stitution from the old English municipal corporations, under which most of the cases on the subject of amotion and disfranchisement usually cited in the books arose. These cases, especially those relating to disfranchisement are, in general, inapplicable here, and should, it is believed by the author, be followed by our courts as precedents with unusual caution, and only when they rest upon or declare principles general in their nature, and which embrace in their operations municipal institutions possessing the distinctive characteristics of ours. Here, the inhabitants of the municipality are, by legislative enactment, the corporators; certain of those inhabitants (usually all of the adult male residents) have the constitutional or statutory right to elect the legislative or governing body, and also, frequently, the other more important officers of the corporation. It would seem that the English doctrine of *disfranchisement* of a corporator or member has no application to our municipal corporations, whether the corporator be considered the "inhabitant" or the "voter."

§ 239 (178). **Disfranchisement; English Doctrine not applicable here.** — Whether the power of disfranchisement be *incidental* to the corporation, or must be *expressly conferred*, respecting which there is in England some contrariety of view,[1] we need not inquire,

exemplary damages, for illegal acts injurious to private persons. Tracy *v.* Swartout, 10 Pet. (U. S.) 80 (1836) (action against collector of customs); *Ib.* 137; Jenner *v.* Joliffe, 9 Johns. 382. As no one is bound by an unauthorized ordinance, the municipal authorities enacting the same are not individually liable therefor. *So held*, in action by an ex-mayor against aldermen for depriving him of his office. Jones *v.* Loving, 55 Miss. 109; *supra*, sec. 235. A provision of law making a civil corporation liable "for the illegal doings and defaults" of its officers (there being no provision that the officers shall not also remain liable), does not deprive the party injured of his right to proceed personally against the officer or agent who committed the injury. Both are liable. Rounds *v.* Mansfield, 38 Me. (3 Heath) 586 (1854). *Election officers for refusing vote, when liable.* Gordon *v.* Farrer, 2 Doug. (Mich.) 411; Carter *v.* Harrison, 5 Blackf. 138; Jeffries *v.* Ankeny, 11 Ohio, 374; compare Ramsey *v.* Riley, 13 Ohio, 157. See Jenkins *v.* Waldron, 11 Johns. (N. Y.) 114; Lincoln *v.* Hapgood, 11 Mass. 350; Bridge *v.* Lincoln, 14 Mass. 367. *Collection and revenue officers* not liable to the party paying for money *voluntarily* paid to them. Elliott *v.* Swartout, 10 Pet. 137 (1836); Thompson *v.* Stickney, 6 Ala. 579. More fully, *post*, chap. xxiii. *When liable in trespass.* McCoy *v.* Chillicothe, 3 Ohio, 370; Loomis *v.* Spencer, 2 Paige, 153. *Recording officer.* Ramsey *v.* Riley, 13 Ohio, 157; approved, Stewart *v.* Southard, 17 Ohio, 402.

[1] Grant, 263. "This right [of disfranchisement] has been but sparingly exercised, though it is undoubtedly an *incident* to every corporation, with, perhaps, some exceptions in cases of trading and monetary bodies." *Ib.* Willcock (271, pl. 709) denies that it is an incidental right, and claims that the rule laid down in the second resolution (Bagg's Case) on this point, — that "no freeman of any corporation can be disfranchised by the corporation, unless they have authority to do so by the express words of the charter, or by

for here (were there no constitutional obstacles) the legislature never bestows upon the council, or governing body which represents the corporation, the right to disfranchise the citizen or corporator; and it is clear that such a formidable and extraordinary authority does not exist, and cannot be exercised by the council, as an incidental or implied right. To burn or destroy the charters of the corporation, or wilfully to falsify its books, were in England considered such breaches of duty on the part of a corporator as would work a forfeiture of the corporate character,[1] there being, according to Lord Coke, "a tacit condition annexed to the franchise, which, if he break, he may be disfranchised."[2] Surely, there is here no such tacit condition annexed to the constitutional or statutable right of a resident of a municipality to be and remain a corporator, though there may be a similar condition annexed to municipal offices. Wilfully to destroy or falsify the charter or books of a municipal corporation is an act which is punishable by the criminal codes of the different States; and if the offender is convicted and imprisoned, it may result as an incident of such conviction that he will cease, for the time, to be a resident, and hence will cease to be a member of the corporation; but the corporation itself has no power to disfranchise him, that is, to deprive him of the privileges and rights, without absolving him from the liabilities of other citizens, while he remains within the limits of the municipality.

