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No. 18-55717

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MICHELLE FLANAGAN; SAMUEL GOLDEN; DOMINIC NARDONE; JACOB PERKIO; CALIFORNIA RIFLE & PISTOL ASSOCIATION, INC.,

Plaintiffs-Appellants,

v.

XAVIER BECERRA, in his official capacity as Attorney General of the State of California; JAMES MCDONNELL, Sheriff of Los Angeles County,

Defendants-Appellees.

On Appeal from the United States District Court for the Central District of California, No. 2:16-cv-06164-JAK-AS (Judge John A. Kronstadt)

BRIEF FOR AMICI CURIAE PROFESSORS OF HISTORY AND LAW IN SUPPORT OF APPELLEES AND AFFIRMANCE

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November 20, 2018

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INTEREST OF AMICI CURIAE

Amici curiae are professors of history and law at some of America's leading universities, including scholars who have devoted a substantial part of their research and writing to the history of firearms regulation in the United States, the Second Amendment, legal history, and the history of criminal law in the Anglo-American tradition.¹ Their scholarship has been published by major university presses and in leading law journals, awarded numerous prizes, and cited in opinions of the U.S. Supreme Court and Courts of Appeals and a number of state courts. The professors are scholars of international reputation, and many hold endowed professorships.

Amici's interest in this appeal arises from the great importance the case law has placed upon a proper historical understanding of the rights protected by the Second Amendment, and the history of lawful regulation of firearms. In particular, *amici* are concerned that some courts—including the D.C. Circuit in *Wrenn v. District of Columbia*, 864 F.3d 650 (D.C. Cir. 2017), and a panel of this Court in *Young v. Hawaii*, 896 F.3d 1044 (9th Cir. 2018)—have misunderstood the history and consequently reached erroneous results. In *District of Columbia v. Heller*, 554 U.S. 570, 625 (2008), the Supreme Court made clear that Second Amendment issues should be decided in a manner consistent with "the historical understanding of the

¹ A complete list of *amici curiae* is included in the addendum to this brief, along with a brief discussion of their credentials, expertise, and relevant experience.

scope of the right." It is thus of crucial importance that this Court, and others addressing Second Amendment issues, have an accurate and reliable account of the relevant history. Historians can play an especially important role in this endeavor by correcting factual errors, evaluating competing scholarly claims, and locating important primary sources not readily available to judges. *Amici*'s expertise renders them particularly well suited to assist the Court on this issue.² All parties in the case have consented to the filing of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Neither English history nor the Second Amendment's early history supports the Appellants' claims. The right to travel armed under Anglo-American law was always understood to be subject to robust regulations and limitations. For centuries before the American Revolution, both the common law and early English statutes tightly regulated the public carrying of firearms and other weapons. This history

² In accordance with Federal Rule of Appellate Procedure 29, *amici* state that they have filed substantially similar briefs in other appellate matters involving issues of the historical interpretation of the Second Amendment, and at that time, were represented by counsel who is now representing Hawaii, a party to a related case currently being considered for *en banc* review before this Circuit. *Amici* are represented by different counsel in this matter. Because this brief expresses the same positions as *amici* took in other matters, it is based on the briefs they filed in those matters, which Hawaii's current counsel authored in part.

Amici further state that no party or party's counsel contributed money that was intended to fund preparing or submitting this brief, and no person other than *amici* or their counsel contributed money intended to fund preparing or submitting this brief.

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stretches back to the fourteenth century and the enactment of the Statute of Northampton in 1328, which codified earlier common law restrictions on arms carrying and further clarified the limits on the possession of arms in public. In other words, Anglo-American law has long recognized that the scope of the right to possess and use weapons outside of the home differs significantly from the scope of the right inside the home.

This legal tradition was not static. In the centuries between the adoption of the English Declaration of Rights in 1689 and the ratification of the Fourteenth Amendment in 1868, American law expanded the scope of the right to carry, but also carried forward many of the traditional limits on this practice. In particular, the English legal tradition evolved along different paths in the antebellum South and other regions of the newly independent United States. By the eve of the Civil War, there existed at least two alternative traditions of law: a relatively permissive carry regime originating in parts of the South and a more restrictive regulatory tradition in much of the North and West. By the end of the nineteenth century, the more limited view of public carry had largely supplanted the more expansive view and become the dominant view in American law.

The right to carry arms was always set against the preservation of the "peace," a term that refers to preserving order and calm in local communities while also maintaining the traditional social order. The traditional concept of the King's Peace

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slowly evolved into the republican concept of the People's Peace, which allowed for expansive regulatory scope, through police powers at the local and state level, in the name of maintaining the public order. *See* Edwards, *The People and Their Peace* (2009). By the end of the nineteenth century, most jurisdictions limited the right to carry to situations in which the individual possessed good cause to carry because of reasonable fear of imminent threat.

California's "good cause" law, as implemented in Los Angeles, prohibits the carrying of handguns in public areas without a license issued by the Sheriff of Los Angeles, and is part of this long historical tradition of firearms regulation. An analysis of the historical record plainly demonstrates that similar regulations have been accepted throughout American history as a valid exercise of state police power and an appropriate constitutional limit on the right to keep and bear arms. Accordingly, this Court should reject Appellants' claim and uphold California's "good cause" law as constitutional.

A. Protecting the Peace: Common Law and Statutory Constraints on Public Carry under Anglo-American Common Law

In 1328, the English Parliament enacted the Statute of Northampton, affirming that "no Man ... [shall] come before the King's Justices ... with force and arms ... nor to go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices or other Ministers, nor in no part elsewhere." 2 Edw. 3, 258, ch. 3

(1328).³ This prohibition was far-reaching, extending to all places within "the King's Peace"—*i.e.*, all areas and issues within the King's effective control. *See* Keble, *An Assistance to the Justices of the Peace, for the Easier Performance of Their Duty* 224 (1683) [hereinafter "Keble, *Assistance*"]. The plain text of the statute expressly prohibited appearing armed before representatives of the King's authority or traveling armed at "Fairs [or] Markets." An early American gloss on the Statute of Northampton summarized its scope as follows:

Justices of the Peace, upon their own View, or upon Complaint, may apprehend any Person who shall go or ride armed with unusual and offensive weapons, in an Affray, or *among any great Concourse of the People*, or who shall appear, so armed, before the King's Justices sitting in Court.⁴

The Statute of Northampton also codified the common law crime of "affray."

Sir William Blackstone wrote in his influential *Commentaries*: "The offence of riding or going armed with dangerous or unusual weapons is a crime against the public peace, by terrifying the good people of the land, and is particularly prohibited by the Statute of Northampton." 4 William Blackstone, *Commentaries on the Laws*

³ Over the ensuing decades Parliament reenacted the statute's prohibition on carrying weapons in public at least twice. *See*, *e.g.*, 7 Ric. 2, 35, ch. 13 (1383); 20 Ric. 2, 92-93, ch. 1 (1396).

⁴ Davis, *The Office and Authority of a Justice of the Peace* 13 (1774) (emphasis added) (citing Michael Dalton, *The Country Justice Containing the Practice, Duty and Power of the Justices of the Peace as well in as out of Their Sessions* 37 (1705)).

of England 148-149 (Oxford, England 1770). In the 1683 edition of his influential justice of the peace manual, Joseph Keble offered a lucid account of why English law treated the mere act of armed travel as a per se violation of the King's Peace:

Yet may an Affray be, without word or blow given; as if a man shall shew himself furnished with Armour or Weapon which is not usually worn, it will strike a fear upon others that be not armed as he is; and therefore both the Statutes of Northampton made against wearing Armour, do speak of it.⁵

The Statute of Northampton is best understood through the lens of the English common law, in which the concept of the peace was central. "The common law," Blackstone observed, "hath ever had a special care and regard for the conservation of the peace; for peace is the very end and foundation of civil society."⁶ Under English law, "all offenses are either against the King's Peace or his crown and dignity." He further noted that any "affront to that power, and breaches of those rights, are immediate offenses against him."⁷ As two of the leading scholarly authorities on the history of American criminal law have observed: "The criminal jurisdiction of the royal courts was defined by the king's peace, which asserted a monopoly on legitimate violence, particularly in public, where any unauthorized use

⁵Keble, *Assistance* at 147; *see also* Statute of Northampton, 1328, 2 Edw. 3, 258, ch. 3; Statute of the Twentieth Year, 1396, 20 Rich. 2, 92, ch. 1.

⁶1 Blackstone, *Commentaries on the Laws of England* 338 (Oxford, England 1765).

⁷ *Id.*, at 258.

of arms could be taken as a claim to governing authority and a challenge to the crown."⁸

Going armed undermined the peace because it created an asymmetry of power between the armed individual and those unarmed.⁹ In contrast to modern criminal law, it was not necessary to establish *mens rea* through evidence of a person's actual mental state to prosecute the individual for criminal activity. Instead, under Anglo-American law in the eighteenth century, the requisite intent could be inferred from the criminal act itself.¹⁰ Nor are Appellants correct that an actual disruption of the peace was a precondition for violation of the Statute, *see* Appellants' Opening Br. 29; actions that had the potential to disrupt the peace were also prohibited. In 1615, an English judge stated that "[w]ithout all question, the sheriffe hath power to commit ... if contrary to the Statute of Northampton, he sees any one to carry weapons in the high-way, in terrorem populi Regis; he ought to take him, and arrest him, *notwithstanding he doth not break the peace in his presence.*" *Chune v. Piott*,

⁸ Binder & Weisberg, *What Is Criminal Law About?*, 114 Mich. L. Rev. 1173, 1183 (2016) (summarizing a scholarly consensus on this point that has prevailed for the last forty years).

⁹Ward & Cunningham, *The Law of a Justice of Peace and Parish Officer* 6-7 (1769) (when "a man shows himself furnished with … weapons not usually worn, it may strike a fear into others unarmed" (spelling modernized)).

¹⁰ On the history of the emergence of the modern *mens rea* requirement for criminal prosecution, *see* Binder, *The Oxford Introductions to U.S. Law: Criminal Law* 141 (2016).

80 Eng. Rep. 1161, 1162 (K.B. 1615) (emphasis added). Consequently, it is mistaken to assert that the common law prohibited the open carrying of firearms only if the bearer had the intention of "terrify[ing]" other people (*see* Appellants' Opening Br. 29); the open display of arms, in the settings these provisions addressed, was prohibited precisely because it was taken to have a terrifying effect.

B. The Founding Era American Tradition.

Appellants are also mistaken that Founding-era sources support the view that the right to bear arms protects a nearly unfettered ability to carry firearms in public. In fact, in the seventeenth century, the American colonies adopted the English tradition represented by the Statute of Northampton and the broad regulatory powers given to the justice of the peace. See, e.g., 1686 N.J. Laws 289, 289-290, ch. 9; 1692 Mass. Laws 10, no. 6. To be sure, Americans were better armed than their English brethren, and the number of instances in which armed travel would have been permissible or even required were more numerous in the American colonies. For instance, some colonies required those able to bear arms to carry guns to church or when working in fields away from fortified or populated areas. However, the imposition of such legal obligations on colonial subjects was not understood as establishing a right against government regulation; it was seen as part of the colonists' duty to assist in the public defense. See Cornell, The Right to Keep and Carry Arms in Anglo-American Law, 80 Law and Contemporary Problems 11, 2728 (2017). Moreover, the number of places in which one might be beyond the King's Peace during the early years of settlement in the colonies made arms carrying more necessary and hence more common in those communities. Yet none of these uniquely American circumstances was inconsistent with the broad restrictions established by English law on the public carrying of firearms. Few of the laws imposing additional obligations to bear arms persisted after the American Revolution. *See* Konig, *Arms and the Man: What Did the Right to 'Keep' Arms Mean in the Early Republic?*, 25 Law and History Rev. 177, 182 (2007).

The American Revolution did not mark a sharp break with this English tradition. In fact, the strong continuity between this pre-existing English legal tradition and American law is demonstrated by the remarkable consistency in the language employed by justice of the peace manuals on both sides of the Atlantic between the adoption of the English Bill of Rights (1689) and the American Second Amendment (1791).¹¹ For example, in 1683, Keble's popular manual for English instructed constables, magistrates, and justices of the peace to "[a]rrest all such

¹¹ Justice of the peace manuals explained the law in plain terms for justices of the peace who often lacked any formal legal training. The manuals provided accounts of popular understandings of Anglo-American legal principles at the time, including summarizing the common understanding of the law and providing boilerplate examples of legal writs and other useful documents. Given the paucity of actual legal records from this period, these manuals are probably the best evidence of how laws were enforced during the period. *See* Cornell, *The Right to Keep and Carry Arms*, at 13 (providing a systematic survey of justice of the peace manuals in Britain and early America).

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persons as they shall find to carry Daggers or Pistols" publicly, and "if any person whatsoever ... shall be so bold as to go or ride Armed, by night or by day, in Fairs, Markets, or any other places ... then any Constable" may "commit him to the Gaol." Keble, *Assistance*, at 224 (spelling modernized). Similarly, justice of the peace manuals in early America instructed constables to "arrest all such persons as in your sight shall ride or go armed." Haywood, *A Manual of the Laws of North-Carolina* pt. 2 at 40 (1814) (N.C. constable oath).

The American colonies also enacted their own versions of the Statute of Northampton. In 1686, New Jersey became the first colony to codify the prohibition with a law that provided that no person "shall presume privately to wear any pocket pistol ... or other unusual or unlawful weapons," and that "no planter shall ride or go armed with sword, pistol, or dagger." 1686 N.J. Laws 289, 290, ch. 9. Other colonies, including Massachusetts and New Hampshire, enacted similar categorical prohibitions. *See* 1692 Mass. Laws 10, no. 6; 1699 N.H. Laws 1.

After the American Revolution, the states adopted similar regulations through common law and statutes. In a few instances, publishers did not even bother to edit out references to the King, so strong were the continuities between English and American law in this area in the early years of the new republic. For instance, North Carolina's formulation followed its English predecessor closely, and declared that no person may "go nor ride armed by night nor by day, in fairs, markets, nor in the

presence of the King's Justices, or other ministers, nor in no parts elsewhere." 1792 N.C. Laws 60, ch. 3 (spelling modernized). Massachusetts made it a crime for anyone to "ride or go armed offensively, to the fear or terror of the good citizens of this Commonwealth." 1795 Mass. Acts 436, ch. 2 (emphasis added). The term "armed offensively," which commonly appeared in English and founding-era justice of the peace manuals, carried the common law meaning of traveling with offensive weapons, including firearms. See Russell, A Treatise on Crimes & Indictable Misdemeanors 417 (2d ed. 1826). Numerous states enacted similar statutes, see 1786 Va. Laws 33, ch. 21; 1801 Tenn. Laws 259, 260-261, ch. 22, § 6; 1821 Me. Laws 285, ch. 76, § 1; 1852 Del. Laws 330, 333, ch. 97, § 13, while others implemented similar prohibitions through common law. See, e.g., Md. Const. of 1776, art. III, §1 (adopting "the Common Law of England" and "the English statutes, as existed at the time of their first emigration").¹²

These state laws were enforced at the time as general prohibitions on carrying offensive weapons, including firearms, in populated areas. Arrests did not require that a defendant "threaten[] any person" or engage in "any particular act of violence." Ewing, *A Treatise on the Office & Duty of a Justice of the Peace* 546

¹² Niles, *The Connecticut Civil Officer* 154 (1833) (explaining that it was a crime to "go armed offensively," even in the absence of threats or threatening conduct); Dunlap, *The New-York Justice* 8 (1815).

(1805). As was true under English law, the act of armed travel with a firearm, outside of a list of well recognized exceptions, was itself a violation of the law.

C. The Americanization of the Common Law During the Nineteenth Century: Localism, Regionalism and Federalism

Following *Heller's* instruction to look to history for guidance, a new body of historical scholarship has uncovered the history of local and state firearms regulation. Much of this history was essentially hidden from view prior to the digitization of these hard to locate statutes. See Ruben & Miller, Preface: The Second Generation of Second Amendment Law & Policy, 80 Law & Contemporary Probs. 1, 1-9 (2017). There is now clear historical evidence that firearms law varied across regions in the early American republic. See Blocher, Firearms Localism, 123 Yale L. J. 82, 90-107 (2013). The antebellum South's practice of slavery produced a relatively permissive firearms regulatory regime generally allowing weapons to be carried openly in some places, though prohibiting the carrying of concealed weapons. Id. Outside the South, a different tradition existed that carried forward many of the traditional English limits on armed travel in public, with an important exception for those with a specific self-defense need to carry a firearm in public. This tradition was largely invisible to earlier scholars because it achieved such a broad consensus that there was very little litigation challenging it. See Cornell, The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities, 39 Fordham Urb. L. J. 1695 (2012).

Appellants' references to nineteenth century cases cited in *Young* provide an incomplete picture because they ignore the unique character of the antebellum South's firearms regulatory regime. Specifically, Appellants cite to cases from Kentucky, Tennessee, Alabama, Georgia, and Louisiana, all states within the slaveholding antebellum South. See Appellants' Opening Br. 27-28. Given the unique social circumstances of the South during the time of slavery, the value of its laws and court cases to the evaluation of the constitutionality of public carry regulations is limited. In a slave society, the maintenance of the public order included the maintenance of slavery, a mandate that required all white residents to enforce the subordination of all people of African descent, through force, if necessary. Even here, the carrying of guns was linked to conceptions of the peace, and contemporary commentators in the nineteenth century recognized the South's departure from mainstream Anglo-American law in this area. See Ruben & Cornell, Firearm Regionalism and Public Carry: Placing Southern Antebellum Case Law in Context, 125 Yale L.J.F. 121, 126-128 (2015). If one recognizes the clear regional differences that existed within America at the time, the preponderance of historical evidence supports the conclusion that "good cause" laws such as California's have historically been seen as consistent with the Second Amendment and its various state constitutional analogs.

1. "Good Cause" (Or "Massachusetts Model") Laws.

In 1836, Massachusetts revised its criminal code, including its Northamptonstyle statute, but included a new, narrow exception that permitted individuals with "good cause" to carry arms publicly. The new Massachusetts statute provided: "If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, *without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property*, he may, on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace." 1836 Mass. Acts 748, 750, ch. 134, § 16 (emphasis added). Beyond this good cause exception, the law otherwise maintained the general prohibition on public carry.

The new Massachusetts model law represented an expansion of gun rights beyond the more limited English conception, which had no reasonable fear or good cause exception. Hawkins, *A Treatise on the Pleas of the Crown* 136 (1762) ("[A] man cannot excuse the wearing [of] such armour in public, by alleging that such a one threatened him, and he wears it for the safety." (spelling modernized)). It did not, however, establish an unfettered and free-standing right to travel armed absent a reasonable fear of imminent harm.

Additionally, Appellants' contention that surety laws provided a mechanism for discouraging actual violence, rather than regulating the carrying of weapons in public, see Appellants' Opening Br. 29, significantly distorts the historical record. In an era before police forces and the administrative state, peace bonds and good behavior bonds were among the most important mechanisms used to keep the peace. See generally Steinberg, From Private Prosecution to Plea Bargaining: Criminal Prosecution, the District Attorney, & American Legal History, 30 Crime & Delinquency 568 (1984). A key goal of this system was deterrence. Peace bonds were issued on complaints based on credible evidence of threats or even the fear of violence as well as actual acts of violence. Individuals could not avoid the prohibition on carrying arms by simply forfeiting their bond. If one violated a peace bond, one could be arrested again by a justice of the peace, disarmed, and either prosecuted for breach of the peace or required to post another peace bond. Tennessee's 1801 Northampton model law made this clear, stating, "if such person or persons shall continue to offend, he or they shall not only forfeit their recognizances, but be liable to an indictment, and be punished as for a breach of the peace, or riot at common law." 1801 Tenn. Laws 259, 260-261, ch. 22, § 6. Moreover, Tennessee's law only codified the preexisting common law practice that both "[sureties of] 'the peace' and 'the good behaviour' could be infringed ... by carrying arms." Hindle, The State and Social Change in Early Modern England, 1550-1640, 100 (2002). A breach of the peace, moreover, was a broad category that allowed officials considerable discretion. If they thought peace bonds would not

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produce the desired result, they could prosecute a breach of the peace as a criminal offense, a power inherited from the common law authority possessed by justices of the peace and constables.

The clearest explanation of the Massachusetts statute comes from esteemed judge Peter Oxenbridge Thacher, who offered this observation in an influential grand jury charge on his state's law restricting the public carrying of firearms to individuals with a reasonable fear of imminent threat:

If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace.¹³

The new Massachusetts model statute became a template for other state laws. Many states (all but one of which were outside the slaveholding South) adopted similar "good cause" laws before the Civil War. *See* 1838 Wis. Laws 381, § 16; 1841 Me. Laws 707, 709, ch. 169, § 16.¹⁴

¹³ 1836 Mass. Acts 748, 750, ch. 134, § 16. *See also Judge Thacher's Charges*, Christian Register & Boston Observer, June 10, 1837, at 91.

¹⁴ See also 1846 Mich. Laws 690, 692, ch. 162, § 16; 1847 Va. Laws 127, 129, ch. 14, § 16; 1851 Minn. Laws 526, 528, ch. 112, § 18; 1853 Or. Laws 218, 220, ch. 16, § 17; 1861 Pa. Laws 248, 250 § 6.

2. The Southern Model

Around the same time that "good cause" laws were being enacted in many Northern states, a more permissive approach to public carry emerged in a few states in the slaveholding South. This antebellum Southern approach departed from the common understanding of firearms restrictions by banning all concealed carry, but permitting white citizens to carry firearms openly. *See, e.g.*, 1852 Ala. Laws 586, 588, art. 6, § 3274; 1861 Ga. Laws 856, 859, § 4413. Much of the authority upon which Appellants rely is derived from these Southern states. *See* Appellants' Opening Br. 27-28 (relying entirely on cases from Southern states).

This Southern model was an outlier from the more restrictive stances on the public carry of firearms adopted by the rest of the nation. It was a regional aberration, adopted in only a handful of states, whereas many states outside the South enacted either a Northampton-style categorical prohibition¹⁵ or a law following the Massachusetts model.¹⁶ This divergent minority tradition was the result of slavery. Southern states defined the public order in terms of the maintenance of slavery and required white residents to do whatever necessary to

¹⁵ See, e.g., 1869 N.M. Laws 312, ch. 32, § 1; 1875 Wyo. Laws 352, ch. 52, § 1; 1889 Idaho Laws 23, § 1; 1889 Ariz. Laws 16, no. 13, § 1; 1890 Okla. Laws 495, ch. 25, art. 47, §§ 2, 5.

¹⁶ See, e.g., 1838 Wis. Laws 381, § 16; 1841 Me. Laws 707, 709, ch. 169,
§ 16; 1846 Mich. Laws 690, 692, ch. 162, § 16; 1851 Minn. Laws 526, 528, ch.
112, § 18; 1853 Or. Laws 218, 220, ch. 16, § 17; 1861 Pa. Laws 248, 250, § 6.

guard not just against slave uprisings, but also any minor violation of the restrictions placed on enslaved people. Even here, the carrying of guns was inseparable from the conceptions of the peace. Commentators of the time understood that link. Frederick Law Olmsted attributed the need to keep slaves in submission as the reason that "every white stripling in the South may carry a dirk-knife in his pocket, and play with a revolver before he has learned to swim." Olmsted, *A Journey in the Back Country* 447 (1861); *see also McDonald v. City of Chicago*, 561 U.S. 742, 844 (2010) (Thomas, J., concurring) ("[I]t is difficult to overstate the extent to which fear of a slave uprising gripped slaveholders and dictated the acts of Southern legislatures.").

Moreover, this permissive model was not uniformly adopted even across the South. Many Southern legislatures followed the general national trend by adopting Northampton-style prohibitions or "good cause" laws. In 1821, Tennessee enacted a statute that made it a crime for anyone to carry "pocket pistols" or other weapons, without any exception. 1821 Tenn. Pub. Acts 15, ch. 13.

Finally, even if some states permitted open carry, that does not mean that it was an unrestricted practice. Indeed, the case law suggests the opposite. *See, e.g., State v. Huntly*, 25 N.C. 418, 422 (1843) ("A gun is an 'unusual weapon,' wherewith to be armed and clad. No man amongst us carries it about with him, as one of his every day accoutrements").

3. Reconstruction Era Regulations

Restrictions on public carry persisted after the Civil War. During Reconstruction, Union forces faced two inter-related problems in restoring order in racially discriminatory state governments imposing restrictions on the South: freedmen, including disarmament (similar to antebellum laws disarming blacks); and organized terrorist violence against African-Americans and Union sympathizers. Although Union Generals and their Republican allies denounced these "Black Codes" and their selective disarmament of African-Americans, they carried forward their ideals of a well-regulated state, including their support for long standing limits on public carrying of firearms. General Orders were issued by military governors shortly after the Civil War, including blanket bans on the public carry of firearms to curtail the lawlessness perpetrated by white supremacist organizations. See, e.g., Second Military District General Order No. 10 ("The practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited. The concealment of such weapons on the person will be deemed an aggravation of the offense."); Louisiana General Order No. 11; Fourth Military District General Order No. 28.

Additionally, some state legislatures in the South enacted limits on public carry generally, carrying forward the good cause exception language that had emerged in Massachusetts and elsewhere in antebellum America. For instance,

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Texas law permitted carrying a gun only if the person had "reasonable grounds for fearing an unlawful attack on his person" that was "immediate and pressing." 1871 Tex. Gen. Laws 1322, art. 6512. The Texas law was widely enforced and "[b]etween 1870 and 1872 the state police had made more than 6,000 arrests, effectively suppressed the Ku Klux Klan, and provided freedmen real protection against racial violence." Frassetto, *The Law & Politics of Firearms Regulation in Reconstruction Texas*, 4 Tex. A&M L. Rev. 95, 108 (2016).

Moreover, some Southern courts interpreted the Second Amendment narrowly and refused to recognize a general right to public carry. For instance, the Texas Supreme Court twice upheld the state's "good cause" law from constitutional attack. English v. State, 35 Tex. 473 (1871); State v. Duke, 42 Tex. 455 (1874). The court described the law as a "legitimate and highly proper regulation," Duke, 42 Tex. at 459, and held that it made "all necessary exceptions" and that it would be "little short of ridiculous" for a citizen to "claim the right to carry" a pistol in "place[s] where ladies and gentlemen are congregated together." English, 35 Tex. at 477-479. The court also observed that Texas law was "not peculiar to our own State," and that nearly "every one of the States of this Union ha[d] a similar law upon their statute books," with many "more rigorous than the act under consideration." Id. at 479. Similarly, in Andrews v. State, 50 Tenn. 165, 191 (1871), the Supreme Court of Tennessee viewed the right to public carry as limited only to "circumstances"

essential to make out a case of self-defense," such as when worn "to ward off or meet imminent and threatened danger to life or limb, or great bodily harm."

4. Later Nineteenth Century Regulations

During this time, many additional states also began enacting laws broadly restricting public carry, often containing limited self-defense exceptions. Before the Civil War, New Mexico passed a law prohibiting "any person [to] carry about his person, either concealed or otherwise, any deadly weapon," and requiring repeat offenders to serve a jail term "of not less than three months." 1859 N.M. Laws 94, § 2.

After the Civil War, several other states enacted similar laws. West Virginia passed a law broadly prohibiting carrying firearms in public without good cause, stating "[i]f any person go armed with a deadly or dangerous weapon, without reasonable cause to fear violence to his person, family or property, he may be required to give a recognizance." 1870 W. Va. Laws 702, 703, ch. 153, § 8.¹⁷

Many legislatures, especially in the Western states and territories, enacted prohibitions on public carry in cities and other populated areas. New Mexico made it unlawful "for any person to carry deadly weapons, either concealed or otherwise, on or about their persons within any of the settlements of this Territory," while

¹⁷ The West Virginia Supreme Court interpreted the self-defense exception as limited to concrete and serious threats. *See State v. Barnett*, 34 W. Va. 74 (1890).

providing a narrow exception for self-defense. 1869 N.M. Laws 312, ch. 32, § 1. Those caught carrying firearms without such good cause could serve up to 50 days in jail. *Id.* at 313, § 3. Wyoming prohibited carrying firearms "concealed or openly" "within the limits of any city, town or village." 1875 Wyo. Laws 352, ch. 52, § 1. Idaho made it unlawful "to carry, exhibit or flourish any … pistol, gun or other deadly weapons, within the limits or confines of any city, town or village or in any public assembly." 1889 Idaho Laws 23, § 1. Kansas law required local authorities to "prohibit and punish the carrying of firearms, or other dangerous or deadly weapons, concealed or otherwise." 1881 Kan. Laws 79, 92, ch. 37, § 23. And Arizona banned "any person within any settlement, town, village or city within this Territory" from "carry[ing] on or about his person, saddle, or in his saddlebags, any pistol." 1889 Ariz. Laws 16, ch. 13, § 1.

By this time many cities throughout the country—including Los Angeles had been imposing such public carry prohibitions for decades.¹⁸ These cities,

¹⁸ See, e.g., Washington, D.C., Ordinance ch. 5 (1857); Nebraska City, Neb., Ordinance no. 7 (1872); Nashville, Tenn., Ordinance ch. 108 (1873); Los Angeles, Cal., Ordinance nos. 35-36 (1878); Salina, Kan., Ordinance no. 268 (1879); La Crosse, Wis., Ordinance no. 14, § 15 (1880); Syracuse, N.Y., Ordinances ch. 27 (1890); Dallas, Tex., Ordinance (1887); New Haven, Conn., Ordinances § 192 (1890); Checotah, Okla., Ordinance no. 11 (1890); Rawlins, Wyo., Ordinances art. 7 (1893); Wichita, Kan., Ordinance no. 1641 (1899); McKinney, Tex., Ordinance no. 20 (1899); San Antonio, Tex., Ordinance ch. 10 (1899); When and Where May a Man Go Armed, S.F. Bulletin, Oct. 26, 1866, at 5 ("[San Francisco] ordains that no person can carry deadly weapons"); Winkler, Gunfight 165 (2011) (Dodge City, Kan. prohibited the carrying of arms in city limits); Blocher, Firearms Localism,

spanning from New Haven, Connecticut to Dodge City, Kansas, show clearly that the policy established by the Statute of Northampton—that weapon carriage was subject to additional regulation in populated areas—remained clearly in effect. *Id*.

D. Twentieth Century Laws

At the turn of the twentieth century, a clear consensus had emerged in American law that states had the authority to limit the public carry of firearms as long as they recognized a good cause exception to such prohibitions. Perhaps the best evidence of this consensus is a comprehensive review of the state of American legal thinking on the limits of armed public carry as stated in a popular and influential legal reference work that was published in 1896 and took over a decade to complete. The American and English Encyclopedia of Law, a 31-volume legal reference work, was widely praised by judges and legal scholars as an indispensable guide for lawyers.¹⁹ The *Encyclopedia* included a detailed entry on the laws on carrying firearms in public. It noted that "[t]he statutes of some of the States have made it an offence to carry weapons concealed about the body, while others prohibit the simple carrying of weapons, whether they are concealed or not." Merrill, The American and English Encyclopedia of Law, vol. 3, at 408 (Edward Thompson ed.,

¹²³ Yale L.J. at 84 (stating that the shootout at the OK corral was triggered in part by efforts to enforce the city's ban on public carrying of firearms).

¹⁹ Book Review: American and English Encyclopedia of Law, Vol. 29, Central Law Journal 42 (1896).

1887). Such statutes have been held not to conflict with the constitutional right of the people of the United States to keep and bear arms. *Id*.

A number of states enacted new laws to regulate public carry in the following decades, including laws taking advantage of the growing administrative apparatus of the modern state, including the issuance of permits. In 1906, for example, Massachusetts enacted a modernized version of its 1836 law. This statute prohibited all public carry unless the individual possessed a license, which could only be obtained upon a showing of "good reason to fear an injury to his person or property." 1906 Mass. Acts 150, ch. 172. In 1909, Alabama made it a crime for anyone "to carry a pistol about his person on premises not his own or under his control," but allowed a justification defense for those who "had good reason to apprehend an attack." 1909 Ala. Laws 258, no. 215, §§ 2, 4.²⁰ New York and Hawaii followed suit in 1913, prohibiting carrying a firearm without a permit which required a showing of "proper cause" and "good cause" respectively. 1913 N.Y. Laws 1627, ch. 608; 1913 Haw. Laws 25, act 22, § 1.

A decade later, the United States Revolver Association, under the direction of its Vice President—and future National Rifle Association President—Karl T. Frederick, drafted a model law to guide the legislative efforts of other states (the

²⁰ Other states went further, completely prohibiting the carrying of firearms except for hunting or military service. 1890 Okla. Laws 495, ch. 25, art. 47, §§ 2, 5; 1903 Okla. Laws 643, ch. 25, art. 45, § 584.

"U.S.R.A. Model Act"). Among many other regulations, the U.S.R.A. Model Act prohibited carrying concealed weapons without a permit, the issuance of which required a showing of necessity. *See* Imlay, *The Uniform Firearms Act*, 12 A.B.A. J. 767, 767 (1926).

Pennsylvania, North Dakota, South Dakota, Washington, and Alabama adopted the U.S.R.A. Model Act and required that an applicant for a concealed carry license show "good reason to fear an injury to his person or property," or had "any other proper reason for carrying a firearm," and that he was a "suitable person to be so licensed." 1931 Pa. Laws 497, 498-499, Act No. 158, § 7; 1923 N.D. Acts 379, 381-382, ch. 226, § 8; 1935 S.D. Sess. Laws 355, 356, ch. 208, § 7; 1935 Wash. Sess. Laws 599, 600-601, ch. 172, § 7; 1936 Ala. Laws, 51, 52 § 7; see also 1923 Cal. Acts 695, 698-699, ch. 339 § 8 (requiring that the "person applying therefor is of good moral character, and that good cause exists for the issuance thereof"). Oregon required that applicants who wished to carry a concealed pistol show proof that they were of "good moral character," and that "good cause exist[ed] for the issuance thereof." 1925 Or. Laws 468, 471, ch. 260, § 8. Michigan similarly required that an applicant for a concealed carry license show that he or she was a "suitable person" to be granted such a license" and that there was "reasonable cause therefor." 1925 Mich. Pub. Acts 473, 473-474, No. 313, §§ 5-6. New Jersey would issue concealed carry permits once the issuing judge was "satisfied of the sufficiency

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of the application," and "of the need of such person carrying concealed upon his person, a revolver, pistol, or other firearm." 1925 N.J. Laws 185, 186, ch. 64, § 2. And Indiana enacted a version of a background check, requiring that the permit application was "signed by two resident householders and freeholders of the county in which the applicant live[d]," and also required that "from [the] application that the applicant is a suitable person to be granted a permit under the law." 1925 Ind. 495, 496-497, ch. 207, § 7. Despite semantic variations, these laws all required both a showing of "cause" and a demonstration of the suitability of the applicant prior to permitting carrying arms in public.

* * * * *

In sum, American legal and constitutional history makes clear that limitations on the public carry of firearms are of ancient vintage. By the dawn of the modern era, most states had adopted the Massachusetts model that limited public carry to circumstances in which one had a good cause to fear imminent threat. Appellants' arguments to the contrary reflect a narrow view of the relevant history and do not properly appreciate the full historical context of such laws. A thorough analysis of the history demonstrates that "good cause" laws, including the California statute at issue in this case, fall well within the historical understanding of what is permitted under the Second Amendment and the various state constitutional provisions protecting the right to keep and bear arms. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 35 of 333

CONCLUSION

The district court's judgment should be affirmed.

Respectfully submitted,

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November 20, 2018

STATEMENT OF RELATED CASES

Under Circuit Rule 28-2.6, *Amici Curiae* certify that the following related cases are pending before this Court:

Young v. State of Hawaii, et al., No. 12-17808 Nichols v. Edmund G. Brown, No. 14-55873 Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 37 of 333

ADDENDUM

Saul Cornell is the Paul and Diane Guenther Chair in American History at Fordham University. Previously, Dr. Cornell was Professor of History at the Ohio State University, where he also directed the Second Amendment Research Center at the John Glenn Institute. He has authored and co-authored numerous books, including *A Well-Regulated Militia: The Founding Fathers & the Origins of Gun Control in America*, which won the David J. Langum, Sr. Prize for the best book in American legal history in 2006. Dr. Cornell has authored the chapter on the right to bear arms in *The Oxford Companion to the US Constitution*, an influential reference work in American law.

Laura F. Edwards is the Peabody Family Professor of History at Duke University as well as an affiliated scholar with the American Bar Foundation. She works on the nineteenth-century United States and has written extensively on law and legal culture in this period. Her most recent book is *A Legal History of the Civil War and Reconstruction: A Nation of Rights* (2015). She is also the author of *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (2009), which was awarded the American Historical Association's 2009 Littleton-Griswold prize for the best book in law and society and the Southern Historical Association's Charles Sydnor prize for the best book in southern history. **Simon Stern** is Associate Professor of Law and English at the University of Toronto. He has published numerous articles and book chapters on Anglo-American legal history in the eighteenth and nineteenth centuries and was one of the editors of the authoritative edition of Blackstone's *Commentaries*, published by Oxford University Press in 2016.

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Robert Weisberg works primarily in the field of criminal justice, writing and teaching in the areas of criminal law, criminal procedure, white collar crime, and sentencing policy. He also founded and now serves as faculty co-director of the Stanford Criminal Justice Center (SCJC), which promotes and coordinates research and public policy programs on criminal law and the criminal justice system, including institutional examination of the police and correctional systems. After joining the Stanford law faculty, he served as a consulting attorney for the NAACP Legal Defense Fund and the California Appellate Project on death penalty cases. Professor Weisberg is a three-time winner of the law school's John Bingham Hurlbut Award for Excellence in Teaching. He is one of the nation's leading scholars on the intersection of law and literature and co-author of the highly praised book, *Literary Criticisms of Law*.

Tim Harris received his BA, MA and Ph.D. from Cambridge University and was a Fellow of Emmanuel College from 1983 before moving to Brown University in 1986, where he is the Munro-Goodwin-Wilkinson Professor in European History. His books include *London Crowds in the Reign of Charles II* (1987); *Politics under the Later Stuarts* (1993); *Restoration: Charles II and his Kingdoms* (2005 – winner of the John Ben Snow prize), *Revolution: The Great Crisis of the British Monarchy*, 1685-1720 (2006), and *Rebellion: Britain's First Stuart Kings*, 1567-1642 (2014). He has edited or co-edited: *The Politics of Religion in Restoration England* 1660-1688 (1990, with Mark Goldie and Paul Seaward); *Popular Culture in England*, *c. 1500-1850* (1995); *The Politics of the Excluded*, *c. 1500-1850* (2001); *The Entring Book of Roger Morrice*, *1677-1691*, 7 vols (2007, with Mark Goldie et al); *The Final Crisis of the Stuart Monarchy: The Revolutions of 1688-91 in their British, Atlantic* and European Contexts (2013, with Stephen Taylor). He has published on the English Declaration of Rights and has a forthcoming article scheduled to be titled *The Right to Bear Arms in English and Irish Historical Context*.

Paul Halliday is the Julian Bishko Professor and Professor of Law at the University of Virginia. He is the author of *Habeas Corpus: From England to Empire*, winner of the Inner Temple Book Prize, and other works on the history of law in Britain and its empire.

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Steve Pincus, formerly the Bradford Durfee Professor of History at Yale University, is now the Thomas E. Donnelly Professor of History at the University of Chicago. He is the author of *1688: The First Modern Revolution* (Yale University Press) and *The Heart of the Declaration* (Yale University Press), a study of America's Declaration of Independence.

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NOTE TO SECOND EDITION.

THE original edition of this volume of GRANTS AND CONCESSIONS was printed by William Bradford, of Philadelphia, as the imprint states; but the exact year is unknown. Griffith, in his Law Register, vol. iv., states that it was "about 1751 or 1752," which is, perhaps, as nearly correct as can now be ascertained. It is the second, in order, of the compilations of the laws of New Jersey—the first being Kinsey's Acts, of 1732.

In reprinting the original GRANTS AND CONCESSIONS, copies of which have become scarce, we have endeavored to make the work an exact duplicate of the Bradford edition in the paging, spelling and punctuation. In a few instances, errors clearly typographical, as misplacement of letters, have been corrected; but the unique and inconsonant spelling, and the equally curious punctuation, have been, as a rule, strictly maintained. The only perceptible difference is in capitalization and italicizing. It was thought unnecessary and unwise to follow the original in these respects, because of the greater difficulty in reading the text, and because no one, in any printed quotations from such old works, at this day, would retain those particular typographical oddities.

It is true the original edition had, as is believed, some slight errors in it, which were the fault of the transcribers from the English or Colonial records, or of the printer, or both ; but these we have not undertaken to correct, inasmuch as only a comparison of every word with the ancient documents themselves (could they be found) would enable one to discover wherein the 1752 edition was at fault. This no person is likely ever to undertake : and the utmost that will be expected of the present publishers is, that this edition shall conform to that of 1752.

HONEYMAN & COMPANY.

SOMERVILLE, N. J., July, 1881.

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PASSED

UNDER THE

GOVERNMENT

OF THE

Twenty Four PROPRIETORS,

BETWEEN

1682, and 1702.



Add. 3

Laws passed in 1686. 289

ny persons as they shall think fit, not exceeding seven, to make orders from time to time, such as may be suitable and beneficial for every town, village, hamlet, or neighbourhood. for preventing all harms by swine, in town, meadows, pastures and gardens, in any respect, and to impose penalties according to their best discretions.

Chap. VIII.

An Act appointing some new Commissioners of the Highways.

WHEREAS there was an act made in the year 1682, for the county of Monmouth, to enable Col. Lewis Morris, John Bound, and Joseph Parker, to lay out highways, passages, ferry's, and making bridges and such like; there being three of those persons disenabled for the true performance of the said services, be it therefore enacted by the Governor, Council and Deputies now met and assembled. and by the authority of the same, that John Frogmerton, John Slocame, and Nicholas Brown, in the stead and room of Col. Lewis Morris, John Bound, and Joseph Parker, be made capable and hereby invested with the same power to all intents and purposes in the said premises, as the aforesaid Col. Lewis Morris, John Bound, and Joseph Parker, were by the said acts.

Chap. IX.

