

the said parties there maintained till by said parties otherwise ordered ; and that the costs and charges thereof shall be paid by him or them, in whole or proportion, for whom the said fence is so made ; and to be by the said fence-viewers accordingly recovered, pursuant to an act made in the tenth year of the said King William, in addition to the aforesaid act of King William and Queen Mary ; which said act is to be observed as a rule in all things whereto this act makes provision.

How costs of ponds are to be recovered. 1698, chap. 12, § 5.

Nevertheless, it is provided by this act,

[SECT. 2.] That it shall be in the liberty of the willing party to erect his own part and proportion of said fence, pursuant to the division made by the fence-viewers, as aforesaid.

Proviso.

And, whereas it may happen that the bound or line betwixt man and man, may butt, or end on, or run into, the sea, or some river or pond, whereby [the] [a] water-fence may be needful[1],—

Be it enacted by the authority aforesaid,

[SECT. 3.] That, when and so often as it shall so happen that a water-fence is needful[1], the said water-fence from time to time shall be made and maintained by the owners of the land butting, as aforesaid, in equal halves ; and, when it happens that either of said owners shall refuse building or maintaining his part thereof, the fence-viewers, as is provided, shall do or cause the same to be done.

How a water-fence is to be ordered.

[SECT. 4.] This act to continue and be in force for the space of five years, and no longer. [*Passed and published April 10, 1741.*]

Limitation.

CHAPTER 20.

AN ACT FOR EXPLANATION OF AND SUPPLEMENT TO THE ACT REFERRING TO THE POOR, &c.

WHEREAS the law for binding out poor children apprentices, is misconstrued by some to extend only to such children whose parents receive alms ; for explanation whereof,—

Preamble. 1730-31, chap. 3.

Be it declared and enacted by His Excellency the Governor, Council and Representatives in General Court assembled, and by the authority of the same,

[SECT. 1.] That the selectmen or overseers of the poor, in any town or district within this province, or the greater part of them, shall take order, and are hereby impowered, from time to time, by and with the assent of two justices of the peace, to set to work, or bind out apprentice, as they shall think convenient, all such children whose parents shall, by the selectmen, or overseers of the poor, or the greater part of them, be thought unable to maintain them (whether they receive alms, or are chargeable to the place or not), so as that they be not cessed to publick taxes or assessments for the province or town charges ; male children, till they come to the age of twenty-one years, and females, till they come to the age of eighteen years, or time of marriage ; which shall be as good and effectual in law, to all intents and purposes, as if any such child were of full age, and, by indenture or covenant, had bound him- or herself, or that their parents were consenting thereto ; provision therein to be made for the instructing of children so bound out ; vizt., males, to read and write ; females, to read ; as they respectively may be capable. And the selectmen or overseers of the poor, shall inquire into the usage of children so bound out, by themselves or predecessors, and endeavour to defend them from any wrongs or injuries.

Children whose parents are unable to maintain them, and do not pay taxes, to be set to work or bound out.

And, for the better preventing of idleness and loose or disorderly living,—

Be it further declared and enacted by the authority aforesaid,

Selectmen, &c.,
to set to work
persons that
have no lawful
employment.

[SECT. 2.] That the selectmen or overseers of the poor, or the greater part of them, be and hereby are further impowered, by and with the assent of two justices of the peace, to set to work all such persons, married or unmarried, able of body, having no means to maintain them, that live idly, and use or exercise no ordinary or daily lawful[1] trade or business to get their living by.

[SECT. 3.] And no single person of either sex, under the age of twenty-one years, shall be suffered to live at their own hand, but under some orderly family government; nor shall any woman of ill-fame, married or unmarried, be suffered to receive or entertain lodgers in her house.

[SECT. 4.] And the selectmen, overseers of the poor, constables and tythingmen, are hereby ordered to see to the due observance of this act, and to complain and inform against any transgressors thereof, to one or more justices of the peace, or the court of general sessions of the peace, who are hereby respectively required and impowered, upon due conviction of the offender or offenders, for living idly or disorderly, contrary to the true intent of this act, to commit or send such offenders to the house of correction or workhouse, there to remain and be kept to labour until they be discharged by order of such justice or justices, or the court of general sessions of the peace, unless such person or persons, so complained of, shall give reasonable caution or assurance, to the satisfaction of the justice or court, that they will reform.

Provided,

Proviso.

[SECT. 5.] This act shall not be construed to extend to hinder any single woman of good repute, from the exercise of any lawful[1] trade or employment, for a livelihood, whereto she shall have the allowance and approbation of the selectmen or overseers of the poor, or the major part of them.

[SECT. 6.] And any two justices, committing any person or persons, as aforesaid, are hereby impowered, as they shall find cause, to discharge them again.

Limitation.

[SECT. 7.] This act to continue and be in force for the space of seven years from the publication thereof, and from thence to the end of the session of the general court then next following, and no longer. [*Passed and published April 10, 1741.*]

CHAPTER 21.

AN ACT IN ADDITION TO THE SEVERAL ACTS HERETOFORE MADE RELATING TO COMMON NUSANCES.

Preamble.

FOR PREVENTING OF desolation by fire that may happen by erecting of potters' kiln[s, and] houses near to dwelling-houses and other buildings, and the inconvenience and misch[e]i[e]f that may accrue to the neighbourhood by the offensive and unwholesome smoak and stench proceeding from the kilns when on fire,—

1692-3, chap. 23.
1696, chap. 13.
1708-9, chap. 4.
1710-11, chap. 8.

Be it enacted by His Excellency the Governor, Council and Representatives in General Court assembled, and by the authority of the same,

Potters' kilns
not to be set up
in market or
seaport towns
without license.

[SECT. 1.] That if, at any time after the publication of this act, any person or persons shall presume to erect or set up any potters' kiln, or kiln-house, in any place within either of the seaport or market towns in this province, other than such place as heretofore has been used for that purpose, or as the selectmen of such town, with two