§ 240 (179). **Amotion; Rex v. Richardson.** — The power *to amove a corporate officer* from his office, for reasonable and just cause, is one of the common-law incidents of all corporations.[3] This doctrine,

prescription," — is the law. Mr. Glover simply adopts Mr. Willcock's language. Glover, 335. Mr. Kyd's exposition of the *second* resolution in Bagg's Case, 2 Kyd, 52. And see leading case of Rex *v.* Richardson, 1 Burr. 517, which was a case of amotion, but has been often taken as asserting an incidental power to disfranchise for cause as well as to amove. Angell & Ames, secs. 408, 409. See, generally, Commonwealth *v.* St. Patrick's Society, 2 Binn. (Pa.) 448 (1810); Evans *v.* Philadelphia Club, 50 Pa. St. 107; Hopkinson *v.* Marquis of Exeter, Law Rep. 5 Eq. 63; State *v.* Georgia Med. Soc., 38 Ga. 608; s. c. 8 Am. Law Reg. (N. S.) 533, Mr. Mitchell's note.

[1] Mayor *v.* Pilkinton, 1 Keb. 597; Rex *v.* Chalke, 5 Mod. 257; 1 Lord Raym. 226; Grant, Corp. 265.

[2] 13 Coke, 98 *a*.

[3] Rex *v.* Richardson, 1 Burr. 517; Rex *v.* Liverpool, 2 Burr. 723; Rex *v.* Doncaster, 2 Burr. 738 Jay's Case, 1 Vent. 302; Lord Bruce's Case, 2 Stra. 819; Rex *v.* Ponsonby, 1 Ves. Jr. 1; Rex *v.* Lyme Regis, Doug. 153; Rex *v.* Tidderley, 1 Sid. 14, *per Hale*, C. B.; Rex *v.* Taylor, 3 Salk. 231; 1 Roll. Rep. 409; s. c. 3 Bulst. 189; Rex *v.* Chalke, 1 Lord Raym. 225; Rex *v.* Heaven, 2 Term R. 772; Reg. *v.* Newbury, 1 Queen's Bench, 751; 2 Kyd, 50–94, where the old cases are digested; Glover, chap. xvi.; Willc. 246; Grant, 240; Angell & Ames, chap. xii.; 2 Kent, Com. 297; Richards *v.* Clarksburg, 30 W. Va. 491 (1887); State *v.* The Judges, 35 La. An. 1075; Ellison *v.* Raleigh, 89 N. C. 125; *ante*, sec. 212, note.

though declared before,[1] has been considered as settled ever since Lord Mansfield's judgment in the well-known case of The King *v.* Richardson.[2] It is there denied that there can be no power of amotion unless given by charter or prescription; and the contrary doctrine is asserted, — that from the reason of the thing, from the nature of corporations, and for the sake of order and government, the power is incidental.

§ 241 (180). **Where Power of Amotion resided in old English Corporation.** — But the power to amove, like every other *incidental* power, is incident to the corporation *at large*, and not to any select body or particular part of it, and unless delegated to a select body or part, it must be exercised by the *whole corporation*, and at a *corporate assembly* regularly and *duly convened*.[3] The power to hold such an assembly is, however, implied in the power of amotion.[4]

§ 242 (181). **Power of Amotion in this country.** — By the *corporation at large*, as used in the preceding section, is meant the different ranks and orders which compose it, including the definite and indefinite bodies. The essentials in such a corporation of a valid corporate assembly have previously been described. Our American corporations, however, have no ranks, orders, or integral parts corresponding to the constitution of an old English corporation. Here the common council, or the elective governing body (whatever name be given to it), exercises all of the powers of the incorporated place. Has the council, as the representative of the corporation, the incidental powers of a corporation, such as the power to amove, or the

[1] Lord Bruce's Case, 2 Stra. 819, 820; Tidderley's Case, 1 Sid. 14, *per Hale*, C. B.