An Act against wearing Swords, &c. WHEREAS there hath been great complaint by the inhabitants of this Province, that several persons wearing swords, daggers, pistols, dirks, stilladoes, skeines, or any other unusual or unlawful weapons, by reason of which several persons in this Province, receive great abuses, and put in great fear and quarrels, and challenges made, to the great abuse of the inhabitants of this Province. Be it therefore enacted by the Governor, and Council, and Deputies now met in General Assembly, and by authority of the same, that no person or persons within this Province, presume to send any challenge in writing, by word of mouth,

290 Laws passed in 1686.

or message, to any person to fight, upon pain of being imprisoned during the space of six months, without bail or mainprize, and forfeit ten pounds; and whosoever shall except of such challenge, and not discover the same to the Governor, or some publick officer of the peace, shall forfeit the sum of ten pounds; the one moiety of the said forfeiture to be paid unto the Treasurer for the time being, for the public use of the Province, and the other moiety to such person or persons as shall discover the same, and make proof thereof in any court of record within this Province, to be recovered by the usual action of debt, in any of the said And be it further enacted by the authority aforecourts. said, that no person or persons after publication hereof. shall presume privately to wear any pocket pistol, skeines, stilladers, daggers or dirks, or other unusual or unlawful weapons within this Province, upon penalty for the first offence five pounds, and to be committed by any justice of the peace, his warrant before whom proof thereof shall be made, who is hereby authorized to enquire of and proceed in the same, and keep in custody till he hath paid the said five pounds, one half to the public treasury for the use of this Province, and the other half to the informer: And if such person shall again offend against this law, he shall be in like manner committed (upon proof thereof before any justice of the peace) to the common gaol, there to remain till the next sessions, and upon conviction thereof by verdict of twelve men, shall receive judgment to be in prison six month, and pay ten pounds for the use aforesaid. And be it further enacted by the authority aforesaid, that no planter shall ride or go armed with sword, pistol, or dagger, upon the penalty of five pounds, to be levied as aforesaid, excepting all officers, civil and military, and soldiers while in actual service, as also all strangers, travelling upon their lawful occasions thro' this Province, behaving themselves peaceably.

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A C T S and L A W S Paffed by the Great and General Court or Affembly of the Province of the *Maffachufetts-Bay* in *New-England*; Begun and Held at *Bofton* the Eighth of *June*, 1692; And Continued by Adjournment unto the Twelfth Day of *October* following.

REPERTENT CONTRACTOR CONTRA

An AEt for Building with Stone or Brick in the Town of Boston, and Preventing Fire.

D' 1. Confirmed 11 Aug. 1695.

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I



HEREAS great Defolations and Ruins have fundry times happened, by File breaking out in the Town of Bofton, principally occafioned by reafon of the Joining and Nearnefs of the Buildings, being moftly of Timber, and covered with Shingle: For the better preventing of fuch Accidents for the future, and Damage and Lofs thereby, Be it Ordained and Enacted by the Governor, Council, and Reprefentatives,

convened in General Court or Affembly; and it is Enacted by the Authority of the fame, That henceforth no Dwelling-houfe, Shop, Ware-houfe, Barn, Buildings in Stable, or any other Houfing, of more than Eight Feet in Length, or Breadth, Brick or Stone, and Seven Feet in Heighth, thall be erected and fet up in Boflon, but of Stone and covered with State. or Brick, and covered with Slate or Tyle, unlefs in particular Cafes, where Necetifity requires; being to judged and fignified in Writing under the Hands of the Juffices and Select-men of the faid Town, or major part of both, the Governor, with the Advice and Confent of the Council, thall fee Caufe to Governor and Council to grant Licence unto any Perfon to build with Timber, or cover with Shingle : grant Licence And if any Perfon thall prefume to crect, or caufe to be crected, any Frame to build with or Building contrary hereto, upon Conviction thereof before Two Juffices of Care. Peace (Quorum Cam) fuch Building fhall be deemed a Common Nufance, and the Owner of fuch Frame or Building fhall enter into a Recognizance to demolifh the fame ; and in Default of entring into fuch Recognizance, fhall penaty for be committed to Patien until he do caufe the fame to be demolifhed ; or elfe the fame to be demolifhed ; fuch Building fhall be demolithed by Order of the Quarter-Settions of the Peace within the first County, and the Charges thereof to be levied by Difficts and Sale of fuch Odenders Goods, by Warrant from the Court of Quarter-Sellions.

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Add. 6

Anno Regni Quarto Gulielmi & Maria.

One Half of the Fines and Fortelines to be unto Their Majeflies, and the other Half to the Informer.

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Measurer of Salt, and Cu'fer of Fifth. A is D further it is Enaced by the Authority aforefaid, That all Fines, Penalties, and Forfeitures arifing by force and virtue of this Act, thall be, the one Half to Their Majefties, towards the Support of the Government of this Province, and the other Half to him or them that thall inform and the for the fame in any of Their Majefties Courts of Record within this Province.

BE it further Enacted by the Authority aforefaid, That there be a Meafurer of Salt, and Culler of Filh in every Sea-port Town within this Province, to be appointed, as aforefaid, who being likewife form for the faithful Difcharge of that Office, fhall cull all merchantable Fifh, and meafure all Salt that fhall be imported and fold out of any Ship or other Veffel, and fhall have Threehalf Pence for every Hoghead of Salt by him for meafured; to be paid, the one Half by the Buyer, the other Half by the Seller; and One Peny per Opinital for every Quintal of merchantable Fifh by him culled, to be paid, one Half by the Buyer, and the other Half by the Seller.

An Act for the Punishing of Criminal Offenders.

52º 6. Contum-1 1: Aug. 1541.

Carling and Sheating,

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E it Enacted and Ordained by the Governor, Council, and Reprefentatives, in General Court Affembled, and by the Authority of the fame,

That if any Perfon or Perfons thall prophanely Swear or Curfe in the hearing of any Juffice of the Peace, or thall be thereof convicted by the Oaths of Two Witneffes, or Confeffion of the Party, before any Juffice or Juffices of the Peace, every fuch Offender thall forfeit and pay unto the Ufe of the Poor of the Town where the Offence thall be committed, the Sum of Five Shillings; and if the Offender be not able to pay the faid Sum, then to be fet in the Stocks, not exceeding Two Hours: And if any Perfon thall utter more prophane Oaths or Curfes at the fame time, and in hearing of the fame Perfon or Perfons, he thall forfeit and pay to the Ufe aforefaid, the Sum of Twelve Pence for every Oath or Curfe after the first, or be fet in the Stocks Three Hours.

PROVIDED, That every Offence against this Law shall be complained of, and proved, as alorefaid, within Thirty Days next after the Offence committed.

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FURTHER it is Enacted by the Authority aforefaid, That every Perfon convicted of Drunkennefs by View of any Juffice of Peace, Confession of the Party, or Oaths of Two Witnefles, fuch Perfon to convicted, thall forfeit and pay unto the Ufe of the Poor of the Town where fuch Offence is committed, the Sum of Five Shillings for every fuch Offence; and if the Offender be unable to pay the faid Sum, to be fet in the Stocks, not exceeding Three Hours, at the Differentiation of the Juffice or Juffices before where the Conviction shall be: And upon a fecond Conviction of Drunkennels, every fuch Offender, over and above the Penalty aforefaid, shall be bound with Two Sureties in the Sum of Ten Pounds, with Condition for the good Behaviour; and for want of fuch Sureties, shall be fent to the Common Goal until he find the fame.

PROVIDED, That no Perfon shall be impeached or molefted for any Offence against this A&, unless he shall be thereof Prefented, Indicted, or Convicted, within Six Months after the Offence committed; and the lustice or Justices before whom Conviction of any of the aforefaid Offences shall be, are hereby impowered and authorized to restrain or commit the Offender, until the Fine imposed for such Offence be latisfied; or to cause the same to be levied by Distrained Sale of the Offender's Goods, by Warrant directed to the Constable, returning

Anno Regni Quarto Gulielmi & Maria.

returning the Overplus (if any be.) All fuch Fines to be levied within One Week next after fuch Conviction, and delivered to the Select-men, or Overfeers of the Poor, for the Ule of the Poor, as aforefaid.

It is further Enacted and Ordained by the Authority aforefaid, That who- Then. foever shall steal or purloin any Money, Goods, or Chattels, being thereof convicted by Contellion, or fufficient Witnels upon Oath, every fuch Offender thall forfeit treble the Value of the Money, Goods, or Chattels fo ftoln or purloined, unto the Owner or Owners thereof; and be further punished, by Fine or Whipping, at the Diferention of the Court or Juffices that have Cognizance of fuch Offence, not exceeding the Sum of Five Pounds, or Twenty Stripes : And if any fuch Offender be unable to make Reflicution, or pay fuch Threefold Damages, fuch Offender shall be enjoyned to make Satisfaction by Service; and the Profecutor shall be, and hereby is impowered to dispole of the faid Offender in Service to any of Their Majefties Subjects, for fuch Term as thall be affigned by the Court or Juffices before whom the Profecution was. And every Juffice of the Peace in the County where fuch Offence is committed, or where the Thief thall be apprehended, is hereby authorized to hear and determine all Offences against this Law : Provided, that the Damage exceed not the Sum of Forty Shillings. And if any Perfon thall commit Burglary Burglary and by breaking up any Dwelling-houle, Ware-houle, Shop, Mill, Malt-houle, Barn, Out-houle, or any Ship or other Veffel lying within the Body of the County, or fhall rob any Perfon in the Field or High-ways, every Perfon fo offending fhall, upon Conviction, be branded on the Forehead with the Letter B; and upon a fecond Conviction, shall be fet upon the Gallows for the space of One Hour, with a Rope about his Neck, and one End thereof caft over the Gallows, and be feverely Whipt, not exceeding Thirty nine Scripes; and upon a third Conviction of the like Offence, shall futter the Pains of Death, as being Incorrigibles and thall likewife, upon the first and fecond Convictions, pay treble Damages to the Party injured, as is provided in cafe of Theft.

AND it is further Enacted by the Authority aforefaid, That if any Man Furnitation commit Fornication with any lingle Woman, upon due Conviction thereof, they shall be fined unto Their Majelties, not exceeding the Sum of Five Pounds, or be corporally punished by Whipping, not exceeding Ten Stripes apiece, at the Difcretion of the Selfions of the Peace, who fhall have Cognizance of the Offence. And he that is accused by any Woman to be the Father of a Bastard Report Fi-Child, begotten of her Body, the continuing conftant in fuch Acculation, being that a bar examined upon Oath, and put upon the Difcovery of the Truth in the time of her Travail, shall be adjudged the Reputed Father of fuch Child, notwithstanding his Denial, and stand charged with the Maintenance thereof, with the Additionce of the Mother, as the Juffices in the Quarter-Sellions shall order; and give Security to perform the faid Order, and to fave the Town or Place where fuch Child is born, free from Charge for its Maintenauce ; and may be committed to Prilon until he find Sureties for the fame, unlefs the Pleas and Proofs made and produced on the behalf of the Man accused, and other Circumflances, be fuch as the Juffices thall for reafon to judge him innocent, and acquit him thereof, and otherwife dispele of the Child : And every Juffice of the Peace, upon his Difcretion, may bind to the next Quarter-Sellions him that is charged or fulpected to have begotten a Baftard Child; and if the Woman be not then delivered, the Seffions may order the Continuance or Renewal of his Bond, that he may be forth-coming when the Child is born.

FURTHER it is Enacted by the Authority aforefaid, That every Julice of Power of the the Peace in the County where the Offence is committed, may caufe to be Juffice of staid and arrested all Affrayers, Rioters, Disturbers, or Breakers of the Peace, and such as shall ride or go armed Offensively before any of Their Majefics Juffices, or other Their Officers or Miniflers doing their Office, or ellewhere, by

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by Night or by Day, in Fear or Affray of Their Majefties Liege People; and fuch others as shall utter any Menaces or Threatning Speeches; and upon View of fuch Juffice or Juffices, Confession of the Party, or other legal Conviction of any fuch Offence, thall commit the Offender to Prifon, until he find Sureties for the Peace and good Behaviour, and feize and take away his Armour or Weapons, and fhall caufe them to be apprized and anfiwered to the King as forfeited : And may further punifh the Breach of the Peace, in any Perfon that fhall fmite or firike another, by Fine to the King, not exceeding Twenty Shillings, and require Bond with Sureties for the Peace, or bind the Offender over to answer it at the next Sellions of the Peace, as the Nature or Facility Circumftance of the Offence may be; and may make Enquiry of forcible Entry and Detainer, and caufe the fame to be removed, and make out Hue and Cries after Runaway Servants, Thieves, and other Criminals.

AND it is further Enacted by the Authority aforefaid, That if any Perfon or Perfons of the Age of Difcretion (which is accounted Fourteen Years, or upwards) shall wittingly and willingly make or publish any Lye or Libel, tending to the Defamation or Damage of any particular Perlon, make or foread any falle News or Reports, with Intent to abufe and deceive others, every fuch Perfon or Perfons offending in any of the Particulars before mentioned, and being duly convicted thereof before One or more Juffices of the Peace, fhall be fined according to the Degree of fuch Offence, not exceeding the Sum of Twenty Shillings for the first Conviction, and find Sureties for the good Behaviour : And if the Party be unable to pay the faid Fine, then to be fet in the Stocks, not exceeding Three Hours, or be corporally punifhed by Whippint, at the Diferention of the Juffice or Juffices Lefore whom the Conviction fhall be, according as the Circumftances or Nature of the Offence fhall be ; and the faid Juffice or Juffices may reftrain and commit the Offender until he pay the faid Fine, and find Surcties for the good Behaviour, or may caufe the Fine to be levied by Diffrefs and Sale of the Offender's Goods; and the Party or Parties grieved or injured by reafon of any of the Offences aforefaid, thall or may take his or their Suit against any fuch Offender or Offenders in any Court of Record.

It is further Enacted by the Authority aforefaid, That if any Perfon or Perfons, upon his or their own Head or Imagination, or by falle Confpiracy and Fraud with others, fhall wittingly, fubtilly, and falfely forge or make, or fubtilly caule, or wittingly affent to be forged or made, any falle Deed, Conveyance, or Writing fealed, or the Will of any Perfon or Perfons in Writing, to the Intent that the Effate of Free-hold or Inheritance, Right, Title, or Intereft of any Perion or Perions, of, in, or to any Lands, Tenements, or Hereditaments, shall or may be molefted, troubled, defeated, recovered, or charged, or thall, as is aforetaid, torge, make, or caule or affent to be made or forged, any Obligation, or Bill Obligatory, Letter of Attorney, or any Acquittance, Releafe, or other Difcharge of any Debt, Account, Action, Suit, Demand, or other Thing Perfonal; or if any Perfon or Perfons shall pronounce, publish, or thew forth in Evidence, any fuch falle and forged Deed, Conveyance, Writing, Obligation, Bill Obligatory, Letter of Attorney, Acquittance, Releafe, or Difcharge, as true, knowing the fame to be fulfe and forged, as is aforefaid, to the Intent above remembred, and shall be thereof convicted, either upon Action or Actions of Forger of falle Deeds to be founded upon this Act at the Suit of the Party grieved, or otherwife according to the Order and due Courfe of Law, or upon Bill or Information, that then every fuch Offender thall pay unto the Party grieved his double Cofts and Damages, to be found and affeffed in fuch Court where the faid Conviction shall be; and also shall be fet upon the Pillory in fonie Market-Town, or other open Place, and there to have One of his Ears cut off, and also shall have and suffer Imprisonment by the Space of One whole Year without Bail or Mainprize ; and the Party or Parties grieved by realon

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Anno Regni Quarto Gulielmi & Maria.

reafon of any of the Offences aforefaid, may take his or their Suit againft any fuch Offender or Offenders in any Court of Record, where no Effoign, Injunction, or Protection Ihall be allowed the Party Defendant.

PROVIDED always, and it is Enacted by the Authority aforefaid, That this Act, or any thing therein contained, fhail not extend to charge any Judge of Probate, or Register, with any the Offences aforefaid, for putting their Scal of Office to any Will to be exhibited unto them, not knowing the fame to be falle or forged, for writing of the faid Will or Probate of the fame; nor to any other Perfon or Perfons that thall thew forth or give in Evidence any falfe or forged Writing for true or good, being not party or privy to the forging of the lame, nor knowing the fame to be falle or forged ; any thing in this Act to the contrary notwithftanding.

AND it is further Enacted and Ordained by the Authority aforefaid, If any withatPerjury. Perfon or Perfons, either by the Subornation, unlawful Procurement, Reward, linifter Periwalion, or Means of any other, or by their own Act, Confent, or Agreement, thall wilfully and corruptly commit any manner of wilful Perjury by his or their Depolition in any Court of Record, or being examined Ad perpetuam rei memorium, that then every Perfon and Perfons fo offending, and being thereof duly convict, or attainted by Law, shall, for his or their Offence, lole and forfeit Twenty Pounds; the one Moiety thereof unto Their Majeffies, and the other Moiety to fuch Perfon or Perfons as shall be grieved, hindred, or molefted by reafon of any fuch Offence, that fhall fue for the fame by Action of Debr, Bill, Plaint, Information, or otherwife, in any Court of Record, in the which no Wager of Law, Effoign, Protection, or Injunction to be allowed ; and also to have Impriforment by the Space of Six Months without Bail or Mainprize; and the Oath of fuch Perfon or Perfons fo offending, not to be received in any Court of Record, until fuch time as the Judgment given against the faid Perfon or Perfons shall be reverfed by Attaint, or otherwife; and upon every fuch Reverfal, the Parties agrieved to recover his or their Damages againft all and every fuch Perfon and Perfons as did procure the faid Judgment, to reverted, to be given against them, or any of them, by Action or Actions upon his or their Cafe or Cafes, according to the Courfe of the Common Law: And if it happen the faid Offender or Offenders, fo offending, not to have any Goods or Chattels to the Value of Twenty Pounds, that then he or they be fet on the Pillory, by the Space of One whole Hour, in fome Market-Town where the Offence was committed, or next adjoyning to the Place where the Offence was committed, and to have both his Ears nailed; and from thenceforth to be diferedited and difabled for ever to be fivorn in any Court of Record, until fuch time as the Judgment shall be reverfed. And all and every Perfon and Perfons, who fhall unlawfully and corruptly procure any Witnels or Witneffes, by Letters, Rewards, Promifes, or by any other finifter and unlawful Labour or Means whatfoever, to commit any wilful and corrupt Perjury in any Matter or Caufe whatfoever depending, or that fhall depend in Suit and Variance by any Writ, Adion, Bill, Complaint, or Information in any Court of Record; or to tellifie In perpetuam rei memoriam; every fuch Offender, being thereof duly convict, or attainted by Law, fhall, for his or their Offence, be proceeded against, and fuffer the like Pains, Penalties, Forfeitures, and Difability, in all Respects, as above mentioned.

AND it is further Enacted by the Authority aforefaid, That all the aforefaid Forfeitures and Sums of Money, arifing for any Offence mentioned in this Act, and every Branch thereof, and not otherwife disposed of, shall be unto Their Majefties, for and towards the Support of the Government of this Province, and the incident Charges thereof.

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ACTS AND LAWS

HIS MAJESTY'S PROVINCE

OF

OF

NEW HAMPSHIRE,

IN

NEW ENGLAND.

WITH SUNDRY ACTS OF PARLIAMENT.

By Order of the GOVERNOR, COUNCIL and ASSEMBLY, Pass'd October 16th, 1759.

> PORTSMOUTH: PRINTED BY DANIEL FOWLE, 1761.

LAWS OF NEW HAMPSHIRE.

AN ACT FOR ESTABLISHING AND REGULATING COURTS OF PUBLIC rith of W. 1. JUSTICE WITHIN THIS PROVINCE. - PASS'D 11TH OF WM. 3. WITH ADDITIONAL PARAGRAPHS OF OTHER ACTS RELATIVE THERETO.

Whereas the establishing and regulating courts of justice, doth very much tend to the honour and dignity of the crown, and to the ease and benefit of the Subject :

Be it therefore Enacted by the Governor, Council, and Representatives, in General Assembly convened, and by the Authority of the same :

That every justice of the peace in this province, is hereby au-Justices power thorized and impower'd, to take cognizance of, hear, try, and de- by virtue of a termine, any criminal offence against any penal law not exceeding paragraph of an the sum of forty shillings, and to issue all necessary process, and G. i. relating to award execution thereon with legal cost as well as in all other surveise upon award execution thereon with legal cost; as well as in all other mean process, cases where he is, or shall be so authorized by particular laws. But any person against whom such sentence shall be given, by one or more justices of the peace, out of the court of general sessions of the peace, may appeal from the same, to the next court of Appeal granted. general sessions of the peace, to be held in and for said province; the appellant recognizing with sureties, in a reasonable sum, not exceeding five pounds, for his appearance at the court appealed to, and prosecuting his appeal there with effect, and for performing and abiding the order or sentence of said court thereon, which shall be final; and in the mean time to be of the good behaviour. The appellant in such cases is to observe the same rules in bringing forward the appeal, as is hereafter directed in civil cases, and to pay the same fee for entering such appeal; and to the jury, if it shall be tried by them, as is paid for cases so tried at the inferior court - Provided such liberty of appealing shall not be construed Provise. to extend to such cases as by the particular laws aforesaid, are otherwise order'd.

And every justice of the peace within this province, may cause Justices power to be stayed and arrested, all affrayers, rioters, disturbers or break-ers of the peace, or any other who shall go armed offensively, or to push the put his Majesty's subjects in fear, by menaces or threatning of a paragraph speeches: And upon view of such justice, confession of the in an act past

LAWS OF THE PROVINCE

13th of W. 3d, for punishing criminal offenders.

offender, or legal proof of any such offence, the justice may commit the offender to prison, until he or she find such sureties for the peace and good behaviour, as is required, according to the aggravations of the offence; and cause the arms or weapons so used by the offender, to be taken away, which shall be forfeited and sold for his Majesty's use. And may also punish the breach of the peace in any person, who shall smite, or strike another, by fine to the King, not exceeding twenty shillings; and require bond with sureties for the peace, till the next court of general sessions of the peace, or may bind the offender over to answer for said offence at said court, as the nature and circumstances of the offence may require.

An act of 13th of W. 3d, for giving act of heriffs, act. That any of said justices, for the preservation of the peace, upon id to sheriffs, act. That any of said justices, for the preservation of the peace, upon law proper to his cognizance, done, or committed by any person, or persons whatsoever, shall, and hereby is, impowered, in the absence of a sheriff, under-sheriff, or constable, to require any person, or persons, to apprehend and to bring before him, such offender or offenders : And every person, or persons that shall neglect, or refuse to obey any justice, or justices, in apprehending such offender, or offenders, being thereunto required as aforesaid, shall incur and suffer the like pains and penalties as is provided for refusing or neglecting to assist any sheriff, under-sheriff, or constable, in the execution of his office.

And every justice of the peace in this province, in the town or parish where he dwells, shall be, and hereby is, authorized and impowered to take cognizance of, hear, try, and determine, any civil action, wherein the demand is for any sum not exceeding forty shillings, arising within this province, in which the title of land, or any real estate is not concerned. And to give judgment for the debt, or damage, according to the nature of the action, with the legal cost, and grant execution thereon - And for that purpose to issue all necessary processes, which with the execution aforesaid, shall be in the forms prescribed by law. All writs issued by any justice of the peace, shall be directed to the sheriff of said province, his under-sheriff or deputy, or to any constable of the town or parish where the person, on whom any such writ is to be served, resides; and shall be executed seven days before the day therein appointed for the trial, and return'd to the justice who issued the same, at or before the time of trial. And all pleas in abatement, and bar, in any such action, shall be made and enter'd,

before any issuable plea is given. And in case any person, on whom any writ issued by a justice of the peace, has been duly serv'd and return'd, shall not appear at the time of trial, either by himself or attorney, the justice may enter judgment, in the absence of such party, according to the nature of the action and evidence produced by the plaintiff — And may also give judgment, where any Plaintiff shall become non-suit, or discontinue his suit for the defendant, for his legal cost - Provided, nevertheless, that any party aggrieved at the judgment or sentence of any justice of the peace, in any of the cases aforesaid, may appeal from the same, to the next inferior

Justices power in civil cases by virtue of the act for establishing courts of justice in this province, past the rath of W. 3d.

Direction of writs by 4th of G. I. prescribing forms. To be served 7 days before the time of trial.

Pleas in abatement and bar to be first made.

Judgment may be given on default of appearance.

Liberty of appealing.

OF NEW HAMPSHIRE.

court of common pleas, to be held in and for said province; the party appealing, giving security before said justice, in a reasonable sum, to the appellee, to prosecute his appeal with effect, and to answer and pay such cost and damage, as shall be awarded against the appellant thereon, at the said court. And the party so appeal- How the appealing, shall observe the same rule in bringing forward his appeal, as forward, &c. is prescribed in this act, to appellants from judgments of the inferior court, and have the same advantage.

And be it further Enacted, That there shall be held and kept, by Court of general the justices of the peace within this province, or so many of them as shall be limited by the commission of the peace, to make a of the said at of quorum, a court of general sessions of the peace at Portsmouth in said province, quarterly, every year; to begin on the second Tues-the act of the said for the days of March, June, September, and December: Who are hereby impower'd to hear and determine all matters relating to the com-the second province for the second second by the second by the second province of the second the second the interference of the second province of the second the second the interference of the second province of the sec servation of the peace, and punishment of offenders, appeals from of justice, &c. the sentences of justices in the criminal cases triable by them as aforesaid, and whatsoever is by said court cognizable according to law; and to give judgment and award execution therein.

And any person aggrieved at the sentence of the justices, in the Liberty to appeal court of general sessions of the peace, may appeal from such sen- assire, by virue tence, the matter being originally heard and tried in the said court, said act of the of unto the next court of assize and general goal delivery, in said 6. 181, relating province, there to be finally issued. - Provided that no appeal mean process, shall be granted, unless it be claimed at the time of declaring the sentence, and the appellant enter into recognizance, with two sureties within the space of two hours next after, in a reasonable sum Time and condi-tions of granting for his personal appearance at the court appealed to, and prosecu- said appeal. tion of his appeal there with effect, and to perform and abide by the order or sentence of the said court thereon, and to be of good behaviour in the mean time. And the party appealing is to remain in the hands or custody of an officer, until he or she shall have given such security, and the officer not to be allowed above twelve pence an hour for his time and attendance.

And such appellant shall, at his or her own cost, take out and How the appelpresent unto the court appealed to, an attested copy of the sen- forward his ap-tence, and of all the evidences, upon which the same was grounded: pealand the appellant shall pay the like fee, for the entry of his appeal in the court appealed to, as is by law required for entry of a civil

action, and the like fee to the jury that shall try the same. And be it further Enacted, That there shall be held and kept at Interior court es-said Portsmouth, at four terms, an inferior court of common pleas, said act of the by four justices, to be appointed and commissionated thereto, by with of W. 3d. the Governor or Commander in chief for the time being, any Time of the be three of whom to make a quorum : The said terms to begin on ginning of each the first Tuesdays of March, June, September, and December, art of G. a. annually. Which said inferior court shall have cognizance of, Actions of as, hear, try, and determine, all civil actions, matters, and causes, to be commenced triable at the common law, of what nature, kind, or quality soever, all and excepted, appeals from judgments of justices of the peace in civil actions, by virue of the triable by them as aforesaid — Excepting that no action for the triabin civil example. value of forty shillings, and under, shall be commenced at the said of W. 3.

to sureties upon

LAWS OF THE PROVINCE

inferior court, unless the title of land, or any real estate, is concern'd.

Appeal granted by virtue of the act of 13th of W. 3. for regulating trials in civil

Security to be given to prose-cute, &c.

of execution may

Appellant to pro-duce a copy of the case.

What shall be done if the ap-pellant shall not produce it.

Superior court of judicature, court of assize, &c. so called by several acts viz. soth Ann against forging the bills of credit; the ath of Geo. 1st relatine to sureof Geo. z.

And any party aggrieved at the judgment given in any inferior court of common pleas (the matter being originally heard and tried there) may appeal from such judgment, to the next superior court of judicature, to be held within and for this province. The appellant entering into a recognizance with sufficient sureties, to prosecute his appeal there with effect, and to answer and pay all intervening damages occasion'd to the appellee by such appeal, with

Execution stayed additional costs, in case the judgment shall be affirmed. And no execution shall be awarded or issued, on any judgment, from which an appeal is granted. The said recognizance shall be taken before

the said inferior court of common pleas whilst sitting, or before one or more of the justices of the same, with the clerk, out of

The time when it court, at any time within seven days, next after the judgment given, if the appeal is claimed in court. But if the security for In default there- prosecuting such appeal, shall not be so given, the clerk of said court may issue execution as he may do, where no appeal is claimed.

> And the appellant shall produce and give into the court where such appeal is to be tried, attested copies of the writ, judgment, and all the evidence filed in the inferior court of common pleas. And each party shall be allow'd the benefit of any new and farther plea or argument, in the trial on the appeal, and also any new evidence.

> And in default of producing such copies, in manner and form aforesaid, the appellant shall be non-suited, and judgment shall be enter'd for the appellee, upon his producing the copies and evidence necessary for that purpose, according to the nature of the case

And be it further Enacted, That there shall be held and kept at Portsmouth aforesaid, at two terms in every year, a superior court of judicature, court of assize and general goal delivery, by one chief justice, and three other justices, to be appointed and commissionated thereto by the Governor or Commander in chief for ath of Geo. 1st relating to sure-treating to sure-the dec. another of said terms to begin on the third Tuesday of May, and the of the ath of Geo. In relating to the other on the second Tuesday of November, annually. Which office & duty of a corneer, &c. The court shall have cognizance of all pleas, real, personal, or mixt, or beginning of each term now stated by the said act of 3rst of Geo. . same do concern the realty, and relate to any right of freehold and inheritance, or whether the same do concern the personalty, and relate to matter of debt, contract, damage, or personal injury. And all mixt actions, which concern both realty and personalty, which shall be brought before them, by appeal, review, writ of error, certiorari, or in any legal way whatsoever. And all pleas of the crown, criminal actions, and causes, and whatsoever relates to the conservation of the peace, and punishment of offenders, whether the same be brought into said court by appeal, or any

The power of the original process, according to law. And generally all other matters, as fully and amply to all intents and purposes whatsoever, as

OF NEW HAMPSHIRE.

the courts of King's Bench, common pleas and exchequer, within his Majesty's kingdom of England have, or ought to have. And are hereby impowered to give judgment therein, and award execution thereupon.

And any party, aggrieved at the judgment given in the said Liberry of appeal superior court, in any civil action, may appeal from the same, and Council as a unto the Governor and Council, as a court of appeals, to hear and court of appeals determine such cases - Provided the value appealed for, or matter in controversy, exceed the sum of one hundred pounds sterling. And that sufficient security be given by recognizance or otherways, before the said superior court, to prosecute the said appeal with effect, and to pay all intervening damages as aforesaid, in case the judgment appealed from, shall be affirmed, with additional costs.

And in civil actions tried at the said superior court, if the mat- Liberty to appeal ter in controversy exceeds the true value of the sum of three from the superior hundred pounds sterling, either party to the suit, may appeal from in council for the judgment of said court, to his Majesty in council, whether the said judgment be given on the appeal, or review at said court. And such appeals may be made at any time within fourteen days after sentence or judgment is given, sufficient security being security to be given by the appellant, as the court shall direct, to the appellee, given. to answer such cost and damage as shall be sustain'd by the

appeal, in case the judgment appealed from shall be affirm'd. And be it further Enacted, That all original writs, or writs of Original write review, for bringing any civil actions or suits to trial, in the said what sort to be inferior court of common pleas, or superior court of judicature, shall be summons, capias or attachment, and shall be issued in Writs how issued the form directed in and by an act of this province, entituled "An Pass'd ath of act prescribing forms of writs in civil causes "; and shall be under G. 1. the seal, and signed by the clerk, of the court, to which it shall be returnable, and shall be executed by the officer to whom it is directed, fourteen days at least before the day of the sitting of the court to which it is to be returned.

And the justices of the several courts aforesaid, are hereby Courts power to authorized to make necessary rules, for the more orderly practice, make rules, such W. 3. and management of the business of said courts respectively : Provided such rules are not repugnant to the laws of this province, nor to the rules of common law in use here.

And also as often as they shall judge it necessary and proper, And to chuse to chuse and appoint a clerk, to officiate in such court, and to do isth w. s. all things belonging to that office, who shall be under oath, well and truly to execute and discharge the same.

And be it further Enacted, That in all cases that are or shall Courts power of be brought for trial in the said superior court of judicature, or chancery. inferior court of common pleas, where the forfeiture of the penalty of any obligation, with a condition, or penalty annexed to any articles, agreement, covenant, contract, charter-party or other specialty: or the forfeiture of any estate granted on condition, executed by deed of mortgage, or bargain and sale with defeazance, shall be found by verdict of a jury, or by default or confession of the obligor, mortgager, or vender, the justices of

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LAWS OF THE PROVINCE

the said courts respectively where the trial is had, are hereby impowered, and authorized, to moderate the rigour of the law, and in consideration of such cases, according to equity and good conscience, to chancer such forfeiture, and to enter up judgment for the just debt and damages, and to award execution accordingly. Only in real actions, upon mortgage, or bargain and sale with defeazance, the judgment to be conditional; that the mortgager or vender, his heirs, executors, administrators, or assigns, pay to the plaintiff, such sum as the court shall determine to be justly due thereon, within two months, to be computed from the date of the judgment in such case. And in default thereof that the plaintiff recover possession of the estate sued for, and have execution for the same accordingly.

Justices of each court to be sworn.

And each of the justices of the superior court of judicature, court of assize and general goal delivery, and each of the justices of the inferior court of common pleas, shall, before their entering upon the execution of their respective offices, take the following oath, to be administred by the Governor or Commander in chief for the time being, or such as shall be by him thereunto appointed.

You swear, that well and truly you shall serve our sovereign Lord the King, and his people, in the office of a justice of the _____ court of and that you will do equal law and execution of right, to all people, poor and rich, according to the laws in force within this province, and usage within the same; and in such cases as the law doth specially provide to be relieved in equity, and good conscience, without having regard to any person whomsoever. So help you God.

Pass'd 13th of W. 3.

AN ACT FOR REGULATING OF TRIALS IN CIVIL CASES.

Be it Enacted by the Lieutenant Governor, Council, and Representatives, convened in general assembly, and by the authority of the same:

Actions for more than 408. to be commenced at English. Not to abate for circum-stantial errors.

That all actions triable at the common law, for any matter or demand above forty shillings value, as also titles of land, shall be commenced at defining above forty similar source of a single value, as a source of failed, shall be the inferior court, first brought to the inferior court of common pleas, (excepting wherein the King only actions or causes relating to the Crown, which may be tried is concern'd, which may be at at either the inferior court of common pleas, or the superior either information of judicature.) And that all writs, processes, declarations, court. All pro-court of judicature.) And that all writs, processes, declarations, the English. Notice everal courts of instice within this province shall be in the several courts of justice within this province, shall be in the English tongue, and no other. And that no summons, process, writ, judgment, or other proceedings in court, or course of justice, shall be abated, or arrested, or reversed for any kind of circumstantial errors, or mistakes, where the person and case may be rightly understood and intended by the court, nor through defect or want of form only; and the justices on motion made in court may order amendment thereof.

Costs to be granted on non-suits.

And it is further Enacted by the Authority aforesaid, That if any person shall cause process to be served upon another on pre-

Oath.

1786.

terposition difarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them ;

II. BE it endeled by the General Affembly, That no man shall be compelled to frequent No man comor fupport any religious worthip, place, or Ministry whatfoever, nor shall be enforced, reftrained, molested, or burthened in his body or goods, nor shall otherwise fuffer on account of his religious opinions or belief; but that all men shall be free to profess, and by All men free argument to maintain, their opinions in matters of religion, and that the fame shall in no by argument wile diminish, enlarge, or affect their civil capacities.

quent or fup-port any reliious worthip, to maintain their religious opinions.

III. AND though we well know that this Aliembly elected by the people for the ordinary purposes of legislation only, have no power to reftrain the Acts of fucceeding Affem- that the rights blies, conflituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the natural the rights hereby afferted, are of the natural rights of mankind, and that if any Act shall kind. be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

Declaration

General Affembly, begun and held at the Public Buildings, in the City of Richmond, on Monday, the 16th Day of October, in the Year of our Lord, 1786.

C H A P. XXI.

An Act forbidding and punishing Affrays.

[Paffed the 27th of November, 1786.]

E it enacted by the General Affembly, That no man, great nor fmall, of what condition Punifiment of foever he be, except the Minifters of Juffice in executing the precepts of the Courts of Juffice, or in executing of their office, and fuch as be in their company affifting them, courts of Juffice in the courts of the courts of Juffice in the courts of the courts of Juffice in the courts of Juffice in the courts of the be to hardy to come before the Juffices of any Court, or other of their Ministers of Juf-tice, doing their office, with force and arms, on pain, to forfeit their armour to the Com-monwealth, and their bodies to prifon, at the pleasure of a Court; nor go nor ride armed by kets in terror night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of the Country of being arrefted and committed to prifon by any Juffice on his own view, or proof by others, there to abide for fo long a time as a Jury, to be fivorn for that purpose by the faid Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no perfon fhall be imprifoned for fuch offence by a longer fpace of time than one month.

CHAP. XXII.

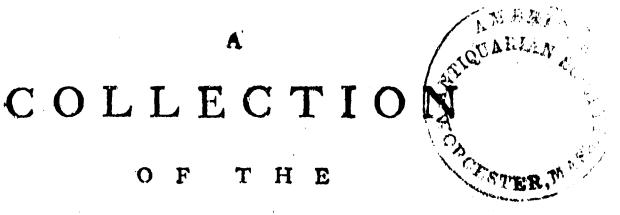
An AEt against Confpirators.

[Passed the 27th of November, 1786.]

E it declared and enabled by the General Affembly, That Configurators be they that do con-federate and bind themfelves by oath, covenant, or other alliance, that every of them figurators. fhall aid and bear the other falfely and malicioufly, to move or caufe to be moved any indict-ment or information against another on the part of the Commonwealth, and those who are convicted thereof at the fuit of the Commonwealth, shall be punified by impriforment and amercement, at the differentian of a Jury.

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STATUTES

OF THE

OF THE PARLIAMENT O.

E N G L A N D.

IN FORCE IN THE STATE OF

NORTH-CAROLINA.

PUBLISHED ACCORDING TO A RESOLVE OF THE GENERAL ASSEMBLY. BY FRANCOIS-XAVIER MARTIN, Esq. COUNSELLOT JAW.

NEWBERN:

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FROM THE LPITOR'S PRESS.

1792.

(60)

C H A P. VIII.

Nothing Shuli be taken for Beaupleeder.

I'TEM, Whereas fome of the realm have grievoully complained, that they be grieved by Sheriff's, naming themfelves the King's approvers, which take money by extortion for Beaupleader, the King will, that the statute of Mariebridge that be observed and kept in this point.

C H A P. XIV.

None shall commit Maintenance.

I TEM, Because the King defireth that common right be administered to all performs, as well poor as rich, he commandeth and defendeth, that none of his Countellors, nor of his house, nor none other of his Ministers, nor no great man of the realm by himfelf, nor by other, by fending of letters, nor otherwise, nor none other in this land, great nor small, shall take upon them to maintain quarrels nor parties in the country, to the let and diffurbance of the common law.

Statutes made at Northampton, tribus Septimanis Pa'chae, in the Second Year of the Reign of Edward the Third, and in the Year of our Lord 1328.

CHAP. I.

A Confirmation of the Great Charter and the Charter of the Foreft.

[Unneceffory to be inferted.]

CHAP. III,

No Man shall come before the Justices, or go or ride armed.

TEM, It is enacted, that no man great nor finall, of what condition focker he be, except the King's fervants in his prefence, and his Minifters in executing of the King's precepts, or of their office, and fuch as be in their company affifting them, and alfo upon a cry made for arms to keep the peace, and the fame in fuch places where fuch acts happen, be to hardy to come before the King's Juffices, or other of the King's į

(61)

Ministers doing their office with force and arms, nor bring no force in an affray of peace, nor to go nor ride armed by night nor by day, in fairs, markets, nor in the prefence of the King's Jultices, or other ministers, nor in no part elfewhere, upon pain to forfeit their ar non r to the King, and their bodies to prifon at the King's pleasure. And that the King's Jultices in their prefence, Sheriffs and other ministers, in their bailiwicks, Lords of Franchifes, and their bailiffs in the same, and Mayors and Bailiffs of cities and boroughs, within the fame entires and boroughs, and borough-holders, constables and wardens of the peace within their wards shall have power to execute this act. And that the Justices assigned, at their coming down into the country, shall have power to enquire how such officets and lords have exercised their offices in this cafe, and to punish them whom they find that have not done that which pertain to their office.

CHAP. V.

all and shall

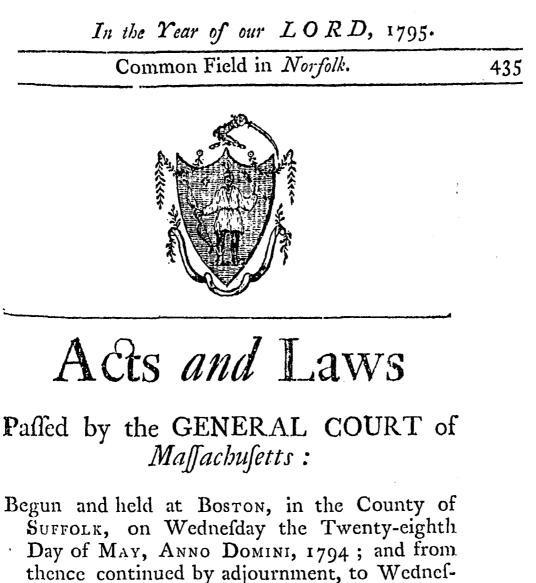
The Manner how Writs shall be delivered to the Sheriff to be enecuted.

TEM where it was ordained by the statute of Westminster the second, that they which will deliver their writs to the Sheriff shall deliver them in the full county, or in the rere county, and that the Sheriff or Under-Sheriff shall thereupon make a bill : it is accorded and established, that at what time or place in the county a man doth deliver any writ to the Sheriff or to the Under-Sheriff, that they shall receive the same writs, and make a bill after the form contained in the same statute, without taking any thing therefore. And if they refuse to make a bill, others that be prefent shall set to their seals, and if the Sheriff or Under-Sheriff do not return the faid writs, they shall be punished after the form contained in the faid statute. And also the Justices of Affize shall have power to enquire thereof at every man's complaint, and to award damages, as having refpect to the delay, and to the loss and peril that might happen.

C H A P. VI.

Juffices shall have Power to punif Breakers of the Peace.

ITEM, as to the keeping of the peace in time to come, it is ordained and enacted that the flatutes made in time paft, with the flatute of Winchefter, fhall be observed and kept in every point : and where it is contained in the end of faid flatute of Winchefter, that the Juffices affigned shall have power to enquire of defaults, and to report to the King in his next parliament, and the King to remedy it, which no man hath yet seen, the fameJuffices shall have power to punish the offenders and disobeyers.



day, the Fourteenth Day of January, 1795.

C H A P. I.

An Act for incorporating certain Land in *Dedham* and *Sharon*, in the County of *Norfolk*, into a Common Field.

