglect or refusal before any justice of the peace within the same county, who is hereby impowred to hear and determine the same.

And further it is enacted by the authority aforesaid,

[SECT. 3.] That the proprietors of the undivided or common lands within each town and precinct in this province, where the same have been heretofore stated, each one's proportion being known, shall and hereby are impowred to order, improve or divide in such way and manner as shall be concluded and agreed upon by the major part of the interested, the voices to be collected and accounted according to the interests. And the proprietors of all undivided [*or*] [*and*] common lands not stated and proportioned as aforesaid, shall and hereby are impowred to manage, improve, divide or dispose of the same as hath been or shall be concluded and agreed [up]on by the major part of such proprietors. That no cottage or dwelling-place in any town shall be admitted to the priviledge of commonage [*for*] [*of*] woods, timber and herbage, or any other the priviledges which lie in common in any town, or peculiar, other than such as were erected or priviledged by the grant of such town or peculiar before the year one thousand six hundred sixty-one, or that have been since, or shall hereafter be granted by the consent of any town or peculiar.

Some more lands, how to be improved.
10 Mass. 151.
1 Pick. 227.
8 Allen, 13.
13 Allen, 543.

And whereas, it has been a continued practice and custome [with]in the several towns [*within*] [*of*] this province annually to choose selectmen or townsmen, for the ordering and managing [*of*] the prudential affairs of such town, and other town officers for the executing of other matters and things in the laws appointed by them to be done and performed,—

Be it further ordained and enacted by the authority aforesaid,

[SECT. 4.] That the freeholders and other inhabitants of each town, ratable at twenty pounds estate, to one single rate besides the poll, shall some time in the month of March, annually meet and convene together, upon notice given by the constable or constables of [*such*] [*said*] town, or such other [*s*] as the selectmen or townsmen shall appoint, to give notice of such meeting, and the time and place for the same, and by the major vote of such assembly, then and there shall choose three, five, seven or nine persons, able and discreet, of good conversation, inhabiting within [*such*] [*said*] 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 as they shall find it necessary and convenient), as also to nominate and choose a town clerk, who shall be sworn truly to enter and record all town votes, orders, grants and divisions of land made by such town, and orders made by the selectmen, a commissioner for assessments, constables, surveyers of highways, tythingmen, fence-viewers, clerks of the market, sealers of leather, and other ordinary town officers. And the town clerk or two of the selectmen shall forthwith make and give out [*un*]to the constable or constables of such town a list of the names of those that shall be then chosen to the office of town clerk, constables, tythingmen, clerks of the market, sealers of leather, and other officers, of whom an oath is by law required; which constable or constables, within the space of six days at furthest, shall summon each of them respectively to appear before the quarter sessions, if then sitting, or one of the next justices of the peace, to be sworn to the faithful discharge of their respective offices and trust, on penalty of twenty shillings to the use of the poor of the town, to be paid by each constable neglecting of his duty in that behalf, upon conviction thereof before one justice of the peace, and upon non-payment to be levied by distress: *provided,* that no person in commission for any office, civil or military, church officer or member of the house of representatives for the time being, nor any other who has served as constable within the space of seven years before, shall be chosen to the office of constable.

Qualification of voters in town-meetings.

Selectmen, constables and other town officers to be annually chosen in March.
9 Pick. 152.

Town clerk to be under oath.

Constables to summon town officers to be sworn under a penalty.

Persons exempted from serving as constables.

It is further enacted by the authority aforesaid,

Towns or selectmen having instructions, to make orders and by-laws.

[SECT. 5.] That the freeholders and inhabitants qualified as in this act [*is*] mentioned in each respective town, in any town meeting, orderly warned according to the usage [*in*] [*of*] such town, or the major part so assembled, or the selectmen having instructions given them in writing by the town for that purpose, be and hereby are impowred from time to time 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 conducing to the peace, welfare and good order thereof, and to annex penalties for the observance of the same, not exceeding twenty shillings for one offence: *provided*, that they be not repugnant to the general laws of the province. And such orders and by-laws being presented unto the justices in quarter sessions, and approved [*of*] by them, shall be established and binding to all the inhabitants of such town, and the penalty for breach of any of them by any of the inhabitants to be levied by warrant of distress from any justice of the peace before whom such offender shall be convicted, to the use of the poor of such town.

Orders and by-laws in towns to be approved by the quarter sessions. Penalty to be levied by warrant from a justice.

And further it is enacted by the authority aforesaid,

Selectmen to make assessment for county and town charges.

