

SEC. 7TH. *And be it further enacted* that there shall be toll gatherers and others, to attend all locks on said canal in the day time who shall give constant attendance at their respective stations during the whole season for Boats and rafts to pass; and on the toll being paid, shall immediately permit passengers with their property to pass the said locks and canals. And the said toll shall commence on said canal as soon as the same shall be completed and shall continue forever; *provided* that when forty years from the first opening thereof are expired the General Court from thence forward may regulate the rate of toll and the same shall be collected in such manner as shall be prescribed to the said corporation.

Toll-gatherers
to be appointed.

SEC. 8TH. *And be it further enacted* that if the proprietors aforesaid shall refuse or neglect for the space of ten years after the passing this act to build and complete such canals so as to be passable in manner aforesaid then this Act shall be void and of no effect.

Time for
making canal
limited.

Approved March 11, 1797.

1796. — Chapter 94.

[January Session, ch. 60.]

AN ACT TO SECURE THE TOWN OF BOSTON AGAINST DAMAGE FROM FIRES.

SECT. 1ST. *Be it enacted by the Senate & House of Representatives in General Court Assembled & by the authority of the same*, that from & after the passing this Act no Dwelling House or Building which in whole, or in part shall be intended for, or occupied as a Dwelling House, shall be made or built within the limits of said Town, unless the rear-wall, in case the rear should be one of the largest sides thereof, or two of the external Walls which taken together shall be equal to one of the largest sides thereof, excepting the Windows, be entirely composed of Brick or Stone & unless the Roof thereof be entirely covered with Slate, Tile or some composition or materials that will effectually secure the same against Fire, & unless the Eaves thereof be also secured against Fire.

Houses to be
partly of brick
or stone, and
slated.

SECT. 2D. *And be it further enacted* that from & after the passing of this act, no building of any other description more than fourteen feet high from the ground to the highest point in the roof thereof, or more than twenty four

No building
other than a
dwelling-house
to be built,
except the walls
are entirely

composed of
brick or stone.

feet wide in the widest part thereof shall hereafter be made or built within the limits of said Town for any purpose whatsoever, unless all the outside Walls thereof be composed entirely of Brick or Stone, excepting the Windows, & unless the Roof be covered with Slate, Tile, or some other composition or materials that will effectually secure the same against Fire & unless the Eaves thereof shall also be secured against Fire. And all additions made to buildings already erected so as to come within the foregoing descriptions & dimensions & all Buildings erected upon old foundations in part or in whole shall be deemed & considered to be within the regulations & restrictions of this Act; *provided nevertheless*, that when in places near the water no suitable foundation can be laid without an unreasonable expence, & the same shall be made to appear to the satisfaction of the Selectmen, they or a major part of them may grant a licence under their hands for the erection of wooden buildings, which shall be rough-cast, or covered on all sides with Lime-Mortar, or some other incombustible composition, & the Walls filled with Bricks laid in Mortar, & the roofs of which shall be covered as is herein before provided.

Proviso.

Dwelling
houses erected
or altered,
except as here
directed, to
be deemed
nuisances.

SECT. 3D. *And be it further Enacted* that all Dwelling Houses & other buildings which shall be hereafter erected or altered within the limits of said Town of Boston contrary to the true intent & meaning of this act shall be deemed common Nuisances. And every person who shall erect or alter, or cause to be erected or altered, & every Artificer who shall undertake & erect or alter any building within said Town contrary to the true intent & meaning of this Act shall forfeit & pay a fine not less than one hundred nor more than five hundred dollars according to the nature & aggravation of the offence, to be recovered by information which it shall be the duty of the Attorney General to file in all cases which come to his knowledge, or by indictment before the Supreme Judicial Court, & the said Court in all cases where the Nuisance shall not be abated or removed before conviction, shall besides giving judgment for the penalty before provided, adjudge that the Nuisance be abated; & shall issue their warrant under the seal of said Court, to the Sheriff of the County of Suffolk, directing him forthwith to abate & remove such Nuisance, & it shall be his duty to execute the same, requiring the assistance of the County if necessary as in

Such nuisances
to be forcibly
removed when
necessary.