HEREAS the proprietors of a certain traci of meadow land, lying partly in Dedham, and partly in Sharon, in the county of Preamble. Norfolk, are defirous to have the fame incorporated into a Common Field : BE it enacted by the Senate and Houfe of Reprefentatives, in General Court affembled, and by the authority of the fame, That all that tract of land, known by the name of Pigeon-fwamp Meadow, lying partly in Dedham, and partly in Sharon, in the county of Norfolk, and included in thebounds following, viz:-Beginning at Trap-hole Brook, fo called, intheland of Nathaniel Summer, Efq. where the fence now flands which Boundarierdivides faid Summer's upland from his meadow, and running foutherly

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In the Year of our LORD, 1795.

Criminal Offenders.

on faid fence, till it comes to the land improved by George Summer; then through faid land nearly the fame courfe, till it comes to the fouth-weft corner of faid George Summer's home meadow, fo called; then turning and running cafterly in faid meadow, as the ditch which forms the fence is made, till it comes to the fouth end of Benjamin Hacces's meadow; then in the line between faid Hacces's meadow, and the land of William Richards; then in the line between faid Richards's home lot, and the meadow lots, till it comes to Cumming's brook, fo called; thence on faid brook, till it comes to the line between Stoughton and Sharen; thence on faid line till it comes to Traphole brook; thence on faid brook, till it comes to Traphole brook; thence on faid brook, till it comes to and that the proprietors of faid lands, their heirs and fucceflors be, and they hereby are incorporated and invefted with all the powers and privileges which the proprietors of Common and General Fields; by Law are invefted with.

[This Act passed January 22, 1795.]

C H A P. II.

An Act for repealing an Act, made and paffed in the year of our Lord, one Thousand fix Hundred and Ninety-two, entitled, "An Act for punishing Criminal Offenders," and for re-enacting certain Provisions therein.

AA repealed.

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Juffices of the Peace empowcred.

E it enacted by the Senate and Houfe of Representatives, in General Court assembled, and by the authority of the same, That the faid Act be, and hereby is repealed, and made wholly null and void.

And be it further enacted by the authority aforefaid, That every Juftice of the Peace, within the county for which he may be commiffioned, may caufe to be ftaid and arrefted, all affrayers, rioters, difturbers, or breakers of the peace, and fuch as fhall ride or go armed offenfively, to the fear or terror of the good citizens of this Commonwealth, or fuch others as may utter any menaces or threatening fpeeches, and upon view of fuch Juffice, confeffion of the delinquent, or other legal conviction of any fuch offence, fhall require of the offender to find furctics for his keeping the Peace, and being of the good behaviour; and in want thereof, to commit him to prifon until he fhall comply with fuch requifition : And may further punifh the breach of the Peace in any perfon that fhall affault or firike another, by fine to the Commonwealth, not exceeding *twenty fhillings*, and require furcties, as aforefaid, or bind the offender, to appear and anfwer for his offence, at the next Court of General Seflions of the Peace, as the nature or circumftances of the cafe may require.

[This Act paffed January 29, 1795.]

C II A P.

ACTS

PASSED AT THE FIRST SESSION OF THE FOURTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE,

ETGUN AND HELD AT KNOXVILLE, ON MONDAY, THE TWENTY FIRST DAY OF SEPTEMBER, ONE THOUSAND EIGHT HUNDRED AND ONE.

CHAPTER I.

Au ACT to amend an act, entitled, " An all for the better establishment and regulation of the militia in this flute." (PASSED 110V. 14, 1801.

DE it enacted by the General Affembly of the State of Tenniffee, Section 1. D That each regiment of militia in this flate shall be divided into two battalions, by the regimental court martial at their next fitting after the palling of this act, having due refpect to the convenieney of the different companies, without regard to bounds or number; and the officers of each battalion shall have the privilege of chusing their muster ground, except where the regiment has been previoully divided by law, and in that onfe the division shall continue as heretolore, or be difcontinued at the difcretion of the court martial. The first battalion in each regiment thall hold a battalion mufter on the first Thurfday in April; the fecond battalion on the third Thurfday in April annually; and a court martial (hall be held in each battalion on the day fucceeding the battalion multer; fuch multers and courts martial to be conducted under the fame rules, regulations and refiricions as regimental multers and courts martial, referving to any perfon who may think himfelf aggrieved by any fentence of such court martial, the right of appeal to the next court martial of the regiment. And it shall be the duty of the adjutants to attend the battalion mufters in their respective regiments, and of the judge advocates to attend the battalion courts martial, and they shall perform the same duties which they are required to perform at regimental mufters and courts martial, and be allowed the fame compensation. And the major appointed to the command of each battalion shall attend the battalion multers, and may preside in the courts martial, or may direct the fenior officer prefent to prefide ; and if he should be absent, the officer next in rank shall perform the duties of the major at luch muller or court martial.

Sec. 2. Be it enacted, That each regiment of infantry shall hold only one regimental muster in each year, at their respective court houses, on the Thursday immediately preceding the first day of holding the courts in the feveral counties, in either of the months of September, October, and November annually, except the fecond regiment of Davidson county, who shall hold their regimental muster at the place heretofore provided for by law, on the Thursday succeeding the court of faid county, in the month of October in each and every year. And the brigadier general shall attend the feveral regimental multers in his brigade, at least once in two years, or oftener if he shall think necessary, and in such rotationas heshall think proper, not inconfistent with this act, for the purpose of reviewing such regiment, & making such regulations as may appear to him necessary not other wite inconfistent with this law. Provided,

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grants, deeds, or meine conveyances not being proved and registered within this state, it shall and may be lawful for such perfon or perfons to prove and register his, her, or their grants, deeds or meine conveyances.

Sec. 2. Be it enacted. That this aft final be in force until the end of the next flated feffion of the general affembly.

CHAP. XXI.

An ACT to amend an all, entitled, "An all to afcertain the boundaries of land, and for perpetuating teffimony.—PASSED NOVEMBER 6, 1801; Blit enacted by the General Afembly of the State of Tenneflee, That all the privileges, benefits, and advantages ariling under or accruing to others, by virtue of an all, entitled, "An all to afcertain the boundaries of land, and for perpetuating teffimony, paffed at Knoxville in the year 1799, shall extend to the citizens refident fouth of French Broad and Hollton, and between the rivers Big Pigeon and Tenneflee, holding or claiming, or that may hold or claim land by right of occupancy, fo far as may respect their rights to, or the conditional or boundary lines of their respective claims or rights of occupancy and pre-emption in that traft of country, any thing in the proviso to the fourth fedion of faid recited all to the contrary notwithltanding.

CHAP. XXII.

AN ACT for the refirains of idle and diforderly perfons. -- PASSED NOVEMBER 13, 1801.

WHEREAS it becomes necellary for the welfare of the community, to impore is wandering, diforderly and idle perfons:

Section 1. BE it enacted by the General affembly of the State of Tenneffee, That any perion or perfons who have no apparent means of fubfiltence, or negled applying themselves to fome honeft calling for the support of themfelves and families, every perfor fo offending, who shall be found fauntering about neglecting his bufinefs, and endeavoring to maintain himfelf by gaming or other undue means, it shall and may be lawful for any justice of the peace of the county wherein fuch perion may be sound, on due proof made, to iffue his warrant for fuch offending perion, and caufe him to be brought before faid juffice, who is hereby empowered, on conviction, to demand fecurity for his good behaviour, and in cafe of relufal or neglect, to commit him to the goal of the county, for any term not exceeding five days, at the expiration of which time he fhall be fet at liberty if nothing criminal appears against him, the faid offender paying all charges arising from fuch imprilonment; and if fuch perfon fhall be guilty of the like offence from and after the fpace of thirty days, he, to offending, thall be deemed a vagrant, and be fubjed to one month's imprisonment, with all cofts accruing thereon, which if he neglects or refuses to pay, he may be continued in prifon, until the next court of the county, who may proceed to try the faid offender, and if found guilty by a verdict of a jury of good and lawful men, faid court may proceed to hire the offinder for any space of time not exceeding lix months, to make fatisfaction for all cofts, but if fuch perfon or perfons to offending, be of ill fam :, to that he or they cannot be hired for the coffs, nor give fufficient fecurity for the fame and his future good behaviour, in that cafe it thall and may be lawful for the faid court to caufe the offender to recive not exceeding thirty nine lalhes, on his bare back, after which he shall be fer, at liberty, and the colts griling thereon thall become a county charge ; which punithment may

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be infined as often as the perfor may be guilty, allowing thirty days between the punishment and the offence.

Sec. 2. Be it enacted. That it shall not be lawful for any perfon or perfons of ill fame or fuspicious character, to remove him or themfelves from one county to another in this flate, without first obtaining a certilicate from fome jullice of the peace of faid county or captain of his company. letting forth his intention in removing, whether to fettle in faid county, or if travelling, to fet forth his bufinels and defination, and if fuch travefler fhould be defirous to finy in any county longer than ten day, he shall first apply to some justice of faid county for I-ave, and obtain a certificate for that purpole, fetting forth the time of his permiftion, and if fuch perfon shall be found loitering in faid county after the expiration of his permit, or fail to obtain the fame a. greeable to the true intent and meaning of this aft, fuch perfon or perfons fo offending, may be apprehended by any perfon or perfons, and carried before fome inflice of the peace, who may enquire into his charafter and hufinefs; and fine him at his diferetion, not exceeding ten dollars : but if faid traveller fhall be found on examination, to be a perfon of ill fame, and there is reafon to fuspest he is loitering in faid county for evil purpose, attempting to acquire a living by gambling, or other had practices. fuch judice thall have power to commit any perfor of like charader, until he shall find good and sufficient fecurity for his good behaviour, for any time not exceeding ten days, and faid jullice of the acade or court of the county thall proceed again fuch offender. in the forme manner as is heretofore preferihed for vagrants.

See. 3 Be it macted, That all and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables commonly called A. B. C. or E. O. tables, or faro bank, or of any other gaming cloth table, or bank of the fame, or like kind, under any denomination whatever, that be deemed and treated as a vagrant, and moreover it thall be the duty of any judge or juffice of the peace, by warrant under his hand, to order fuch gaming table or cloth to be feized and publicly burned or des ftroyed; faid warrant thall be directed to fome one constable within the county, whole duty it thall be, forthwith to execute the fame : Provided, That nothing herein contained, thail be for construed as to extend to billiard tables:

Sec. 4. Be it enacted, That it shall not be lawful for any house keeper to harbor any idle perfon of the character aforefaid, for any longer time than is heretofore specified, under the penalty of twenty dollars for every such offence, to be recovered by warrant before any justice of the peace of the county where the offence is committed.

Sec 5 Be it enacted. That it shall be the duty of each justice of the peace, on information being made on oath to him or them, that there is a perion or perfons of the aforefaid defcription, loitering in his or their county, then and in that cafe he or they shall issue his or their warrant against such perform or perfons agreeable to this act: And prowided, he or they shall neglect or resule to to do, it shall be deemed a misdemeanor in office, for which he or they shall be impeachable, and on convidion he removed from office.

See 6 Be it enacted. That if any perfon or perfons shall publicly ride or go armed to the terror of the people, or privately carry any dirk. large knife, pillol or any other dangerous weapon, to the fear or terror of any perfor, it shall be an duty of any judge or justice, on his

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own view, or upon the information of any other perfen on oath, to bind fuch perfon or perfons to their good behaviour and if he or they

 fail to find fecurities, commit him or them to goal and if fuch perfon or perfons fhall continue fo to offend, he or they fhall not only forfeit their recognizance, but be liable to an indictment, and be punished as for a breach of the peace, or riot at common law.

Sec 7. Beit enacted, That if any perfon or perfons thall unlawfully eut out or difuble the tongue, put out an eve, flit a nofe, bite or cut off a nofe, ear or lip, or cut off or difable any limb or member, or flab any perfon whatfoever, in doing fo, to maim, wound or disfigure in any of the manner: before mentioned, fuch perfon or perfons fo offending, their counfellors, aiders and abettors, knowing of, and prive to the offence, fhall be and are hereby declared to be felons, and fhall fuffer as in cafe of felony: Provided nevertheleft, he or they fhall be entitled to benefit of clergy, and be further liable to an action of damages to the party injured.

Sec 8. Be it enalted. That all fines inflicted by this act, fhall be one half to him that will fue for the fame, and the other half to the use of the county.

Sec. 9 Be it enafted That all laws and parts of laws, which come within the meaning and purview of this act, are hereby repealed.

CHAP. XXIII.

AN ACT to authorife the feveral county courts of pleas and quarter leftons to remit and mitigate fines and forfeitures on recognizances as therein mentioned - (PASSED OCT: BER 12, 18-1)

Section 1. B^F it enasted by the General Affimbly of the State of Tenneffee. That the feveral courts of pleas and quarter follows in this fate, that have power to remit or mitigate all fines by them inflicted, and all for feitures on recognizances, previous to entering final judgment thereon : Provided, a majority, or any number and lefs than nine of the judices of faid county be prefent when fuch rentitrance or mitigation that he made.

Sec 2. Be it enaffed. That fo much of any other aff as comes within the purview and meaning of this aff is hereby repealed.

CHAP. XX.V.

Au ACT concerning administrations granted on the estates of perform dying intest the therein mentioned -- (PASSED NOVEMBER 10.1801.)

WHEREAS heretotore the courts of pleas and quarter fellions, during the being of the temporary government called Franklin, granted administrations on the estates of perfors who died intestate, and have issued letters of administration accordingly, in virtue and by authority of which, the perfors so administering, have proceeded to administer upon the goods and chattels, rights and credits of their intestates refpestively: And whereas it will contribute to the peace and quiet of families, that administrations on such estates, so as aforesaid granted, be deemed and declared valid.

Sec 1. BE it enacted by the General Affembly of the State of Tenneffee, That all administrations granted by any of the faid courts of pleas and quarter feffions, and letters of administration by any of the atorefaid courts iffued, on the effate or effates of any perfon who died intestate, and all proceedings in virtue of fuch letters of administration had and Cone, of, and concerning any fuch effate, agreeably to, and in conformia Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 74 of 333

LAWS

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE UNITED STATES

AND OF SAID STATE,

WITH AN APPENDIX.

HALLOWELL: PRINTED AND PUBLISHED BY GLAZIER, MASTERS & Co. No. 1, Kennebec-Row.

POWER OF JUSTICES.

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CHAPTER LXXVI.

An Act describing the power of Justices of the Peace in Civil and Criminal Cases.

SEC. 1. **BE** it enacted by the Senate and House of Representatives, in Legislature assembled, That it shall be within the General jurispower, and be the duty of every Justice of the Peace within diction of Jushis county, to punish by fine not exceeding five dollars, all Peace, and assaults and batteries that are not of a high and aggravated criminal cases, nature, and to examine into all homicides, murders, treasons, in arresting, and felonies done and committed in his county, and commit trying, reogto prison all persons guilty, or suspected to be guilty of man-committing ofslaughter, murder, treason or other capital offence; and to fenders. cause to be staid and arrested, all affrayers, rioters, disturbers or breakers of the peace, and such as shall ride or go armed offensively, to the fear or terrour of the good citizens of this State, or such others as may utter any menaces or threatening speeches; and upon view of such Justice, confession of the delinquent, or other legal conviction of any such offence, shall require of the offender to find sureties to appear and answer for his offence, at the Supreme Judicial Court, or Circuit Court of Common Pleas, next to be held within or for the same county, at the discretion of the Justice, and as the nature or circumstances of the case may require; and for his keeping the peace, and being of the good behaviour, until the sitting of the Court he is to appear before; and to hold to bail all persons guilty or suspected to be guilty of lesser offences which are not cognizable by a Justice of the Peace; and require sureties for the good behaviour of dangerous and disorderly persons; and commit all such persons as shall refuse so to recognize, and find such surety or sureties as aforesaid; and take cognizance of, or examine into all other crimes, matters and offences, which by particular laws are put within his jurisdiction.

SEC. 2. Be it further enacted, That all fines and forfeitures accruing for the breach of any by-law, in any town within Breaches of the this State, may be prosecuted for, and recovered before any towns may be Justice of the Peace in the town or county where the offence prosecuted before Justices of shall be committed, by complaint or information, in the same the Peace. way and manner other criminal offences are prosecuted before the Justices of the Peace within this State.

SEC. 3. Be it further enacted, That any person aggrieved Persons agat the sentence given against him, by any justice of the Peace, grieved may may appeal therefrom to the next Circuit Court of Common C. Court of Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable with surficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of the whole process, at C. Comand all writings filed before the Justice, at the Court appealmon Pleas.

Failing to pros- ed to. ecute his appeal, his detered. be laid before arrest appel-

Justices may command assistance of sheriff, deputies and conaffrays, &cc.

Justices may, on their own view, (in absence of sheriff, stables,) require any person to appre-

fusing to obey such Justice.

If the Justice be known or declared-plea his office not admissible

Justices may grant subpoecases :

But not on behalf of the State without consent of Attorney General, or County Attorney, exhimself.

all fines, &c.

Penalty for neglect.

POWER OF JUSTICES.

And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be en- fault to be noted upon their record. And the said Court may Court may or order the same case to be laid before the Grand Jury, or may der such case to issue an attachment against the body of such appellant, and Grand Jury, or cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against ant, and affirm him, with all additional costs.

SEC. 4. Be it further enacted, That each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable, and all other persons present at any affray, riot, assault or battery, and may fine any person refusing stables at riots, such assistance, in a sum not exceeding six dollars; to be disposed of for the use of the town where the offence shall be committed; and levied by warrant of distress on the offender's goods and chattels, and for want thereof on his body.

SEC. 5. Be it further enacted, That any Justice of the Peace for the preservation thereof, or upon view of the breach thereof, or upon view of any other transgression of law, proper to deputies or con- his cognizance, done or committed by any person or persons whatever, shall have authority, (in the absence of the Sheriff, Deputy Sheriff or Constable,) to require any person or perhend offenders sons to apprehend and bring before him such offender or of-

And every person so required, who shall refuse or fenders. Penalty for re- neglect to obey the said Justice, shall be punished in the same manner as for refusing or neglecting to assist any Sheriff, Deputy Sheriff or Constable in the execution of his office as afore-

And no person who shall refuse or neglect to obey such said. Justice, to whom he shall be known, or declare himself to be of ignorance of a Justice of the Peace, shall be admitted to plead excuse on any pretence of ignorance of his office.

SEC. 6. Be it further enacted, That Justices of the Peace within their respective counties, be, and they are hereby aunas for witness. thorized and empowered to grant subpœnas for witnesses in ses in criminal all criminal causes pending before the Supreme Judicial Court and Circuit Court of Common Pleas, and before themselves

or any other Justice: *Provided*, That no Justice of the Peace shall grant subpœnas for witnesses to appear in any Court, except before himself, to testify on behalf of the State, unless by the request of the Attorney General or County Attorney. And all Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace.

SEC. 7. Be it further enacted, That the Justices of the Justices to ac Peace shall account annually with the Treasurer of the State, to State, Cour the Treasurer of their respective counties, and the town Treas-ty and Town urer, as the case may be, for all fines by them received or Treasurers for imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong.

POWER OF JUSTICES.

SEC. 8. Be it further enacted, That all civil actions, where-Justice's jurisin the debt or damage does not exceed twenty dollars, (and diction in civil actions, (where wherein the title of real estate is not in question, and special-title to real esly pleaded by the defendant,) shall, and may be heard, tried, tate is not in adjudged and determined by any Justice of the Peace within extend to 20 his county; and the Justices are severally empowered to grant dollars. summons, capias and attachment, at the request of any per-summons, capias and attachment, at the request of any per-summons, son applying for the same, directed to some proper officer capias, attachwithin the same county, empowered by law to execute the ment, &c. And such sommons or capias and attachment shall be -to be served same. duly served by such officer, seven days at the least before the seven days be-day therein set for trial, otherwise the party and shall and here trial. day therein set for trial, otherwise the party sued shall not be held to answer thereon; and if after such process shall be Proceedings duly served, the party sued, after being duly called, shall not before Justice. appear to answer to the same suit, the charge against him in the declaration shall be taken to be true, and the Justice shall Judgment, &c. give judgment against him for such damages as he shall find vail. the plaintiff to have sustained, with costs; and if the person sued shall appear to defend the suit or oppose the same, the Justice shall award such damages as he shall find the plaintiff to have sustained : Provided, That no more damages than the Damages not to sum of twenty dollars shall be awarded in any action origin-exceed 20 dolally brought or tried before a Justice of the Peace; but if the lars. plaintiff shall not support his action, shall fail to prosecute, or Judgment in become nonsuit. the Justice shall award to the party sued, his case defendant prevail. reasonable costs, taxed as the law directs. And upon all judgments given by a Justice of the Peace in civil actions, Execution. he shall award execution thereon in form by law prescribed.

SEC. 9. Be it further enacted, That the amount of the sum or several sums, specified, expressed or supposed to be de-Justice to have manded by the plaintiff in his declaration, shall not be con-where the ad sidered as any objection against the Justice's jurisdiction, damama does provided the ad damnum, or damage is not laid or stated to dollars. exceed twenty dollars.

SEC. 10. Be it further enacted, That any party aggrieved Party aggrievat the judgment of any Justice of the Peace, in a civil action, ed may appeal where both parties have appeared and plead, may appeal Pleas. thereform to the next Circuit Court of Common Pleas to be held within the same county; and shall, before his appeal is allowed, recognize with a surety or sureties, in such reasonanize to proseble sum as the Justice shall order, not exceeding thirty dol-cute. lars, to pay all intervening damages and costs, and to prosecute his appeal with effect; and shall be held to produce a copy of the whole case, at the Court appealed to, and both and produce parties shall be allowed to offer any evidence upon the trial C. Pleas. at the Circuit Court of Common Pleas, in the same manner as proceedings in the cause had been originally commenced there. And no No further apcircuit Court of Common Pleas. And the Circuit Court of Defendant in the cause had be no such action after one trial at the peat. Circuit Court of Common Pleas. And the Circuit Court of Defendant in Common Pleas, when any person recognized as before mento bring for-

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ward the action according to his recognizance .- Plaintiff to have his damages.

Appellant failing to prosecute, on complaint judgment may be affirmed.

In action of trespass when defendant pleads title to real estate mode of proceeding before Justice.

Appeal allowed in such cases from C. C. C. Pleas to S. J. Court.

General issue may be plead in all actions and special

Justices may grant subpoenas in all civil actions.

May adjourn proclamation :

No Justice to be of counsel in any suit before himself.

POWER OF JUSTICES.

tioned to bring forward an action of trespass, doth neglect to do it, upon complaint thereof made in writing by the plaintiff, shall give judgment for such sum in damages, as the plaintiff hath declared for, together with all reasonable costs

which accrued both in the same Court and before the Jus-And the Circuit Court of Common Pleas shall, when tice. any appellant thereto shall fail to prosecute his appeal, or if he shall neglect to produce a copy of the case, affirm the former judgment upon the appellee's complaint, and award such additional damages as shall have arisen in consequence of the said appeal, and cost.

SEC. 11. Be it further enacted, That when an action of trespass shall be brought before any Justice of the Peace, and the defendant shall plead the general issue, he shall not be allowed to offer any evidence that may bring the title of real estate in question. And when the defendant in any such action shall plead the title of himself or any other person in justification, the Justice upon having such plea plead, shall order the defendant to recognize to the adverse party in a reasonable sum, with sufficient surety or sureties to enter the said action at the next Circuit Court of Commom Pleas to be holden within the same county, and to prosecute the same in the same manner as upon an appeal from a Justice's judgment; and if such pleader shall refuse so to recognize, the Justice shall render judgment against him, in the same manner as if he had refused to make answer to the same suit. And either party in such cause, shall be allowed to appeal from the judgment of the Circuit Court of Common Pleas, in the same manner as if the suit had been originally commenced there.

Be it further enacted, That in all civil actions SEC. 12. triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by before Justices pleading the title of himself or any other person under whom matter given in he claims in justification of the trespass or trespasses allegevidence ex-cept where tille ed to be committed on real estate; the defendant shall be to real estate is entitled to all evidence, under the general issue, which by relied on by de- law he might avail himself of under any special plea in excuse or justification, any law, usage or custom to the contrary notwithstanding.

SEC. 13. Be it further enacted, That each Justice of the Peace may grant subpoenas for witnesses in all civil actions and causes pending before the Supreme Judicial Court, Circuit Court of Common Pleas, Court of Sessions, and before him or any other Justices, and in all civil actions and causes pending before arbitrators or referees. And every Justice their Courts by of the Peace shall have power by public proclamation to adjourn the trial of any action brought before him, from time to time, when equity may require it; but he shall not be of counsel to either party, or undertake to advise or assist any party in suit before him.

POWER OF JUSTICES.

SEC. 14. Be it further enacted, That when an executor or In case of administrator shall be guilty of committing waste, whereby waste by exeche is rendered unable to pay the judgment recovered before istrator, Justice any Justice of the Peace, against the goods and estate of C. C. C. Pleas the deceased in his hands, out of the same, the Justice may may in such proceed against the proper goods and estate of such executor or administrator, in the same manner as the Circuit Court of Common Pleas are empowered to do.

SEC. 15. Be it further enacted, That each Justice of the Justice to keep Peace shall keep a fair record of all his proceedings; and record of his when any Justice of the Peace shall die before a judgment When Justice given by him is paid and satisfied, it shall be in the power of shall die before any Justice of the Peace in the same county to grant a scire a judgment facias upon the same judgment, to the party against whom satisfied, what such judgment was rendered up, for him to show cause if any proceedings to be had. he hath, why execution should not be issued against him. And although the costs and debt awarded by the deceased Justice when added together, shall amount to more than twenty dollars, it shall be no bar upon such scire facias, but judgment shall be given thereon for the whole debt and cost, together with the cost arising upon the scire facias. *Provid*ed always, That either party may appeal from the judgment Appeal allowas in other personal actions, where judgment is given by a ed to either Justice of the Peace. And every Justice of the Peace who party. shall have complaint made to him, that a judgment given by Justice to whom a Justice of the same county then deceased, remains unsat- complaint is made in such isfied, shall issue his summons to the person in whose posses- cases, may sumsion the record of the same judgment is, directing him to mon the person bring and to produce to him the same record; and if such record to pro-person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, Punishment for upon oath, the Justice may punish the contempt by impris- refusal so to do. onment, until he shall produce the same, or until he submits Duty of the to be examined as aforesaid; and when the Justice is pos-Justice when sessed of such record, he shall transcribe the same upon his the record is own book of records, before he shall issue his scire facias; transcribe it and shall deliver the original back again to the person who into his own records. shall have produced it, and a copy of such transcription, Copy of such attested by the transcribing Justice, shall be allowed in evi-transcript to be evidence. dence in all cases, where an authenticated copy of the original might be received.

SEC. 16. Be it further enacted, That all Justices of the Justices, whose Peace before whom actions may be commenced under for-commissions mer commissions, and such commissions shall expire before judgment or judgment shall be rendered thereon, or judgment being ren-satisfaction, dered, the same remains in whole or in part unsatisfied, such under a new Justices of the Peace who shall hereafter have their said commission, seasonably obcommissions seasonably renewed, and being duly qualified tained, to renagreeably to the Constitution of this State, to act under such der iddgment, and they hereby are authorized and empow-

ered to render judgment, and issue execution on all such Vol. 1. 37 289

RECOVERY OF DEBTS.

actions, commenced as aforesaid, in the same manner as if the commissions under which such actions may be commenced, were in full force.

[Approved March 15, 1821.]

CHAPTER LXXVII.

An Act providing a speedy Method of recovering Debts, and for preventing unnecessary costs attending the same.

SEC. 1. DE it enacted by the Senate and House of Representatives, in Legislature assembled, That every Justice of the take recogniz- Peace in this State shall have power within his county to ances for debts. take recognizances for the payment of debts of any person who shall come before him for that purpose : which recognizance may be in substance as follows :---

Form of recognizance.

Justices may

Know all men, that I, A. B. of , in the County of do owe unto C. D. of , the sum of , to be paid to the said C. D. on the day of ; and if I shall fail of the payment of the debt aforesaid, by the time aforesaid, I will and grant that the said debt shall be levied of my goods and chattels, lands and tenements, and in want thereof of my body. Dated at , this day of , in the year of our Witness, my hand and seal. Lord A. B. ss. Acknowledged the day and year last abovesaid.

Before E. F. Justice of the Peace.

SEC. 2. Be it further enacted, That every Justice of the To be recorded Peace taking any such recognizance, shall immediately record the same at large in a book to be kept by him for that Execution may purpose; and after the same is recorded, may deliver it to issue thereon within 3 years, the Conusee; and upon the Conusee's lodging the same with the said Justice, at any time within three years from the time when the same is payable, and requesting a writ of execution, it shall be the duty of such Justice to issue a writ of execution thereon for such sum as shall appear to be due on the same; which writ of execution shall be in substance as follows: -

State of Maine.

(SEAL.) To the Sheriff of the County of , or his depty, or either of the Constables of the town of , in said Greeting. County,

Form of execution.

Because A. B. of , in the County of , on the , in the year of our Lord , before E. F. Esq. day of one of the Justices of the Peace for the said County of acknowledged that he was indebted to C. D. of , in the in the sum of which he ought to have paid county of remains unpaid as it is said day of , and on the : We command you therefore, that of the goods, chattels or real estate of the said A. B. within your precinct, you cause to be paid and satisfied unto the said C. D. at the value Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 81 of 333

ACTS

AT THE FIRST SESSION

OF THE

FOURTEENTH GENERAL ASSEMBLY

OF THE

state of tennessee.

KNOXVILLE, TENNESSEE,

PRINTED BY HEISKELL & BROWN, FUBLIC PRINTERS TO THE STATE,

1821.

Digitized from Best Copy Available

Add. 35

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equity in this state, where any person or persons take the benemay be surrendered by his or their bail in discharge fit of prison' of themselves, it shall and may be lawful for the person or persons so surrendered to take the benefit of the prison rules of the county, under the same rules, regulations, and restrictions prescribed for the benefit of defendants arrested and in custody under a writ of capias ad satisfaciendum.

JAMES FENTRESS,

Speaker of the House of Representatives, W. HALL,

Speaker of the Senate, pro tem?

October 18, 1821.

CHAPTER XII.

In Act prescribing certain duties of Sheriffs in this state.

Sheriff to, Be it enacted by the General Assembly of the State of Tennessee, That hereafter it shall not be law- appoint not more than two ful for any sheriff within this state to appoint more deputies. No than two deputies within the county for which he Justice to be a shall have been appointed sheriff, nor shall it be law- deputy. ful for a Justice of the Peace to act as deputy sheriff during his continuance in office : Provided nothing herein shall be so construed as to apply to, or prohibit special deputations on urgent occasions, and depufations for the purpose of holding elections.

JAMES FENTRESS,

Speaker of the House of Representatives. W. HALL,

Speaker of the Senate, protem.

October 19, 1821.

17-23 12502.02563 CHAPTER XIII.

An Act to prevent the wearing of dungerous and unlawful weapons:

not

He it enacted by the General Assembly of the State carrying wear of Tennessee, That from and after the passage of pons. this s ct, each and every person so degrading himself, by carrying a dirk, sword cane, French knife, Spanish stilletto, helt or pocket pistols, either public or private, shall pay a fine of five dollars for every such offence, which may be recovered by warrant before any Justice of the Peace, in the name of the county and for its use, in which the offence may have been committed; and it shall be the duty of a Justice to issue a warrant on the application on oath of any

person applying; and that it shall be the duty of every Judge, Justice of the Peace, Sheriff, Coroner and Constable within this state to see that this act shall have its full effect : Provided nevertheless, That Exception as to travel. nothing herein contained shall affect any person that lers and the may carry a knife of any size in a conspicuous manstrop of a shot ner on the strop of a shot pouch, or any person that pouch. may be on a journey to any place out of his county or

state.

tainer.

> JAMES FENTRESS,

Speaker of the House of Representatives: W. HALL,

Speaker of the Senate, pro tensi

October 19, 1821.

CHAPTER XIV.

An Act directing the proceedings in cases of forcible entry and detainer.

SEC. 1. Bc it enacted by the General Assembly of the State of Tennessee. That no person or. persons shall enter upon or into any lands, tenements or other possessions, and detain or hold the same but where entry is given by law, and then only in a peaceable manner.

SEC. 2. Be it enacted, That if any person shall enter What shall be a forcible upon or into any lands, tenements, or other possesentry and de- sions and detain and hold the same with force or strong hand, or with weapons, or by breaking open the doors, windows or other part of a house whether any person be in it or not, or by any kind of violence whatsoever, or by threatening to kill, maim, or beat the party in possession, or by such words, circumstances or actions as have a natural tendency to ex-. cite fear or apprehension of danger, or by putting out of doors or carrying away the goods of the party in possession, or by entering peaceably, and then turning by force or frightening by threats or other circumstances of terror, the party out of possession, in such case every person so offending shall be deemed guilty of a forcibly entry and detainer, within the meaning of this act.

SEC. 3. Be it enacted, That no person who shall Whatever makes an en-lawfully or peaceably enter upon, or into any lands, try forcible, tenements, or other possessions, shall hold or keep tainer forci- the same unlawfully, and with force or strong hand, ble. or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid, and it is

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тне

REVISED STATUTES

OF THE

Commonwealth of Massachusetts,

PASSED NOVEMBER 4, 1835;

TO WHICH ARE SUBJOINED,

AN ACT IN AMENDMENT THEREOF, AND AN ACT EXPRESSLY TO REPEAL THE ACTS WHICH ARE CONSOLIDATED THEREIN,

BOTH PASSED IN FEBRUARY 1836;

AND TO WHICH ARE PREFIXED,

THE CONSTITUTIONS

OF THE

United States and of the Commonwealth of Massachusetts.

PRINTED AND PUBLISHED, BY VIRTUE OF A RESOLVE OF NOV. 3, 1835;

UNDER THE SUPERVISION AND DIRECTION OF

THERON METCALF AND HORACE MANN.



Boston: PUBLISHED BY DUTTON & WENTWORTH, STATE PRINTERS 37 Congress Street.

1836.

CHAP. 134. SECT. 1. [PART IV.

or when the amount or value thereof does not exceed twenty dollars, the same may be prosecuted for by complaint before a police court or a justice of the peace, who shall have jurisdiction thereof, concurrently with the court of common pleas and the municipal court.

• SECT. 15. The plea of benefit of clergy, and the distinction between murder and petit treason, are abolished, and the last named offence shall be prosecuted and punished as murder.

Benefit of clergy and petit treason abolished. 1784, 56 & 69.

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Of proceedings in criminal cases.

CHAPTER	134.	Of proceedings to prevent the commission of crimes.
CHAPTER	135.	Of the arrest and examination of offenders, commitment
		for trial, and taking bail.
CHAPTER	136.	Of indictments and proceedings before trial.
CHAPTER	137.	Of trials in criminal cases.
CHAPTER	138.	Of appeals, new trials, and exceptions, in criminal cases.
CHAPTER	139.	Of judgments in criminal cases, and the execution thereof.
CHAPTER	140.	Of coroners inquests.
CHAPTER	141.	Of the taxation, allowance and payment of costs in crim- inal prosecutions.
CHAPTER	142.	General provisions concerning proceedings in criminal' cases.

CHAPTER 134.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES

SECTION

- 1. Officers, authorized to keep the peace.
- 2. Complaint, how made.
- 3. Arrest.
- 4. Trial-Recognizance to keep the peace.
- 5. Party, when to be discharged.
- 6. Refusing to recognize, to be committed.
- 7. Complainant, when to pay costs.
- 8. Payment of costs in other cases.
- 9. Appeal allowed.
- 10. On appeal, witnesses to recognize.
- 11. Proceedings upon an appeal.
- 12. Recognizance, when to remain in force.

SECTION

- 13. Persons committed for not recognizing, how discharged.
- 14. Recognizances to be transmitted to the court.
- 15. " when to be required, on view of the court or magistrate.
- Persons who go armed, may be required to find surctiles for the peace, &c.
- 17. Court may remit part of penalty forfeited.
- Surety may surrender his principal, who may recognize anew.

Officers' author- SECTION 1. The justices of the supreme judicial court, the jusized to keep the tices of the court of common pleas, justices of police courts, in vacapeace.

TITLE II.]

Снар. 134. Sect. 2-9.

tion as well as in open court, and also all justices of the peace, shall have power to cause all laws, made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

SECT. 2. Whenever complaint shall be made to any such magis- Complaint, how trate, that any person has threatened to commit an offence against the made. person or property of another, the magistrate shall examine the complainant, and any witnesses who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

SECT. 3. If, upon examination, it shall appear that there is just Arrest. cause to fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer, to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

When the party complained of is brought before the Trial. **Sect.** 4. magistrate, he shall be heard in his defence, and he may be required Recognizance to enter into a recognizance, with sufficient sureties, in such sum as to keep the peace to wards all the people 4 Mass. 497. of this Commonwealth, and especially towards the person requiring $\frac{9}{2}$ Mass. 73. such security, for such term as the magistrate may order, not exceed- 1833, 63, §§ 1, ing six months, but shall not be bound over to the next court, unless & 2. he is also charged with some other offence, for which he ought to be held to answer at such court.

SECT. 5. Upon complying with the order of the magistrate, the Party, when to party complained of shall be discharged.

SECT. 6. If the person, so ordered to recognize, shall refuse or Refusing to reneglect to comply with such order, the magistrate shall commit him committed. to the county jail, house of correction, or house of industry, during 1833, 63, § 1. the period for which he was required to give security, or until he shall so recognize; stating, in the warrant, the cause of commitment, with the sum and the time for which security was required.

If, upon examination, it shall not appear that there is Complainant SECT. 7. just cause to fear that any such offence will be committed by the par- costs. ty complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt.

SECT. 8. When no order respecting the costs is made by the Payment of magistrate, they shall be allowed and paid, in the same manner as costs costs in other before justices in criminal prosecutions ; but in all cases, where a per- 1824, 123, § 2. son is required to give security for the peace, or for his good be- 1834, 151, § 4. havior, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed, until such costs are paid, or he is otherwise legally discharged.

SECT. 9. Any person aggrieved by the order of any justice of Appeal allowthe peace, or of a police court, requiring him to recognize as afore- 1833, 63, 61.

be discharged.

cognize, to be

when to pay

Add. 40

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1794, 26, § 2.

On appeal,

witnesses to

Proceedings on

recognize.

appeal.

Снар. 134. SECT. 10-18. PART IV.

said, may, on giving the security required, appeal to the court of common pleas, next to be held in the same county, or, in the city of Boston, to the municipal court.

The magistrate, from whose order an appeal is so SECT. 10. taken, shall require such witnesses, as he may think necessary to support the complaint, to recognize for their appearance at the court to which the appeal is made.

The court, before which such appeal is prosecuted, SECT. 11. may affirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum, and for such time, as the court shall think proper, and may also make such order, in relation to the costs of prosecution, as may be deemed just and reasonable.

If any party appealing shall fail to prosecute his ap-**Sect.** 12. peal, his recognizance shall remain in full force and effect, as to any when to remain breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs, which shall be ordered, by the court appealed to, to be paid by the appellant.

Any person, committed for not finding sureties, or re-Sect. 13. fusing to recognize, as required by the court or magistrate, may be how discharged. discharged by any judge or justice of the peace, on giving such security as was required.

> Every recognizance, taken pursuant to the foregoing **SECT.** 14. provisions, shall be transmitted by the magistrate to the court of common pleas for the county, or, in the city of Boston, to the municipal court, on or before the first day of the next term, and shall be there filed of record by the clerk.

> Every person who shall, in the presence of any mag-SECT. 15. istrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person, who in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, or being of good behavior, for a term not exceeding three months, and in case of refusal, may be committed, as before directed.

> SECT. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assualt or other injury, or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

Whenever, upon a suit brought on any such recog-SECT. 17. nizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

SECT. 18. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right

Persons committed for not recognizing,

Recognizance.

in force.

Recognizances to be transmitted to the court.

- when to be required on view of the court or magistrate.

Persons who go armed may be required to find sureties for the peace, &c. 1794, 26, § 2.

Court may remit part of penalty. 7 Mass. 397. 1810, 80.

Surety may surrender his

Снар. 135. Sect. 1-2. TITLE II.

to take and surrender his principal, as if he had been bail for him in principal, who a civil cause, and upon such surrender shall be discharged, and ex- may recognize empt from all liability, for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person, so surrendered, may recognize anew, with sufficient sureties, before any justice of the peace, for the residue of the term, and thereupon shall be discharged.

CHAPTER 135.

OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL, AND TAKING BAIL.

SECTION

- 1. Officers, empowered to act under this chapter.
- 2. Complaints, warrants, and summonses for witnesses.
- 3. In what counties warrants may be executed.
- 4. Prisoners, when to be brought before magistrate, on arrest, &c.
- 5. Magistrate, if he take bail, to return the recognizance to court, &c.
- 6. Officer, how to proceed if prisoner is not bailed
- 7, 8. Prisoner when to be carried to the county whence the warrant issued.
- 9. Magistrate may adjourn the examination. &c.
- 10. In case of default, magistrate to certify recognizance to C. C. Pleas.
- Proceedings, when the party fails to recognize.
- 12, 13, 14. Manner of conducting the examination.

- SECTION
- 15. Testimony may be reduced to writing.
- 16. Prisoner, when to be discharged.
- " when to be bailed, or com-17.
- mitted.
- 18. Witnesses to recognize.
- 19. Witnesses, when to recognize with surcties.
- 20. Recognizances of married women and minors.
- 21. Witnesses, refusing to recognize, to be committed.
- 22. Prisoners, by whom let to bail.
- 23. Examining magistrate may have associates.
- 24. Examinations and recognizances to be returned.
- 25. Commitments, when to be superseded, and recognizances discharged.
- 26. Orders therefor, how to be filed, and effect thereof.
- 27, 28, 29, 30. Proceedings on forfeited recognizances.

SECTION 1. For the apprehension of persons charged with of-Officers, empowered to act under this chapof common pleas, justices of any police court, in vacation as well as ter. in term time, and all justices of the peace, are authorized to issue process, to carry into effect the provisions of this chapter.

SECT. 2. Upon complaint, made to any such magistrate, that a Complaints, criminal offence has been committed, he shall examine on oath the warrants, and summonses for complainant, and any witnesses produced by him, and shall reduce witnesses. the complaint to writing, and shall cause the same to be subscribed by the complainant; and if it shall appear that any such offence has been committed, the court or justice shall issue a warrant, reciting the substance of the accusation, and requiring the officer, to whom it shall be directed, forthwith to take the person accused, and to bring him before the said court or justice, or before some other court or magis-

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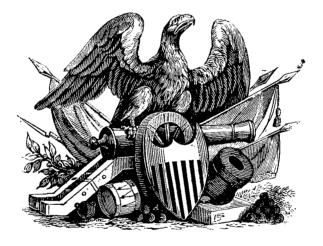
Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 89 of 333

STATUTES

OF THE

TERRITORY OF WISCONSIN,

PASSED BY THE LEGISLATIVE ASSEMBLY THEREOF, AT A SESSION COMMENCING IN NOVEMBER 1838, AND AT AN ADJOURNED SESSION COMMENCING IN JANUARY, 1839.