[SECT. 6.] That the selectmen or townsmen chosen as aforesaid in each town respectively, be and hereby are impowred to assess the inhabitants and others resident within such town and the precincts thereof, and the lands and estates lying within the bounds of such town, in just and equal proportion as near as may be unto the county charges, according as they shall receive order from the court of quarter sessions to be held for the same county; and to all town charges each particular person according to his known ability and estate, such sum and sums as hath or shall be ordered, granted and agreed upon from time to time by the inhabitants in any town-meeting regularly assembled, or the major part of those present at such meeting, for the maintenance and support of the ministry, schools, the poor, and for the defraying of other necessary charges arising within the said town, and thereof to make distinct and perfect lists under their hands, or the major part of them, setting down every person's name and several proportion; and shall thereupon make out a warrant to be signed by the said assessors or the town clerk, by their order (who are hereby respectively impowred thereto), directed unto the constable or constables of the said town for the speedy levying and collecting of such assessments; and to pay in the same unto the selectmen, or to such person as they shall appoint for receiver, within the time thereby prefixt, and to make distress upon all such [*as*] [*who*] shall [*neglect or*] refuse to make payment. And for want of goods or chattels whereon to make distress, to seize the person and commit him to the common goal of the county, there to remain until he pay the sum upon him assessed as aforesaid, unless the same, or any part thereof, upon application made unto the quarter sessions, shall be abated. And if any person think himself overrated, and make it so appear unto the assessors, he shall be eased; and if they refuse, such person agrieved may make his application unto the justices in quarter sessions, who are hereby impowred to rectifie the same. And all constables having any such assessment committed unto them, shall settle and issue their accompts thereof with the selectmen, or receiver appointed by them, within three months after their time or year is expired, on pain of forfeiting the sum of twenty shillings per month for each month's neglect afterward, to the use of the poor of such town, and to be levied by distress upon such delinquent constable's goods, by warrant from one justice of the peace, being convented and convicted of such neglect before him, who is hereby thereto impowred: *provided*, *nevertheless*, that every constable, at the end of every three months, shall pay in as aforesaid so much as he shall have collected within that time.

3 Mass. 280.

Assessors or town clerk to make out a warrant for levying the same.

Distress to be made on delinquents.

Persons overrated to be eased.
12 Met. 217.

Constables to settle and issue their accounts within three months after the expiration of their year.

And it is further enacted by the authority aforesaid,

[SECT. 7.] That the selectmen or overseers of the poor in each town (where there are such chosen and specially appointed for that service) are hereby impowred and ordered to take effectual care that all children, youth, and other persons of able body living within the same town or precincts thereof (not having estates otherwise to maintain themselves) do not live idly or mispend their time in loitering, but that they be brought up or employed in some honest calling, which may be profitable unto themselves and the publick. And if any person or persons fit and able to work shall refuse so to do, but loiter [*and*] [*or*] mispend his or her time, wander from place to place, or otherwise misorder themselves, and thereof be convicted before one or more justices of the peace, such person or persons shall by [*said*] [*such*] justice or justices be sent to the house of correction, and at their entrance be whipped on the naked back, by the master of such house or such other as he shall procure, not exceeding ten lashes; and be there kept to hard labour until he or she be discharged by such justice or justices or the quarter sessions of the peace for the same county. And it shall and may be lawful for the overseers of the poor or selectmen in each town where there are no other persons specially chosen and appointed to be overseers of the poor, [*that*] [*and*] they are hereby ordered with the assent of two justices of the peace, to bind any poor children belonging to such town to be apprentices where they shall see convenient, a man-child until he shall come to the age of twenty-one years, and a woman-child to the age of eighteen years, or time of marriage; which shall be as effectual to all intents and purposes as if any such child were of full age and by indenture of covenant had bound him or her self.

Idle persons and loiterers to be employed.

Upon refusal to labor, to be sent to the house of correction.

Poor children to be bound out apprentices.

And it is further enacted by the authority aforesaid,

[SECT. 8.] That every person and persons (except as in this act is before excepted) being duly chosen as aforesaid to serve in the office of constable, who shall refuse to take the oath to that office belonging and to serve therein, if he be able in person to execute the same, shall pay the sum of five pounds to the use of the poor of such town, and if in the towns of Boston [*or*] [*and*] Salem the sum of ten pounds, and shall forthwith declare his acceptance or refusal, and the town shall proceed to a new choice, and if such person refuse to pay down his fine, he shall be convented before the next sessions of the peace to be held for that county in which such town lieth, who upon certificate under the hand of the town clerk or two or more of the selectmen that such person was legally chosen to the office of constable, and shewing no just cause to the sessions for his excuse, the justices shall order a warrant to be signed by the clerk of the peace, directed to any of the constables then in being within such town, to levy the said fine by distress and sale of such offender's goods, returning the overplus (if any be): said fine to be delivered unto the overseers of the poor or selectmen to the use of the poor of such town.