[2] Rex *v.* Richardson, 1 Burr. 517, noted *infra*, sec. 251. "It is necessary to the good order and government of corporate bodies that there should be such power [amotion], as much as the power of making by-laws." *Ib.*

[3] Lord Bruce's Case, 2 Stra. 819; Rex *v.* Lyme Regis, Doug. 153; Rex *v.* Richardson, *supra*; Rex *v.* Doncaster, Say. 38; Rex *v.* Taylor, 3 Salk. 231; Rex *v.* Faversham, 8 T. R. 356; Fane's Case, Doug. 153; Willc. 246, pl. 629; Grant, 240, 241; 2 Kyd, 56; Glover, 329; State *v.* Jersey City, 1 Dutch. (N. J.) 536 (1856). Even if the right to elect an officer be in a particular person or select class, the power to amove is not incidental to it, but, unless expressly changed or limited by charter, it belongs to the corporation at large. Lord *Mansfield* seemed to be of opinion that it was competent to transfer this power from the whole body to a select body by an ordinance or by-law. Bagg's Case, 11 Co. 99 *a*; Rex *v.* Richardson, 1 Burr. 539. But this question seems not to have been directly determined. Willc. 247, pl. 634; *Ib.* 248, pl. 635; State *v.* Jersey City, 1 Dutch. (N. J.) 536. Under the Constitution of *Pennsylvania* municipal officers who hold their offices by appointment *may be removed* at the pleasure of the power appointing them. Houseman *v.* Commonwealth, 100 Pa. St. 222.

[4] Fane's Case, Doug. 153; Rex *v.* Lyme Regis, *Ib.* 149.

power to ordain by-laws? Or is the council in the nature of a select body, possessing no right to exercise any of the ordinary incidental powers of the corporation, unless expressly authorized by charter or legislative grant? The question not being judicially settled as to our municipal corporations, the opinion is ventured that, in the absence of an express grant or statute conferring or limiting the power, the common council of one of our municipal corporations as ordinarily constituted, does possess, in the absence of any express or implied restriction in the charter, the incidental power, not only to make by-laws, but, *for cause, to expel its members, and, for cause, to remove corporate officers*, whether elected by it or by the people.

§ 243. **Same subject.** — Whatever necessity or reason exists for the right of amotion at common law, with respect to the corporation at large, would, in the absence of any controlling legislative provision, seem to exist here not only as to the doctrine itself, but also *with respect to that authorized body* by which alone the corporation acts, and which exercises all the corporate powers and functions. All of the inhabitants cannot meet and act in their primary capacity, except in organizations like the *towns* in the New England States; and if an implied or incidental right of amotion exists at all, it must be exercised by the council or governing body of the corporation. If it does not exist in the council, it cannot be *delegated* to it by an ordinance or by any act of the corporation, though if the right does exist, its exercise may, of course, be regulated by ordinance or by-law.[1] And the right may doubtless, we think, be inferred from the

[1] See, generally, Willard's Appeal, 4 R. I. 597; State, &c. *v.* Trustees, &c., 5 Ind. 89; State *v.* Bryce, 7 Ohio, part II. [82] 414; Commonwealth *v.* St. Patrick's Society, 2 Binn. (Pa.) 448; Commonwealth *v.* Bussier, 5 Serg. & Rawle (Pa.), 451; Commonwealth *v.* Guardians, &c., 6 Serg. & Rawle (Pa.), 469; Commonwealth *v.* Sutherland, 3 Serg. & Rawle (Pa.), 145; Johns *v.* Nicholls, 2 Dall. 184; 1 Yeates, 80; People *v.* Comptroller, &c., 20 Wend. (N. Y.) 595; State, &c. *v.* Lingo, 26 Mo. 496; Fawcett *v.* Charles, 13 Wend. 473; Hoboken *v.* Gear, 3 Dutch. (N. J.) 265; People *v.* Board of Trade, 45 Ill. 112 (1867); Neall *v.* Hill, 16 Cal. 145; State *v.* Chamber of Commerce, 20 Wis. 63; People *v.* Medical Society, 24 Barb. (N. Y.) 570; Evans *v.* Philadelphia Club, 50 Pa. St. 107; State *v.* Georgia Medical Society, 38 Ga. 608; s. c. 8 Am. Law Reg. (N. S.) 533, and note; Smith *v.* Smith, 3 Desaus. 557. But see State *v.* Jersey City, 1 Dutch. (N. J.) 536, in which the power to expel a member of the council was expressly conferred, but where Mr. Justice *Potts*, delivering the opinion of the court, says: "The rule is well settled that a corporation has, at common law, an inherent jurisdiction to expel a member for sufficient cause." After noticing the offences which will justify expulsion, he adds: "But the jurisdiction in this case is not derived from the common law. The common council is not the corporation, and, whatever powers a municipal corporation may have to amove or expel a member at common law, it is clear that the corporation itself has not, by any by-law, delegated any of them to the common council, and that body, therefore, cannot avail itself of the common-law

express power to make needful or reasonable by-laws, if there is nothing in the charter or legislation to rebut the inference.