PUBLISHED BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY.

75189

Add. 43

ted to prison to await the decision of the supreme court; and in that case, the clerk of the court, in which the conviction was had, shall file a certified copy of the record and proceedings in the case in the supreme court, and the court shall have cognizance thereof and consider and decide the questions of law, and shall render such judgment, and award such sentence, or make such order thereon as law and justice shall require; and if a new trial is ordered, the cause shall be remanded to said district court for such new trial, but the proceedings here prescribed shall not deprive any party of his writ of error for any error or defect appearing of record.

AN ACT respecting judgments in criminal cases, and the execution thereof.

§ 1. That in any case of legal conviction where no punishment is

provided by statute, the court shall award such sentence as is accord-

ing to the degree and aggravation of the offence, not cruel or unusual,

Seotence in certain cases.

Sureties to keep the peace when a required.

nor repugnant to the constitutional rights of the party. \$ 2. Every court before whom any person shall be convicted upon an indictment for any offence not punishable with death, or by imprisonment in the state prison or county jail, may, in addition to the punishment prescribed by law, require such person to recognize with sufficient sureties, in a reasonable sum, to keep the peace or to be of good behavior, or both, for any term not exceeding two years, and

l'orfeiture of recognizance.

Sheriff to execute sentences.

Solitary imprisonment to precede hard labor.

Sentence of punishmen when executed.

to stand committed until he shall so recognize. S 3. In case of the breach of the condition of any such recognizance, the same proceedings shall be had that are by law prescribed in relation to recognizances to keep the peace.

§ 4. Whenever any person convicted of an offence shall be sentenced to pay a fine or costs, or to be imprisoned in the county jail or state prison, the clerk of the court shall, as soon as may be, make out and deliver to the sheriff of the county, or his deputy, a transcript from the minutes of the court of such conviction and sentence, duly certified by such clerk, which shall be a sufficient authority for such sheriff to execute such sentence, and he shall execute the same accordingly.

§ 5. In every case in which the punishment of imprisonment in the state prison is awarded against any convict, the form of the sentence shall be, that he be punished by confinement at hard labor; and he shall also be sentenced to solitary imprisonment for such term as the court shall direct, not exceeding twenty days at one time; and in the execution of such punishment the solitary imprisonment shall precede the punishment by hard labor unless the court shall otherwise order.

 \S 6. Whenever it shall appear to the court, at the time of passing sentence upon any convict that is punished by confinement in the state prison or county jail, that there is no jail in the county in which the offence was committed, suitable for the confinement of such convict, the court may order the sentence to be executed in any county in this territory in which there may be a jail suited to that purpose; and the expenses of supporting such convict shall be borne (if such convict was sentenced to imprisonment in the county jail,) by the county in which the offence was committed.

§7. When any person shall be convicted of any crime for which Proceedings sentence of death shall be awarded against him, the clerk of the court, tion for capita as soon as may be, shall make out and deliver to the sheriff of the county a certified copy of the whole record of the conviction and sentence, and the sheriff shall forthwith transmit the same to the governor; and the sentence of death shall not be executed upon such convict until a warrant shall be issued by the governor, under the seal of the territory, with a copy of the record thereto annexed, commanding the sheriff to cause execution to be done, and the sheriff shall thereupon cause to be executed the judgment and sentence of the law upon such convict.

§ 8. If it shall appear to the satisfaction of the governor that any 1b. when convict who is under sentence of death has become insane, the war- $\frac{convict}{sane}$ or rant for his execution may be delayed, or if such warrant has been $\frac{quick}{shild}$ issued, the execution thereof may be respited from time to time, so long as the governor shall think proper; and if any female convict who is under sentence of death shall be quick with child, the governor shall forbear to issue a warrant for her execution, or if such warrant has been issued, the execution thereof shall be respited until it shall appear to the satisfaction of the governor that such female is no longer quick with child.

§ 9. The punishment of death shall in all cases be inflicted by Sentence of hanging the convict by the neck until he be dead; and the sentence $\frac{death how}{death how}$ shall, at the time directed by the warrant, be executed at such place within said county as the sheriff shall select.

§ 10. Whenever the punishment of death shall be inflicted upon sheriff preany convict, in obedience to a warrant from the governor, the sheriff $_{\text{cution.}}^{\text{sent at exer-}}$ of the county shall be present at the execution, unless he shall be prevented by sickness or other casualty, and he may have such military guard as he may think proper; he shall return the warrant Te return with a statement under his hand of his doings therein, as soon as warrant. may be after the said execution, to the governor, and shall also file in the clerk's office of the court where the conviction was had, an attested copy of the warrant and statement aforesaid; and the clerk shall subjoin a brief abstract of such statement to the record of conviction and sentence.

AN ACT to prevent the commission of crimes.

§ 1. That the justices of the supreme court and district courts in officers auvacation, as well as in open court, and all justices of the peace, shall thorized to have power to cause all laws made for the preservation of the public peace. peace, to be kept; and in the execution of that power may require persons to give security to keep the peace, or for their good behavior or both, in the manner provided in this statute.

§ 2. Whenever complaint shall be made to any such magistrate, complaint that any person has threatened to commit an offence against the per-how made. son or property of another, the magistrate shall examine the complaint [complainant] and any witness who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

3. If, upon examination, it shall appear that there is just cause Arrest. to fear that any such offence may be committed, the magistrate shall

issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

Trial and recognizance.

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§ 4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may be required to enter into a recognizance, and with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this territory, and especially towards the person requiring such security, for such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is also charged with some offence for which he ought to be held to answer at said court.

§ 5. Upon complying with the order of the magistrate the party complained of shall be discharged.

§ 6. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

§ 7. If, upon examination, it shall not appear that there is just Complainant when to pay cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of prosecution who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

 8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace or for his good behaviour, the magistrate may further order the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

§ 9. Any person aggrieved by the order of any justice of the peace, requiring him to recognize as aforesaid, may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which said county is attached for judicial purposes.

§ 10. The magistrate from whose order an appeal is so taken. shall require such witnesses as he may think necessary to support the complaint to recognize for their appearance at the court to which the appeal is made.

§ 11. The court before which such appeal is prosecuted, may affirm the order of the justice or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution, as he may deem just and reasonable.

§ 12. If any party appealing shall fail to prosecute his appeal, his to remain in recognizance shall remain in full force and effect as to any breach of force.

When discharged.

Refusing to recognize, mmitted.

costs.

Payment fn other cases.

Appeal al-lowed.

Witness to recognize on appeal.

Proceedings on appeal.

Recognizance, when

the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

\$ 13. Any person committed for not finding sureties, or refusing Not recogto recognize as required by the court or magistrate, may be discharged. ed by any judge or justice of the peace on giving such security as was required.

§ 14. Every recognizance taken in pursuance of the foregoing Recogniprovisions shall be transmitted by the magistrate to the district court mitted to for the county on or before the first day of the next term, and shall court. be there filed of record by the clerk.

§ 15. Any person who shall, in the presence of any magistrate When rementioned in the first section of this statute, or before any court of view of record, make an affray, or threaten to kill or beat another, or to com- court ac. mit any violence or outrage against his person or property, and every person who, in the presence of such court or magistrate, shall contend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace and being of good behavior, for a term not exceeding six, months, and in case of refusal may be committed as before directed.

cted. \$ 16. If any person shall go armed with a dirk, dagger, sword, pis- $\frac{Persons go}{ing armed to}$ tol or pistols, or other offensive and dangerous weapon, without rea- give see sonable cause to fear an assault or other injury, or violence to his person, or to his family, or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.

§ 17. Whenever, upon a suit brought on any such recognizance, Part of pethe penalty thereof shall be adjudged forfeited, the court may remit ted. such portion of the penalty on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

§ 18. Any surety in a recognizance to keep the peace or for good ^{surety may} behavior or both, shall have the same authority and right to take and principal. surrender his principal as if he had been bail for him in a civil cause, and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

AN ACT making general provisions concerning crimes and punishments.

 1. That every person who shall be aiding in the commission of Accessor any offence, which shall be a felony either at common law or by any to felony bestatute now made, or which shall be hereafter made, or who shall be how punishaccessory thereto before the fact, by counselling, hiring or otherwise procuring such felony to be committed, shall be punished in the same manner as is or shall be prescribed for the punishment of the principal felon.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 94 of 333

ТНЕ

REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

United States and of the State of Maine,

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

18

APPENDIX.

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

Augusta:

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE. 1841. TITLE XII.]

SENTENCE AND EXECUTION.

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shall place the same on file with the indictment, and subjoin to the CHAP. 168. record of the sentence a brief abstract of the sheriff's return on the warrant.

CHAPTER 169.

OF PROCEEDINGS FOR PREVENTION OF CRIMES.

SECT. 1. Of the commencement of criminal | SECT. 9. When party, complained of, shall proceedings. pay costs.

- Magistrates may require sureties for the peace and good behavior.
- 3. Of the examination of the complainant.
- 4. When a warrant may issue.
- 5. In certain cases sureties required, for keeping the peace, &c. without binding to appear at any court.
- 6. Party to be discharged, on complying.
- 7. On refusal, to be committed to the county jail; but still entitled to a hearing on his appeal.
- 8. Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.

- - 10. Appeal to the next district court.
 - 11. Proceedings upon the appeal.
 - 12. Consequences, if the appellant fail to prosecute.
 - 13. Recognizance may be taken, after commitment.
 - 14. Return of such recognizance.
 - 15. When magistrate may require sureties, without a formal complaint.
 - 16. Persons going armed, without reasonable cause.
 - 17. Power of court, to remit the penalty of a recognizance.
 - 18. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.

SECTION 1. No person shall be held to answer in any court for Of the coman alleged crime or offence, other than contempt of court, unless mencement of upon an indictment by a grand jury, except in the following cases : criminal pro-

First. When a prosecution by information is expressly authorized by statute.

Second. In proceedings before a municipal or police court, or a justice of the peace.

Third. In proceedings before courts martial.

SECT. 2. The justices of the supreme judicial court, of the dis- Magistrates trict court, justices of municipal courts and police courts in vaca- may require tion, as well as in open court, and justices of the peace, in their peace and good respective counties, shall have power to cause all laws made for the behavior. preservation of the public peace to be kept; and, in the execution of that power, may require persons to give security to keep the peace, or be of the good behavior, or both, in the manner provided in this chapter.

Any such magistrate, on complaint made to him, that Of the examin-SECT. 3. any person has threatened to commit an offence against the person ation of the or property of another, shall examine the complainant on oath, and also any witnesses who are produced, and reduce the complaint to writing, and cause the complainant to subscribe the same.

SECT. 4. If there should appear to such magistrate, on an exam- When a warrant ination of the facts, that there is just cause to apprehend and fear may issue. the commission of such offence, he shall issue a warrant under his hand and seal, containing a recital of the substance of the com-

complainant.

1821, 76, § 1.

PREVENTION OF CRIMES.

[TITLE XII.

In certain cases, sureties required, for keeping the peace, &c. to appear at any court. 1821, 76, § 1. 1 Fairf. 325.

Party to be discharged, on complying 1821, 76, § 1. On refusal, to be committed to the county jail, but still entitled to a hearing on his ap-1821, 76, § 1.

Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.

When party, complained of, shall pay costs.

Appeal, to the next district court.

Proceedings upon the appeal.

Consequences if the appellant fail to prose-] cute.

Recognizance

CHAP. 169. plaint, and commanding the officer to whom the same may be directed, forthwith to arrest the person complained of, and bring him before such magistrate or court, having jurisdiction of the case.

When the person, complained of, is brought before Sect. 5. the magistrate, he may be required, after his defence has been heard, to enter into a recognizance with sufficient sureties, in such sum as without binding shall be ordered, to keep the peace towards all the people of the state, and especially towards the person requiring the security, for such term as the magistrate may order, not exceeding one year, but shall not be bound over to any court, unless he is also charged with some specific and other offence, for which he ought to be held to answer at such court.

If the person complained of shall comply with the **Sect.** 6. order of such magistrate, he shall be discharged.

SECT. 7. If the person shall refuse or neglect so to recognize, the magistrate shall commit him to the county jail during the period for which he was required to find sureties, or till he shall so recognize; and the magistrate shall state in the warrant the cause of commitment, and also the time and the sum for which security was The magistrate shall also return a copy of the warrant to required. the district court, next to be holden in the same county, and such court shall have cognizance of the case in the same manner, as if the party accused had appealed to said court.

SECT. 8. When the magistrate, on examination of the facts, shall not be satisfied, that there is just cause to fear the commission of any such offence, he shall immediately discharge the party complained of; and, if the magistrate shall judge the complaint unfounded, malicious or frivolous, he may order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and officer for their fees, as for his own debt.

When the person complained of is required to give SECT. 9. security for the peace, or for his good behavior, the court or magistrate may further order, that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise discharged.

Sect. 10. Any person, aggrieved by the order of such judge of a municipal or police court, or justice of the peace, in requiring him to recognize as aforesaid, may, on giving the security required, appeal to the next district court in the same county.

SECT. 11. When an appeal is taken from an order of such justice or court, the magistrate shall require such witnesses, as he may think necessary, to recognize for their appearance at the court appealed to; and such court may affirm the order of the judge or justice, or discharge the appellant, or require him to recognize anew with sufficient sureties, as the court may deem proper; and make such order as to the costs, as may be deemed reasonable.

SECT. 12. If the appellant shall fail to prosecute his appeal, his recognizance shall remain in full force, as to any breach of the condition, without an affirmation of the judgment or order, and stand as a security for any costs, which may be ordered by the court to be paid by the appellant.

SECT. 13. Any person committed for not finding sureties or

TITLE XIL PREVENTION OF CRIMES.

refusing to recognize, as required by the court or magistrate, may CHAP. 169. be discharged by any judge or justice of the peace, on giving such may be taken security, as was required.

SECT. 14. Every recognizance, taken pursuant to the foregoing Return of such provisions, shall be transmitted to the district court, on or before the recognizance. first day of the next ensuing term, and shall there be filed by the clerk, as of record.

SECT. 15. Whoever, in the presence of any magistrate, men- When magistioned in the second section of this chapter, or before any court of trate may re-quire sureties, record, shall make any affray or threaten to kill or beat another, or without a forcommit any violence against his person or property, or shall con- &c. tend, with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, or being of the good behavior for a term, not exceeding three months, and, in case of refusal, may be committed to prison as before directed.

SECT. 16. Any person, going armed with any dirk, dagger, Persons going sword, pistol, or other offensive and dangerous weapon, without a armed, without reasonable reasonable cause to fear an assault on himself, or any of his family cause. or property, may, on the complaint of any person having cause to 1821, 76, § 1. fear an injury or breach of the peace, be required to find sureties for keeping the peace for a term, not exceeding one year, with the right of appeal as before provided.

SECT. 17. In a suit, on such recognizance taken in a criminal Power of court, case, if a forfeiture is found or confessed, the court, on petition, penalty of a remay remit the penalty, or such part of it as they may think proper, $\frac{\text{cognizance}}{18^{21}, 50, \$ 4}$. on such terms as they may think right.

SECT. 18. Any surety in a recognizance may surrender the Sureties on reprincipal in the same manner, as if he had been his bail in a civil cognizances may surrender cause, and, on such surrender, shall be discharged from all liability their principals for any act of the principal after such surrender, which would be a bail in civil acbreach of the recognizance; and, upon such surrender, the princi-tions. pal may recognize anew with sufficient surety or sureties for the residue of the term, before any justice of the peace, and shall thereupon be discharged.

after commitment.

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CHAPTER 170.

OF THE POWER AND PROCEEDINGS OF JUSTICES OF THE PEACE IN CRIMINAL CASES.

- SECT. 1. Justices may require aid, on view, SECT. 6. Duty of justices, as to arrests, and without a warrant. examinations into treasons, felon-
 - 2. Their jurisdiction.
 - 3. When a justice shall issue his warrant.
 - 4. Examination, on trial, of the party accused.
 - 5. Of commitment or binding over to a higher court.
- ies, &c.
- 7. Trial and sentence within their jurisdiction.
- 8. Respondent may appeal; but required to recognize.
- 9. To carry up copies of the case.

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THE

REVISED STATUTES

OF THE

STATE OF MICHIGAN,

PASSED AND APPROVED MAY 18, 1846.

Printed and published in pursuance of an Act of the Legislature, approved May 19, 1846, under the superintendence of

SANFORD M. GREEN.



DETROIT: BAGG & HARMON, PRINTERS TO THE STATE.

1846.

PREVENTION OF CRIME.

TITLE XXXI. CHAPTER 162.

TITLE XXXI.

OF PROCEEDINGS IN CRIMINAL CASES.

Chapter 162. Of Proceedings to prevent the Commission of Crime.

Chapter 163. Of the Arrest and Examination of Offenders, commitment for Trial and taking Bail.

Chapter 164. Of Indictments and Proceedings before Trial.

Chapter 165. Of Trials in Criminal Cases.

Chapter 166. Of new Trials and Exceptions in Criminal Cases.

Chapter 167. Of Coroners' Inquests.

Chapter 168. Of Judgments in Criminal Cases and the Execution thereof.

Chapter 169. Of Fees of Officers and Ministers of Justice in Criminal Cases.

Chapter 170. Miscellaneous Provisions concerning Proceedings in Criminal Cases.

CHAPTER 162.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIME.

Officers authorized to keep the peace. SECTION 1. The justices of the supreme court, judges of county courts, circuit court commissioners, all mayors and recorders of cities, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, in the manner provided in this chapter.

SEC. 2. Whenever complaint shall be made in writing and on oath, to any such magistrate, that any person has threatened to commit any offence against the person or property of another, it shall be the duty of such magistrate to examine such complainant, and any witnesses who may be produced, on oath, to reduce such examination to writing, and to cause the same to be subscribed by the parties so examined.

SEC. 3. If it shall appear from such examination, that there is just reason to fear the commission of any such offence, such magistrate shall issue a warrant under his hand, directed to the sheriff or any constable of the county, reciting the substance of the complaint, and commanding him forthwith to apprehend the person so complained of, and bring him before such magistrate.

SEC. 4. When the party complained of is brought before the magistrate, he shall be heard in his defence, and he may be required to enter into a recognizance with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of

Complaint, how made.

Arrest.

Trial, recognizance. 4 Mass., 497. 8 do., 73. 2 B. & A., 278.

PREVENTION OF CRIME.

this state, and especially towards the person requiring such security, TITLE XXXI. CHAPTER 162. for such term as the magistrate may order, not exceeding one year, but shall not be bound over to the next court, unless he is also charged with some other offence, for which he ought by law to be held to answer at such court.

SEC. 5. Upon complying with the order of the magistrate, the par- Party, when discharged. ty complained of shall be discharged.

SEC. 6. If the person so ordered to recognize, shall refuse or neg- Refusing to relect to comply with such order, the magistrate shall commit him to committed. the county jail, during the period for which he was required to give security, or until he shall so recognize; stating in the warrant the cause of commitment, with the sum and the time for which such security was required.

SEC. 7. If, upon examination, it shall not appear that there is just Complainant, cause to fear that any such offence will be committed by the party com- when to pay plained of, he shall be forthwith discharged ; and if the magistrate shall costs. deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of the prosecution, who shall thereupon be answerable to the magistrate and the officer (officers) for their fees, as for his own debt.

SEC. 8. When no order respecting the costs is made by the magis- Payment of cost trate, they shall be allowed and paid in the same manner as costs be- in other cases. fore justices in criminal prosecutions; but in all cases where a person is required to give security to keep the peace, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed, until such costs are paid, or he is otherwise legally discharged.

SEC. 9. Any person aggrieved by the order of any justice of the Appeal allowed. peace, requiring him to recognize as aforesaid, may, on giving the recognizance to keep the peace required by such order, appeal to the circuit court for the same county.

SEC. 10. The justice from whose order an appeal is taken, shall witnesses torerequire such witnesses as he may think necessary to support the com- cognize. plaint, to recognize for their appearance at the court to which the appeal is made.

SEC. 11. The court before which such appeal is prosecuted, may Court may afirm affirm the order of the justice, or discharge the appellant, or may re- or discharge epquire the appellant to enter into a new recognizance, with sufficient pellant, &c. sureties, in such sum, and for such time, not exceeding one year, as the court shall think proper, and may also make such order in relation to the costs of prosecution, as may be deemed just.

SEC. 12. If any party appealing shall fail to prosecute his appeal, Recognizance. his recognizance shall remain in full force and effect, as to any breach when to of the condition, without an affirmation of the judgment or order of the justice, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

SEC. 13. Any person committed for not finding sureties, or refusing Person committo recognize, as required by the court or magistrate, may be discharg- ted ged. ed by any judge, circuit court commissioner or justice of the peace, on giving such security as was required.

SEC. 14. Every recognizance, taken pursuant to the foregoing pro-Recognizance to visions, shall be transmitted by the magistrate to the clerk of the cir- clerk of court. cuit court for the county, within twenty days after the taking thereof, and on or before the next term of such court, and shall be filed by such clerk.

when to remain

ted how dischar-

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ARREST &c. OF OFFENDERS.

TITLE XXXI. CHAPTER 163. Breach of peace

in presence of magietrate, &c.

Person going armed to find sureties for the pence.

Court may remit part of penalty, 7 Mass., 397.

Surety may surrender his prin-cipal, effect of surrender.

SEC. 15. Every person who shall, in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, for a term not exceeding six months, and in case of refusal, may be committed as before directed.

SEC. 16. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury, or violence to his person, or to his family or property, he may, on complaint of any person having reasonable cause to fear an injury or breach of the peace, be required to find sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

SEC. 17. Whenever upon a suit brought on any recognizance entered into in pursuance of this chapter, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

SEC. 18. Any surety in a recognizance to keep the peace, shall have the same authority and right to take and surrender his principal as in other criminal cases, and upon such surrender shall be discharged and exempt from all liability for any act of the principal subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient surcties, before any justice of the peace or circuit court commissioner for the residue of the term, and shall thereupon be discharged.

CHAPTER 163.

OF THE ARREST AND EXAMINATION OF OFFENDERS, COMMITMENT FOR TRIAL AND TAKING BAIL.

What officers

SECTION 1. For the apprehension of persons charged with offences, may issue pro-cess for the arrest justices of the supreme court, judges of the county courts, circiuit of offenders, &c justices of the supreme court, judges of the county courts, circiuit excepting such offences as are cognizable by justices of the peace, the court commissioners, mayors and recorders of cities, and all justices of the peace, shall have power to issue process and to carry into effect the provisions of this chapter.

Proceedings if it appear that an offence has been committed.

Complainant, &c. that a criminal offence, not cognizable by a justice of the peace, has been committed, he shall examine on oath the complainant, and any witnesses who may be produced by him. SEC. 3. If it shall appear from such examination, that any criminal

SEC. 2. Whenever complaint shall be made to any such magistrate,

offence, not cognizable by a justice of the peace, has been committed, the magistrate shall issue a warrant, directed to the sheriff or any constable of the county, reciting the substance of the accusation, and Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 102 of 333

ACTS

OF THE

GENERAL ASSEMBLY

OF

VIRGINIA,

PASSED AT THE SESSION COMMENCING DECEMBER 6, 1847, AND ENDING APRIL 5, 1848,

IN THE

SEVENTY-SECOND YEAR OF THE COMMONWEALTH.

RICHMOND:

SAMUEL SHEPHERD-PRINTER TO COMMONWEALTH.

1848.

Prevention of Crimes.

TITLE III.

OF PROCEEDINGS IN CRIMINAL CASES.

CHAF. 14. Of proceedings to prevent the commission of crimes.

- 15. Of arrest and commitment.
- 16. Of coroners' inquests.
- 17. Of bail in criminal cases.
- 18. Of examining courts.
- 19. Of grand jurics.
- 20. Of indictments, presentments and informations, and process thereon.
- 21. Of trial and its incidents.
- 22. Of exceptions, writs of error and execution of judgment.
- 23. Of taxation and allowance of costs.
- 24. Of contempts of court.
- 25. Of general provisions concerning proceedings in criminal cases.
- Of criminal proceedings against slaves, free negroes and mulattoes.

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OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

SECTION

SECTION 12. Recognizance, when to remain in

- Officers authorized to keep the peace.
 Complaint, how made.
 Arrest.
 Trial. Recognizance to keep the peace.
- 5. Party, when discharged.
- 6. Refusing to recognize, to be committed.
- 7. Complainant when to pay costs.
- 8. Payment of costs in other cases.

9. Appeal allowed.

10. On appeal, witnesses to recognize.

11. Proceedings on appeal.

force. 13. Persons committed for not recognizing, how discharged. 14. Recognizances to be transmitted 127

- to court. 15. Recognizances, when to be requir-
- ed on view of the court or magistrate.
- Persons who go arised may be required to find surctics of the peace, &c.
- 17. Persons not of good fame to give surety for good behaviour.

2. Whenever complaint shall be made to any such magistrate that Complaint how there is good cause for fear that any person intends to commit an of.^{made}. fence against the person or property of another, the magistrate shall examine the complainant and any witnesses who may be produced on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

3. If upon examination, it shall appear that there is just cause to Arrest. fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate having jurisdiction of the cause.

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Trial.

keep peace.

4. When the party complained of is brought before the magistrate. he shall be heard in his defence, and he may be required to enter into Recognizance to a recognizance, with sufficient surctics, in such sum as the magistrate shall direct, to keep the peace towards all the people of this commonwealth, and especially towards the person making the complaint, for such term as the magistrate may order, not exceeding twelve months, but shall not be bound over to the next court, unless he is also charged with some other offence, for which he ought to be held to answer at such court.

> 5. Upon complying with the order of the magistrate, the party complained of shall be discharged.

Party when dischargod.

Refusing to re-cognize, to be committed.

Defendant when discharged.

Complainant when to pay costs.

Paymont of costs in other cases.

Appeal against

On appeal, witnesses to rocognizo.

Procoedings on appeal.

Costs.

Recognizance to be valid unless appeal prosecu-

Persons commitnizing, how discharged.

Recognizances returned to court.

6. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and the time for which security was required.

7. If upon examination it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he may order the complainant to pay the costs of the prosecution, and thereupon award execution against him for the same.

8. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace, or for his good behaviour, the court or magistrate may further order that the costs of prosecution, or any part thereof, shall be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

9. Any person aggrieved by the order of any justice of the peace order to recognize requiring him to recognize as aforesaid, may, on giving the security required, appeal to the county or corporation court next to be holden for the said county or corporation.

> 10. The magistrate from whose order an appeal is taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which the appeal is made.

> 11. The court before which such appeal is prosecuted, may affirm the order of the justice, or discharge the appellant, or may require him to enter into a new recognizance, with sufficient surctics, in such sum, and for such time, as the court shall think proper; and may also make such order in relation to the costs of prosecution as may be deemed just and reasonable.

> 12. If any party appealing shall fail to prosecute his appeal, his recognizance shall remain in full force and effect, as to any breach of the condition, without any affirmation of the order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

 Any person committed for not finding securities, or refusing to ted for not recog- recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required, or by the county court, on such terms as the court may deem reasonable.

> Every recognizance taken pursuant to the foregoing provisions, shall be transmitted by the magistrate to the court of the county on or before the first day of the next term thereof, and shall be there filed of record by the clerk.

Arrest and Commitment.

15. Every person who shall, in the presence of any magistrate, Recognizances mentioned in the first section of this act, or before any court of re- required for ofcord, make an affray, or threaten to kill or beat another, or to com- sence of magin-mit any violence or outrage against his person or property, and every trate or court. person who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered without process or any other proof, to recognize for keeping the peace, or being of good behaviour, for a term not exceeding six months, and in case of refusal may be committed as before directed.

16. If any person shall go armed with any offensive or dangerous Persons armed, weapon, without reasonable cause to fear an assault or other injury, surelies, or violence to his person, or to his family or property, he may be required to find surctics for keeping the peace for a term not exceeding twelve months, with the right of appealing as before provided. Appent allowed.

17. Such persons as are not of good fame may be required to give Persons not of sufficient surety of their good behaviour for such term, not exceed- good fame to give ing twelve months, as the magistrate requiring it may order.

CHAP. XV.

OF ARREST AND COMMITMENT.

SECTION

- 1. Officers empowered to act.
- 2. Complaints, warrants and summonses.
- 3. Offence committed in another county.
- 4. In what county warrant may be executed.
- 5. Prisoner, when to be brought before magistrate on arrest.
- G. Magistrate, if he take bail, to return recognizance, &c.
- 7. Officer, how to proceed if prisoner not bailed.
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- 10. Magistrate may adjourn examination.
- 11. In case of default, recognizance to be certified.
- 12. Proceedings when party fails to recognize.
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- 19. If party entitled to examination, &c.
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- 21. If party charged be free negro, &c.
- 22. Duty of magistrate, &c.
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- 28. Prisoner by whom let to bail.
- 29. Recognizances, &c. to be returned.
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- 33. Proceedings on forfeited recogni-34. zances. 35.
- 36. Right of surety to surrender principal.
- 37. To whom to be surrendered.
- 38. When to the court.

1. For the apprehension of persons charged with offences, the Process to arrest judges of the general court, and all justices of the peace in vacation for offences, by as well as in term time, are authorized to issue process to carry into effect the provisions of this act.

2. Upon complaint made to any such magistrate that a criminal Examination on offence has been committed, he shall examine on oath the complain- complaint. ant and any witnesses produced by him, and shall reduce the complaint to writing, and cause the same to be subscribed by the complainant; and if it shall appear that any such offence has been com-

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THE

REVISED STATUTES,

OF THE

TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE

LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

PRINTED AND PUBLISHED PURSUANT TO LAW, UNDER THE SU-PERVISION OF M. S. WILKINSON.

SAINT PAUL:

JAMES M. GOODHUE, TERRITORIAL PRINTER.

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J. C. TERRY, PRINTER, MINNESOTIAN OFFICE, SAINT PAUL, MINNESOTA.

······

When person

charged to give recognizance.

PROCEEDINGS TO PREVENT CRIMES.

as are necessary to bring the case within the provisions of law, issue a warrant to bring the person so charged before the same, or some other court or magistrate within the territory, to answer such complaint as in other cases.

SEC. 4. If, upon examination of the person charged, it shall appear to the court or magistrate, that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor, he shall, if not charged with a capital crime, be required to recognize with sufficient sureties, in a reasonable sum, to appear before such court or magistrate at a future day, allowing a reasonable time to obtain the warrant of the executive, and to abide the order of the court or magistrate; and if such person shall not so recognize, he shall be committed to prison, and be there detained until such day, in like manner as if the offence charged had been committed within this territory; and if the person so recognizing shall fail to appear according to the condition of his recognizance, he shall be defaulted, and the like proceedings shall be had as in the case of other recognizances entered into before such court or magistrate; but if such person be charged with a capital crime, he shall be committed to prison, and there detained until the day so appointed for his appearance before the court or magistrate.

SEC. 5. If the person so recognized or committed, shall appear before the court or magistrate upon the day ordered, he shall be discharged unless he be demanded by some person authorized by the warrant of the executive to receive him, or unless the court or magistrate shall see cause to commit him, or to require him to recognize anew, for his appearance at some other day and if, when ordered, he shall not so recognize, he shall be committed and detained as before provided; whether the person so discharged shall be recognized, committed, or discharged, any person authorized by the warrant of the executive, may at all times, take him into custody, and the same shall be a discharge of the recognizance, if any, and shall not be deemed an escape.

SEC. 6. The complainant in such case, shall be answerable for the actual costs and charges, and for the support in prison, of any person so committed, and shall advance to the jailor one week's board, at the time of commitment, and so from week to week, so long as such person shall remain in jail, and if he fail so to do, the jailor may forthwith discharge such person from his custody.

CHAPTER 112.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

SECTION 1. What officers to cause public peace to be kept. 2. Proceedings when complaint is made to magistrate.

SECTION 3. Magistrate when to issue warrant. 4. Proceedings upon examination, before magistrate.

5. Defendant may have counsel.

When to be committed.

Forfeiture of recognizance.

When discharged.

May be delivered on warrant of executive, &c.

Complainant liable for costs, &c. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 109 of 333

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SECTION

discharged.

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court.

SECTION

- 6. Defendant when to enter into recognizance.
- 7. Defendant when to be discharged.
- 8. Defendant when to be committed.
- 9. Defendant when to be discharged.
- 10. Costs by whom paid.
- 11. Appeal when allowed.
- 12. When magistrate may require witnesses to recognize.
- 13. District court how to proceed upon such appeal.
- 14. When appellant fails to prosecute appeal, recognizance to be in force.
- punished, 19. Suil brought on recognizance.
- 20. Surely may take and surrender principal in recognizance.

15. After commitment, how defendant may be

16. Recognizance to be transmitted to district

17, When person may be ordered to recognize

18. Persons carrying offensive weapons, how

SEC. 1. The judges of the several courts of record, in vacation as well as in open court, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

SEC. 2. Whenever complaint shall be made to any such magistrate, that any person has threatened to commit an offence against the person or property of another, the magistrate shall examine the complainant and any witness who may be produced, on oath, and reduce such complaint to writing and cause the same to be subscribed by the complainant.

SEC. 3. If upon examination, it shall appear that there is just cause to fear that any such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate or some other magistrate or court, having jurisdiction of the cause.

SEC. 4. The magistrate before whom any person is brought upon charge of having made threats as aforesaid, shall as soon as may be, examine the complainant and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge, which may be deemed pertinent.

SEC. 5. After the testimony to support the prosecution, the witnesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross examination of the witnesses in support of the prosecution.

SEC. 6. If upon examination it shall appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be required to enter into a recognizance and with sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this territory, and especially towards the persons requiring such security, for such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offence for which he ought to be held to answer at said court.

SEC. 7. Upon complying with the order of the magistrate, the party complained of shall be discharged.

SEC. 8. If the person so ordered to recognize shall refuse or neglect to comply with such order, the magistrate shall commit him to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

SEC. 9. If, upon examination, it shall not appear that there is just cause to fear that any such offence will be committed by the party complained of, he shall be forthwith discharged; and if the magistrate shall

What officers to cause public peace to be kept.

Proceedings when complaint is made to magistrate.

Magistrate when to issue warrant.

Proceedings upon examination before magistrate.

Defendant may have counsel.

Defendant when to enter into recognizance.

Defendant when to be discharged.

Defendant when to be committed.

Defendant when to be discharged,

PROCEEDINGS TO PREVENT CRIME.

deem the complaint unfounded, frivolous, or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees as for his own debt.

SEC. 10. When no order respecting the costs is made by the magistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace or for his good behavior, the magistrate may further order the costs of prosecution or any part thereof to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

SEC. 11. Any person aggrieved by the order of any justice of the peace requiring him to recognize as aforesaid, may, on giving the security required, appeal to the district court next to be holden in the same county, or that county to which said county is attached for judicial purposes.

SEC. 12. The magistrate from whose order an appeal is so taken, shall require such witnesses as he may think necessary to support the complaint, to recognize for their appearance at the court to which appeal is made.

SEC. 13. The court before which such appeal is prosecuted, may affirm the order of the justice or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution as he may deem just and reasonable.

SEC. 14. If any party appealing, shall fail to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as a security for any costs which shall be ordered by the court appealed to, to be paid by the appellant.

SEC. 15. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace on giving such security as was required.

SEC. 16. Every recognizance taken in pursuance of the foregoing provision, shall be transmitted by the magistrate to the district court for the county, on or before the first day of the next term, and shall be there filed of record by the clerk.

SEC. 17. Any person who shall in the presence of any magistrate mentioned in the first section of this chapter, or before any court of record make an affray, or threaten to kill or beat another, or to commit any violence or outrage against his person or property, and every person, who, in the presence of such court or magistate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered without process or any other proof, to recognize for keeping the peace, and being of good behavior, for a term not exceeding six months, and in case of a refusal, may be committed as before directed.

SEC. 18. If any person shall go armed with a dirk, dagger, sword, pistol or pistols, or other offensive and dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his person, or to his family, or property, he may, on complaint of any other person having reasonable cause to fear an injury or breach of the peace, be required to find suretics for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.

SEC. 19. Whenever upon a suit brought on any such recognizances, the penalty thereof shall be adjudged forfeited, the court may remit such

Costs by whom paid

Appeal when allowed,

When magistrate may require witness to recognize.

District court how to proceed upon such appeal.

When appellant fails to prosecute appeal, recognisance to be in force.

After commitment, how defendant may be discharged.

Recognizance to be transmitted to district court.

When person may be ordered to recognize without warrant.

Persons carrying offensive weapons how punished.

Sult brought on recognizance,

OF ARRESTS.

portion of the penalty, on the petition of any defendant, as the circumstances of the case shall render just and reasonable.

SEC. 20. Any surety in a recognizance to keep the peace, or for Surety may take good behavior, or both, shall have the same authority and right to take and surrender prin-cipal in recogniand surrender his principal, as if he had been bail for him in a civil case, zance. and upon such surrender, shall be discharged and exempt from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered may recognize anew, with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

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CHAPTER 113.

OF ARRESTS.

SECTION.

rest.

rest.

rest.

warrant.

1. Arrest defined.

under authority.

2. Arrest how and by whom made.

6. Defendant how to be restrained.

8. Officer may use necessary force. 9. Officer may break outer door to make ar-

3. Every person must aid officer in making ar-

4. Arrest for felony or miedemcanor how made.

5. Arrest for felony or misdemeanor how made.

7. Officer must inform datendant that he acts

10. Officer may break outer door to make ar-

11. When officer may arrest person without

SECTION

12. Officer may break open door.

13. Arrest may be made at night.

14. Officer must inform person of the cause of arrest.

15. Person breaking peace to be taken before justice.

16. Offences in presence of magistrate.

17. When private person may arrest person.

15. Must inform person the cause of arrest.

19. Person making such arrest may break open

door. 20. Person arrested must be taken before magistrate.

21. Defendant may be retaken if he escape.

22. Person pursuing may break open door, &c.

SEC. 1. Arrest is the taking of a person into custody, that he may Arrest defined. be held to answer for a public offence.

SEC. 2. An arrest may be either,

1. By a peace officer under a warrant :

2. By a peace officer without a warrant :

3. By a private person.

SEC. 3. Every person must aid an officer in the execution of a war-nt, if the officer require his aid, and be present and acting in its exe-king arrest. rant, if the officer require his aid, and be present and acting in its execution.

SEC. 4. If the offence charged be a felony, the arrest may be made Arrest for felony or any day and at any time of the day or night; if it be a misdemeanon any day and at any time of the day or night; if it be a misdemeanor, the arrest cannot be made on Sunday, or at night, unless upon the direction of the magistrate indorsed upon the warrant.

SEC. 5. An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the officer.

SEC. 6. The defendant is not to be subjected to any more restraint than is necessary for his arrest and detention.

Arrest how and by whom made.

Arrest for felony or misdemeanor how made.

Defendant how to be restrained.

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THE

CODE OF ALABAMA.

PREPARED BY

JOHN J. ORMOND, ARTHUR P. BAGBY, GEORGE GOLDTHWAITE.

WITH HEAD NOTES AND INDEX BY

HENRY C. SEMPLE.

PUBLISHED IN PURSUANCE OF AN ACT OF THE GENERAL ASSEMBLY, APPROVED FEBRUARY 5, 1852.

MONTGOMERY:

PRINTED BY BRITTAN AND DE WOLF, STATE PRINTERS.

1852.

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586	PART 4.]	INDICTABLE OFFENCES.	TITLE 1.

Lotteries.

§ 3254. Any person setting up, or concerned in setting up or carrying on any lottery, without the legislative authority of this state, must, on conviction, be fined not less than one hundred, or more than two thousand dollars.

Betting with minors.

Playing

negroes.

Disturbing

public wor-

ship.

§ 3255. Any person of full age, who bets any money, or thing of value, with a minor; or allows a minor to bet at any gaming table exhibited by him, or in which he is interested or concerned, must, on conviction, be fined not less than three hundred dollars, and imprisoned not less than three months.

§ 3256. Any white person who plays at cards with any cards with slaves or free slave or free negro, must, on conviction, be fined not less than fifty dollars, and imprisoned not less than three or more than six months.

> § 3257. Any person who willfully interrupts or disturbs any assemblage of people met for religious worship, by noise, profane discourse, rude or indecent behavior, or by any other act at or near the place of worship, must, on conviction, be fined not less than twenty or more than two hundred dollars, and may be imprisoned not more than six months.

ARTICLE VI.

Of miscellaneous offences.

SEC.

- 3258. The fraudulent packing of cotton.
- 3259. Exhibiting false samples.
- 3260. Cutting or tearing bales of cotton without consent of the owner.
- 3261. Taking cotton from the bale without consent of the owner.
- 3262. Refusing to deliver cotton samples to the owner.
- 3263. Defendant may show that such samples have been destroyed, å.c
- 3264. Buying cotton taken from bale without consent of the owner.
- 3265. Factors, &c., allowing cotton to be taken from the bale and retained, &c.
- 3266. Factors appropriating cotton with intent to defraud owner. 1
- 3267. Adulteration of sugar.
- 3268. Making or issuing paper to circulate as money.
- 3269. Signing or countersigning any such paper.
- 3270. Passing or circulating any such paper.
- 3271. Passing or circulating any foreign bank bill under five dollars.
- 3272. Indictments under the preceding section.
- \$273. Carrying bowie knife, &c., or air guns concealed.

SEC.

- 3274. Or pistol, or fire-arms, except under certain circumstances.
- 3275. Indictments under the preceding section.
- 3276. Publishing any one for not fighting, &c.
- 3277. Punishment of printer or publisher for refusing to give evidence.
- 3278. Selling or delivering poisons without labels.
- 3279. Selling poisons to slaves or children.
- 3280. Selling or giving liquor to students, &c.
- 3281. Selling or giving liquor to minors after notice from parents, &с.
- 3282. Licensed retailers selling liquor to, or trading, &c., with slaves, after taking oath.
- 3283. Selling or giving liquor to slaves, except on orders in writing, &c.
- 3284. Preceding section applies to licensed retailers.
- 3285. Trading with slaves.
- 3286. On trial for trading with slaves, certain facts presumptive evidence of guilt.
- 3287. Employing slave or free negro to assist in selling spirits, &c.

SEG.

СНАР. 2.]

INDICTABLE OFFENCES.

SEC.

- 3288. Duty of magistrates in relation to laws against retailing and trading with slaves.
- 3289. Employing slave or free negro to sample cotton.
- 3290. Defendant may show in defence that he was the owner of the cotton.
- 8291. Prosecuting suits in the name of another without his consent. 3292. Refusing to obey summons by an officer to aid in arrest
- 3293. Duty of the officer to present the person so refusing.

§ 3258. Any person who fraudulently packs or bales any Frauds in cotton, on conviction, must be fined not less than fifty or packing cotmore than five hundred dollars and may be imprisoned not more than six months.