Penalty for not serving in the office of constable.

And be it further enacted by the authority aforesaid,

[SECT. 9.] That if any person or persons come to sojourn or dwell in any town within this province or precinct[s] thereof, and be there received and entertained by the space of three months, not having been warned by the constable or other person whom the selectmen shall appoint for that service to leave the place, and the names of such persons with the time of their abode there, and when such warning was given them, returned unto the court of quarter sessions, every such person shall be reputed an inhabitant of such town or precincts of the same; and the proper charge of the same in case through sickness, lameness, or otherwise they come to stand in need of relief, to be born by such town, unless the relations of such poor impotent person in the line or degree of father or grandfather, mother or grandmother, children or

Persons entertained in any town by the space of three months, and not warned out, to be reputed inhabitants.
3 Mass. 322.
4 Mass. 123, 124, 129.
10 Mass. 508.
12 Mass. 384.
14 Mass. 364.
16 Mass. 454.
1 Pick. 245.
2 Pick. 436.
18 Pick. 544.
19 Pick. 489.

23 Pick. 170.
7 Gray, 230,
236.
Persons of
ability to re-
lieve their poor
relations.

grandchildren be of sufficient ability; then such relations respectively shall relieve such poor person in such manner as the justices of the peace in that county where such sufficient persons dwell shall assess, on pain that every one failing therein shall forfeit twenty shillings for every month's neglect, to be levied by distress and sale of such offender's goods by warrant from any two such justices of the peace (*quorum unus*) within their limits, which shall be employed to the use and relief of such impotent poor person: *provided, nevertheless*, this act shall not be understood of any persons committed to prison, or lawfully restrained in any town, or of such as shall come or be sent for nursing or education, or to any physician or chirurgeon to be healed or cured; but the particular persons who receive and entertain any such shall be the town's security in their behalf, and be obliged to relieve and support them in case of need, upon complaint made to the quarter sessions, who shall accordingly order the same.

And [be] it [is] further enacted by the authority aforesaid,

Persons warned
out of any town
to depart in
fourteen days,
or else to be
sent by the
constable.

[SECT. 10.] That any person orderly warned as aforesaid to depart any town whereof he is not an inhabitant, and neglecting so to do by the space of fourteen days next after such warning given, may by warrant from the next justice of [*the*] peace be sent and conveyed from constable to constable unto the town where he properly belongs or had his last residence at his own charge, if able to pay the same, or otherwise at the charge of the town so sending him.

And further it is enacted by the authority aforesaid,

Constables to
warn town-
meetings.

[SECT. 11.] That when and so often as there shall be occasion [*of*] [*for*] a town meeting for any business of publick concernment to the town there to be done, the constable or constables of such town, by order from the selectmen or major part of them, or of the town clerk by their order, in each respective town within this province, shall warn a meeting of such town having order for the same in writing, on pain that every constable neglecting his duty in that respect, and being thereof convicted before one justice of the peace, shall forfeit the sum of twenty shillings to the use of the poor of such town, and to be levied by distress and sale of such offender's goods by warrant from such justice of the peace upon neglect or refusal of payment. And in case the selectmen in any town shall unreasonably deny to call a meeting of the inhabitants of such town upon any publick occasion thereof, the same being complained of and made to appear to one of the next justices of the peace within the same county, such justice by his warrant directed to the constable or constables may order a meeting of the inhabitants of such town therein signifying the occasion thereof.

Penalty for
neglect.

Justice to give
warrant for
town-meeting,
in case, &c.

[*Passed November 16.*]

CHAPTER 29.

AN ACT FOR MAKING OF LANDS AND TENEMENTS LIABLE TO THE PAYMENT OF DEBTS.

Disallowed by
the privy coun-
cil, August 22,
1695.

WHEREAS the estates of persons within this province do chiefly consist of houses and lands, which give them credit, some being remiss in paying of their just debts, others happening to dye before they have discharged the same,—

It is therefore ordained and enacted by the Governour, Council and Representatives convened in General Court, and by the authority of the same,

[SECT. 1.] That all lands or tenements belonging to any person in his own proper right in fee simple shall stand charged with the payment