§ 244 (182). **Special Statutory Tribunal.** — A provision in a city charter vesting *the board of aldermen with the sole power to try all impeachments of city officers*, the judgment only extending to removal and disqualification to hold any corporate office under the charter, *is not unconstitutional* as authorizing the exercise of judicial powers by a legislative or municipal body, but is rather the exercise of a power necessary for its police and good administration.[1]

§ 245 (183). **Power to amove to be Strictly Pursued.** — When the terms under which the power of amotion is to be exercised are prescribed, they *must be pursued with strictness*.[2] Whether, if the

jurisdiction, vested as an inherent right in the corporation itself, to expel a member of their own body. 2 Bac. Abr. 21, title *Corporations;* Willc. on Corp. 629. The council derives its jurisdiction from the charter of the corporation." This case rules that where, in express terms, the right of the council *to expel a member for certain causes* is given, it cannot exercise the power for any other cause. And it would seem to be the opinion of the court, or at least of the judge delivering the opinion, that the common-law power of expulsion belonging to a corporation could not be exercised by the common council, that body not being the corporation in which the power is vested. *Infra*, secs. 245, note, 280. Same principle as to private corporations. State *v.* Chamber of Commerce, 20 Wis. 72. Compare People *v.* Board of Trade, 45 Ill. 113.

[1] State *v.* Ramos, 10 La. An. 420. See People *v.* Bearfield, 35 Barb. (N. Y.) 254, *supra*, sec. 200. A board of aldermen, sitting in a judicial capacity as a court of impeachment to try charges preferred against a city officer by another branch of the municipal governing body, is a court of limited jurisdiction, and, if not sworn, or not sworn by an officer authorized to administer oaths, their proceedings and judgment of guilty are void, and create no vacancy. Tompert *v.* Lithgow, 1 Bush (Ky.), 176 (1866). See Hadley *v.* Mayor &c., 33 N. Y. 603; cited *infra*, sec. 253, note.

[2] State *v.* Lingo, 26 Mo. (5 Jones) 496; State *v.* Trustees of University, 5 Ind. 77, 89 (1854); State *v.* Bryce, 7 Ohio, part II. [82] 414; State *v.* Chamber of Commerce, 20 Wis. 63; Regina *v.* Sutton, 10 Mod. 76; Paston *v.* Urber, Hutt. 103; Regina *v.* Ricketts, 7 Ad. & El. 966; Rex *v.* Oxford, 6 Ad. & El. 349; Commonwealth *v.* Sutherland, 3 Serg. & Rawle (Pa.), 145; Commonwealth *v.* Shaver, 3 Watts & S. (Pa.) 338; Murphy *v.* Webster, 131 Mass. 482. In the Queen *v.* Sutton, *supra*, so strictly was a clause in a charter conferring the right of removal construed, that it was held that where acts were to be done by a *majority*, that word was to be understood as a majority of the whole corporation, and that if the officer whose removal was proposed was a member it could be effected only by a majority of all the members, including himself, and that his personal interest did not exclude him from voting as a member upon the question. See, also, State *v.* Jersey City, 1 Dutch. (N. J.) 536; Madison *v.* Korbly, 32 Ind. 74; State *v.* McGarry, 21 Wis. 496, where "other cause" for removal was held to mean "other *like* cause." The *Circuit Court of the United States* has no jurisdiction to restrain the mayor or city authorities from removing a city officer, upon charges of malfeasance in office. An injunction issued in such a case and proceedings in contempt for disobedience of the writ, held void. *Re* Sawyer, 124 U. S. 200; *supra*, sec. 202, note; more fully, *post*, chap. xxii.

power to expel or remove be given for certain causes, this excludes the right to exercise the power in any other case, will depend upon the intent of the legislature to be gathered from a consideration of the whole charter or statute. Power to appoint "subject to removal only for," &c., clearly limits the power of removal to the specified causes.[1] Express power of expulsion or removal for specified reasons was, in New Jersey and in Georgia, considered to exclude any implied power, and to limit the right to the enumerated causes.[2]

§ 246 (184). **Power of Expulsion for Specified Causes construed.** — A charter of a municipal corporation gave to the common council express power to "*expel a member for disorderly conduct*," and one of the aldermen, being guilty of official corruption in receiving bribes, was, after a hearing, expelled from the council. The court was of opinion that the question as to the right to expel for the conduct charged, depended upon the construction of the words "disorderly conduct;" and it held that receiving bribes for his official influence and votes was *disorderly conduct*, within the meaning of the charter.[3] In another case, the charter authorized the council "to dismiss the marshal for malpractice in office, or neglect of duty;" and it was held that the council could not remove this officer for the crime of gambling, as this was neither malpractice in office nor official neglect, within the meaning of the charter.[4]

[1] People *v.* Higgins, 15 Ill. 110. See *supra*, sec. 243, note.