§ 3259. Any person who fraudulently exhibits any false Exhibiting sample of any cotton, or other article or commodity, by means ples. whereof any person is injured, must, on conviction, be fined not less than one hundred dollars, and may be imprisoned not more than six months.

§ 3260. Any person who willfully cuts, tears, or other- Cutting cotwise opens any bale of cotton, without the direction or con- ton bags without consent of the owner, agent, or consignee of such cotton, must, sent of ownon conviction, be fined not less than ten or more than one thousand dollars.

§ 3261. Any person who knowingly and unlawfully takes Taking cotwithout the direction or consent of the owner, agent, or con- ton from bale signee, from any bale of cotton, any part thereof, must, on conviction, be imprisoned in jail not less than six or more than twelve months.

§ 3262. Any person authorized to sample cotton, who converting with intent to defraud, converts such samples to his own use, ple to their or refuses to deliver such samples to the owner, agent, or own use. consignee, on demand, within thirty days after such samples are taken, must, on conviction, be adjudged guilty of a misdemeanor, and be punished by fine and imprisonment at the discretion of the jury.

§ 3263. In trials on indictments under the preceding sec- Defences. tion, the defendant may exonerate himself from the delivery of the sample, on demand of the owner, agent or consignee, by showing to the satisfaction of the jury that such samples have been destroyed without his agency, or that they have been stolen or taken by legal process out of his possession.

§ 3264. Any person who knowingly, and with intent to Buying cot-defraud, buys or receives any cotton taken from any bale, from bale without the direction or consent of the owner, agent, or con- without owner's consent, signee, is guilty of a misdemeanor, and must, on conviction, &c. be fined, and imprisoned at the discretion of the jury.

§ 3265. Any factor, commission merchant, consignee, or Factors, &c., agent, having the control of any cotton, who authorizes, or permitting knowingly permits any person to take from any bale of cot-taken from bale. ton any part thereof, and to retain the same to his own use. or to make any other disposition of the same, except to deliver the same to such factor, commission merchant, consignee, or agent, must, on conviction, be fined not less than fifty or more than one thousand dollars.

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588	PART	4.7
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INDICTABLE OFFENCES.

Factor an. propriating from bale.

Adulterating sugar.

Making or emitting bills for circulation.

Signing bills for circulation.

Passing such paper.

Passing bills under five dollars.

Indictment for.

Concealed weapons.

The same.

§ 3266. Any factor, commission merchant, or agent, havpropriating of cotton, who appropriates to his own use any cotton taken from any bale under his control, with intent to defraud the owner thereof, must, on conviction, be punished, as if he had feloniously stolen such cotton.

> § 3267. Any person who mixes any foreign matter or thing with sugar, so as to deteriorate the quality thereof with intent to injure or defraud, must, on conviction, be fined not less than fifty or more than two hundred dollars, and may be imprisoned not more than three months.

> § 3268. Any person, private corporation, or association, who without authority of law, makes or emits any paper to answer the purposes of money, or for general circulation, such person, and each individual of such corporation or association, on conviction, must be fined not less than twenty or more than one hundred dollars, and may be imprisoned not more than twelve months.

> § 3269. Any person in this state who signs any paper to be put in circulation as money, except under the authority of this state, or countersigns the same, must, on conviction, be fined in a sum not less than one hundred or more than five hundred dollars; and the signature of such person to any such paper must be taken as genuine, unless the fact of signing be denied on oath by the defendant.

> § 3270. Any person who passes or circulates any paper issued to answer the purposes of money, without authority of law, must, on conviction, be fined not less than twenty or more than one hundred dollars.

> § 3271. Any person who passes or circulates in this state, any bank bill of a less denomination than five dollars, not issued under the authority of this state, must, on conviction, be fined not exceeding fifty dollars.

> § 3272. An indictment under the preceding section, which charges that the defendant did pass or circulate a bank bill under the denomination of five dollars, not issued under the authority of this state, is sufficient, without describing such bank bill; and proof that such bill on its face purported to be issued by the authority of any other state, or country, or by any bank, or corporation out of this state, or by any bank or corporation known to be out of this state, is sufficient without further proof.

> § 3273. Any one who carries concealed about his person a bowie knife, or knife or instrument of the like kind or description by whatever name called, or air gun, must, on conviction, be fined not less than fifty or more than three hundred dollars.

> § 3274. Any one who carries concealed about his person a pistol, or any other description of fire arms, not being threatened with, or having good reason to apprehend an attack, or travelling, or setting out on a journey, must, on conviction, be fined not less than fifty nor more than three hundred dollars.

CHAP.	2.	INDICTABLE	OFFENCES

§ 3275. In an indictment under the preceding section, it Indictment is sufficient to charge that the defendant carried concealed for. about his person a pistol or other description of fire arms; Excuse. and the excuse must be made out by the defendant, to the satisfaction of the jury.

§ 3276. Any person, who in any newspaper, handbill, or Publishing other advertisement, written or printed, publishes or pro- another as a coward, &c. claims any person as a coward, or uses any other opprobrious or abusive language for not accepting a challenge to fight a duel, or for not fighting a duel, must, on conviction, be fined not less than two hundred or more than five hundred dollars, and imprisoned not less than six or more than twelve months.

§ 3277. The publisher or printer of any such newspaper, Printer to or handbill, or other publication, may be required to testify give eviagainst any defendant indicted under the preceding section; and refusing to give evidence, must be fined five hundred Penalty for dollars, and imprisoned until such fine is paid, and also im- refusing. prisoned until he shall testify.

§ 3278. Any person who sells and delivers any poisonous Selling poisubstance, without having the word "poison" written or labels. printed on the label attached to the vial, box or parcel in which the same is sold; or sells and delivers any tartar emetic, laudanum or morphine, without having the common name thereof, written or printed upon a label attached to the vial, bex or parcel, containing the same, must, on conviction, be fined not more than one hundred dollars.

§ 3279. Any person who sells to any slave, or free child selling poiunder ten years of age, any drug, poisonous in its nature, or children. without an order in writing from the owner or master of such slave, or the parent, guardian, or person standing in that relation to such child, designating the drug, either by name or by its effects, must, on conviction, be fined not more than two hundred dollars, and may be imprisoned not more than three months.

§ 3280. Any licensed retailer or other person, keeping fer-selling or mented, vinous or spirituous liquors for sale, who sells, gives to students, or delivers to any student of any college, or pupil of any &c. school or academy, or to any other person for the use of such student or pupil, any of such liquors, knowing the use for which it was intended, without the consent of the parent or guardian, or the person having the charge of such student or pupil, such retailer, or the person so selling, giving or delivering, must, on conviction, be fined not less than fifty or more than five hundred dollars.

§ 3281. Any licensed retailer or other person who sells, To minors. gives, or delivers to any minor any of the liquors specified in the preceding section, after notice from the parent, guardian, or person in charge of such minor, forbidding such sale, gift, or delivery, must, on conviction, be fined not less than fifty or more than five hundred dollars.

§ 3282. Any licensed retailer, who, after taking the affida- Licensed revit prescribed in section 1057, knowingly sells any vinous tailer trad-

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INDICTABLE OFFENCES.

ing with slaves.

or spirituous liquors to any slave; or knowingly sells to or purchases from any slave any article or commodity, without the permission of the master or overseer of such slave; or knowingly permits the same to be done by his partner, clerk, or any other person about his premises; or knowingly permits any gaming to be carried on on his premises, must, on conviction, be imprisoned in the penitentiary not less than two or more than five years.

Selling or giving liquor to slaves.

19 Ala., 19.

§ 3283. Any person who sells, gives, or delivers to any slave any vinous or spirituous liquor, except on an order in writing, signed by the overseer or master of such slave, specifying the quantity to be sold, given, or delivered, must, on conviction, be fined not less than fifty dollars.

§ 3284. The provisions of the above section apply to The same. licensed retailers as well as other persons.

Trading with § 3285. Any person who sells to or buys or receives from any slave, any other article or commodity of any kind or description, without the consent of the master, owner, or overseer of such slave, verbally or in writing, expressing the articles permitted to be sold to, or bought or received from such slave, first obtained, must, on conviction, be fined in not less than ten or more than two hundred dollars, and may be imprisoned not more than six months.

§ 3286. Upon the trial of indictments under the preceding

and section 3283, evidence that the slave was seen in the

vinous liquor, or merchandize of any kind, is presumptive

§ 3287. Any person keeping spirituous liquor for sale, who

§ 3288. Any justice or magistrate, whenever he has good

proves the offence, must bind him over to answer therefor at the next circuit court, and on his failing to give bond must

§ 3289. Any person who employs or knowingly permits

any slave or free person of color to sample any cotton, must,

on conviction, be fined not less than fifty or more than one

evidence of the guilt of the defendant.

twenty-five or more than fifty dollars.

Evidence on indictment.

Employing slave or free negro to draw off or sell.

Duty of magistrate in relation to laws reason to believe, or upon information on oath that any of against rethe laws of this state against retailing or trading with slaves tailing or trading with have been violated by any person, must forthwith issue a slaves. warrant of arrest against such person, and if the evidence

Permitting slave or free negro to sample cotton.

commit him.

thousand dollars. § 3290. In indictments under the preceding section, the Owner may. defendant may show in defence he was the owner of the cotton.

§ 3291. Any person who prosecutes a suit in any of the name of another person, without

night time, or on Sunday, going into a place where spirituous or vinous liquors or merchandize are sold, with an article of traffic, and coming out without the same; or that such slave was seen at such time, or on such day, immediately after coming out of such place, in possession of spirituous or

employs any slave or free person of color in drawing off or selling such liquor, must, on conviction, be fined not less than

Add. 71

Prosecuting Suits in the

снар. 2.] INDICTABLE OFFENCES.

his consent, must, on conviction, be fined not less than five other. Exceptions. hundred dollars.

§ 3292. The provisions of the preceding section do not Refusing to apply to a person having the beneficial interest using the mons of offname of the person having the legal right, in cases where he cannot bring the action in his own name.

§ 3293. Any person summoned by any sheriff, or other officer having authority, for the purpose of enabling such offi r to make an arrest, or to execute any duty devolving officer. upon him under any law in relation to public offences, who refuses obedience to such summons, must, on conviction, be fined not less than fifty or more than three hundred dollars.

§ 3294. It is the duty of the officer summoning such person to present the offender to the next grand jury, and failing so to do, he must, on conviction, be fined not less than twenty dollars.

ARTICLE VII.

Offences against slaves.

Sec.

SEC.

- 3295. Causing death of by whipping, is murder in the first degree.
- 3296. Causing death by whipping, &c., without intention to kill, murder in the second degree.
- 3297. Inflicting or allowing cruel punishment, &c., failing to provide food, raiment, attention in sickness. &c.
- 3298. Indictments under preceding section.
- 3299. Defendant entitled to a jury twothirds of whom are slave holders.
- 3300. Assaults by any other person than the master.

§ 3295. Any person who with malice aforethought causes Death of a the death of a slave, by cruel whipping or beating, or by any slave by whipping,&c. inhuman treatment, or by the use of any weapon in its nature calculated to produce death, is guilty of murder in the first degree.

§ 3296. Any owner, overseer, or other person having the Without in. right to correct any slave, who causes the death of such slave tention to by cruel whipping or beating, or by any other cruel or inhuman treatment, or by the use of any instrument in its nature calculated to produce death, though without any intention to kill, is guilty of murder in the second degree, and may be guilty of murder in the first degree.

§ 3297. Any master, or other person standing towards the Cruel punslave in that relation, who inflicts, or allows another to inflict ishments; not feeding on him any cruel punishment, or fails to provide him with a or clothing, sufficiency of healthy food, or necessary clothing, or to provide for him properly in sickness or old age, or treats him in any other way with inhumanity, on conviction thereof must be fined not less than twenty-five or more than one thousand dollars.

§ 3298. In indictments under the preceding section, it is Indictments. sufficient to charge that the defendant did inflict on a slave

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REVISED STATUTES

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THE STATE OF DELAWARE

TO THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FIFTY-TWO, INCLUSIVE:

TO WHICH ARE ADDED, THE

CONSTITUTIONS OF THE UNITED STATES AND OF THIS STATE:

THE DECLARATION OF INDEPENDENCE:

AND

AN APPENDIX;

Se, Se.

PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.

DOVER, DEL. PRINTED BY SAMUEL KIMMEY.

1852.

LAWS OF THE

TITLE FIFTEENTH.

Of Justices of the Peace.

- CHAPTER 97. General powers, duties and jurisdiction of justices in criminal cases.
 - 98 Jurisdiction in bastardy cases.
 - 99. Justices' jurisdiction in civil cases of debt.
 - 100. Justices' jurisdiction in trespass cases.
 - 101. Justices' jurisdiction in cases of forcible entry and detainer; and of holding over.

CHAPTER 97.

GENERAL POWERS, DUTIES AND JURISDICTION OF JUSTICES IN CRIMINAL CASES.

- SEC. 1. Number in the several counties.
 - Power to issue process.
 To keep records. Adjournments.
 To issue subpoents.

 - To administer oaths.
 To punish contempts.
 To arrest without warrant. To commit or bind to appear. Form of commitment.
 - Form of commitment.
 Form of binding to KEEP THE PEACE.
 8. Power to punish assaults and batteries.
 Form of binding to ANSWER CHAROE.
 Binding witnesses to appear.
 7. To permit parties to settle cases of assault and battery.
 10. Not to receive fine or costs.
 To put it in charge of a constable.
 11. To certify fines to the auditor. Penalty.
 12. Power to pump and the parties of the safe.

 - 12. Power to BIND OVER FOR THREATS, 13. To cause arrests of peace breakers, &c.,

 - 14. To fine drunkards and swearers. 15. To punish those who resist authority. 16. Mode of proceeding in criminal cases.

 - 17. After arrest. 18. The examination.

 - 19. The commitment or binding to appear.
 - **Binding** witnesses 20. To deliver recognizances to clerk of the peace. Fee.

- SEC. 21. To indorse the names of witnesses. 22. To arrest persons complained against. 23. Warrant may be executed in any county.
 - 24. Bail for appearance; how taken; by whom.

 - Winn. Commitment in default of bail. 25. How discharged from prison on bail. 30. Capital cases; when bail may be taken 37. Rail in other cases; how determined. 88. How taken by sheriff. &c.
 - 29. SEARCH WARRANTS, when and how to be issued. Complaint must be in writing.
 - Warrant; how directed. When it may be executed at night. 30. Power of justice to try certain offences

 - Power of justice to try certain offences by slaves.
 Power of two justices to try slaves. Order on master to pay resilution, &c Bervice of notice on master; verification.
 Power to punish Sabbath breaking.
 Duty of representatives of a deceased justice to deliver records; penalty.
 Duty of justice to give transcripts, copies, &c.; penalty.
 Originals may be required by the court.
 Duty to attend elections; penalty.

Number.

2003 Number.

- New Castle.

Kent. Sugger

SEC. 1. The number of justices of the peace now allowed by the constitution and laws, shall, two-thirds of each house of the legislature concurring, continue to be in the several counties, as follows: in New Castle county twenty, of whom one shall reside in Red Lion hundred, within one mile of Delaware City, one in the town of St. Georges, and one in Christiana hundred; in Kent county eighteen; and in Sussex county twenty, one of whom shall reside within two miles of Cannon's Ferry.

General powers and duties.

2004 May issue process. Forms.

SEC. 2. Justices of the peace may issue all writs, warrants and process proper to carry into effect the powers granted to them; and when no form is prescribed by statute, they shall frame one in con-

STATE OF DELAWARE.

formity with the law, in substance; and, when substantially right, such process shall not be invalid for any defect in form. All sheriffs, deputy-sheriffs, coroners and constables are required duly to serve all legal writs, warrants and process to them directed by any justice of the peace.

SEC. 3. Each justice of the peace shall keep a record of all his goods Records. judicial proceedings in criminal as well as civil cases.

9006 He shall have power to adjourn cases on trial before him, taking Adjourn. security for the appearance of the party complained against. 9007

SEC. 4. He may issue summonses for witnesses in all cases pending subpoents. before himself, and in all civil cases pending before any magistrates, referees, arbitrators, or other persons authorized to examine witnesses.

SEC. 5. He may administer oaths in all cases where an oath is Oaths. required by law.

SEC. 6. Every justice of the peace may punish such disorderly Power to conduct as shall interrupt any judicial proceedings before him, or punish conbefore referees appointed by him, or which shall be a contempt of tempts. his authority, by fine not exceeding ten dollars, or by imprisonment in the jail of the county not exceeding ten days.

SEC. 7. Every justice of the peace may, as a conservator of the Power to ar. peace, upon view of any affray, riot, assault, or battery, within his rest without county, without any warrant in writing command the assistance of any sheriff, deputy-sheriff, coroner, or constable, and of all other persons present, for suppressing the same, and arresting all who are concerned therein, and may commit or bind them to surety of the peace and for their appearance at the proper court.

A commitment may be in this form :-

9011 Commit ment.

- County, ss. The State of Delaware: To A. B., constable, and to the keeper of the jail of said county: this is to command you the said constable forthwith to convey and deliver into the custody of the keeper of said jail the body of C. D. charged, before E. F. a justice of the peace for said county, on oath by G. H. with (here state the offence), and you the said keeper of the jail are hereby required to receive the said C. D. into your custody in said jail, and him there safely keep until he be thence delivered by due course of law.

J. P.

Binding to keep the peace and for appearance at court may be in 9013 this form:

Binding To KEEP TŘE PEACE.

- County, ss. State of Delaware. BE IT REMEMBERED, that ----- hundred, and R.S. and T. W., of --C. D., of ------ hundred, in said county, personally appeared before E. F., a justice of the peace for said county, and acknowledged to ore the State of Delaware the sum of — dollars, to be levied on their goods and chattels, lands and tenements respectively, for the use of the said State: UPON con-DITION, that if the above bound C. D. be and appear before the next Court of General Sessions of the Peace and Jail Delivery, to be held

LAWS OF THE

at ------, for the county oforesaid, there to answer such matters as shall be objected against him by G. H., and shall in the mean time keep the peace and be of good behavior towards all the people of this State, and especially towards the said G. H., and shall not depart the court without leave thereof, then this recognizance to be void, otherwise to be in full force and virtue.

Taken, signed and acknowledged before E. F., a justice of the peace for said county, the <u>day of</u> <u>A. D.</u>, 18<u>.</u>.

2013 Power to punish assaults and batteries. SEC. 8. Every justice of the peace may punish by fine, not exceeding ten dollars, all assaults and batteries, and other breaches of the peace punishable by any law of the State, when the offence is not of a high or aggravated nature: *provided*, that the defendant shall, in writing, submit to his decision: and provided also, that after hearing, he shall consider that the case ought not to be submitted to a higher jurisdiction; otherwise he shall commit, or bind, the defendant for his appearance at the proper court to answer the charge, and shall also bind the witnesses for their appearance and may require surety of them, if necessary. He may also punish, by such fine, any offence against an authorized ordinance of a city, or town.

2014 Binding to ANSWER CHARGE.

Binding for appearance to answer may be thus:—

- county, ss. The State of Delaware. BE IT REMEMBERED, that C. D., of ----- hundred, and R. S. and T. W., of ----- hundred, in said county, personally appeared before E. F., a justice of the peace for said county, and acknowledged to owe the State of Delaware the sum of ----- dollars, to be levied on their goods and chattels, lands and tenements respectively for the use of the said State: UPON CONDITION, that if the above bound C. D., be and appear before the next Court of General Sessions of the Peace and Jail Delivery, to be held at -----, for the county aforesaid, there to answer such matters and things as shall be objected ugainst him, and particularly touching a charge (here state the offence charged) said to have been committed by the said C. D., at ---- hundred, in said county, on - day of -----, and shall not depart the court without the --leave thereof; then this recognizance to be void, otherwise to be in full force and virtue.

Taken, signed and acknowledged before E. F., a justice of the peace for said county, the <u>day</u> of <u>A</u>. D., 18—.

2015 Binding a witness to appear. Binding a witness for appearance may be in the same form, substituting for the words "there to answer such matters," &c., down to "and shall not depart the court," the words "as a witness for the State." A recognizance, when taken by a justice of the peace, or a judge out of court, shall be signed by the parties bound.

SEC. 9. In every case of assault and battery the justice may permit the parties to settle the matter; and either discontinue the proceedings or annul any recognizance, on payment of costs.

SEC. 10. He shall, in no case, receive a fine, or costs, imposed by him; but upon imposing any fine, he shall charge a constable present with the defendant, and enter the constable's name on his docket,

2016 Parties may settle assaults and batteries.

2017 Not to receive fines.

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and if the fine and costs be not paid, the constable shall convey said defendant to jail, for which a copy of the judgment shall be a sufficient warrant.

SEC. 11. Every justice of the peace shall transmit to the auditor To cerufy of accounts, by mail, on the first Tuesday of April and October in fines to aueach year, a duly certified list of the cases in which any fine, or forfeiture, has been imposed by him before that time; stating the party, the fine, and the name and place of residence of the constable chargeable. Any neglect of this duty shall be deemed a misdemeanor, and shall be punished by fine not exceeding one hundred dollars; Penalty. and the court shall, on conviction of such justice, transmit a copy of the record to the general assembly.

SEC. 12. Wheever shall threaten to kill, or wound, another, or to injure him in person, or estate, shall, on proof of such threats, be-bind over fore a justice of the peace, either by the oath of the party threat-for THELITS ened, or otherwise, and on affidavit, by the said party, that he believes, from such threatening, he is in danger to be hurt in body, or estate, be bound to surety of the peace, and for his appearance at the next Court of General Sessions for the county.

SEC. 13. Any justice of the peace may also cause to be arrested ²⁰²⁰ and bind to surety of the peace all affrayers, rioters, breakers and rests. disturbers of the peace, and all who go armed offensively to the terror of the people, or are otherwise disorderly and dangerous.

SEC. 14. He may also cause to be arrested any drunken person, Drunkards: or any person who, in his hearing, shall profanely swear by the name swearers. of God, Christ Jesus, or the Holy Spirit; and such person, being thereof convicted by view of the justice, or other proof, shall be fined by him fifty cents for every such profane oath, and fifty cents for every such offence of being drunk.

SEC. 15. If any person, arrested by warrant. or order, of any To punish court of justice, magistrate, or justice of the peace, shall use abusive, those who railing, or threatening speeches against such court, magistrate, or theories aujustice, or shall resist, or assault, any person executing, or aiding in the execution of any such warrant, or order, he shall be fined by such court, magistrate, or justice, any sum not exceeding fifteen dollars.

SEC. 16. When complaint is made in due form to a justice, alleging that an offence has been committed, the justice shall carefully ings in crnexamine the complainant on oath, or affirmation, and if he considers complaint. there is probable ground for the accusation, he shall issue his warrant.

A warrant of arrest may be in this form:

9024 Warrant of arrest

----- County, ss. The State of Delaware, To any constable of said county, greeting :

Whereas G. H. of _____ huth upon oath (or affirmation) before me. a justice of the peace of said county declared that on the _____ day of _____ at _____ (state the offence charged) and that he halh just cause to suspect and doth suspect C. U. . hundred, of committing the said offence: You are therefore thereby commanded to take the said 13

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C. D. and bring him before me, or some other justice of the peace of the county, forthwith, to answer said charge.

$$\{\underbrace{L \ s}_{L \ s}\}$$
 Witness the hand and seal of the said justice, the ------
 \downarrow day of ----- A. D. 18-.

2025 How di-rected. 9026 Proceeding on arrest.

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In case of emergency, the warrant may be directed to the sheriff, or coroner, or to any person the justice may name.

SEC. 17. Upon the arrest of any person so charged, the justice, before whom he is brought in the county where the offence was committed, shall try the case so far as to determine whether the defendant ought to be discharged, or bound for his appearance at court, or held to answer finally before the justice; in which last case, the justice shall proceed to hear fully and to determine the case. But if the matter be not properly cognizable before the justice for final decision, he shall commit, or bind the party for his appearance at the court having cognizance of the case.

SEC. 18. He shall examine the party accused, taking his voluntary declarations, without threats, or promises, and shall also exdeclarations amine the witnesses in the presence of the accused.

If the offence is a felony, he shall reduce the examination of the to be in wri- accused to writing, and read it to him, and offer it for his signature. The justice shall sign it.

> He shall also reduce to writing the testimony of each witness, if material, read it to him in the presence of the accused, sign it, and require the witness to sign it. In case of the death of the witness, it shall be evidence on the trial.

> SEC. 19. If he considers there is probable ground for the accusation, he shall, in case of a capital crime, commit the accused for trial, and in any other case bind him, with sufficient surety, for his appearance at the next Court of General Sessions of the Peace and Jail Delivery for the county where the offence is alleged to have been committed; and, if he do not give such surety, shall commit him for trial. But when the accused is carried before a justice in another county than that wherein the warrant was issued, he shall be held to surety for his appearance, of course.

> He shall also bind material witnesses for their appearance, without surety, unless he believes the witness will not appear, and that the loss of his testimony ought not to be risked; in which case, he may require surety and may commit the witness if it be not given.

> Such binding of the accused, and of the witnesses, shall be by recognizance, as provided in section 8.

> SEC. 20. Each justice of the peace shall deliver every recognizance, examination and deposition, by him, taken, touching any offence, to the clerk of the peace of his county ten days before the next Court of General Sessions, if the court do not sit sooner; and if so, then at the session of the court. For this service, he shall receive one dollar from the county if the service be rendered ten days before the court.

SEC. 21. He shall indorse on the recognizance the names of the vitnesses to be indersed material witnesses, and the clerk shall issue subpoenas for their, ap-

9027 Examination. Voluntary 9098 In felonies ting.

2020 Testimony in writing.

2030 Commitment; or binding to appear.

2031 Guding the witnesses.

2003 [2014, &c.]

2033 To deliver recognizau-C65, &C.

Fee.

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pearance on the first day of the court, or otherwise as the attorney general may direct.

SEC. 22. Every justice shall cause to be arrested, on proper com- Duty to arplaint, all persons found within his county charged with any offence ; rest persons and all persons who, after committing any offence in such county, against. shall escape out of the same.

SEC. 23. A warrant of arrest, issued by a justice in one county. Warrant, may be executed in any county of the State; and the constable, or where exeofficer, having it in hand, may command aid as in his own county; cuted. hat he shall, upon request, carry the defendant before some justice of the county, where he is arrested, to be bailed, if he offer sufficient bail and the offence is bailable; otherwise he shall convey him from the county in execution of his warrant.

SEC. 24. In criminal cases, bail for the appearance of the accused, except when taken by the sheriff, or officer to whom process is pearance. directed, and security for the appearance of a witness, shall be given how taken. by recognizance. Each judge of the Superior Court, and every jus- By whom. tice of the peace shall have authority to take such recognizance; and when so taken out of court, the recognizance shall be signed by the recognizors. When a person is committed for want of bail, or commitsecurity, the sum required shall be set down on the commitment.

SEC. 25. A person, so committed, shall be discharged upon giving gold discussion for the second seco such person to be brought before him for that purpose.

SEC. 26. A capital offence shall not be bailable; but the Court Capital 2039 of General Sessions of the Peace and Jail Delivery, when in session, cases. or any judge thereof in vacation, may admit to bail a person accused of such offence before indictment found, if, upon full inquiry, it when bail appears that there is good ground to doubt the truth of the accusa- taken. tion. On such inquiry, the justice, or officer who committed the accused, shall be summoned, and care shall be taken to hear the proper witnesses.

SEC. 27. When a person arrested by virtue of process issued upon 00.10 an indictment, or presentment, except for a capital crime, and ex- Bail in other cept process returnable forthwith, offers sufficient bail, it shall be taken, and the person discharged. The court awarding the process, or any judge thereof, or the attorney general, may determine the How detersum in which bail shall be taken, and set it down on the process; or if no sum be so determined, the officer issuing the process shall set down what sum he deems reasonable for bail.

SEC. 28. Bail shall be taken by the sheriff, or officer to whom the Bout How taken process is directed, by a joint and several bond executed, by the ac-by sheriff. cused and his bail, to the State, in the sum set down for bail upon the process, with condition, in substance, that if the accused shall appear in the court, mentioned in the process, at the place and time of the return thereof, to answer as expressed therein, and shall not depart the court without leave, the said bond shall be void. Bond so taken, shall be returned with the process, and, if default be made, it shall be recorded thereon in the same manner as in the case of a recognizance.

LAWS OF THE

2042 Search warand how to be issued.

2043

Complaint

in writing.

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SEC. 29. Any justice of the peace, or other magistrate authorized rants, when to issue warrants in criminal cases, may, within the limits of his jurisdiction, issue his warrant to search any house, or place, for property stolen, or concealed, or for forged, or counterfeited coins, bank bills, or other writings, or for any instrument, or materials, for making the same, and in other cases and for persons when such search is authorized by law, in the manner prescribed by this section and not otherwise, namely:

The application, or complaint, shall be in writing, signed by the complainant and verified by his oath, or affirmation. It shall designate the house, or place, to be searched, and the owner, or occupant thereof (if any), and shall describe the things, or persons sought, as particularly as may be, and shall substantially allege the offence committed by, or in relation to such person, or thing, or the . cause for which said search is made, and that the complainant has probable cause to suspect, and does suspect that the same is concealed in the house, or place, designated.

The warrant may be directed to any proper officer, or to any other person by name, for service; it shall recite the essential facts alleged in the complaint, and may be made returnable before the magistrate, or justice, issuing it, or before any other magistrate, or justice, before whom it shall also direct to be brought the person, or thing, searched for, if found, and the person in whose custody, or possession, the same may be found, to be dealt with according to law.

A search warrant shall not authorize the person executing it to search any dwelling-house in the night time, unless the magistrate, or justice, shall be satisfied that it is necessary in order to prevent the escape, or removal, of the person, or things, to be searched for; and then the authority shall be expressly given in the warrant.

SEC. 30. Justices of the peace shall severally have jurisdiction to try and punish any slave who shall join, or be wilfully present at any riot, rout, or unlawful assembly, or who shall commit an assault and battery on any person, or who shall, without the special permission of his master, go armed with any dangerous weapon. In every case of conviction under this section, the justice shall give judgment against the master for the costs of the prosecution, and may issue execution thereon as upon a judgment for debt.

SEC. 31. Any two justices of the peace for the county shall have two justices jurisdiction to try and punish any slave for the offence of stealing, taking and carrying away any goods, chattels effects, bank note, money, bill, promissory note, check, order, bond, or written contract for the payment of money, or delivery of goods, or of receiving, or concealing, any such stolen property knowing it to be stolen, or taken by robbery.

> The justices, on conviction of such slave, shall assess the value of the property, so stolen or concealed, unless it shall have been restored, and tax the costs; and shall make an order that the master pay the same, and shall commit the slave until payment, or sale, as provided in chapter 80.

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How directed.

2046 Power to try offences by SLAVES.

9045 When it

may be exe cuted at

night.

Judgment tor costs.

2047 Power of to try offences by SLAVES.

2048 Order on master to pay costs, &c.

[1577.]

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They shall indorse on any process for the arrest of a slave under Service on this section, an order that the constable shall serve a copy of such master. process on the master as provided in respect to an original sum-[2066] mons.

The trial shall not proceed, without the appearance of the master, To be veriuntil the return of the service of such copy is duly verified.

SEC. 32. Justices of the peace shall severally have jurisdiction of 2051 the several offences mentioned in section 4, of chapter 131, being [2003, ac.] violations of the Sabbath day; and may proceed therein upon their own view, or on other competent evidence.

SEC. 33. Upon the death of a justice, or expiration of his term of Duty of exoffice, and the appointment of another, it shall be the duty of such ecutors of a justice in justice, or his executors, or administrators, to deliver all his dockets r and records, within three months, to his successor in office, if ap-his records. pointed within that time; and if not, then with one of the nearest justices of the same county. The neglect of this duty shall be a misdemeanor punishable by fine of fifty dollars; and the Superior Penalty. Court may name the justice to whom the delivery shall be made, and enforce an order for such delivery by fine and imprisonment.

SEC. 34. It is the duty of a justice of the peace, upon request 2053 Duty of just and payment, or tender, of the legal fee, to make and certify, un-tice to give der his hand and seal, a true transcript of all the docket entries TRINSCRIPT. in any cause before him, or upon any record in his possession, or if specially required, a full and true copy of all the records, entries, or full process and papers in or touching such cause; and such transcript, or copy, shall be received in evidence in any court.

Upon an appeal, a transcript shall be sufficient, unless a full copy on appeals. be specially requested. Upon a certiorari, the justice shall make a on certiora full copy of the entire record and proceedings.

If any justice of the peace shall, upon such request and payment, Penalties. or tender, of the lawful fees, refuse or neglect to perform the duty above required, or shall falsely certify any such transcript, or full copy, or shall use any fraud, falsehood, or deceit, in making the same, he shall be deemed guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars, and shall be liable to the party aggrieved in double damages.

The Superior Court may, in a proper case, supported by affidavit, Originals require the production of the original record.

may be re-

SEC. 35. Every justice of the peace shall attend, at the place of quired. 3057 election in his hundred, on the day of every general election, or Duty to atspecial election, from the opening to the closing of the poll, and tions. shall take care that the peace shall be kept, and that the election shall not be interrupted, or disturbed.

If any justice shall refuse, or wilfully neglect, to perform this 2053 duty, or to obey the lawful commands of the inspector of such elec- Penalty. tion, he shall be deemed guilty of a misdemeanor and shall be fined one hundred dollars.

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THE

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STATUTES

OREGON,

OF

ENACTED AND CONTINUED IN FORCE BY THE

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LEGISLATIVE ASSEMBLY,

AT THE SESSION COMMENCING

5th December, 1853.

OREGON

ASAHEL BUSH, PUBLIC PRINTER.

1854.

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PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

CHAP. 16.

CHAPTER XVI.

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

SEC. 1. Certain officers conservators of the public peaco.

- 2. Proceedings when complaint is made to magistrate.
- 3. Magistrate, when to issue warrant.
- 4. Proceedings on examination before magistrate.
- 5. Privilege of defendant.
- 6. Recognizance, when required.
- 7. Defendant, when to be committed,
- Bischarge of defendant; complainant, when to pay costs.
 In other cases, costs, how and when paid.
- 10. Appeal, when allowed.
- 11. When magistrate may require witnesses to recognize.
- 12. Proceedings on appeal by district court.
- 13. Consequence of appellant failing to prosecute appeal.
- 14. After commitment, defendant may be discharged on giving security:
 - 15. Recognizance to be transmitted to district court.
 - 16. When person may be ordered to recognize without warrant.
 - 17. Armed persons, when required to find sureties.
 - 18. Suit on recognizance.
- 19. Surety may surrender principal.

Keeping the peace.

SEC. 1. The judges of the several courts of record, in vacation as well as in open court, and all justices of the peace, shall have power to cause all laws made for the preservation of the public peace, to be kept, and in the execution of that power, may require persons to give security to keep the peace, or for their good behavior, or both, in the manner provided in this chapter.

When sure-

SEC. 2. Whenever complaint shall be made to any such magis-Wen. 181; the person or property of another, the magistrate shall examine the 23 do. 639. complainant, and any witness who may be produced on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant.

Warrant to issue.

SEC. 3. If, upon examination, it shall appear that there is just cause to fear that such offence may be committed, the magistrate shall issue a warrant under his hand, reciting the substance of the complaint, and requiring the officer to whom it may be directed, forthwith to apprehend the person complained of, and bring him before such magistrate, or some other magistrate or court having jurisdiction of the cause.

Examination

SEC. 4. The magistrate before whom any person is brought upon charge of having made threats as aforesaid, shall, as soon as may be, examine the complainant, and the witnesses to support the prosecution, on oath, in the presence of the party charged, in relation to any matters connected with such charge, which may be deemed pertinent.

SEC. 5. After the testimony to support the prosecution, the wit-Privilege of defendant. nesses for the prisoner, if he have any, shall be sworn and examined, and he may be assisted by counsel in such examination, and also in the cross-examination of the witnesses in support of the prosecution.

Recognizwhen ance required.

SEC. 6. If, upon examination, it shall appear that there is just cause to fear that any such offence will be committed by the party

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

complained of, he shall be required to enter into recognizance with CHAP. 16. sufficient sureties, in such sum as the magistrate shall direct, to keep the peace towards all the people of this territory, and especially towards the person requiring such security, for such term as the magistrate shall order, not exceeding six months; but he shall not be ordered to recognize for his appearance at the district court, unless he is charged with some offence for which he ought to be held to answer at said court,

SEC. 7. If the person so ordered to recognize, shall refuse or ne. When to be glect to comply with such order, the magistrate shall commit him 23 Wen. 639. to the county jail during the period for which he was required to give security, or until he shall so recognize, stating in the warrant the cause of commitment, with the sum and time for which security was required.

SEC. 8. If, upon examination, it shall not appear that there is Complainant just cause to fear that any such offence will be committed by the when to pay party complained of, he shall be forthwith discharged; and if the magistrate shall deem the complaint unfounded, frivolous or malicious, he shall order the complainant to pay the costs of prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt.

SEC. 9. When no order respecting the costs is made by the ma- Costs. gistrate, they shall be allowed and paid in the same manner as costs before justices in criminal prosecutions; but in all cases where a person is required to give security for the peace, or for his good behavior, the magistrate may further order the costs of prosecution, or any part thereof, to be paid by such person, who shall stand committed until such costs are paid, or he is otherwise legally discharged.

SEC. 10. Any person aggrieved by the order of any justice of the Appeal. peace, requiring him to recognize as aforesaid, may, within ten days after the decision of the justice, on giving the security required, appeal to the district court, next to be holden in the same county, or that county to which said county is attached for judicial purposes.

SEC. 11. The magistrate, from whose order an appeal is to be Witnesses taken, shall require such witnesses as he may deem necessary to cognize. support the complaint, to recognize for their appearance at the court to which appeal is made.

SEC. 12. The court before which such appeal is prosecuted, may Power of apaffirm the order of the justice, or discharge the appellant, or may require the appellant to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court shall think proper, and may also make such order in relation to the costs of prosecution, as it may deem just and reasonable.

SEC. 13. If any party appealing, shall fail to prosecute his appeal, Failing his recognizance shall remain in full force and effect, as to any appeal. breach of the condition, without an affirmation of the judgment or order of the magistrate, and shall also stand as security for any cost which shall be ordered by the court appealed to, to be paid by the appellant.

SEC. 14. Any person committed for notfinding sureties, or refus- Discharge of ing to recognise as required by the court or magistrate, may be dis- matted.

pellate court

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ARRESTS.

SEC. 15. Every recognizance taken in pursuance of the fore-

<u>сплр. 17.</u> charged by any judge or justice of the peace, on giving such secu-

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rity as was required. Recognizantrans- going provisions, shall be transmitted by the magistrate to the dis-mitted. trict court for the county, on or before the first day of the next

term, and shall be there filed of record by the clerk. Order to re-SEC. 16. Any person, who shall, in the presence of any magis-out warrant. trate mentioned in the first section of this chapter, or before any court of record, make an affray, or threaten to kill, or beat another, or to commit any violence or outrage against his person or property, and every person, who, in the presence of such court or magistrate, shall contend with hot and angry words, to the disturbance of the peace, may be ordered, without process or any other proof, to recognize for keeping the peace, and being of good behavior for a term not exceeding six months, and in case of a refusal, may be committed as before directed.

Armed per-sons, when SEC. 17. If any person shall go armed with a dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without reasonable required to find sureties. cause to fear an assault, injury, or other violence to his person, or to his family or property, he may, on complaint of any other person, having reasonable cause to fear an injury, or breach of the peace, be required to find sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided.

Suit on recognizance.

Surcty may surrender principal.

SEC. 18. Whenever on a suit brought on any such recognizance, the penalty thereof shall be adjudged forfeited, the court may remit such portion of the penalty on the petition of any defendant,

as the circumstances of the case shall render just and reasonable. SEC. 19. Any surety in a recognizance to keep the peace, or for good behavior, or both, shall have the same authority and right to take and surrender his principal, as if he had been bail for him in a civil case, and upon such surrender, shall be discharged and exempted from all liability for any act of the principal, subsequent to such surrender, which would be a breach of the condition of the recognizance; and the person so surrendered, may recognize anew with sufficient sureties, before any justice of the peace for the residue of the term, and thereupon shall be discharged.

CHAPTER XVII.

ARRESTS.

SEC. 1. Arrest defined.

2. Arrest, how and by whom made.

3. Every person must aid officer in making arrest, if required.

4. Arrest for felony and misdemeanor, when may be made.

5. As to what constitutes arrest.

6. Officer may pursue fugitive into other counties.

7. When an officer or private person may arrest without warrant.

8. Arrest, how made in such case.

9. Escape and capture of prisoner.

Arrest.

SEC. 1. Arrest is the taking a person into custody, that he may be held to answer for a public offence.

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LAWS

OF THE

TERRITORY OF NEW MEXICO.

PASSED BY THE LEGISLATIVE ASSEMBLY,

Session of 1859-60.

SANTA FÉ, N. M.: O. P. HOVEY, PUBLIC PRINTER. 1860.

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LAWS OF NEW MEXICO.

SEC. 9. That in the trial of all causes under the provisions of this act, each party shall have the right to challenge peremptorily three jurors and no more.

SEC. 10. When, from any cause whatever, the panel shall not be completed, or the jurors are not present, it shall be the duty of the sheriff, by order of the court, to complete said panel by summoning such members.

SEC. 11. That all laws or parts of laws in conflict herewith are hereby repealed, and this act shall be in force from and after its passage.

[Translation.]

An Act prohibiting the carrying of Weapons, concealed or otherwise.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. 'That, from and after the passage of this act, it shall be unlawful for any person to carry concealed weapons on their persons, of any class of pistols whatever, bowie knife (cuchillo de cinto), Arkansas toothpick, Spanish dagger, slung-shot, or any other deadly weapon, of whatever class or description they may be, no matter by what name they may be known or called, under the penalties and punishment which shall hereinafter be described.

SEC. 2. Be it further enacted: That if any person shall carry about his person, either concealed or otherwise, any deadly weapon of the class and description mentioned in the preceding section, the person or persons who shall so offend, on conviction, which shall be by indictment in the district court, shall be fined in any sum not less than fifty dollars, nor more than one hundred dollars, at the discretion of the court trying the cause, on the first conviction under this act; and for the second conviction, the party convicted shall be imprisoned in the county jail for a term of not less than three months, nor for more than one year, also at the discretion of the court trying the cause.

First conviction fine.

Carrying weapons prohibited.

Second conviction. imprisonment.

Challenges.

Panel how completed.

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LEYES DE NUEVO MÉJICO.

son dispuestos antes. En los condados de San Miguel, Rio Arriba, y Bernalillo, el primer lúnes de Marzo y Setiembre, y continuará una semana si los negocios no están dispuestos ántes. En los condados de Santa Ana, Socorro, y Doña Ana, el primer lúnes de Mayo, Setiembre y Noviembre, y continuará una semana si los negocios no están dispuestos ántes.