the service & execution of other legal Writs & precepts, & the Sheriff may distrain the Materials of every such Nuisance, or any part of them & retain the same in his possession for the space of three days unless the costs & expences of abating & removing such Nuisance be sooner paid & after the expiration thereof may sell & dispose of the same at Public Auction, after having given twenty four hours notice of the time & place of sale by posting up such notice in some public place, & after deducting all costs & expences & charges of sale shall restore the remainder of the proceeds, if any, to the owner of the building — And it shall be the duty of the Sheriff within three days after the time of abating such Nuisance to furnish the Owner, or his Agent or Attorney with an account of the cost & expence incurred by the service of such warrant, & in case of any disagreement, any two Justices of the Peace in said County, *quorum unus*, upon application made by the party aggrieved may in a summary manner after notice to the Sheriff hear & determine the same: Saving to either party a right to appeal from the decision of such Justices to the Supreme Judicial Court next to be holden in said County, who may finally determine the same either with or without the intervention of a Jury as the nature of the case may require.

And be sold
at auction.

SECT. 4TH. *And be it further enacted* that after three months from the passing of this act no person shall boil tar, or permit any tar to be boiled for the use of any ropewalk, unless in a building situated at least ten feet distant from every ropewalk & made intirely of brick or stone with Walls not less than Sixteen inches in thickness, & with doors & window shutters & frames of Iron, And with a vaulted or arched roof made intirely of brick, under a penalty not exceeding one thousand nor less than one hundred dollars, to be recovered as aforesaid, & if any person after the passing of this act shall have in his possession in any rope walk, any fire, lighted pipe, segar, candle or lamp, he shall forfeit for each offence a sum not exceeding one hundred dollars nor less than five dollars to be recovered as aforesaid; & every building which shall be used or made for the purpose of boiling tar contrary to the provisions of this section shall be deemed a common nuisance, And be liable to be abated and removed as is herein before provided with respect to other nuisances.

Situation and
materials for
building rope-
walk tar-houses.

No fire to be carried uncovered, or segar to be smoked in streets.

SECT. 5. *And be it further enacted* that no person shall carry any fire through the Streets in the day or night but in some covered Vessel, or shall smoke or have in his possession any lighted Pipe or Segar, in any street, lane, alley or passage way, or on any wharf in said Town under a penalty of two dollars to be recovered of the person so offending or of his parent, gaurdian, master or Mistress before any Justice on complaint & appropriated to the use of the Complainant.

Appropriation of fines.

SECT. 6. *And be it further enacted* that all fines & forfeitures recovered by this Act, except that specified in the last section, shall be & enure one half to the person prosecuting therefor, & one half to the use of the Poor of the Town of Boston. And all Laws heretofore made regulating the mode of building in the town of Boston are hereby repealed.

Approved March 11, 1797.

1796. — Chapter 95.

[January Session, ch. 61.]

AN ACT IN ADDITION TO AN ACT ENTITLED "AN ACT ESTABLISHING A SUPREME JUDICIAL COURT WITHIN THE COMMONWEALTH."

Preamble.

Whereas in the practice under the said Act, it has been found inconvenient that the records of the proceedings of the supreme Judicial Court in the distant Counties should be kept in the Town of Boston.

Clerks of Common Pleas to become clerks of the Supreme Judicial Court.

SECT. 1ST. *Be it therefore enacted by the Senate and House of Representatives in General Court assembled & by the Authority of the same,* that from & after the first day of August next, the Clerks of the Courts of Common Pleas in their respective Counties, excepting those of Lincoln, Hancock, Washington, Dukes County and Nantucket shall become Clerks of the Supreme Judicial Court, & shall have the keeping of the records of the doings and proceedings of the said Court in their respective Counties, & shall do & perform all the services now done and performed by the Clerk of Said Court within the Town of Boston; & receive the same fees for said services as provided in the fee bill for the Clerks of the Courts of Common Pleas.

Mode of qualification.

SECT. 2D. *And be it further enacted,* that it shall be the duty of the said Clerks of the Courts of Common Pleas, in their respective Counties, to attend on the Justices of