[2] State *v.* Jersey City, 1 Dutch. (N. J.) 536 (1856); The Mayor, &c. *v.* Shaw, 16 Ga. 172 (1854). See s. c. 19 Ga. 468; 21 Ga. 280; 25 Ga. 590; Cleary *v.* Trenton, 50 N. J. L. 331 (1888); Clark *v.* Cape May, 50 N. J. L. 558 (1888). But see Commonwealth *v.* St. Patrick's Society, 2 Binn. (Pa.) 441; 4 Binn. (Pa.) 448; Angell & Ames, sec. 415. Under the *Illinois* statute, it is held that the *county* authorities do not possess general powers of removal, and that they cannot remove a treasurer elected by the people, except for causes specified in the statute; but it may be observed that a county treasurer is a public and not a corporate officer. Clark *v.* The People, 15 Ill. 213 (1853). So a power of removal conferred upon the mayor *and* common council cannot be exercised by the council *alone*. Charles *v.* Hoboken, 3 Dutch. (N. J.) 203.

[3] State *v.* Jersey City, 1 Dutch. (N. J.) 536 (1856).

[4] Mayor *v.* Shaw, &c., 16 Ga. 172 (1854). Relator was *removed from the office of policeman* of the city of New York, by the board of police, under the charge of "*conduct unbecoming an officer*," this being one of the offences for which, under the statute, a policeman can be removed. The specifications were that he was appointed policeman contrary to law when he was more than thirty years of age, and that he had been appointed after having resigned from the force without a vote by yeas and nays, contrary to the requirements of law. It was held that these specifications had only reference to relator's title to the office, and not to his conduct while an officer, and did not authorize the removal. People, *ex rel.* Clapp *v.* Board of Police, 72 N. Y. 415 (1878). Reported below, 5 Hun, 457.

Power to punish for contempt. Whether *the council* possesses the power to *punish for contempt* depends upon the provisions of the charter. The power must, as the author conceives, be conferred either ex-

§ 247 (185). **Power to Expel construed and limited.** — The power to *expel a member of the council* does not authorize a resolution by it that "the president of the council be directed not to appoint a certain member on any committee, nor call his name, nor allow him to take part in the action of the board," since this would create no vacancy which could be supplied, but would leave the seat occupied, while it silenced the occupant, and left his constituents unrepresented.[1]

pressly or as incidental to some power which is conferred, or it will not exist. In Doyle *v.* Falconer, 1 Privy Council Appeals, 329, it was held that the colonial parliament of Dominica had not the inherent privilege of parliament *as a court*, and could not therefore punish for contempt; but in the later case of The Speaker *v.* Glass, 3 Privy Council Appeals, 560, it was decided that the delegation of legislative authority to the Victoria parliament was broad enough to include this power. These cases afford very interesting illustrations of the nature of the power to punish for contempt. *Power of courts of the United States to punish for contempt.* Burr's Trial, 355; United States *v.* Hudson, 7 Cranch, 32; Kearney, *In re*, 7 Wheat. 38. *Power of Congress.* 11 U. S. Stats. at Large, 155; 12 U. S. Stats. at Large, 333. The Constitution of the United States vests no general power in *either House of Congress to punish for contempt.* Either House may punish its own members for disorderly conduct, or for failure to attend its sessions, and may impeach officers of the government, and may, where an examination of witnesses is necessary in the performance of these duties, fine or imprison a contumacious witness; but neither house can commit a witness for contempt for refusing to answer questions concerning the private affairs of citizens; for example, "the real estate pool" in the District of Columbia, such an investigation being judicial, *not* legislative, and the sergeant-at-arms cannot justify in an action for false imprisonment under such an order. Kilbourn *v.* Thompson, 103 U. S. 168 (1880).

Where the General Incorporation Act authorized the *removal of the mayor*, among other things, for "wilful violation of any of the ordinances of such town or city," and provided for trial before the board of aldermen, who were empowered to enter judgment of removal against him upon finding that the charges were "a sufficient cause for removal from office," it was held that the aldermen were not invested with unlimited discretion, without regard to whether he was guilty of an offence in law or not; and that a violation of an ordinance which was void for being unreasonable and in contravention of common right, did not furnish proper ground for removal. Milliken *v.* Weatherford, 54 Tex. 388.