SEC. 9. Que en el juicio de todas las causas bajo las provisiones de este acto, cada una de las partes tendrán derecho de desechar perentoriamente tres jurados y no mas.

SEC. 10. Cuando, por cualquiera causa que sea, un jurado Lista, como se no está completo, ó no están presentes, será el deber del algua- completa. cil mayor, por orden de la corte, de llenar dicho jurado citando tales miembros.

SEC. 11. Que todas las leyes, 6 partes de leyes, en conflicto [con esto,] son por este abrogadas, y este acto tendrá efecto desde y despues de su pasaje.

Aprobado Febrero 2 de 1860.

Un Acto prohibiendo el porte de Armas ocultas ó de otra manera.

Decrétese por la Asamblea Legislativa del Territorio de Nuevo Méjico:

SECCION 1º. Que desde y despues del pasaje de este acto no Porte de armas será legal para que ninguna persona porte armas sobre sus per- prohibido. sonas, ninguna pistola de cualesquiera clase que sea, ni bowie knife (cuchillo de cinto) Arkansas toothpick, daga española, huracana, 6 cualesquiera otra arma mortífera de cualesquiera clase 6 descripcion que sea, no importa el nombre que tuviere con que fuere conocida ó llamada, bajo las penas y castigos que sean en este acto despues descritas.

SEC. 2. Decrétese ademas: Que si cualesquiera persona Primera conportare sobre su persona, ya sea oculta ó de otra manera, cualesquiera arma mortífera de la clase y descripcion mencionada en la seccion anterior, la persona ó personas que así ofendan, sobre conviccion, la cual será por querella legal en la corte de distrito, será multada en cualesquiera suma que no baje de cincuenta pesos, ni pase de cien pesos, á la discrecion de la corte

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viccion, multa.

LAWS OF NEW MEXICO.

Penalty for discharging or drawing weapons.

SEC. 3. Be it further enacted: That if any person shall discharge or draw any deadly weapon, of the class or description set forth in the first section of this act, in any baile or fandango, or in any other public assembly whatever, the person who shall so offend, on conviction thereof, which shall be by indictment in the district court, shall be fined in any sum not less than one hundred dollars, nor more than three hundred, at the discretion of the court trying the cause, or imprisoned in the county jail for a term not less than three months nor more than one year.

SEC. 4. Be it further enacted: That if any person in any baile or fandango, or in any public assembly of whatever class or description it may be, shall fire off or discharge any firearm of the class mentioned in the first section of this act, or shall cut or wound any person with any description of deadly weapon mentioned in the first section of this act, in any baile or fandango, or in any other public assembly, and any death shall result from said cut or wound so given, the person who shall so wound or cut, on conviction, shall be considered guilty of murder in the first degree, and shall suffer the penalty of death in the said first degree.

SEC. 5. Be it further enacted: That it shall be the duty of the sheriffs, their deputies, or constables, to arrest and take all persons who shall be found with deadly weapons of the class and description mentioned in the first section of this act, and present them to some justice of the peace, or other authority, to be examined; and it shall also be the duty of the judges of the district courts to cause, at the first term to be held in each county, the sheriffs and their deputies to take an oath that they will truly and faithfully comply with the provisions of this act, and that they will arrest at all times every person who shall violate any of the provisions of this act.

SEC. 6. Be it further enacted : That none of the provisions of this act shall be applied to the sheriffs, their deputies, or constables, in the execution of any process of the courts, or to conductors of the mail, or to persons when actually on trips from one town to another in this Territory; provided, that nothing in this act shall be so construed as to permit the conductors of mails, or travellers, to carry any deadly weapons, as mentioned

Penalty for cutting or wounding in assemblies.

In case of death, to be decmed murder

Duty of sheriffs and constables to arrest.

Sheriffs and constables to take oath.

Officers excused.

Travellers excused.

LEYES DE NUEVO MÉJICO.

que conozca la causa en la primera conviccion bajo esta ley; y por la segunda conviccion, la parte convicta será encarcelada en la cárcel del condado por un término que no baje de tres viccion, encarmeses ni pase de un año, tambien á la discrecion de la corte celarmiento. que conozca en la causa.

SEC. 3. Decrétese ademas: Que si cualesquiera persona Disparando disparare 6 sacare cualquier arma mortifera, de la clase 6 descripcion citada en la primera seccion de este acto, en cualesquiera baile 6 fandango, 6 en cualesquiera otra reunion pública, de la clase que sea, la persona que así ofenda, sobre conviccion de lo mismo, la causa será por querella legal en la corte de distrito, será multada en una suma que no baje de cien pesos, ni pase de trescientos, á la discrecion de la corte que conozca en la causa, ó será encarcelada en la cárcel del condado por un término que no baje de tres meses, ni pase de un año.

SEC. 4. Decrétese ademas: Que si cualesquiera persona en Hiriendo en realgun baile ó fandango, ó en otra concurrencia pública de la uniones públiclase y descripcion que sea, disparare 6 descargare alguna arma de fuego de la clase mencionada en la seccion primera de este acto, ó que cortare ó hiriere á alguna persona con cualesquiera descripcion de armas mortiferas mencionadas en la primera seccion de este acto, en algun baile ó fandango, ú otra concurrencia pública, y resultare alguna muerte de la tal herida ó cortada así dada, la persona que así hiriere ó cortare, sobre conviecion, será considerada culpada de muerte en el primer Muerte en prigrado, y sufrirá la pena de muerte en dicho primer grado.

SEC. 5. Decrétese ademas : Que será el deber de los algua- Deberes de los ciles mayores, sus diputados, 6 condestables, de arrestar y alguaciles, y ofensores de tomar toda persona que sea hallada con armas mortíferas, de dar fianzas. la clase y descripcion mencionadas en la primera seccion de este acto, y presentar lasá algun juez de paz, ú otra autoridad, para su examinacion ; y tambien será el deber de los jueces de distrito de causar, en la primera corte que sea tenida en cada condado, que los alguaciles mayores y sus diputados presten juramento que ellos bien y fielmente cumplirán con las provisiones de este acto, y arrestarán en todo tiempo á todas las personas que violaren cualesquiera de las provisiones de este acto.

SEC. 6. Decrétese ademas : Que ninguno de los provisos de Viejeros, &a., este acto serán aplicables al alguacil mayor, sus diputados, ó

Segunda con-

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armas, pena de.

mer grado.

esceptuados.

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LAWS OF NEW MEXICO.

in the first section of this act, on their persons, after they shall have arrived at the town or settlement.

SEC. 7. Be it further enacted : That it shall be the duty of the several judges of the district court to give this act specially in their charges to the grand juries at each term of the court; and further, it shall be the duty of the grand juries, at each term of the court, to make a special report whether there has been any violation of the provisions of this act in their counties since the last term of the court.

SEC. 8. That all laws or parts of laws in conflict with this act are hereby repealed, and this act shall be in force and take effect from and after its passage.

SEC. 9. That the Secretary of the Territory of New Mexico be required to have this law published in the Santa Fé Gazette, as soon as possible, for six successive weeks, for the information of the people.

[Translation.]

An Act regulating Mercantile Copartnerships.

Be it enacted by the Legislative Assembly of the Territory of New Mexico:

SECTION 1. That any two or more persons in this Territory may, and when they shall think proper, bind themselves mutually, for a certain time and under certain conditions, to do and follow at the same time various negotiations on their own common account and risk, or at that of each one of the partners respectively, as well in the losses as in the profits that may arise from said copartnership.

SEC. 2. The copartners or associates shall act in good faith, placing punctually in the concern the capital or services as stipulated, under the penalty of indemnifying the others for the damages which may arise.

SEC. 3. The contract of copartnership should be made before any court of record, or the clerk thereof, of the several counties by means of an indenture, authorized by any court of record or the clerk thereof, which shall contain the chris-

Repealing clause.

Judges to give this act in

charge.

To be published

Who may enter into.

Good faith to be observed.

Articles what to contain and before whom made.

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THE CODE

OF THE

STATE OF GEORGIA.

PREPARED BY

R. H. CLARK, T. R. R. COBB AND D. IRWIN.

ATLANTA, GEORGIA: PUBLISHED BY JOHN H. SEALS. CRUSADER BOOK AND JOB OFFICE 1861.

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856	PT. 4.—TIT. 1.—PENAL CODE.	

Division 8.-Crimes and Offences against the Public Justice.

an accessory after the fact, and being convicted thereof, shall be punished by imprisonment and labor in the penitentiary for any time not less than one year nor more than four years.

NINTH DIVISION.

OFFENCES AGAINST THE PUBLIC PEACE AND TRANQUILITY.

SECTION.

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4399.	Unlawful assemblies.
4400.	Riot.
4401.	Affrays.
4402.	Duelling, challenging.
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4404.	Duelling, fighting.
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SECTION.
4407. Libel.
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4410. Forcible entry.
4411. Forcible detainer.
4412. Punishment.
4413. Carrying deadly weapons.
4414. Other offences.

Unlawful as-

Riot.

§4399. SEC. I. If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse upon being commanded to do so by a Judge, Justice, Sheriff, Constable, Coroner, or other peace officer, such persons so offending shall be guilty of a misdemeanor, and, on-conviction, shall be punished by fine or imprisonment in the common jail, or both, at the discretion of the court.

§4400. SEC. II. If any two or more persons, either with or without a common cause of quarrel, do an unlawful act of violence, or any other act in a violent and tumultuous manner, such persons so offending shall be guilty of a riot, and, on conviction, shall be punished by fine or imprisonment in the common jail, or both, at the discretion of the court; but if the circumstances attending the riot shall be of an atrocious or aggravated nature, the offenders may be imprisoned at labor in the penitentiary for any time not less than one year nor longer than three years.

Affrays,

§4401. SEC. III. An affray is the fighting of two or more persons in some public place, to the terror of the citizens and disturbance of the public tranquility. Persons so offending shall be indicted, and, on conviction, shall be punished by fine or imprisonment in the common jail, or both, at the discretion of the court; and it shall be considered a great aggravation of this offence, if any contempt or disobedience of the Magistrate, or other peace officer commanding the peace, shall be proved.

Ducking.

§4402. SEC. IV. If any person shall deliberately challenge, by word or writing, the person of another, to fight with sword, Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 140 of 333

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Division 9Offe		

pistol, or other deadly weapon, or if any person, so challenged, shall accept the said challenge, in either case, such person so giving, or sending, or accepting any such challenge shall, on conviction, be punished by a fine not less than five hundred dollars, and be imprisoned in the common jail of the county for any time not exceeding six months. Or, if the jury should so recommend, such person shall, in addition to the fine herein imposed, be punished by imprisonment and labor in the penitentiary for any time not less than one year, nor longer than two years.

§ 4403. SEC. V. If any person shall, knowingly and willfully, ^{Seconds} carry and deliver any written or printed challenge, or verbally ^{ishment} deliver any message or challenge to another, to fight with sword, pistol, or other deadly weapon, or shall consent to be a second in any such duel or combat, such person so offending shall, on conviction, be punished in the same manner as is prescribed in the preceding section.

§4404. SEC. VI. If any person shall be engaged in the act of Act of fighting, a midde fighting a duel with sword, pistol, or other deadly weapon, either meanor. as principal or second, such person shall be guilty of a high misdemeanor, and, on conviction, shall be punished by imprisonment and labor in the penitentiary for any time not less than four years, nor longer than eight years; *Provided, nevertheless*, that If death enif death should ensue from such duel, then all the parties, both ^{sues}. principals and seconds, shall be guilty of murder, and suffer the punishment of death.

§4405. SEC. VII. If any Justice, or other public officer bound ^{Officers} knowing and to preserve the public peace, shall have knowledge of an inten-not preventing duels. tion in any person or persons to fight with any deadly weapon, and shall not use and exert his official authority to arrest the parties, and prevent the duel, by binding over the parties concerned to keep the peace towards each other, such Judge, Justice, or other peace officer so offending shall, on conviction, be dismissed from office.

§4406. SEC. VIII. If any person or persons shall, in any proclaiming newspaper, or handbill, written or printed, publish or proclaim dea, in print, any other person or persons as a coward or cowards, or use any other opprobious and abusive language for not accepting a challenge, or fighting a duel, such person or persons so offending shall, on conviction, be punished by a fine not exceeding five hundred dollars, and imprisonment in the common jail of the county not exceeding sixty days, at the discretion of the court. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 141 of 333

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PT. 4.-TIT. 1.-PENAL CODE.

Division 9.-Offences against the Public Peace and Tranquility.

Libeldefined §4407. SEC. IX. A libel is a malicious defamation, expressed either by printing, or writing, or signs, pictures or the like, tending to blacken the memory of one who is dead, or the honesty, virtue, integrity, or reputation of one who is alive, and thereby expose him or her to public hatred, contempt, or ridicule. Every person convicted of this offence, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment in the common jail of the county for any time not exceeding one year, at the discretion of the court.

Printer, a witness.

Refusing to testify.

§4408. SEC. X. In all prosecutions under the two preceding sections of this division, the printer or publisher of a newspaper, handbill, or other publication containing the offensive or criminal matter, shall be a competent witness; and if such printer or publisher shall refuse to testify in the cause, or to give up the real name of the author or person authorizing and causing the publication, so that he may be indicted, then such printer or publisher shall be deemed and considered the author himself, and be indicted and punished as such; and may, moreover, be punished for a contempt of the court, as any other witness refusing to testify.

The truth in evidence.

§4409. SEC. XI. In all cases of indictment for a libel, or for slander, the person prosecuted shall be allowed to give the truth in evidence.

n. §4410. SEC. XII. Forcible entry is the violently taking possession of lands and tenements with menaces, force, and arms, and without authority of law.

de- §4411. SEC. XIII. Forcible detainer is the violently keeping possession of lands and tenements with menaces, force, and arms, and without authority of law.

\$4412. SEC. XIV. Any person who shall be guilty of a forcible entry, or a forcible detainer, or both, may be indicted, and, on conviction, shall be punished by fine or imprisonment in the common jail of the county, or both, at the discretion of the court; and the court before whom the conviction takes place, shall cause restitution of possession of the premises to be made to the party aggrieved; *Provided*, *always*, that if the party forcibly detaining lands and tenements or those under whom he claims, shall have been in peaceable possession of the same for the space of three years or more, immediately preceding the filing of the complaint, such person or party shall not be subject to the penalties of this section, nor shall restitution of possession

Forcible entry.

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Forcible detainer.

Punishment of forcible entry or detainer.

Unless 3 years possession.

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Division 9.---Offences against the Public Peace and Tranquility.

be made; And provided, also, that the only questions to be sub-Title not exmitted to and determined by the jury in trials for forcible entry, or forcible detainer, shall be the possession and the force, without regard to the merits of the title on either side.

§4413. SEC. XV. Any person having or carrying about his Convenied, person, unless in an open manner and fully exposed to view, any deadly weapistol, (except horseman's pistols,) dirk, sword in a cane, spear, bowie-knife, or any other kind of knives, manufactured and sold for the purpose of offence and defence, shall be guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, at the discretion of the court.

§ 4414. SEC. XVI. All other offences against the public peace, ^{Other offen-offences} not provided for in this Code, shall be prosecuted and indicted ^{lic peace.} as heretofore, and the punishment, in every case, shall be by fine or imprisonment in the common jail of the county, or both, at the discretion of the court.

TENTH DIVISION.

OFFENCES AGAINST THE PUBLIC MORALITY, HEALTH, POLICE AND DECENCY.

Section.	SECTION.
4415. Bigamy.	4435. Vagrants.
4416. Punishment on married person.	4436. Common rogues.
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4431. Unwholesome provisions.	4451. Violating Sabbath.
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4434. Violating quarantine.	4454. Att'y or Sol'r-duty in such case.

§4415. SEC. 1. Polygamy, or bigamy, shall consist in know-polygamy ingly having a plurality of husbands, or wives, at the same time.

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A DIGEST

OF THE

LAWS OF PENNSYLVANIA,

FROM THE

YEAR ONE THOUSAND SEVEN HUNDRED

TO THE

TWEN FY-FIRST DAY OF MAY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-ONE.

ORIGINALLY COMPILED BY JOHN PURDON, ESQ.

NINTH EDITION.

Revised, with Marginal References; Foot Notes to the Judicial Decisions; Analytical Contents; a Digested Syllabus of each Title; and a New, Full and Exhaustive Index.

BY

FREDERICK C. BRIGHTLY, ESQ., AUTHOR OF "EQUITY JURISPRUDENCE;" "UNITED STATES DIOEST," ETG.

PHILADELPHIA: KAY & BROTHER, 19 SOUTH SIXTH STREET, LAW BOOKSELLERS. PUBLISHERS & IMPORTERS.

1862.

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Erimes.-Eriminal Brocedure.

Acts of as-embly to be to be done by any act or acts of assembly of this commonwealth, the directions of the strictly pure said not shall be strictly numerical and no nearly shall be indirected said acts shall be strictly pursued; and no penalty shall be inflicted, or anything done agreeably to the provisions of the common law in such cases, further than shall be necessary for carrying such act or acts into effect.(a)

Meaning of general terms.

193. Wherever anything is forbidden or directed by the provisions of this code, by using the general terms, any one, any person, the person, every person and such person, or the relative pronoun he, referring to such general term, the same prohibition or direction, if the contrary be not expressed, is extended to more persons than one, and to females as well as males doing or omitting the same act.(b)

Criminal Procedure.

A. PROCEEDINGS TO DETECT THE COMMISSION OF CRIMES.

A. FROMENTATO AND DETECT THE COMMINSION OF CRIMES.
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 Escapes into another county.
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owne

16. Manner of laying property of counties, cities, townships,

Manner of laying property of counties, cities, townships,
 Manner of laying property of counties, cities, townships,
 Torms of indictment in cases of forging, stealing and
 mbessiling, or cheating by faise pretences.
 Totent to defraud particular persons need not be alleged
 proven in cases of forging, uttering or faise pretences.
 Toticate to defraud particular persons need not be alleged
 proven in cases of forging, uttering or faise pretences.
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 which the injury was inflicted need not be specified.
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nges. 41. How tales may be awarded and juries summoned. 42. Of juries de medietate lingure. 43. Of the place of trial of arcessories before the fact. 45. Of the place of trial of accessories after the Act. 45. Of the place of trial of accessories after the Act. 40. Of felonious striking or poisoning in one county, and death another in another

47. Of felonious striking or poisoning in the state, and death out of the state.

41. Of iterations striking or porsoning in the state, and design out of the state.
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62. Witnessee entitied to restitution to be competent.
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66. Witnessee in forgeries.
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61. Proceedings after affirmance or reversal of judgment.

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 72. Executions upon sentences of resiltution.
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75. Sentences of separate or solitary confinement of less than 75. Sentences of separate or southery commences of sense takes one year, and simple imprisonment. 76. Executions in capital cases. 77. Limitation of prosecutions. 78. Fines to be decreed to be paid to the state for the use of

the county.

A. PROCEEDINGS TO DETECT THE COMMISSION OF CRIMES.

1. The judges of the supreme court, of the court of over and terminer and jail Warrants of delivery, of the courts of quarter sessions, or any of them, shall and may direct their writs and precepts to the sheriffs and coroners of the several counties within this comarrest, &c. monwealth, when need shall be, to take persons indicted for felonies, or other offences, before them, who may dwell, remove or be received into another county; and it shall Subpœnas. and may be lawful to and for the said judges, or any of them, to issue subpornas into any county of the commonwealth, for summoning and bringing any person to give evidence in any matter or cause before them, or any of them, and to compel obedience to such writs, precepts or subpoenas, by attachment or otherwise, and under such pains and

193. 1bid. § 184.

192. Act 31 March 1560, | 183. P. L. 426.

system by the 13th section of the act of 22d April 1794, 3 Sm. 190; it will size be found in the punishments provided by the act of 23d April 1829, 10 Sm. 430. Report on the Penal Code 38.

(a) This section is taken from the 13th section of the act of first March 1806, 4 Sm. 332. Report on the Penal Code 38. See

6 S. & R. 289. 11 S. & R. 345. Bright, R. 69. 13 S. & R. 426, 1 R. 457. 5 R. 64. 1 Ash. 40. 7 Am. L. R. 620. (b) This section explains the meanings of general terms which have been used for the sake of brevity. Report on the Penal Code 39.

1. Act 31 March 1660, § 1. P. L. 429.

Eriminal Brocedure.

penalties as other writs or subpoenas are or ought by law to be granted and awarded; and that it shall be lawful for said judges, or any of them, if they see fit to direct such writ, precept, summons, subpoona or attachments, to be executed by the sheriff of the county in which the same is awarded, which said writ, precept, summers or subporna, shall be the sufficient warrant of such sheriff for executing the same unroughout this commonwealth, as fully and effectually as if directed to, and executed by the sheriff of the proper county where issued: Provided, That the reasonable expenses of executing Expense such process, when issued on behalf of the commonwealth, shall be paid out of the funds of the county where issued; and the expenses of removing any person charged with having committed an offence in one county into another county, or of transporting any person charged with having committed any offence in this state from another state into this state for trial, or for conveying any person, after conviction, to the penitentiary, shall be paid out of the treasury of the county where the offence is charged to have been committed.(a)

2. Where any person charged with having committed any felony, (b) in any city or Escapes into county of this commonweath, shall go or escape into any other county thereof, it shall another and may be lawful for the president, or any judge of the court of common pleas in the courty. county where the said person may be found, to issue his warrant, authorizing and requiring the sheriff of the said county, to take the said person and conduct him to the proper county, where the said felony is alleged to have been committed, the expenses of which shall be paid to the said sheriff by the county to which the said person is conducted.(c)

3. In case any person against whom a warrant may be issued by any judge or Backing waralderman of any city, or justice of the peace of any county in this commonwealth, for rants. any offence there committed, shall escape, go into, reside or be in any other city or county out of the jurisdiction of the judge, alderman, justice or justices of the city or county granting such warrant as aforesaid, it shall and may be lawful for, and it is hereby declared to be the duty of any alderman, justice or justices of the city or county where such person shall escape, go into, reside or bc, upon proof being made, upon oath or affirmation, of the handwriting of the judge, alderman, justice or justices granting such warrant, to indorse his or their name or names on such warrant, which shall be sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, to execute the same in such other city or county, out of the jurisdiction of the alderman, justice or justices, granting such warrant as aforesaid, and to apprehend and carry such offender before the alderman, justice or justices who indorsed such warrant, or some other alderman, justice or justices of such other city and county where such warrant was indorsed. And in case the offence Bail. for which such offender shall be so apprehended, shall be bailable in law by an alder-man or justice of the peace, and such offender shall be willing and ready to give bail for his appearance at the next court of general jail delivery or quarter sessions, to be held in and for the city and county where the offence was committed, such alderman, justice or justices shall and may take such bail for his appearance, in the same manner as the alderman or justice of the peace of the proper city or county might have done; and the said alderman, justice or justices of the peace of such other city or county so taking bail, shall deliver or transmit such recognisance and other proceeding to the clerk of the court of general jail delivery or quarter sessions, where such offender is required to appear by virtue of such recognisance, and such recognisance and other proceedings shall be as good and effectual in law as if the same had been entered into, taken or acknowledged in the proper county where the offence was committed, and the same proceedings shall be had therein. And in case the offence for which such offender shall be apprehended in Removal. any other city or county, shall not be bailable in law by an alderman or justice of the peace, or such offender shall not give bail for his appearance at the proper court having cognisance of his crime, to the satisfaction of the alderman or justice before whom he shall be brought, then the constable or other person so apprehending such offender, shall carry and convey him before one of the aldermen or justices of the peace of the proper city or county where such offence was committed, there to be dealt with according to law.(d)

4. No action of trespass, or false imprisonment, or information, or indictment, Magistrates shall be brought, sued, commenced, exhibited or prosecuted by any person, against the backing such alderman, justice or justices, who shall indorse such warrant, for or by reason of his or be indemuttheir indorsing the same, but such person shall be at liberty to bring or prosecute his or fied. their action or suit against the alderman or justice who originally granted the warrant.(e)

5. When any person shall	be accused before	a magistrate, upon	oath or affirma	Disposition
2. Aot 31 March 1660, § 2. P. L. 429.	3. Ibid. § 3.	4. Ibid. § 4.	5. 161d. § 5.	of property

(a) This section is composed of the 8th section of the act of 22d May 1722. 1 Sm. 138; of the 14th section of the act of 23d September 1791, 3 Sm. 43; and of the 2d section of the act of 25th April 1846. P. L. 406. It is not proposed to repeal all the 8th section of the act of 1722, because part of it equally applies to civil as well as criminal proceedings. Report on the 10 constrained with section the act of 1722, because part of it equally applies to civil as well as criminal proceedings. Report on the 20 constrained with section the act of 1722, because part of it equally applies to civil as well as criminal proceedings. Report on the 20 constrained with section represented in an unsuccessful attempt to arrest a fugitive from justice, who has taken refuge in another state. 8 C. 540. (b) This does not extend to misdemennors; a fugitive charged with backing committed a misdemennors; a fugitive charged with backing committed a misdemennors. 224 May 1722. 1 Sm. 138; of the 14th section of the act of 23d. Grant 218.
Reptember 1791, 3 Sm. 43; and of the 2d section of the act of 25th April 1846. P. L. 406. It is not proposed to report all the of April 1877, 4 Sm. 393. Report on the Penal Code 39.
Sth section of the act of 1722, hecause part of it equally applies to civil as well as oriminal proceedings. Report on the Penal Penal and indexed by a justice of another county, charging a misde Code 39. The county is not liable for the expenses incurred in meanor to have been committed in the county whence the warsant issued, will not justify the detention of the offed rin the jail of the county whence the warsant was indexed. Grant 218.
(b) This does not extend to misdemennor; a fugitive charged with having committed a misdemeanor in another eventy can
April 1827, 9 Sm. 424. Report on the Penal Code 39.

only be arrested under the provisions of the succeeding section. Grant 218.

session of any other person or persons, for his, her or their use, and there is probable cause, supported by oath or affirmation, to suspect that other goods, which may be dis-covered on such search, are stolen, it shall and may be lawful for the said magistrate to direct the said goods to be seized, and to secure the same in his own custody, unless the person in whose possession the same were found shall give sufficient surely to produce the same at the time of his or her trial. And the said magistrate shall forthwith cause

an inventory to be taken of the said goods, and shall file the same with the clerk of that court in which the accused person is intended to be prosecuted, and shall give public

notice in the newspapers, or otherwise by advertising the same in three or more public places in the city or county where the offence is charged to have been committed, before the time of trial, noting in such advertisement the said inventory, the person charged

months, such goods shall be delivered to the party accused, and he, she or they shall be discharged, and the county be liable to the costs of prosecution ; but if he be convicted of larceny only, and, after restitution made to the owner and the sentence of the court being fully complied with, shall claim a right in the residue of the said goods, and no other shall appear or claim the said goods, or any part of them, then it shall be lawful. notwithstanding the claim of the said party accused, to detain such goods for the term of nine months, to the end that all persons having any claim thereto may have ful. opportunity to come, and to the satisfaction of the court, prove their property in them ; on which proof the said owner or owners, respectively, shall receive the said goods, or the value thereof, if from their perishable nature it shall have been found necessary to make sale thereof, upon paying the reasonable charges incurred by the securing the said goods and establishing their property in the same ; but if no such claim shall be brought and duly supported, then the person so convicted shall be entitled to the remainder of the said goods, or the value thereof, in case the same shall have been sold agreeably to

the commissioners of the county, who shall indorse a receipt therefor on the original inventory, register the said inventory in a book, and also cause the same to be publicly advertised, giving notice to all persons elaiming the said goods to prove their property therein to the said commissioners; and unless such proof shall be made within three months from the date of such advertisement, the said goods shall be publicly sold, and the net moneys arising from such sale shall be paid into the county treasury for the use

of the commonwealth: Provided always, That if any claimant shall appear within one

year, and prove his or her property in the said goods to the satisfaction of the commis-

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Eriminal Brocedure.

supposed to tion, of the crime of burglary, robbery or larceny, and the said magistrate shall have be stolen, issued his warrant to apprehend such person or persons, or to search for such goods as possesion of have been described, on oath or affirmation, to have been stolen goods, if any shall be ons accused, found in the custody or possession of such person or persons,) or in the custody or pos-

Inventory.

Notice.

Restitution. and time of trial. And if, on such trial, the accused party shall be acquitted, and no other claimant shall appear or suit be commenced, then, at the expiration of three

the original inventory. But if, upon an attainder of burglary or robbery, the court shall, after due inquiry, be of opinion that the said goods were not the property of such burglar When to be delivered to county comor robber, they shall be delivered, together with a certified copy of the said inventory, to missioners.

Disposition of proceeds.

Surety of the Desce.

Bail

sioners, or in the case of dispute, shall obtain the verdict of a jury in favor of such claim, the said claimant shall be entitled to recover, and receive from the said commissioners or treasurer, the net amount of the moneys paid as aforesaid into the hands of the said commissioners, or by them paid into the treasury of this commonwealth.(a)6. If any person shall threaten the person of another to wound, kill or destroy him or to do him any harm in person or estate, (b) and the person threatened shall appear before a justice of the pence, and attest, on oath or affirmation, that he believes that by such threatening he is in danger of being hurt in body or estate, such person so threatening as aforesaid, shall be bound over, with one sufficient surety, to appear at the next sessions, (c) according to law, and in the meantime to be of his good behavior, and keep the peace toward all citizens of this commonwealth.(d) If any person, not being an officer on duty in the military or naval service of the state or of the United States shall go armed with a dirk, dagger, sword or pistol, or other offensive or dangerous weapon, without reasonable cause to fear an assault or other injury or violence to his family, person or property, he may, on complaint of any person having reasonable causo to fear a breach of the peace therefrom, be required to find surety of the peace as aforesnid.(c)

7. In all cases the party accused, on oath or affirmation, of any crime or misdemeanor against the laws, shall be admitted to bail by one or more sufficient sureties, to be taken before any judge, justice, mayor, recorder or alderman where the offence charged has been committed, except such persons as are precluded from being bailed by the constitution of this common wealth :(g) Provided also, That persons accused as aforesaid, of

6. Act 31 March 1860, § 6. P. L. 432.

Arch. 40. 2 P. 438. (c) A committing magistrate has no authority to bind a per-son to keep the peace, or for his good behavior, longer than the next term of the court. 2 P. 458 (d) Surety for good behavior may be ordered by the court, after the acquittal of a peisoner, in such sum, and for such length of time, as the public safety requires. 2 Y. 437. 10 Barr

7. 1bid. § 7.

Mag. 316.

Eriminal Brocedure.

murder or manslaughter, shall only be admitted to hail by the supreme court or one of the judges thereof, or a president or associate law judge of a court of common pleas: persons accused, as aforesaid, of arson, rape, mayhem, sodomy, buggery, robbery or burglary, shall only be bailable by the supreme court, the court of common pleas, or any of the judges thereof, or a mayor or recorder of a city.(a)

8. All sureties, mainpernors, and bail in criminal cases, whether bound in recogni-surrende, et sances for a particular matter or for all charges whatsoever, shall be entitled to have a bail. bail-piece, duly certified by the proper officer or person before whom or in whose office the recognisance of such surety, mainpernors or bail shall be or remain, and upon such bail-piece, by themselves, or their agents, to arrest and detain, and surrender their principals, with the like effect as in cases of bail in civil actions; (b) and such bail-piece shall be a sufficient warrant or authority for the proper sheriff or jailor to receive the said principal, and have him forthcoming to answer the matter or matters alleged against him: Provided, That nothing herein contained shall prevent the person thus arrested and detained from giving new bail or sureties for his appearance, who shall have the

9. In all cases where a person shall, on the complaint of another, be bound by recog-settlement nisance to appear, or shall, for want of security, be committed, or shall be indiced for of criminal near the security of the committed of the security of the securi an assault and battery or other misdemeanor, to the injury and damage of the party cases. complaining, and not charged to have been done with intent to commit a felony, or not being an infamous crime, and for which there shall also be a remedy, by action, if the party complaining shall appear before the magistrate who may have taken recognisance or made the commitment, or before the court in which the indictment shall be, and acknowledge to have received satisfaction for such injury and damage, it shall be lawful for the magistrate, in his discretion, to discharge the recognisance which may have been taken for the appearance of the defendant, or in case of committal, to discharge the prisoner, or for the court also where such proceeding has been returned to the court, in their discretion, to order a nolle prosequi to be entered on the indictment, as the case may require, upon payment of costs : Provided, That this act shall not extend to any assault and battery, or other misdemeauor, committed by or on any officer or minister of justice.(d)

B. INDICTMENTS AND PLEADINGS.

10. The foreman of any grand jury, or any member thereof, is hereby authorized and Grand jury empowered to administer the requisite oaths or affirmations to any witness whose name may admin-ister oaths. may be marked by the district attorney on the bill of indictment. (e)

11. Every indictment shall be deemed and adjudged sufficient and good in law which Form of charges the crime substantially in the language of the act of the assembly prohibiting indictments. the crime, and prescribing the punishment, if any such there be, or, if at common law, so plainly that the nature of the offence charged may be easily understood by the jury. Formal ob-Every objection to any indictment for any formal defeet, apparent on the face thereof, jections to shall be taken by demurrer, or on motion to quash such indictment, before the jury shall be sworn, and not afterward; and every court, before whom any such objection shall be Amendtaken for any formal defect, may, if it be thought necessary, cause the indictment to be ments on demurrer, forthwith amended in such particular, by the clerk or other officer of the court, and ac. thereupon the trial shall proceed as if no such defect appeared.(g)

8. Act 31 March 1860, § 8. P. L. 432. 9. 1bid. § 9.

10. 1514. 6 10. 11. Ibid. § 11.

(a) This section is a consolidation of the first clause of the set of 1705, 1 Sm. 59; and the first section of the set of 30th April 1832, P. L. 398. Report on the Penal Code 39. (b) Sec I T. & II. Pr. 303-10.

April 1642. P. 1. 395. The proof on the Penal Code 39.
(b) See I T. & H. Pr. 303-10.
(c) This section is taken from the 3d section of the act of 10th April 1848, P. 1. 440. Report on the Penal Code 40.
(d) This section is an extension of the existing law of the 17th March 1800, 4 Sm. 318. Report on the Penal Code 40.
(e) This is taken from the lat section of the act 5th April 1826, 0 Sm. 136. That witnesses, whose names had not be the marked by the district sittorney on the bill of indictment, were sworn and examined by the foreman of the grand jury, is not pleadable in har; at most, it is only ground for a motion to quash. Tillard n. Com., 13 Leg. 1nt. 132.
(c) Sections 11 to 22 are all new, and are certainly not the least important in the proposed amendments of our penal system. The history of criminal administration abounds with instances in which the guilty have escaped, by reason of the apparently unreasonable nicety required in indictments. Lord Hale, one of the best, and most humano of English judges, long since romarked, that such able were "grown to be a likic, one of the best, and meet human of English judges, long since remarked, that such niceties were "grown to be a blemish and an inconvenience in the law, and the administra-tion thereof; that more off-inders escaped by the evey car given to exceptions to indictments, than by the manifestations of their linocence, and that the grossest crimes had gone unpun-ished, by reason of these unscendy ideaties." The reason for recognising these subtilities by the common law, no doubt arose from the humanity of the judges, who, in administering a system in which the purishment of death followed almost the reform of the penal laws, and the just apportionment of punishment to crimes according to their intrinsic atrocity and danger, the reason which led to the adoption of these techni-cal niceties has ceased, and with the co-sation of the reason, the technicalifies themeelves should be exputied from our system. The 11th section of this act proposes what the comsystem. The 11th section of this act proposes what the com-

10. bidd. § 10. 11. Did. § 11. Stat. § 11.

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THE

GENERAL LAWS

OF

NEW MEXICO;

INCLUDING

ALL THE UNREPEALED GENERAL LAWS

FROM THE PROMULGATION OF THE "KEARNEY CODE" IN 1846, TO THE END OF THE LEGISLATIVE SESSION OF 1880.

COMPILED UNDER THE DIRECTION OF

HON. L. BRADFORD PRINCE,

CHIEF JUSTICE OF THE SUPREME COURT OF NEW MEXICO.

ALBANY, N. Y. W. C. LITTLE & CO., LAW PUBLISHERS, 525 BROADWAY.

1880.

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shall be responsible for the payment of the expenses of his retention in jail.

Rewards for the Apprehension of Escaped Prisoners. Act of February 1, 1860.

SECTION 1. When any person shall make his escape from any county of this Territory after having been sentenced by the court to suffer any penalty, it shall be the duty of the court to inform immediately the governor thereof, giving a description of such fugitive.

§ 2. The governor is hereby authorized to offer a reward, to be paid out of the funds of the Territory, to any person who shall find and deliver such fugitive: *Provided*, that such reward shall be at the will of the governor.

Reward for Accused Persons. Act of 1874, Ch. 12.

SECTION 1. In cases of murder or other felony, when the person or persons accused of the crime shall be at large, the governor, when in his judgment it shall be necessary to secure the apprehension of the accused, shall be authorized to issue his proclamation offering a reward, not exceeding five hundred dollars, for the apprehension and delivery of the accused to the proper office.

§ 2. The auditor of public accounts is hereby authorized to draw a warrant on the treasury of the Territory, in favor of the person entitled to a reward, under the provisions of the preceding section, for the amount thereof, upon the presentation by such person of his account certified and approved by the governor.

Deadly Weapons. Act of 1869, Ch. 32.

SECTION 1. It shall be unlawful for any person to carry deadly weapons, either concealed or otherwise, on or about their persons within any of the settlements of this Territory, except it be in the lawful defense of themselves, their families or their property, and the same being then and there threatened with danger, or by order of legal authority, or on their own landed property, or in execution of an order of court.

§ 2. Deadly weapons, in the meaning of this act, shall be construed to mean all kinds and classes of pistols,

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whether the same be a revolver, derringer, repeater, or any other kind or class of pistol; any and all kinds of bowie knives, daggers, poniards, butcher knives, dirk knives and all such weapons with which cuts can be given or by which wounds can be inflicted by thrusting, including sword canes and such sharp-pointed canes with which deadly thrusts can be given, and all kinds of slung-shots, and any other kinds of deadly weapon, by whatevername it may be called, by which a dangerous wound can be inflicted.

§ 3. The penalty for the violation of the preceding sections of this act shall not be less than ten dollars nor more than fifty dollars for each offense, or not less than ten days' imprisonment nor more than fifty days' imprisonment in the county jail, or both; such fine and imprisonment in the discretion of the jury trying the case. § 4. Any person who shall draw a deadly weapon on

§ 4. Any person who shall draw a deadly weapon on another, or who shall handle a deadly weapon in a threatening manner at or towards another, in any part of this Territory, except in the lawful defense of himself, his family, or his property, or by order of legal authority, upon conviction thereof before the proper tribunal, shall, for each offense, be fined in a sum not less than twentyfive dollars nor more than seventy-five dollars, or by imprisonment in the county jail for a term of not less than twenty days or more than sixty days, or be punished by both such tine and imprisonment, in the discretion of the jury trying the cause.

§ 5. Any person who shall draw or use any deadly weapon in any ball, dance, or other public gathering of the people, or near where any election authorized by law is being held in any part of the Territory, except it be in the lawful defense of himself, his family, or his property, or in obedience to legal authority, shall, upon conviction before the proper tribunal, be punished by a fine not less than fifty dollars nor more than one hundred dollars for each offense, or by imprisonment in the county jail for a term of not less than one month nor more than threemonths for each offense, or by both such fine and imprisonment, in the discretion of the jury trying the cause.

§ 6. Justices of the peace, as well as the District Court, shall have jurisdiction of all offenses under the preceding sections of this act; and in all cases of prosecution under this act, in which a plea of guilty shall be entered, the court shall proceed to hear and determine the case, and

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shall assess the penalty, upon conviction, without the intervention of a jury, unless the accused shall demand a trial by jury. [As amended, 1876, Ch. 35.]

§ 7. A conviction of any person under this act shall not be a bar to a prosecution and conviction of the same person for an assault and battery, aggravated assault, assault with a deadly weapon, assault with intent to kill, or murder, manslaughter, or other crime, and where the words "weapons" or "deadly weapons" are used in this act, such word or words shall be construed to mean the weapons described in section two of this act.

§ 8. It shall not be necessary, in the trial of any cause arising under the provisions of this act, to prove that the person charged was not in the lawful defense of himself, his family or his property; but the accused must prove to the satisfaction of the jury that the act charged was done in the lawful defense of himself, his family, or his property, before the jury can acquit.

§ 9. Any lawful voter of the Territory may without a warrant arrest parties who may violate the preceding sections of this act, and take such persons before a justice of the peace of the county in which the offense was committed, for complaint and trial, and such trial shall be had as soon as possible, giving due time for summoning witnesses.

§ 10. All fines collected by virtue of the preceding sections of this act shall go, one-third to the Territory, onethird to the county in which the offense was committed, and one-third to the person or attorney who, on the part of the Territory, procured the conviction.

§ 11. Persons traveling may be permitted to carry arms within settlements or towns of this Territory, for one hour after arriving in such settlements or town, and while going out of such towns or settlements; and sheriffs and constables of the various counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective office, when the same may be necessary, but it shall be for the jury to decide from the evidence whether such carrying of weapons was necessary or not, and for an improper carrying or using deadly weapons by any officer mentioned in this section, he shall be punished as other persons are punished for a violation of the preceding sections of this act.

§ 12. It shall be the duty of the keeper of each and

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every hotel, boarding-house and drinking saloon, to keep posted up in a conspicuous place in his bar-room, or reception-room, if there be no bar kept in the house, a plain notice in Spanish, as also in English, to travelers, to divest themselves of their weapons in accordance with section 11 of this act, and the sheriffs of the various counties shall notify the keepers of hotels, boardinghouses and drinking saloons in their respective counties of their duties under this law, and if after such notification any keeper of a hotel, boarding-house or drinking saloon shall fail to keep notices posted as required by this act, he shall on conviction thereof before a justice of the peace, be fined in the sum of five dollars, to go to the county treasury.

§ 13. Sheriffs, and their deputies and constables, shall be sworn rigidly to enforce this act, and any one of such officers who may neglect or fail to enforce this act shall be fined in a sum not less than fifty dollars, nor more than one hundred dollars for each offense, to be recovered by indictment in the District Court of the proper county, and one-third of such fine shall go to the Territory, onethird to the county, and one third to the acting district attorney, and such conviction and fine shall not be a bar to any other prosecution and conviction of such officer under other laws of this Territory.

§14. Every person who receives a license to give a ball, dance or fandango, shall, at the time of taking out said license, be sworn to preserve good order and enforce this law at and during such ball, dance or fandango on and about his premises, and during such time such person shall have and exercise all the powers of a sheriff in maintaining good order on and about his premises and if the officer who issues such license does not believe the applicant to be a proper person to preserve good order, then such officer shall refuse to grant such license until such applicant shall present a proper person who shall be sworn as above mentioned, and have the power and duties as above mentioned, and persons arrested by the sworn person mentioned in this section may be confined for the time being in any house or place as well as the jail, or in any secure manner that is not inhuman.

§ 15. If any person shall give a ball, dance or fandango where a license is required, without first being himself sworn, or having some other person sworn to preserve good order and enforce this act, he shall be fined in the

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sum of twenty-five dollars, to be collected before any justice of the peace in the county, and one-half of said fine to go to the county, and one-half to the person or attorney securing the conviction : *Provided*, that if the applicant secure the attendance at his ball, dance or fandango, of a sheriff, or his deputy, or of a constable of the county, to preserve good order and enforce this law, then he shall not be fined for not being sworn, nor shall the officer issuing the license in such case require him to be sworn, nor to present a person to be sworn in his or her place.

Power of Sheriffs to arrest in any County. Act of January 30, 1869.

The various sheriffs of the several counties of this Territory shall have the right to enter any county of this Territory for the purpose of arresting any person charged with crime, whether the county so entered be the same to which the sheriff so entering was elected or not; and the deputies of said sheriffs shall have the same power herein conferred on the sheriffs, and any sheriff entering any county as above mentioned, shall have the same power to call out the power of such county to aid him, as is conferred on sheriffs in their own counties.

Penalties and Informations. Act of 1872, Ch. 31.

SECTION 1. When a criminal is found guilty in the District Court of this Territory of any felony for which no punishment has been prescribed by law, the said criminal shall be punished by a fine of not less than fifty dollars or by imprisonment in the territorial prison for not less than three months, or both, at the discretion of the court.

§ 2. When a criminal is found guilty in any of the courts of this Territory of any crime which is not a felony, for which no punishment has been prescribed by law, the said criminal shall be punished by a fine not exceeding two hundred dollars or by imprisonment in the county jail for a period not exceeding three months, or both at the discretion of the court.

§ 3. Charges of misdemeanors and crimes not felonies shall be presented in the District Court by indictment or information: *Provided*, that the justices of the peace Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 154 of 333

THE

CODE OF WEST VIRGINIA.

COMPRISING

LEGISLATION TO THE YEAR

1870.

WITH AN APPENDIX, CONTAINING

LEGISLATION OF THAT YEAR.

PUBLISHED PURSUANT TO LAW.

1



WHEELING: JOHN FREW, PUBLIC PRINTER.

1868. .

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PREVENTING THE COMMISSION OF CRIMES. ГСн. 153.

for the like offense, he shall be sentenced to be confined in the penitentiary for one year.

Id. 228, 1 Va. Cas. 151-2.

26. When any person is convicted of two or more offenses, before sentence is pronounced for either, the confinement to which he may be sentenced upon the second, or any subsequent conviction, shall commence at the termination of the previous terms of confinement. 27. When a person is convicted of selling, or offering or exposing

Code Va., p. 815, 2 29. 10 Gratt. 755.

for sale, at retail, spirituous liquors, wine, porter, ale, or beer, or drink of like nature, and it is alleged in the indictment or presentment on which he is convicted, and admitted, or by the jury found, that he has been before convicted of the like offense, he shall be fined as provided in the third section of chapter thirty-two, and may, at the discretion of the court, be confined in jail not exceeding six months.

28. No criminal prosecution for any felony or misdemeanor shall Acts of 1868, p. 124, ch. 149, § 1. be maintained in the courts of this state against any person for any act done in the suppression of the late rebellion; and it shall be a sufficient defense to such prosecution, to show that such act was done in obedience to the orders, or by the authority, of any civil or military officer of this state, or of the re-organized government of Virginia, or of the government of the United States; or that said act was done in aid of the purposes and policy of said authorities, in retarding, checking, and suppressing the said rebellion.

CHAPTER CLIII.

FOR PREVENTING THE COMMISSION OF CRIMES.

1. Conservators of the peace; power to bind to good behavior. 2.) Duty of, on complaint that a crime is in-

3. tended. Proceedings when accused appears.

 Proceedings when accused appears.
 Right of accused to appeal.
 Power of court upon such appeal, and when the accused is committed.

Person going armed with deadly weapon, when required to give recognizance, etc.
 Affray, etc., in the presence of constable.

In presence of justice; duty of justice where person brought before him, etc.
 Proceedings where person suspected of un-lawful retailing of spirituous liquors.

1. Every justice and constable shall be a conservator of the Code of Va., p. 817, § 1. Const. art. 7, § 9. peace, within his county. As such conservator, every justice shall Acts of 1863, p. 1234, ch. 132, 21. have power to require from persons not of good fame, security for their good behavior for a term not exceeding one year.

2. If complaint be made to any justice, as such conservator, that Code Va., p. 817, there is good cause to fear that a person intends to commit an offense against the person or property of another, he shall examine on oath the complainant, and any witnesses who may be produced, reduce the complaint to writing, and cause it to be signed by the complainant.

Id. p. 818, 3 3. Munf. 458.

3. If it appear proper, such justice shall issue a warrant, reciting the complaint, and requiring the person complained of forthwith to be apprehended and brought before him or some other justice.

CH. 153.] PREVENTING THE COMMISSION OF CRIMES.

4. When such person appears, if the justice, on hearing the par- code Va., p. 818, ties, consider that there is not good cause for the complaint, he shall discharge the said person, and may give judgment in his favor against the complainant for his costs. If he consider that there is good cause therefor, he may require a recognizance of the person against whom it is, and give judgment against him for the costs of the prosecution, or any part thereof; and, unless such recognizance be given, he shall commit him to jail, by a warrant, stating the sum and time in and for which the recognizance is directed. The justice giving judgment under this section for costs may issue a writ of fieri facias thereon, if an appeal be not allowed; and proceedings there-upon may be according to the two hundred and twenty-seventh section of chapter fifty.

5. A person from whom such recognizance is required may, on Id. 25. giving it, appeal to the circuit court of the county; and in such case the officer from whose judgment the appeal is taken shall recognize such of the witnesses as he thinks proper.

6. The court may dismiss the complaint, or affirm the judgment, 1d. 26. and make what order it sees fit as to the costs. If it award costs against the appellant, the recognizance which he may have given shall stand as a security therefor. When there is a failure to prosecute the appeal, such recognizance shall remain in force, although there be no order of affirmance. On any appeal the court may require of the appellant a new recognizance, if it see fit.

7. Any person committed to jail under this chapter may be dis- Id. § 7. charged by the circuit court, or the judge thereof in vacation, upon such terms as may be deemed reasonable.

8. If any person go armed with a deadly or dangerous weapon, 1d. § 8. without reasonable cause to fear violence to his person, family, or property, he may be required to give a recognizance, with the right of appeal, as before provided, and like proceedings shall be had on such appeal.

9. If any person shall, in the presence of a constable and within id. § 9. his county, make an affray, or threaten to beat, wound, or kill 234-5, § 1. another, or to commit violence against his person or property; or contend with angry words to the disturbance of the peace; or improperly or indecently expose his person; or appear in a state of gross intoxication in a public place; such constable, as such conservator, may, without warrant or other process, or further proof, arrest such offending person and carry him before some justice of the township in which such offense is committed, who, upon hearing the testimony of such constable and other witnesses, if any are then and there produced, if, in his opinion the offense charged be proved, shall require the offender to give a bond or recognizance, with security, to keep the peace and be of good behavior for a term not exceeding one year.

10. If any offense enumerated in the preceding section be com- Id. p. 235, § 2.

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INQUESTS UPON DEAD BODIES.

ГСн. 154.

mitted in the presence of a justice within his county, or the offender being brought before him, the commission thereof be proved to his satisfaction, he may, besides requiring a bond or recognizance with security, as provided in the preceding section, impose a fine upon the offender not exceeding five dollars. If such bond or recognizance be not then and there given, or such fine be not then and there paid, the said justice shall commit the offender to the jail of his county, there to remain until such bond or recognizance be given, and such fine be paid; but no imprisonment under this section shall continue more than ten days, at the end of which the sheriff or jailor shall discharge the prisoner, unless he has been commanded by sufficient authority to detain him for some other cause.

Code of Va., p.

11. If any justice suspect any person of selling, by retail, wine, S18, § 10. Acts of 1865, p. or ardent spirits, or a mixture thereof, contrary to law; or of seliing, or offering or exposing for sale, any intoxicating liquor, or keeping open any distillery, bar, office, stall, or room in his possession, or under his control, at which such liquor had theretofore usually been sold, or permitting any person to drink any intoxicating liquor at the same, on the day of an election, and within two miles of the place of such election, or during the night succeeding such day, contrary to the eleventh section of chapter five, such justice shall summon the person suspected of such offense, and such witnesses as he may think proper, to appear before him; and upon the person so suspected appearing, or failing to appear, if the justice, on examining the witnesses under oath, find sufficient cause, he shall direct the prosecuting attorney for the county to institute a prosecution against the person so suspected, and shall recognize the material witnesses, or cause them to be summoned, to appear at the next term of the circuit court of the county. Such justice may also require the person suspected to enter into recognizance to keep the peace and be of good behavior for a time not exceeding one year. If recognizance be given by the person so suspected, the condition thereof shall be deemed to be broken, if during the time for which it is given, such person shall sell, by retail, wine, or ardent spirits, or a mixture thereof, contrary to law, or violate in any particular the eleventh section of chapter five.

CHAPTER CLIV.

OF INQUESTS UPON DEAD BODIES.

- 1. Duty of justice upon being notified of death
- by violence, etc. 2. Warrant and summons, how executed.
- 3. Jury formed; their onth. 4. How witnesses compelled to attend; how evidence taken.
- Inquisition.
- 6. Inquisition, evidence, etc., returned; witnesses recognized.
- 7. Justice to issue warrant for the arrest of ac-
- cused, if not in custody.
 When deceased a stranger, body to be buried, etc.; costs, how paid.
- 9. Justice may require physicians to attend inquest. 10. Penalty on justice for neglect of duty.
- 11. Inquest may be taken on Sunday.

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A DIGEST

LAWS OF TEXAS:

OF THE

CONTAINING THE LAWS IN FORCE,

and

THE REPEALED LAWS

ON WHICH RIGHTS REST,

FROM 1754 TO 1874,

CAREFULLY ANNOTATED.

BY GEORGE W. PASCHAL,

OF AUSTIN, TEXAS,

LATE REPORTER OF THE SUPREME COURT OF TEXAS, AUTHOR OF PASOHAL'S ANNOTATED CONSTITUTION, PASOHAL'S DIGEST OF DECISIONS, ETC., ETC.

Fourth Edition-Volume II

WASHINGTON, D. C.: W. H. & O. H. MORRISON, HOUSTON, TEXAS: E. H. CUSHING. NEW YORK: BAKER, VOORHIS & CO. 1874,

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CRIMINAL CODE.

days' imprisonment.

jail nor less than one day nor more than ten days, or both, in the discretion of the court or jury before whom the trial is had.

AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

12 Aug., 1870; took effect 12 Oct., 1870. Vol.21, part 1, p. 63. Persons not to course and elec-tions not to be made dangerous.

Art. 6512.

Kinds of weapons prohibited.

Fine \$50 to \$500. Notes, 111, 167.

Scalp-lifting country except-

Armed officials.

12 April, 1871; took effect 12 June, 1871. Vol. 21, part 2, p. 25. Carrying arms a misdemeanor, punishable by fine and forfeiture, unless, &c. Patriots and militiamen excepted. Art. 6511. [This section is constitutional. English v. The State, 35 Tex., 474.]

Fine \$25 to \$100 for first offense

Imprisonment for second of-fense. fense. Notes 111, 167.

People at home and officials excepted. [Carrying weap-ons to and from market is within the proviso. Wad-dell v. The State, 27 Top 255 Bet 37 Tex., 356. But earrying a pistol hog hunting in the woods is not within the ex-ception. Baird V. The State, 39 V. T'he Sin Tex., 609.] Art. 6512. Justification must be immedi-

ART. 6511. [1] If any person shall go into any church or rebear arms at pub-ligious assembly, any school-room or other place where persons for assemblies. Social inter-are assembled for educational, literary, or scientific purposes. or into a ball room, social party, or other social gathering, composed of ladies and gentlemen, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly, and shall have about his person a bowie-knife, dirk, or butcher-knife, or firearms, whether known as a six-shooter, gun, or pistol of any kind, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not less than fifty or more than five hundred dollars, at the discretion of the court or jury trying the same: *Provided*, That nothing contained in this section shall apply to locations subject to Indian depredations: And provided further, That this act shall not apply to any person or persons whose duty it is to bear arms on such occasions in discharge of duties imposed by law.

AN ACT TO REGULATE THE KEEPING AND BEARING OF DEADLY WEAPONS.

ART. 6512. [1] Any person carrying on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured or sold for the purpose of offense or defense, unless he has reasonable grounds for fearing an unlawful attack on his person, and that such ground of attack shall be immediate and pressing; or unless having or carrying the same on or about his person for the lawful defense the state, as a militiaman in actual service, or as a peace officer or policeman, shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by fine of not less than twenty-five nor more than one hundred dollars, and shall forfeit to the county the weapon or weapons so found on or about his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term not exceeding sixty days; and in every case of fine under this section the fines imposed and collected shall go into the treasury of the county in which they may have been imposed: Provided, That this section shall not be so construed as to prohibit any person from keeping or bearing arms on his or her own premises, or at his or her own place of business, nor to prohibit sheriffs or other revenue officers, and other civil officers, from keeping or bearing arms while engaged in the discharge of their official duties, nor to prohibit persons traveling in the state from keeping or carrying arms with their baggage: *Provided further*, That members of the legislature shall not be included under the term "civil officers" as used in this act.

ART. 6513. [2] Any person charged under the first section of this act, who may offer to prove, by way of defense, that he was Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 160 of 333

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in danger of an attack on his person, or unlawful interference ate and pressing with his property, shall be required to show that such danger was immediate and pressing, and was of such a nature as to alarm a person of ordinary courage; and that the weapon so and weapon not carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a diffi- Impending danculty first commenced by the accused, it shall not be considered ger. as a legal defense.

ART. 6514. [3] If any person shall go into any church or relig-au assembly, any school-room, or other place where persons armed an offense to be e assembled for amusement, or for educational or scientific mainer. ious assembly, any school-room, or other place where persons are assembled for amusement, or for educational or scientific purposes, or into any circus, show, or public exhibition of any kind, or into a ball-room, social party, or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster, or to perform any other public duty, (except as may be required or permitted by law,) or to any other public assembly, and shall have or carry about his person a pistol, <u>character</u> of or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass-knuckles, bowie-knife, or any other kind of knife manufactured and sold for the purposes of offense and defense, unless an officer of the peace, he shall be guilty of a misdemeanor, and, on conviction thereof, shall, for the first offense, be punished by a fine of not less than fifty, nor more than five hundred dollars, Fine \$50 to \$100 for first offense, and shall forfeit to the county the weapon or weapons so found and imprisonon his person; and for every subsequent offense may, in addition ment for perseto such fine and forfeiture, be imprisoned in the county jail for a term of not more than ninety days.

ART. 6515. [4] This act shall not apply to nor be enforced in Governor may exempt frontier county of the state which may be designated in a proclamaany county of the state which may be designated in a proclamation of the governor as a frontier county, and liable to incursions lamation. of hostile Indians.

ART. 6516. [5] All fines collected under the provisions of this art. 6516. act shall be paid into the treasury of the county, and appropriated this act must be exclusively to the keeping in repair and maintenance of public treasury. ART. 6516. [5] All fines collected under the provisions of this Art. 6517. roads, and all weapons forfeited to the county under the provisions of this act shall be sold as may be prescribed by the county court, and the proceeds appropriated to the same purpose.

ART. 6517. [6] It shall be the duty of all sheriffs, constables, marshals, and their deputies, and all policemen and other peace officers, to arrest any person violating the first or third sections 1330a. Justices of this act, and to take such person immediately before a justice of this offense. of the peace of the county where the offense is committed, or be-state, 37 Tex., 359. fore a mayor or recorder of the town or city in which the offense is committed, who shall investigate and try the case without de-On all such trials the accused shall have the right of a trial Jury trial and aplay. by jury, and of appeal to the district court; but, in case of appeal, the accused shall be required to give bond, with two or more good and sufficient sureties, in a sum of not less than one hundred, nor more than two hundred dollars, if convicted under the first section, and in a sum of not less than two hundred, nor more than one thousand dollars, if convicted under the third section of this act; said bond to be payable to the state of Texas, and Payable to State. approved by the magistrate, and conditioned that the defendant will abide the judgment of the district court that may be rendered

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Society protected and attempted civilization.

arms prohibited.

Peace officers to arrest offenders, &c.

Appeal bond.

CRIMINAL CODE.

in the case; and in case of forfeiture the proceedings thereon shall be as is or may be prescribed by law in similar cases; and all moneys collected on any bond or judgment upon the same, shall be paid over and appropriated as provided in the fifth section of this act.

ART. 6518. [7] Any officer named in the sixth section of this act who shall refuse or fail to arrest any person whom he is required to arrest by said section on his own information, or where knowledge is conveyed to him of any violation of the first or third sections of this act, shall be dismissed from his office on conviction in the district court, on indictment or information, or by such other proceedings or tribunal as may be provided by law, and, in addition, shall be fined in any sum not exceeding five hundred dollars, at the discretion of the court or jury.

ART. 6519. [8] The district courts shall have concurrent jurisdiction under this act, and it is hereby made the duty of the several judges of the district courts of this state to give this act

especially in charge to the grand juries of their respective counties. ART. 6520. [9] It is hereby made the duty of the governor to publish this act throughout the state; and this act shall take effect and be in force from and after the expiration of sixty days after its passage.

TITLE XIII. - OF OFFENSES AGAINST PUBLIC POLICY AND ECONOMY. CHAPTER I.-ILLEGAL BANKING AND PASSING SPURIOUS MONEY.

AN ACT CONCERNING PRIVATE CORPORATIONS. ART. 6521. [79] Every such corporation shall semi-annually,

secretary, setting forth its actual financial condition, and the amount of its property and liabilities, under a penalty of five hundred dollars to the state, to be recovered by indictment

against the president, cashier, or directors, and shall also deposit a copy of said statement, verified as aforesaid, in the office

of the secretary of state.

Arts. 2035-2038.

2 Dec., 1871; took effect from pas-sage. Vol. 21, part 3. p 82. Olineers to pub-light comis a pubin the months of July and January, publish in one or more newslish semi-annual returns; punish-ment for failure. papers in the county where such corporation shall have its place of business, a statement, verified by the oath of its president or Arts. 5932-6011.

How recovered.

Arts. 2043.

31 Aug., 1866. Art. 6347 for cap-tion. Selling liquor to Indians.

Who may punish.

9 April, 1873; took effect from passage. Vol. 22, p. 35.

Keeping gaming tables in every ramification.

CHAPTER III .- OF SELLING TO INDIANS.

ART. 6522. [408] If any person shall give or barter, or cause to be sold, given, or bartered, any ardent spirits, or any spirituous or intoxicating liquors, or firearms, or ammunition, to any Indian of the wild or unfriendly tribes, he shall be fined not less than ten nor more than one hundred dollars. Justices of the peace and mayors shall have jurisdiction under this article.

CHAPTER IV .--- GAMING.

AN ACT TO AMEND ARTICLES FOUR HUNDRED AND TWELVE AND FOUR HUNDRED AND EIGHTEEN OF THE PENAL CODE, AS AMENDED BY ACT PASSED 11 MAY, 1871.

ART. 6523. [412] If any person shall keep or exhibit, for the purpose of gaming, any gaming table or bank of any name or description whatever, or any table or bank used for gaming which has no name, or pigeon hole table, or Jenny Lind table, or nine or ten pin alley, used for gaming; and such pigeon hole

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Forfeiture.

Art. 6516.

Art, 6517. Officer failing to arrest to be discharged. Arts. 6512, 6514.

And fined not more than \$500.

District courts to have concurrent jurisdiction.

Governor to publish the act.

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THE COMPILED

LAWS OF WYOMING

INCLUDING ALL THE

LAWS IN FORCE IN SAID TERRITORY AT THE CLOSE OF THE FOURTH SESSION OF THE LEGISLATIVE ASSEMBLY OF SAID TERRITORY, TOGETHER WITH SUCH LAWS OF THE UNITED STATES AS ARE APPLICABLE TO SAID TERRITORY; ALSO THE TREATLES MADE WITH THE SIOUX AND SHOSHONE TRIBES OF INDIANS IN THE YEAR 1868; WITH A SYNOPSIS OF THE PRE-EMPTION, HOME-STEAD AND MINING LAWS OF THE UNITED STATES.

PUBLISHED BY AUTHORITY OF THE ACT OF THE FOURTH LEGISLATIVE ASSEMBLY OF SAID TERRITORY, ENTITLED "AN ACT TO COMPILE AND PUBLISH THE LAWS OF WYOMING IN ONE VOLUME."

J. R. WHITEHEAD, SUPERINTENDENT OF COMPILATION.

H. GLAFCKE:

LEADER STEAM BOOK AND JOB PRINT, CHEVENNE, WYOMING.

1876.

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FIRE ARMS.

[CHAP. LII.

Add. 117

CHAPTER 52.

AN Act to Prevent the Carrying of Fire Arms and Other Deadly Weapons.

Ee it enacted by the Council and House of Representatives of the Territory of Wyoming:

Carrying weapons within city, town or dent of any city, town or village, or for any one not a resident of village limits, prohibited. SECTION. 1. That hereafter it shall be unlawful for any resicity, town or village, or for any one not a resident of village limits, prohibited. SECTION. 1. That hereafter it shall be unlawful for any resicity, town or village, or for any one not a resident of therein, to bear upon his person, concealed or openly, any fire arm or other deadly weapon, within the limits of any city, town or village.

> SEC. 2. That if any person not a resident of any town, eity or village of Wyoming Territory, shall, after being notified of the existence of this act by a proper peace officer, continue to carry or bear upon his person any fire arm or other deadly weapon, he or she, shall be deemed to be guilty of a violation of the provisions of this act and shall be punished accordingly.

> SEC. 3. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than five dollars nor more than fifty dollars, and, in the default of the payment of any fine which may be assessed against him, shall be imprisoned in the county jail for not less than five days nor more than twenty days.

> SEC. 4. This act shall take effect and be in force from and after its passage.

Approved, December 2nd, 1875.

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Non - resident to be first notified.

Violation

Penalty.

In force.

this act a misdemeanor.

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STATE OF KANSAS.

SESSION LAWS OF 1881,

Passed at the Nineteenth Regular, the same being the Second Biennial. Session of the Legislature of the State of Kansas.

DATE OF PUBLICATION OF VOLUME, MAY 10, 1881.

TOPEKA, KANSAS: GEO. W. MARTIN, KANSAS PUBLISHING HOUSE. 1881. Сн. 37.] CITIES AND CITY OFFICERS.

CHAPTER XXXVII.

CITIES OF THE FIRST CLASS-AN ACT TO REGULATE.

AN ACT to incorporate and regulate cities of the first class, and to repeal all prior acts relating thereto.

Be it enacted by the Legislature of the State of Kansas:

ARTICLE I.-GENERAL PROVISIONS.

SECTION 1. Whenever it shall have been duly ascertained, shall become city of the first by any census or enumeration taken under any law of the class, when United States or of the state of Kansas, or by any city, that any city has attained a population of over fifteen thousand inhabitants, such fact shall thereupon, by the mayor and council of such city, be certified to the governor of the state, who shall thereupon, by public proclamation, declare such city to be, and the same shall thereupon become, a city of the first class.

SEC. 2. All cities of the first class shall be governed by the provisions of this act.

First: To sue and be sued.

Second: To purchase and hold real and personal property for the use of the city.

Third: To sell and convey any real or personal estate owned by the city, and make such order respecting the same as may be deemed conducive to the interests of the city.

Fourth: To make all contracts, and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate or administrative powers.

Fifth: To exercise such other and further powers as may be conferred by law.

SEC. 4. The corporate name of each city of the first class Corporate name. shall be "The city of ——."

SEC. 5. The power hereby granted shall be exercised by Powers, how exercised. the mayor and council of such city, as hereinafter set forth.

SEC. 6. All and every process whatever affecting any such Process, how served. city shall be served upon the mayor, or, in his absence, upon the president of the council, or, in the absence of both from the city, then upon the city clerk.

ſCн.37. CITIES AND CITY OFFICERS.

Extent of tax levy.

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Bridges, sidewalks, etc., esti-mate of cost to be made.

Punishment for carrying fire-arms.

Vagrants. tramps, etc.

General fund to be used to com-promise indebtedness, when,

Sinking fund.

Mayor and coun-cil may compel sidewalks, etc., to be kept in good scribe by ordinance rules and regulations, compelling owners order. or occupants of real property to keep in good order and proper

or other substances.

Liabilities to be paid monthly.

SEC. 27. Each month the mayor and council shall provide by ordinance for the payment of all liabilities of the city in-

current year for all purposes, exclusive of school, water works and special-improvement taxes, exceed two per cent. of the taxable property of the city.

SEC. 22. Before the city council shall make any contract for building bridges or sidewalks, or for any work on streets, or for any other work or improvement, a detailed estimate of the cost thereof shall be made under oath by the city engineer, and submitted to the council; and no contract shall be entered into for any work or improvement for a price exceeding such And in no case shall the city be liable for any alestimate. lowance beyond the original contract price for such work.

SEC. 23. The council shall prohibit and punish the carrying of firearms, or other dangerous or deadly weapons, concealed or otherwise, and cause to be arrested and imprisoned, fined or set to work, all vagrants, tramps, confidence men and persons found in said city without visible means of support, or some legitimate business.

SEC. 24. The mayor and council shall have power in their discretion to use any or part of the general fund of the city not necessary for the general purposes of the city, and when the city is not indebted in any manner for debts payable out of such general fund for the purchase or compromise of any outstanding indebtedness of the city: Provided, That the bonds so purchased shall be immediately canceled in manner and form as directed by the mayor and council: And provided further, Said bonds shall not be purchased at a price exceeding the market value for the time being, and in no case at a price in excess of fifty per cent. of their face value.

SEC. 25. The city council is hereby authorized to make provision for a sinking fund, to redeem at maturity the bonded indebtedness of the city; and the tax levied for said sinking fund shall be payable in cash.

SEC. 26. The mayor and council shall have power to pre-

place any of the improvements of any sidewalk, gutters, and also to clean or remove from sidewalks and gutters ice, snow,

deemed police regulations, and violations thereof may be pun-

ished accordingly by fine or imprisonment.

Such rules and regulations shall be

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SESSION LAWS

OF THE

FIFTEENTH

LEGISLATIVE ASSEMBLY

OF THE

TERRITORY OF ARIZONA.

SESSION BEGUN ON THE TWENTY-FIRST DAY OF JANUARY, A. D. 1889.

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LAWS OF ARIZONA.

SEC. 3. This Act shall take effect from and after its passage.

Approved March 18, 1889.

No. 12.

AN ACT

Concerning the Transaction of Judicial Business on Legal Holidays.

Be it enacted by the Legislative Assembly of the Territory of Arizona:

SECTION I. No Court of Justice shall be open, nor shall any Judicial business be transacted on any Legal Holiday, except for the following purposes:

1. To give, upon their request, instructions to a Jury when deliberating on their verdict.

2. To receive a verdict or discharge a Jury.

3. For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature; provided, that the Supreme Court shall always be open for the transaction of business; and provided further, that injunctions, attachments, claim and delivery and writs of prohibition may be issued and served on any day.

SEC. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in force and effect from and after its passage.

Approved March 18, 1889.

No. 13.

AN ACT

Defining and Punishing Certain Offenses Against the Public Peace.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

SECTION I. If any person within any settlement, town, village or city within this Territory shall carry on or about his person, saddle, or in his saddlebags, any pistol, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and in addition thereto, shall forfeit to the County in which he is convicted, the weapon or weapons so carried.

SEC. 2. The preceding article shall not apply to a person in actual service as a militiaman, nor as a peace officer Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 169 of 333

LAWS OF ARIZONA.

or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

SEC. 3. If any person shall go into any church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering, or to any election precinct on the day or days of any election, where any portion of the people of this Territory are collected to vote at any election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckles, bowie knife, or any other kind of a knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the County the weapon or weapons so found on his person.

SEC. 4. The preceding article shall not apply to peace officers, or other persons authorized or permitted by law to carry arms at the places therein designated.

SEC. 5. Any person violating any of the provisions of Articles 1 and 3, may be arrested without warrant by any peace officer and carried before the nearest Justice of the Peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not exceeding three hundred dollars.

SEC. 6. Persons traveling may be permitted to carry arms within settlements or towns of the Territory for one-half hour after arriving in such settlements or town, and while going out of such towns or settlements; and Sheriffs and Constables of the various Counties of this Territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

SEC. 7. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons in accordance with Section 9 of this Act, and the Sheriffs of the various Counties Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 170 of 333

LAWS OF ARIZONA.

shall notify the keepers of hotels, boarding houses and drinking saloons in their respective Counties of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon, shall fail to keep notices posted as required by this Act, he shall, on conviction thereof before a Justice of the Peace, be fined in the sum of five dollars to go to the County Treasury.

SEC. 8. All Acts or parts of Acts in conflict with this Act are hereby repealed.

SEC. 9. This Act shall take effect upon the first day of Apr 1, 1889.

Approved March 18, 1889.

No. 14.

18

AN ACT

To Amend Paragraph 492, Revised Statutes.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

SECTION I. That Paragraph 492, Chapter 5, Title 13, of the R vised Statutes, be amended so as to read as follows: "If he fail to attend in person or by deputy any term of the District Court, the Court may designate some other person to perform the duties of District Attorney during his absence from Court, who shall receive a reasonable compensation to be certified by the Court, and paid out of the Courty Treasury, which the Court shall by order direct to be deducted from the salary of the District Attorney, if the absence of such Attorney is not excused by such Court."

SEC. 2. That all Acts and parts of Acts in conflict with this Act be, and the same are, hereby repealed.

SEC. 3. That this Act shall take effect and be in force from and after its passage.

Approved March 19, 1889.

No. 15.

AN ACT

To Provide for the Payment of Boards of Supervisors of the Counties within the Territory of Arizona.

Be it Enacted by the Legislative Assembly of the Territory of Arizona:

SECTION 1. Each member of the Board of Supervisors within this Territory shall be allowed as compensation for their services Five Dollars per day for each day's actual attendance at the sitting of said Board, at which sitting any County business is transacted; and twenty cents per mile actually traveled Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 171 of 333

GENERAL LAWS

OF THE

TERRITORY OF IDAHO,

PASSED AT THE

FIFTEENTH SESSION

OF THE

TERRITORIAL LEGISLATURE,

CONVENED ON THE

TENTH DAY OF DECEMBER, A. D. 1888, AND ADJOURNED ON THE SEVENTH DAY OF FEBRUARY, A. D. 1889.

ÅТ

BOISE CITY.

PUBLISHED BY AUTHORITY.

JAMES A. PINNEY, TERRITORIAL PRINTER. 1889.

CARRYING DEADLY WEAPONS.

around the head of Panther Creek, to the divide between Hat Creek and Ellis Creek, thence on the divide between Hat and Ellis Creeks in an easterly direction to the Salmon River, thence up the main channel of said Salmon River to the place of beginning.

SEC. 2. This act to take effect and be in force, from and after its passage.

Approved February 4, 1889.

CARRYING DEADLY WEAPONS.

AN ACT

REGULATING THE USE AND CARRYING OF DEADLY WEAPONS IN IDAHO TERRITORY.

Be it enacted by the Legislative Assembly of the Territory of Idaho, as follows:

SECTION 1. That it is unlawful for any person, except United States officials, officials of Idaho Territory, County officials, Peace officers, Guards of any jail, and officers or employees of any Express Company on duty, to carry, exhibit or flourish any dirk, dirk-knife, sword, sword-cane, pistol, gun or other deadly weapons, within the limits or confines of any city, town or village or in any public assembly of Idaho Territory. Every person so doing is guilty of a misdemeanor and is punishable by fine not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than twenty days nor more than fifty days, or by both such fine and imprisonment.

SEC. 2. One half of all fines collected under the provisions of this act shall be paid to the officer making the arrest, which amount shall be payment in full for his services. The other one half shall be paid into the Common School Fund of the county, after deducting the necessary costs of the prosecution of the case.

SEC. 3. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 4, 1889.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 173 of 333

THE

,

STATUTES OF OKLAHOMA

1890.

Compiled under the supervision and direction of Robert Martin, Secretary of the Territory,

—-BY----

WILL T. LITTLE, L. G. PITMAN and R. J. BARKER,

-FROM-

The Laws Passed by the First Legislative Assembly of the Territory.

GUTHRIE, OKLAHOMA: THE STATE CAPITAL PRINTING CO., PUBLISHERS. 1891.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 174 of 333 CRIMES AND PUNISHMENT. 495

(2430) § 6. Every person who, with intent to extort any Chap. 25. money or other property from another, sends to any person any Sending letter or other writing, whether subscribed or not, expressing or threatening letimplying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

(2431) § 7. Every person who unsuccessfully attempts by means Attempting to export money. of any verbal threat such as is specified in the second section of this article, to extort money or other property from another is guilty of a misdemeanor.

ARTICLE 47.—CONCEALED WEAPONS.

SECTION.

I. Prohibited weapons enumerated.

2. Same.

- Minors.
 Public officials, when privileged.

5. Arms, when lawful to carry.

SECTION.

- 6. Degree of punishment.
- Public buildings and gatherings.
 Intent of persons carrying weapons.
 Pointing weapon at another.
- 10. Violation of certain sections.

(2432) § 1. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, sad-weapons enu-merated. dle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

(2433) § 2. It shall be unlawful for any person in the Territory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

(2434) § 3. It shall be unlawful for any person within this Minors. Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article.

(2435) § 4. Public officers while in the discharge of their Public officials. duties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: Provided, however, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

(2436) § 5. Persons shall be permitted to carry shot-guns or Arms, when rifles for the purpose of hunting, having them repaired, or for kill- lawful to carry. ing animals, or for the purpose of using the same in public muster or military drills, or while travelling or removing from one place to another, and not otherwise.

(2437) § 6. Any person violating the provisions of any one of Degree of the foregoing sections, shall on the first conviction be adjudged punishment. guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent con-

Same.

when privleged.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 175 of 333 496 CRIMES AND PUNISHMENT. 496

Chap. 25. viction, the party offending shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

ings.

(2438) § 7. It shall be unlawful for any person, except a peace ^{Public build} officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

(2439) § 8. It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

(2440) § 9. It shall be unlawful for any person to point any weapons at an- pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

> (2441) § **10**. Any person violating the provisions of section seven, eight or nine of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three not more than twelve months.

ARTICLE 48.—FALSE PERSONATION AND CHEATS.

SECTION.

3.

5. 6.

money.

Fines, how paid.

tenses.

Personating officers and others.

4. Unlawful wearing of grand army badge.

Obtaining property under false pre-

SECTION.

- I. False impersonation, punishment for. 7. False representation of charitable pur-2. False impersonation and receiving poses.
 - 8. Falsely representing banking corporations.
 - Using false check. q.

10. Holding mock auction.

Punishment for false impersonation.

(2442) § 1. Every person who falsely personates another, and in such assumed character, either:

First. Marries or pretends to marry, or to sustain the marriage relation toward another, with or without the connivance of such other person; or,

Second. Becomes bail or surety for any party, in any proceeding whatever, before any court or officer authorized to take such bail or surety; or,

Third. Subscribes, verifies, publishes, acknowledges or proves, in the name of another person, any written instrument, with intent that the same may be delivered or used as true; or,

Does any other act whereby, if it were done by the Fourth. person falsely personated, he might in any event become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture or penalty, or whereby any benefit might accrue to the party personating, or to any other person.

weapons.

Intent of persons carrying

Pointing other.

Violation of section seven.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 176 of 333

WILSON'S

REVISED AND ANNOTATED

STATUTES

OF

OKLAHOMA

1903

REVISED AND ANNOTATED IN TWO VOLUMES

BΥ

W. F. WILSON, M. A. LL. B., of the oklahoma city bar.

VOL. I.

GUTHRIE, OKLAHOMA, THE STATE CAPITAL, COMPANY, 1903. CHAP. 25] Art. 44-45.

CRIMES AND PUNISHMENT.

(2498) § 579. Every person who commits any extortion under Extortion color of official right, in cases for which a different punishment is not of official prescribed by this chapter, or by some of the statutes which it specifies as continuing in force, is guilty of a misdemeanor.

(2499) § 580. Every person who, by any extortionate means, ob-obtaining tains from another his signature to any paper or instrument, whereby, extortion. if such signature were freely given, any property would be transferred, or any debt, demand, charge or right of action created, is punishable in the same manner as if the actual delivery of such property or payment of the amount of such debt, demand, charge or right of action were obtained.

(2500) § 581. Every person who, with intent to extort any sending money or other property from another, sends to any person any letter or letter. other writing, whether subscribed or not, expressing or implying, or adapted to imply, any threat, such as is specified in the second section of this article, is punishable in the same manner as if such money or property were actually obtained by means of such threat.

(2501) § 582. Every person who unsuccessfully attempts by Attempting means of any verbal threat such as is specified in the second section of money. this article, to extort money or other property from another is guilty of a misdemeanor.

ARTICLE 45.—CONCEALED WEAPONS.

Section.	Section.
(2502) 533. Prohibited weapons enumerat- ed.	(2507) 588. Degree of punishment.
ed.	(2508) 589. Public buildings and gather-
(2503) 584. Same.	ings.
(2504) 585. Minors. (2505) 586. Public officials, when privil-	(2309) 590. Intent of persons carrying
eged.	(2310) 591. Pointing weapon at another.
(2506) 587. Arms, when lawful to carry.	(2511) 592. Violation of certain sections.

(2502) § 583. It shall be unlawful for any person in the Terri- Prohibited tory of Oklahoma to carry concealed on or about his person, saddle, enumerated. or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, slung-shot, sword, cane, spear, metal knuckles, or any other kind of knife or instrument manufactured or sold for the purpose of defense except as in this article provided.

The provisions of the statute in reference to the crime of carrying concealed weapons are not in conflict with any constitutional provision or organic law and are therefore valid. Walburn v. Territory, 9 Ok., 23, 59 Pac., 972.

(2503) § 584. It shall be unlawful for any person in the Terri-_{Same}. tory of Oklahoma, to carry upon or about his person any pistol, revolver, bowie knife, dirk knife, loaded cane, billy, metal knuckles, or any other offensive or defensive weapon, except as in this article provided.

(2504) § 585. It shall be unlawful for any person within this Minors. Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article.

(2505) § 586. Public officers while in the discharge of their Public offiduties or while going from their homes to their place of duty, or returning therefrom, shall be permitted to carry arms, but at no other time and under no other circumstances: Provided, however, That if any public officer be found carrying such arms while under the influence of intoxicating drinks, he shall be deemed guilty of a violation of this article as though he were a private person.

CRIMES AND PUNISHMENT.

rifles for the purpose of hunting, having them repaired, or for killing

animals, or for the purpose of using the same in public muster or military drills, or while traveling or removing from one place to another,

§ 587. Persons shall be permitted to carry shot-guns or

[CHAP. 25 Art. 45-46.

Arms, when lawful to carry.

(2506)

and not otherwise.

Degree of punishment.

Public

buildings and gatherings.

(2507) § 588. Any person violating the provisions of any one of the foregoing sections, shall on the first conviction be adjudged guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not to exceed thirty days or both at the discretion of the court. On the second and every subsequent conviction, the party offending shall on conviction be fined not less than fifty dollars nor more than two hundred and fifty dollars or be imprisoned in the county jail not less than thirty days nor more than three months or both, at the discretion of the court.

(2508) § 589. It shall be unlawful for any person, except a peace officer, to carry into any church or religious assembly, any school room or other place where persons are assembled for public worship, for amusement, or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into any ball room, or to any social party or social gathering, or to any election, or to any place where intoxicating liquors are sold, or to any political convention, or to any other public assembly, any of the weapons designated in sections one and two of this article.

(2509) § 590. It shall be unlawful for any person in this Territory to carry or wear any deadly weapons or dangerous instrument whatsoever, openly or secretly, with the intent or for the avowed purpose of injuring his fellow man.

(2510) § 591. It shall be unlawful for any person to point any pistol or any other deadly weapon whether loaded or not, at any other person or persons either in anger or otherwise.

(2511) § 592. Any person violating the provisions of section 2508, 2509 and 2510 of this article; shall on conviction, be punished by a fine of not less than fifty dollars, nor more than five hundred and shall be imprisoned in the county jail for not less than three nor more than twelve months.

ARTICLE 46.—FALSE PERSONATION AND CHEATS.

Section Section (2517) 598. Obtaining property fa'se pretenses. (2512) 593. False impersonation, punishunder ment for. (2513) 594. False impersonation and re-(2518) 599. Fa'se representation' of chari-(2514) 595. Personating officers and othtable purposes. (2519) 600. Fasely representing banking (2520) 601. Using fa'se check. (2521) 602. Holding mock auction. ers. (2515) 596. Un'awful wearing of grand army badge, (2516) 597. Fines, how paid.

Punishment (2512) § 593. Every person who falsely personates another, and for false im- in such assumed character, either:

First. Marries or pretends to marry, or to sustain the marriage relation toward another, with or without the connivance of such other person; or,

Intent of persons carrying weapons.

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Pointing weapons at another.

Violation of section seven.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 179 of 333

ACTS

AND

RESOLVES

PASSED BY THE

General Court of Massachusetts,

IN THE YEAR

1906,

TOGETHER WITH

THE CONSTITUTION, THE MESSAGES OF THE GOVERNOR, LIST OF THE CIVIL GOVERNMENT, TABLES SHOWING CHANGES IN THE STATUTES, CHANGES OF NAMES OF PERSONS, ETC., ETC.

> PUBLISHED BY THE SECRETARY OF THE COMMONWEALTH.



BOSTON: WRIGHT & POTTER PRINTING CO., STATE PRINTERS, 18 Post Office Square. 1906.

150

Астя, 1906. — Снаря. 172, 173.

Repeal.

SECTION 3. Chapter one hundred and eight of the acts of the year nineteen hundred and two and all other acts or parts of acts inconsistent herewith are hereby repealed. SECTION 4. This act shall take effect upon its passage. Approved March 16, 1906.

Chap.172 AN ACT TO REGULATE BY LICENSE THE CARRYING OF CON-CEALED WEAPONS.

Be it enacted, etc., as follows:

Licenses may be granted for carrying concealed weapons, etc.

sion.

SECTION 1. The justice of a court, or trial justices, the board of police or mayor of a city, or the selectmen of a town, or persons authorized by them, respectively, may, upon the application of any person, issue a license to such person to carry a loaded pistol or revolver in this Commonwealth, if it appears that the applicant has good reason to fear an injury to his person or property, and that he is a suitable person to be so licensed.