[1] State *v.* Jersey City, 1 Dutch. (N. J.) 536 (1856). See State *v.* Chamber of Commerce, 20 Wis. 72. *Power to suspend.* Whether, pending proceedings to expel, a *member can be suspended from his duties*, was a question not determined in the case; but in The State, &c. *v.* Lingo, 26 Mo. 496 (1858), it was held that the power to provide for *removing* from office corporate officers gives the *power to suspend* from office during the investigation of the charges for which the suspension was made. The court say, "The power to remove necessarily includes the minor power to suspend." *Ib.* 499.

The charter of a city empowered the mayor and aldermen for sufficient cause to remove constables and police officers. By a vote of the mayor and aldermen, the plaintiff, a constable and police officer, was "suspended from duty on the police," and from that time was not permitted to perform the duties of the office, although he was ready and offered to do so, until he was afterwards reinstated. It was held that he could not recover for services during the period of his suspension. *Ladd*, J., says: "It does not seem to require argument to show that the power to remove must include the power

§ 248 (186). **Re-election of expelled Member of Council.** — The expulsion of a member of the common council does *not disqualify* him from being *re-elected* to the same office, unless it is expressly so provided by the charter; for where the law annexes a disqualification to an offence, it does so in terms. Hence, if a member, having been expelled even for bribery, be re-elected, he cannot be expelled a second time for the same identical act for which he had before been expelled.[1]

§ 249 (187). **Instance of implied Power of Removal for Cause by the appointing Power.** — It was held in a case in Rhode Island that a clerk of a school committee — an officer created by the school law, and necessary to the organization and legal action of the committee — may, after an election by the committee, be removed from office by the committee, but only for cause, as the statute gives no express power to remove, and after due notice and opportunity given him to defend himself upon the charges presented.[2]

§ 250 (188). **Power of Removal.** — Where an officer is *appointed during pleasure*, or where *the power* of removal *is discretionary*, the power to remove may be exercised *without notice or hearing*. But where the appointment is *during good behavior*, or where the removal can only be for certain *specified causes*, the power of removal cannot, as will presently be shown, be exercised, unless there be a formulated charge against the officer, *notice* to him of the accusation, and a *hearing* of the evidence in support of the charge, and an opportunity given to the party of making defence.[3]

to suspend." Shannon *v.* Portsmouth, 54 N. H. 183 (1874); Westberg *v.* Kansas City, 64 Mo. 493 (1877); Wayne Co. *v.* Benoit, 20 Mich. 176; Attorney-General *v.* Davis, 44 Mo. 131; Primm *v.* Carondelet, 23 Mo. 22. *Infra*, sec. 248, note.

[1] State *v.* Jersey City, 1 Dutch. (N. J.) 536 (1856). If the common council, without authority, suspend a member from the duties of his office, *mandamus* is a proper remedy to restore him to the exercise of his legal rights. *Ib.; supra*, sec. 247, note; Willc. on Municipal Corporations, 368, pl. 74, 75; *Ib.* 377, pl. 96; 3 Black. Com. 110; Rex *v.* Barker, 3 Burr. 1266; Angell & Ames on Corporations, secs. 702, 706.

[2] Willard's Appeal, 4 R. I. 595, 597, *per Ames*, C. J., who says, "Such a power with regard to such an officer, unless expressly forbidden by law, is incidental to the committee, as necessary to enable it duly to perform its functions." *Ib.* p. 601. It is sufficient cause for the removal of such a clerk that he refuses to produce papers which belong to the body which elected him, and of which he is simply the custodian, or refuses to keep or amend the records when duly ordered to do so. *Ib.*

[3] Field *v.* Commonwealth, 32 Pa. St. 478 (1859); Ramshay, *In re*, 83 Eng. Com. Law, 174, 189 (1852); Hennen, *In re*, 13 Pet. (U. S.) 230; Queen *v.* Governors, &c., 8 Ad. & El. 632; Bagg's Case, 11 Coke, 93 (*b*); Rex *v.* Coventry, 1 Ld. Raym. 391; Dr. Gaskin's Case 8 T. R. 209; Rex *v.* Oxford, 2 Salk. 428; Rex *v.* Mayor, &c., 1 Lev. 291; 2 Kyd, 58, 59; Willc. 253, 254; Grant, 244; Rex *v.* An-