SECTION 2. Whoever, except as provided by the laws of this Commonwealth, carries on his person a loaded pistol or revolver, without authority or permission as provided in section one of this act, or whoever carries any stiletto, dagger, dirk-knife, slung-shot or metallic knuckles, shall upon conviction be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment. Approved March 16, 1906.

Chap.173 AN ACT TO PROVIDE FOR THE FURTHER IMPROVEMENT OF THE COMMONWEALTH'S FLATS AT SOUTH BOSTON.

Be it enacted, etc., as follows:

Improvement of the Com-monwealth's flats at South Boston,

SECTION 1. For the purpose of enforcing and executing the provisions and requirements of existing laws relating to the Commonwealth's flats at South Boston, and for the payment of money which may be needed to carry out the provisions of chapter two hundred and thirty-nine of the acts of the year eighteen hundred and seventy-five, the sum of five hundred thousand dollars is hereby appropriated from the Commonwealth's Flats Improvement Fund, established by chapter two hundred and thirty-seven of the acts of the year eighteen hundred and seventy-eight. SECTION 2. This act shall take effect upon its passage.

Approved March 19, 1906.

Penalty for carrying concealed weapon with-out permisCase: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 181 of 333

GENERAL LAWS

(AND JOINT RESOLUTIONS)

OF THE

LEGISLATURE OF ALABAMA

PASSED AT THE

SPECIAL SESSION 1909

HELD AT THE CAPITOL IN THE CITY OF MONTGOMERY

Commencing Tuesday, July 27, 1909

BRAXTON BRAGG COMER, GOVEBNOR. HENRY B. GRAY, LIEUT.-GOVEBNOR. E. P. THOMAS, PRES. PRO TEM OF THE SENATE. A. H. CARMICHAEL, SPEAKER OF THE HOUSE.



I, Frank N. Julian, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law. FRANK N. JULIAN,

Secretary of State.

Montgomery, Alabama The Brown Printing Co., State Printers and Binders 1909 Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 182 of 333

1909.

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To the person raising the best mule colt under six months of age, \$15.09; To the person raising the best horse colt under six months old \$15.00. To the person raising the best acre of corn \$25.00; To the person raising the best acre of wheat, \$15.00; To the person raising the best acre of oats, \$15.00; To the person raising the best acre of sweet or irish potatoes, \$10.00 each; To the person raising the best acre of hay, \$5.00.

2. It shall be the duty of the commissioner of agriculture and industries to provide rules under which the results of the contestants may be declared and awards made.

3. "That the commissioner of agriculture and industries is hereby required and authorized to pay the several prizes enumerated above out of the funds provided for the expense of the agricultural department by sections 52 and 73 of the Code of 1907."

Approved Aug. 26, 1907.

No. 215)

AN ACT

(S. 50

To regulate the right to carry a pistol in this State.

Section 1. Be it enacted by the Legislature of Alabama, That it shall be unlawful for any person to carry a pistol concealed about his person.

Section 2. It shall be unlawful for any person to carry a pistol about his person on premises not his own or under his control, provided this section shall not apply to any sheriff or his deputy or police officer of an incorporated town or city in the lawful discharge of the duties of his office or United States Marshal or their deputies, rural free delivery mail carriers in the discharge of their duties as such or bonded constable in the discharge of their duties as such.

Section 3. Any person violating the provisions of this act must on conviction be fined not less than fifty dollars and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

Section 4. The defendant may give evidence that at the time of carrying the pistol he had good reason to apprehend an attack which the

Unlawful to carry concealed pistol.

Payment au-

thorized.

Does not apply to sheriff, etc.~

Violations.

May give evidence of good reason. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 183 of 333

1909.

jury may consider in mitigation of the fine or justification of the offense.

Section 5. In an indictment for a violation Sufficient to of this act, it shall be sufficient to charge that the charge dedefendant carried a pistol concealed about his ried pistol. person or on premises not his own or under his control and the excuse if any must be proved by $_{\text{be proved.}}^{\text{Excuse must}}$ the defendant on the trial, to the satisfaction of the jury.

Section 6. All laws and parts of laws in con-Conflicting flict with the provisions of this act be and the laws resame are hereby repealed.

Approved Aug. 26, 1909.

No. 217.)

AN ACT

(S. 7.

To authorize and empower the commissioners court, board of revenue, or other court or county officers of similar or like jurisdiction to donate or appropriate funds from the county treasury to aid in the construction or improvement of necessary buildings and the maintenance and support of those State schools known as county high schools established under the act of the Legislature approved August 7, 1907, and to ratify and confirm all appropriations heretofore made for such purposes and to repeal all laws and parts of laws in conflict therewith.

Section 1. Be it enacted by the Legislature of Lawful to ap-Alabama, That on and after the approval of this propriate funds to aid act by the governor it shall be lawful for the com- in construcmissioners court, board of revenue, or other court tion, etc. of or officers of the county of similar or like jur county high schools. isdiction to donate or appropriate funds from the county treasury to aid in the construction or improvement of necessary buildings and the maintenance and support of those State schools known as county high schools, established in the several counties of the State under an act of the Legislature entitled an act "to provide for the establishment of high schools in this State, and to make appropriations for said schools," approved August 7th, 1907, such donations or appropriations to be applied to the benefits of said schools

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 184 of 333

LAWS

OF THE

TERRITORY OF HAWAII

PASSED BY THE

LEGISLATURE

AT ITS

REGULAR SESSION

1913

PUBLISHED BY AUTHORITY

HONOLULU, T. H. HONOLULU STAR-BULLETIN, LTD, 1913

Add. 138

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Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 185 of 333

25 .

Act 22. Carrying Deadly Weapons.

ACT 22

AN ACT

TO AMEND SECTION 3089 OF THE REVISED LAWS OF HAWAII.

Be it Enacted by the Legislature of the Territory of Hawaii:

SECTION 1. Section 3089 of the Revised Laws of Hawaii is hereby amended so as to read as follows:

"Section 3089. Persons not authorized; punishment. Any person not authorized by law, who shall carry, or be found armed with any bowie-knife, sword-cane, pistol, air-gun, slung-shot, or other deadly weapon, shall be liable to a fine of not more than Two Hundred and Fifty Dollars and not less than Ten Dollars, or in default of payment of such fine, to imprisonment for a term not exceeding one year, nor less than three months, upon conviction for such offense, unless good cause be shown for having such dangerous weapon; and any such person may be immediately arrested without warrant by the high sheriff, or any sheriff, policeman, or other officer or person."

SECTION 2. This Act shall take effect from and after the date of its approval.

Approved this 19th day of March, A. D. 1913.

WALTER F. FREAR, Governor of the Territory of Hawaii. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 186 of 333

LAWS

OF THE

STATE OF NEW YORK,

PASSED AT THE

ONE HUNDRED AND THIRTY-SIXTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY FIRST, 1913, AND ENDED MAY THIRD, 1913,

ALSO CHAPTERS 794-800 PASSED AT THE EXTRAORDI-NARY SESSION, BEGUN JUNE 16, 1913,

AT THE CITY OF ALBANY,

AND ALSO OTHER MATTERS REQUIRED BY LAW TO BE PUBLISHED WITH THE SESSION LAWS.

Vol. III.



ALBANY J. B. LYON COMPANY, STATE PRINTERS 1913

Add. 140

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 187 of 333

608.7 LAWS OF NEW YORK, 1913.

¹ Where a male person of the age of sixteen years and under the age of eighteen years has been convicted of juvenile delinquency or of a misdemeanor, the trial court may, instead of sentencing him to imprisonment in a state prison or in a penitentiary, direct him to be confined in a house of refuge established by the managers of the society for the reformation of juvenile delinquents in the city of New York; under the provisions of the statute relating thereto. Where a female person not over the age of twelve years is convicted of a crime amounting to felony, or where a female person of the age of twelve years and not over the age of sixteen years is convicted of a crime, the trial court may, instead of sentencing her to imprisonment in a state prison or in a penitentiary, direct her to be confined in the New York State Training School for Girls, under the provisions of the statute relating thereto, but nothing in this section shall affect any of the provisions contained in section twenty-one hundred and ninety-four.

§ 2. All acts or parts of acts inconsistent with this act are hereby repealed.

§ 3. This act shall take effect immediately.

Chap. 608.

AN ACT to amend the penal law generally, in relation to the carrying, use and sale of dangerous weapons.

Became a law May 21, 1013, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighteen hundred and ninety-seven of chap- I., 1909. ter eighty-eight of the laws of nincteen hundred and nine, entitled 4, 1897, as "An act providing for the punishment of crime, constituting chap- amended by ter forty of the consolidated laws," as amended by chapter one amended. hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

§ 1897. Carrying and use of dangerous weapons. A person who attempts to use against another, or who carries, or possesses. any instrument or weapon of the kind commonly known as a blackjack,

t

¹ Following sentence new.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 188 of 333

[UHAP.

slungshot, billy, sandelub, sandbag, metal knuckles, bludgeon, bomb or bombshell,¹ or who, with intent to use the same unlawfully against another, carries or possesses a dagger, dirk, dangerous knife, razor, stiletto, or any other dangerous or deadly instrument or weapon, is guilty of a felony.

Any person under the age of sixteen years, who shall have, carry, or have in his possession, any of the articles named or described in the last section, which is forbidden therein to offer, sell, loan, lease or give to him, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have in his possession in any city, village or town of this state, any pistol, revolver or other firearm of a size which may be concealed upon the person, without a written license therefor, issued to him² as hereinafter prescribed, shall be guilty of a misdemeanor.

Any person over the age of sixteen years, who shall have or carry concealed upon his person in any city, village, or town of this state, any pistol, revolver, or other firearm without a written license therefor, ³ issued as hereinafter prescribed and licensing such possession and concealment, shall be guilty of a felony.

Any person not a citizen of the United States, who shall have or carry firearms, or any dangerous or deadly weapons in any ⁴riace, at any time, shall be guilty of a felony, ⁵unless authorized by license issued as hereinafter prescribed.

⁶ It shall be the duty of any magistrate in this state to whom an application therefor is made by a commissioner of correction of a city or by any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted of or accused of crime, or offences, or held as witnesses in criminal cases, to issue to each of such persons as may be designated in such applications, and who is in the regular employ in such institution of the state, or of any county, city, town or village therein, a license authorizing such

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¹ Inclusion of bomb and bombshell, new. ² Remainder of sentence formerly read: "by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner $a \le may$ be prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor."

³ Remainder of sentence formerly read: "theretofore issued to him by a police magistrate of such city or village, or by a justice of the peace of such town, or in such manner as may be prescribed by ordinance of such city, village or town, shall be guilty of a felony." ⁴ Word "public" omitted.

⁸ Remainder of sentence new

Following paragraph new.

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person to have and carry concealed a pistol or revolver while such person remains in the said employ.

⁶ It shall be the duty of any magistrate in this state, upon application therefor, by any householder, merchant, storekeeper or messenger of any banking institution or express company in the state, nd provided such magistrate is satisfied of the good moral character of the applicant, and provided that no other good cause exists for the denial of such application, to issue to such applicant a license to have and possess a pistol or revolver, and authorizing him (a) if a householder, to have such weapon in his dwelling, and (b) if a merchant, or storekeeper, to have such weapon in his place of business, and (c) if a messenger of a banking institution or express company, to have and carry such weapon concealed while in the employ of such institution or express company.

⁶ In addition, it shall be lawful for any magistrate, upon proof before him that the person applying therefor is of good moral character, and that proper cause exists for the issuance thereof, to issue to such person a license to have and carry concealed a pistol or revolver without regard to employment or place of possessing such weapon, provided, however, that no such license shall be issued to any alien, or to any person not a citizen of and usually reident in the state of New York, except by a judge or justice of a court of record in this state, who shall state in such license the particular reason for the issuance thereof, and the names of the persons certifying to the good moral character of the applicant.

⁶Any license issued in pursuance of the provisions of this section may be limited as to the date of expiration thereof and may be vacated and cancelled at any time by the magistrate, judge or justice who issued the same or by any judge or justice of a court of record. Any license issued in pursuance of this section and not otherwise limited as to place or time or possession of such weapon, shall be effective throughout the state of New York, *notwitstanding the provisions of any local law or ordinance.

This section shall not apply to the regular and ordinary transportation of firearms as merchandise, nor to sheriffs, pelicemen, or to other duly appointed peace officers, nor to duly authorized military or civil organizations, when parading, nor to the members thereof when going to and from the place of meeting of their respective organizations.

⁶ Following paragraph new.

^{*} So in original.

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§ 1914, as added by L, 1911, ch. 195, amended, § 2. Section nineteen hundred and fourteen of such chapter. as added by chapter one hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

§ 1914. Sale of pistols, revolvers and other firearms. ⁷No pistol, revolver or other firearms of a size which may be concealed upon the person, shall be sold, or given away, or otherwise disposed of, except to a person expressly authorized under the provisions of section eighteen hundred and ninety-seven of the penal law to possess and have such firearm.

⁷Any person selling or disposing of such firearm in violation of this provision of this section shall be guilty of a misdemeanor.

Every person selling a pistol, revolver or other firearm of a size which may be concealed upon the person, whether such seller is a retail dealer, pawnbroker, or otherwise, shall keep a register in which shall be entered at the time of sale, the date of sale, name, age, occupation and residence of every purchaser of such a pistol, revolver or other firearm, together with the calibre, make, model, manufacturer's number or other mark of identification on such pistol, revolver or other firearm. Such person shall also, before delivering the same to the purchaser, require such purchaser to produce a license⁸ for possessing or carrying the same, as required by law, and shall also enter in such register the date of such permit, the number thereof, if any, and the name of the magistrate or other officer by whom the same was issued. Every person who shall fail to keep a register and to enter therein the facts required by this section or who shall fail to exact the production of a permit to possess or carry such pistol, revolver or other firearm, if such permit is required by law, shall be guilty of a misdemeanor. Such register shall be open at all reasonable hours for the inspection of any peace officer. Every person becoming the lawful possessor of such a pistol, revolver or other firearm, who shall sell, give or transfer the same to another person without first notifying the police authorities, shall he guilty of a misdemeanor. This section shall not apply to wholesale dealers.

In effect Sept. 1, 1913.

^{§ 3.} This act shall take effect September first, nineteen hundred and thirteen.

⁷ Following sentence new.

^{*} Word "license" substituted for word "permit."

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CONSTITUTION OF 1879 As Amended

MEASURES SUBMITTED TO VOTE OF ELECTORS, 1922

GENERAL LAWS, AMENDMENTS TO CODES, RESOLUTIONS, CONSTITUTIONAL AMENDMENTS

PASSED AT THE REGULAR SESSION OF THE FORTY-FIFTH LEGISLATURE

1923



CALIFORNIA STATE PRINTING OFFICE FRANK J. SMITH, Superintendent SACRAMENTO, 1923

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treasurer or the inheritance tax appraiser of the county of the superior court having jurisdiction as provided in section fifteen of this act.

(6) This act shall become effective and in force contempo- Act takes raneously with the taking effect of amendments to sections one effect. thousand four hundred one and one thousand four hundred two of the Civil Code, which amendments were enacted at the forty-fifth session of the legislature of the State of California and known as chapter eighteen of the statutes of 1923, and not otherwise.

CHAPTER 338.

An act to add a new section to the Civil Code to be numbered three thousand fifty-one a, fixing a limit on the amount of a lien on property held under the provisions of section three thousand fifty-one of said code.

[Approved June 13, 1923.]

The people of the State of California do enact as follows:

SECTION 1. A new section is hereby added to the Civil Code to be numbered three thousand fifty-one a and to read as follows:

That portion of any lien, as provided for in the limitation 3051*a*. next preceding section, in excess of one hundred dollars, for recoverable any work, services, care, or safekeeping rendered or performed where willten at the request of any person other than the holder of the legal notice not title, shall be invalid, unless prior to commencing any such work, service, care, or safekeeping, the person claiming such lien shall give actual notice in writing either by personal service or by registered letter addressed to the holder of the legal title to such property, if known. In the case of automobiles, the person named as legal owner in the registration certificate, shall be deemed for the purpose of this section, as the holder of the legal title.

CHAPTER 339.

An act to control and regulate the possession, sale and use of pistols, revolvers and other firearms capable of being concealed upon the person; to prohibit the manufacture, sale, possession or carrying of certain other dangerous weapons within this state; to provide for registering all sales of pistols, revolvers or other firearms capable of being concealed upon the person; to prohibit the carrying of concealed firearms except by lawfully authorized persons; to provide for the confiscation and destruction of such weapons in certain cases; to prohibit the ownership, use, or possession of any of such weapons by certain classes of persons; to prescribe penalties for violations of this act and increased penalties for repeated violations hereof; to

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[Ch. 339]

authorize, in proper cases, the granting of licenses or permits to carry firearms concealed upon the person; to provide for licensing retail dealers in such firearms and regulating sales thereunder; and to repeal chapter one hundred forty-five of California statutes of 1917, relating to the same subject.

[Approved June 13, 1923.]

The people of the State of California do enact as follows:

Manufacture, sale, carrying, etc., certain dangerous weapons prohibited.

Aliens and felons must not possess certain firearms.

Committing felony while carrying dangerous weapon, SECTION 1. On and after the date upon which this act takes effect, every person who within the State of California manufactures or causes to be manufactured, or who imports into the state, or who keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandelub, sandbag, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition, or who carries concealed upon his person any dirk or dagger, shall be guilty of a felony and upon a conviction thereof shall be punishable by imprisonment in a state prison for not less than one year nor for more than five years.

SEC. 2. On and after the date upon which this act takes effect, no unnaturalized foreign born person and no person who has been convicted of a felony against the person or property of another or against the government of the United States or of the State of California or of any political subdivision thereof shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person. The terms "pistol," "revolver," and "firearms capable of being concealed upon the person" as used in this act shall be construed to apply to and include all firearms having a barrel less than twelve inches in length. Any person who shall violate the provisions of this section shall be guilty of a felony and upon conviction thereof shall be punishable by imprisonment in a state prison for not less than one year nor for more than five years.

SEC. 3. If any person shall commit or attempt to commit any felony within this state while armed with any of the weapons mentioned in section one hereof or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm as hereinafter provided, upon conviction of such felony or of an attempt to commit such felony, he shall in addition to the punishment prescribed for the crime of which he has been convicted, be punishable by imprisonment in a state prison for not less than five nor for more than ten years. Such additional period of imprisonment shall commence upon the expiration or other termination of the sentence imposed for the crime of which he stands convicted and shall not run concurrently with such sentence. Upon a second conviction under like circumstances such additional period of imprisCh. 3391

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onment shall be for not less than ten years nor for more than fifteen years, and upon a third conviction under like circumstances such additional period of imprisonment shall be for not less than fifteen nor for more than twenty-five years, such terms of additional imprisonment to run consecutively as before. Upon a fourth or subsequent conviction under like circumstances the person so convicted may be imprisoned for life or for a term of years not less than twenty-five years, within the discretion of the court wherein such fourth or subsequent conviction was had.

In the trial of a person charged with committing or attempt- Faidence. ing to commit a felony against the person of another while armed with any of the weapons mentioned in section one hercof, or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm as hereinafter provided, the fact that he was so armed shall be prima facie evidence of his intent to commit such felony.

SEC. 4. In no case shall any person punishable under the No probation preceding sections of this act be granted probation by the or supension trial court, nor shall the execution of the sentence imposed upon such person be suspended by the court.

SEC. 5. Except as otherwise provided in this act, it shall Carrying be unlawful for any person within this state to carry concealed upon his person or within any vehicle which is under without license. his control or direction any pistol, revolver or other firearm capable of being concealed upon the person without having a license to carry such firearm as hereinafter provided in section eight hereof. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony.

This section shall not be construed to prohibit any citizen Exceptions. of the United States, over the age of eighteen years, who resides or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by section two hereof, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business shall be required of any such citizen. Firearms carried openly in belt holsters shall not be deemed to be concealed within the meaning of this section, nor shall knives which are carried openly in sheaths suspended from the waist of the wearer.

SEC. 6. Nothing in the preceding section shall be construed Police to apply to or affect sheriffs, constables, marshals, policemen, diers, solwhether active or honorably retired, or other duly appointed excepted. peace officers, nor to any person summoned by any such officers to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to members of

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the army, navy, or marine corps of the United States, or the national guard, when on duty, or to organizations which are by law authorized to purchase or receive such weapons from the United States, or from this state; nor to duly authorized military or eivil organizations while parading, nor to the members thereof when going to and from the places of meeting of their respective organizations; nor to members of any elub or organization now existing, or hereafter organized, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon such target ranges, or while going to and from such ranges; or to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

The unlawful concealed carrying upon the person SEC. 7. or within the vehicle of the carrier of any dirk, dagger, pistol, revolver, or other firearm capable of being concealed upon the person, is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be muisances, and shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, city and county, town or other municipal corporation the same shall be surrendered to the head of the police force or police department thereof. The officers to whom the same may be so surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the preservation thereof is necessary or proper to the ends of justice, shall arnually, between the first and tenth days of July, in each year, destroy or cause to be destroyed such weapons to such extent that the same shall become and be wholly and entirely ineffective and useless for the purpose for which it was manufactured; provided, however, that in the event any such weapon has been stolen and is thereafter recovered from the thief or his transferee, the same shall not be destroyed but shall be restored to the lawful owner thereof, so soon as its use as evidence has been served. upon his identification of the weapon and proof of ownership Blackjacks, slungshots, billys, sandclubs, sandbags thereof. and metal knuckles are hereby declared to be nuisances and shall be subject to confiscation and summary destruction whenever found within the state; provided, that upon the eertificate of a judge or of the district attorney that the ends of justice will be subserved thereby, such weapon shall be preserved until the necessity for its use ceases.

SEC. 8. It shall be lawful for the sheriff of a county, and the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, city and county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or other police head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry con-

Nuisances.

Destruction of weapons.

Licensea to carry firearms. Ch. 3391

FORTY-FIFTH SESSION.

cealed a pistol, revolver or other firearm for a period of one year from the date of such license. All applications for such Applications. licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry such weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. When such licenses are issued by a sheriff a record thereof shall be kept in the office of the county Record. clerk; when issued by police authority such record shall be maintained in the office of the authority by whom issued. Such applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the attorney general.

SEC. 9. Every person in the business of selling, leasing or Dealers registers. otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, lessor or transferrer is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber or other marks of identification on such pistol, revolver or other firearm. Such register shall be prepared by and obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of three Cost. dollars per one hundred leaves in duplicate and shall be in the form hereinafter provided. The purchaser of any firearm, capable of being concealed upon the person shall sign, and the dealer shall require him to sign his name and affix Signatures. his address to said register in duplicate and the salesman shall affix his signature in duplicate as a witness to the signatures of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such Disposition of duplicate register shall on the evening of the day of sale, be placed in sheets, the mail, postage prepaid and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, city and county, town or other municipal corporation wherein the sale was made: provided, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the Penalty. provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such fire-arm is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, por to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, city and county, town or municipal corporation wherein

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Form of register. they are situated. The register provided for in this act shall be substantially in the following form:

Form of Register.

Series	No
Sheet	No

ORIGINAL.

Dealers' Record of Sale of Revolver or Pistol.

State of California.

Notice to dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.

Carbon duplicate must be mailed on the evening of the day of sale, to head of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the municipal corporations wherein the sale is made, or to the county clerk of your county if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicate. Use indelible pencil.

old by Salesman	_
lity, town or township	
Description of arm (state whether revolver or pistol)	
Iaker Number Caliber	
Vame of purchaseryear	
Permanent residence (state name of city, town or township	
treet and number of dwelling)	
leightfeetinches. Occupation	
olorskineyeshair	
f traveling or in locality temporarily, give local addres	
	_

Signature of purchaser_____(Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)

Witness_____, salesman.

(To be signed in duplicate.)

Series No.....

DUPLICATE.

Dealers' Record of Sale of Revolver or Pistol. State of California.

Notice to dealers: This earbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page. Violation of this law is a misdemeanor. Sold by ______ Salesman_____ City, town or township ______ Salesman_____ Description of arm (state whether revolver or pistol)______ Maker ______ number______ caliber_____ Ch. 3391

FORTY-FIFTH SESSION.

Name of purchaser _____age____years. Permanent address (state name of city, town or township, street and number of dwelling)_____

Height feet inches. Occupation _____ If traveling or in locality temporarily, give local address Signature of purchaser_____ (Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.)

Witness_____, salesman.

(To be signed in duplicate.)

SEC. 10. No person shall sell, deliver or otherwise transfer Restrictions any pistol, revolver or other firearm capable of being con- of certain cealed upon the person to any person whom he has cause to fream. believe to be within any of the classes prohibited by section two hereof from owning or possessing such firearms, nor to any minor under the age of eighteen years. In no event shall any such firearm be delivered to the purchaser upon the day of the application for the purchase thereof, and when delivered such firearm shall be securely wrapped and shall be unloaded. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Any violation of the provisions of this section shall be a misdemeanor.

SEC. 11. The duly constituted licensing authorities of Local licenses for any county, city and county, city, town or other municipality sale of cerwithin this state, may grant licenses in form prescribed by the tain freams. attorney general, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said county, city and county, city, town or other municipality pistols, revolvers, and other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered

(a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor (b) Unless the purchaser either is personally known to the

seller or shall present clear evidence of his identity.

4. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

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|Ch. 339

Penalty for dealing in certain firearms without license.

Tampering with marks on certain fireæms.

Penalty.

Expiration of current licenses,

Antique pistols, etc.

Constitutionality.

Stats. 1917, p. 221, repcal=d,

SEC. 12. Any person who, without being licensed as above provided, engages in the business of selling or otherwise transferring, or who advertises for sale, or offers or exposes for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person is guilty of a misdemeanor.

SEC. 13. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same. Violations of this section shall be punished by imprisonment in the state prison for not less than one year nor more than five years.

SEC. 14. All licenses heretofore issued within this state permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of December 31, 1924.

SEC. 15. This act shall not apply to antique pistols or revolvers incapable of use as such.

. SEC. 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SEC. 17. That certain act entitled, "An act relating to and regulating the carrying, possession, sale or other disposition of firearms capable of being concealed upon the person; prohibiting the possession, carrying, manufacturing and sale of certain other dangerous weapons and the giving, transferring and disposition thereof to other persons within this state; providing for the registering of the sales of firearms; prohibiting the carrying or possession of concealed weapons in municipal corporations; providing for the destruction of certain dangerous weapons as nuisances and making it a felony to use or attempt to use certain dangerous weapons against another," approved May 4, 1917, is hereby repealed. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 200 of 333

LAWS

PASSED AT

THE EIGHTEENTH SESSION

OF

Legislative Assembly

OF THE

STATE OF NORTH DAKOTA

BEGUN AND HELD AT BISMARCK, THE CAPITAL OF SAID STATE, ON TUESDAY, THE SECOND DAY OF JANUARY, A. D. 1923, AND CONCLUD-ING MARCH SECOND, 1923

KNIGHT PRINTING CO., FARGO, N. D.-BLANK BOOKS-ENBOSSING

PERJURY

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PERJURY

CHAPTER 265.

(S. B. No. 232-Stevens.)

OATH.

An Act to Amend and Re-enact Section 9367 of the Compiled Laws of North Dakota for the year 1913, Relating to the Prescribing of an Oath.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. AMENDMENT.) That Section 9367 of the Compiled Laws of North Dakota for the year 1913 be amended and re-enacted to read as follows:

Sec. 9367. OATH DEFINED.) The term oath as used in Section 9366 of the Compiled Laws of 1913, includes an affirmation and every other mode of attesting the truth of that which is stated, which is authorized by law, and the signing of any writing purporting to be made under oath, in the presence of an officer authorized to administer oaths, or the acknowledgment of the signing thereof, to or before any such officer, or the presentation thereof to such officer by the person signing or by his direction to be authenticated as an oath, shall be deemed to be the taking of an oath within the meaning of said section and the certificate of the officer purporting to take such oath shall be prima facie evidence of the taking thereof.

Approved March 1st, 1923.

PISTOLS AND REVOLVERS

CHAPTER 266.

(S. B. No. 256-McLachlin.)

PISTOLS AND REVOLVERS.

An Act To Control the Possession, sale, and use of pistols and revolvers, to provide penalties, and for other purposes.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. DEFINITION.) "Pistol or revolver," as used in this Act, shall be contrued as meaning any firearm with barrel less than twelve inches in length. CHAPTER 266

PISTOLS

Sec. 2. COMMITTING CRIME WHEN ARMED.) If any person shall commit or attempt to commit a crime when armed with a pistol or revolver, and having no permit to carry the same, he shall be in addition to the punishment provided for the crime, be punished by imprisonment for not less than ten years.

Sec. 3. PUNISHMENT.) The judge shall have the power to sentence any person who may be convicted for a second or third offense under section 2 of this Act, to double and triple the penalty imposed thereby, and for a fourth offense the person so convicted may be sentenced to life imprisonment.

Sec. 4. BEING ARMED PRIMA FACIE EVIDENCE OF INTENTION.) In the trial of a person for the commission of a felony or of an attempt to commit a felony against the person of another, the fact that he was armed with a pistol or revolver and having no permit to carry the same shall be prima facie evidence of his intention to commit said felony.

Sec. 5. ALIENS AND CRIMINALS MUST NOT POSSESS ARMS.) No unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the Government of the United States or of any State or subdivision thereof, shall own or have in his possession or under his control, a pistol or revolver. Violations of this section shall be punished by imprisonment for not to exceed five years.

Sec. 6. CARRYING PISTOL CONCEALED.) No person shall carry a pistol or revolver concealed in any vehicle or in any package, satchel, grip, suit case or carry in any way or upon his person, except in his dwelling house or place of business, without a license therefor as hereinafter provided. Violations of this section shall be punished by imprisonment for not less than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed.

Sec. 7. EXCEPTIONS.) The provisions of the preceding section shall not apply to marshals, sheriffs, policemen, or other duly appointed peace officers, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the Army, Navy or Marine Corps of the United States, or the National Guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or this State, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at or going to or from their customary places of assembly.

Sec. 8. ISSUE OF LICENSES TO CARRY.) The justice of a court of record, the chief of police of a city or town and the sheriff of a county, or persons authorized by any of them

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shall upon the application of any persons having a bona fide residence or place of business within the jurisdiction of said licensing authority, or of any person having a bona fide residence or place of business within the United States and a license to carry a fire arm concealed upon his person issued by the authorities of any State or sub-division of the United States, issue a license to such person to carry a pistol or revolver within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property or for any other proper purpose, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescrived by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State, and the triplicate shall be preserved for six years by the authority issuing said license.

Sec. 9. SELLING TO MINORS.) Any person or persons who shall sell, barter, hire, lend or give to any minor under the age of eighteen years any pistol or revolver shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be fined not less than \$100, nor more than \$1,000, or be imprisoned not less than three months, nor more than one year, or both.

Sec. 10. SALES REGULATED.) No person shall sell, deliver, or otherwise transfer a pistol or revolver to a person who he has reasonable cause to believe either is an unnaturalized foreign born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof, nor in any event shall he deliver a pistol or revolver on the day of the application for the purchase thereof, and when delivered, said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, sign and forward by registered mail one copy thereof to the Secretary of State, and one copy thereof to the chief of police of the city or town, or the sheriff of the county of which the seller is a resident, and shall retain the other copy for six years. This section shall not apply to sales at whole-Where neither party to the transaction holds a dealer's lisale. cense, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall be punished by a fine of not less than \$100 or by

CHAPTER 266

PISTOLS

imprisonment for not less than one year, or by both such fine and imprisonment.

Sec. 11. DEALERS TO BE LICENSED.) Whoever, without being licensed as hereinafter provided, sells, or otherwise transfers, advertises, or exposes for sale, or transfers or has in his possession with intent to sell, or otherwise transfer, pistols or revolvers, shall be punished by imprisonment for not less than two years.

Sec. 12. DEALERS' LICENSES: BY WHOM GRANTED, AND CON-DITIONS THEREOF.) The duly constituted licensing authorities of any city, town or subdivision of this state, may grant licenses in form prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city or town or political subdivision, pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered---

- (a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor
- (b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor
- (c) If the seller has reasonable cause to believe that the purchaser either is an unnaturalized foreign born person or has been convicted of a felony against the person or property of another, or against the Government of the United States or any State or subdivision thereof.

4. A true record, in triplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Secretary of State, and shall be personally signed by the purchaser and by the person affecting the sale, each in the presence of the other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, occupation, and nationality of the purchaser. One copy of said record shall, within seven days, be forwarded by registered mail to the Secretary of State and one copy thereof to the chief of police of the city or town or the sheriff of the county of which the seller is a resident, and the other copy retained for six years.

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5. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

Sec. 13. PENALTY FOR FALSE INFORMATION.) If any person in purchasing or otherwise securing delivery of a pistol or revolver or in applying for a permit to carry the same, shall give false information or offer false evidence of his identity he shall be punished by imprisonment for not less than five nor more than ten years.

Sec. 14. ALTERATION OF IDENTIFYING MARKS PROHIBITED.) No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same. Violations of this section shall be punished by imprisonment for not less than one year nor more than five years.

Sec. 15. EXISTING LICENSES REVOKED.) All Licenses heretofore issued within this State permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of June 30th, 1923.

Sec. 16. EXCEPTIONS.) This Act shall not apply to antique pistols or revolvers incapable of use as such.

Sec. 17. CERTAIN ACTS REPEALED.) All laws or parts of laws inconsistent herewith are hereby repealed.

Approved March 7th, 1923.

PLEDGE

CHAPTER 267.

(H. B. No. 177-Cole.)

SALE OF PROPERTY PLEDGED.

An Act to Amend and Re-enact Section 6790 of the Compiled Laws of North Dakota for 1913.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. AMENDMENT.) Section 6790 of the Compiled Laws of the State of North Dakota for 1913 is amended and re-enacted to read as follows: Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 206 of 333

LAWS

OF THE

STATE OF INDIANA

Passed at the Seventy-Fourth Regular Session of the General Assembly

Begun on the Eighth Day of January, A. D. 1925

1925

BY AUTHORITY FREDERICK E. SCHORTEMEIER, Secretary of State

INDIANAPOLIS: WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING 1925

Add. 160

PISTOLS AND REVOLVERS.

laying out, opening, changing or vacating of any street, alley, or public place in any city are hereby extended and shall apply to all proceedings had under the provisions of section 1 of this act, including the ascertainment, award and payment of damages to, and the fixing, assessment and collection of assessments from, the owners of property beneficially or injuriously affected by such proceeding.

CHAPTER 207.

AN ACT to regulate and control the possession, sale, and use of pistols and revolvers in the State of Indiana, to provide penalties, and for other purposes.

[S. 55. Approved March 12, 1925.]

Pistols and Revolvers Defined.

SECTION 1. Be it enacted by the general assembly of the State of Indiana, That the term "pistol or revolver," as used in this act, shall be construed as meaning any firearm with a barrel less than twelve inches in length.

Crime—Committing When Armed With Pistol or Revolver.

SEC. 2. If any person shall, within the State of Indiana, commit or attempt to commit a crime, when armed with a pistol or revolver, and having no permit to carry the same, he shall, in addition to the punishment provided for the crime, be guilty of a felony and shall be punished by imprisonment for not less than one year and not more than five years.

Subsequent Offenses.

SEC. 3. The judge shall have the power to sentence any person who may be convicted for a second or third, or other subsequent offense under section 2 of this act, to double or triple the penalty imposed thereby.

Felony—Conviction For—Prohibited From Possessing Pistol.

SEC. 4. No person who has been convicted of a felony committed against the person or property of another shall own or have in his possession or under his control, within the State of Indiana, a pistol or revolver. A violation

GENERAL LAWS.

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of this section shall constitute a felony and be punishable by imprisonment for not less than one year, and not more than five years.

Pistol or Revolver-Possession Without Permit.

SEC. 5. No person shall carry, within the State of Indiana, a pistol or revolver concealed in any vehicle or upon his person, except in his dwelling house or place of business, without a permit therefor as hereinafter provided. Violations of this section shall constitute a misdemeanor and be punished by a fine of one hundred dollars (\$100.00), to which may be added imprisonment for not more than one year, and upon conviction the pistol or revolver shall be confiscated and destroyed by the sheriff on order of the court.

Persons Exempt From Act.

SEC. 6. The provisions of the preceding section shall not apply to marshals, sheriffs, deputy sheriffs, policemen or any other duly appointed peace officers, nor the pistols or revolvers of any bank, trust company, or common carriers, or to the officers or employes of any bank, trust company, or common carriers, while such officers or employes are guarding money or valuables within the line of their duties as such employes, nor to the regular and ordinary transportation of pistols or revolvers as merchandise, nor to members of the army, navy, or marine corps or the mail service of the United States, or the national guard, when on duty, or organizations by law authorized to purchase or receive such weapons from the United States, or the State of Indiana, nor to duly authorized military or civil organizations when parading, nor to the members thereof when at or going to or from their customary places of assembly.

Permits—Clerk of Circuit Court—Application—Form— Fee.

SEC. 7. The clerk of any circuit court of the State of Indiana, shall, upon application of any citizen having a bona fide residence or place of business within the State of Indiana, or of any person having a bona fide residence or place of business within the United States, and a permit

PISTOLS AND REVOLVERS.

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to carry a firearm concealed upon his person issued by the authorities of any other state or subdivision of the United States, issue a permit to such citizen to carry a pistol or revolver within the State of Indiana, during the period of one year or until revoked, as herein provided. Such application for permit shall be signed by two resident householders and freeholders of the county in which the applicant lives, and it shall appear from such application that the applicant is a suitable person to be granted a permit under the law. The permit shall be in duplicate, in form to be prescribed by the adjutant general of the State of Indiana, and shall bear the name, address, description and signature of the applicant and reason given for desiring a permit. The original thereof shall be delivered to the applicant, the duplicate shall be preserved for six years by the clerk of the circuit court issuing the same. For each permit so issued, the applicant shall pay the sum of one dollar (\$1.00).

Minors-Sale of Pistols or Revolvers to Prohibited.

SEC. 8. Any person or persons who shall, within the State of Indiana, sell, barter, hire, lend, or give to any minor under the age of twenty-one years, any pistol or revolver shall be deemed guilty of a misdemeanor and shall upon conviction thereof be fined not more than one hundred dollars (\$100.00), or be imprisoned for not more than three months, or both, except for uses as hereinbefore provided.

Sale of Pistols and Revolvers-Record-Penalty.

SEC. 9. No person shall within the State of Indiana sell, deliver or otherwise transfer a pistol or revolver to a person who he has reasonable cause to believe either is not a citizen or has been convicted of a felony against the person or property of another, nor in any event shall he deliver a pistol or revolver on the day of the application for the purchase thereof, and when delivered said pistol or revolver shall be securely wrapped and shall be unloaded. Before a delivery be made, the purchaser or his duly authorized agent and the seller or his duly authorized agent shall in the presence of each other sign in duplicate a statement containing the purchaser's full name, age, ad-

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GENERAL LAWS.

dress, place of birth, and nationality, the date of sale, the caliber, make, model, and manufacturer's number of the weapon. The seller shall, within seven days, forward by registered mail, to the clerk of the circuit court of the county in which the seller resides, one copy thereof and shall retain the other copy for six years. This section shall not apply to sales at wholesale. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer a pistol or revolver to any person not personally known to him. Violations of this section shall constitute a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00), or by imprisonment for not more than one year, or by both such fine and imprisonment.

Pistols and Revolvers-Sale Without License.

SEC. 10. Whoever, within the State of Indiana, without being licensed as hereinafter provided, sells, delivers, transfers, advertises, or exposes for sale, or has in his possession with intent to sell, pistols or revolvers, shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one year nor more than two years.

Dealers' Licenses—Conditions on Which Sold—Record— Advertisement.

SEC. 11. The clerk of the circuit court of any county may grant licenses, to any reputable, established dealer, on forms to be prescribed by the adjutant general, permitting the licensee to sell at retail within the State of Indiana pistols and revolvers, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered:

(a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; nor,

PISTOLS AND REVOLVERS.

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(b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor,

(c) If the seller has reasonable cause to believe that the purchaser is an unnaturalized foreign-born person or has been convicted of a felony against the person or property of another.

4. A true record, in duplicate, shall be made of every pistol or revolver sold, said record to be made in a book kept for the purpose, the form of which shall be prescribed by the adjutant general and shall be signed by the purchaser and by the person effecting the sale, and in the presence of each other, and shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, the name, address, age, place of birth, nationality of the purchaser. One copy of said record shall, within seven days, be forwarded by registered mail to the clerk of the circuit court of the county in which the seller resides, and the other copy shall be retained by the seller for six years.

5. No pistol or revolver, or placard advertising the sale thereof, or imitation thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.

False Information.

SEC. 12. If any person in purchasing or otherwise securing delivery of a pistol or revolver or applying for a permit to carry same within the State of Indiana shall give false information or offer false evidence of his identity he shall be deemed guilty of a felony and upon conviction shall be punished by imprisonment for not less than one year nor more than five years.

Obliteration of Make, Model, Number-Penalty.

SEC. 13. No person shall within the State of Indiana, change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearms upon which the same shall have been changed. altered, removed, or obliterated, shall be prima facie evidence that such possessor has changed, altered, removed, GENERAL LAWS.

or obliterated the same. Violations of this section shall be a misdemeanor and shall be punished by imprisonment for not less than six months nor more than one year.

Felony—Possession of Revolver Prima Facie Evidence.

SEC. 14. In the trial of a person charged with committing or attempting to commit a felony against the person or property of another while armed with a pistol or revolver, without having a permit to carry such firearm as hereinbefore provided, the fact that such person was so armed shall be prima facie evidence of his intent to commit such felony.

Weapons Exempt.

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SEC. 15. This act shall not apply to antique pistols or revolvers incapable of use as a deadly weapon.

Prior Licenses.

SEC. 16. Any or all licenses heretofore issued to carry or possess revolver or pistol shall be revoked and rendered null and void on and after thirty days from the taking effect of this act.

Revocation of License.

SEC. 17. Hereafter in any court of record upon trial of any person for a penal offense, and upon a showing that such person is not a fit person to carry concealed weapons, the court may enter an order revoking such person's license to carry concealed weapons and such fact shall be communicated to the public officer issuing the same.

Licensed Dealers-Statement-Penalty.

SEC. 17½. It shall be unlawful from and after the taking effect of this act, for any person, firm or corporation to receive or have in his or its possession within the State of Indiana any pistol or revolver purchased or acquired after the taking effect of this act, except a licensed dealer, who shall not have signed and forwarded to the clerk of the county in which he resides the statements provided for in section 9 of this act, before or at the time of taking possession of such pistol or revolver. Whoever shall violate the provisions of this section of this act shall be FORTY-NINTH JUDICIAL CIRCUIT.

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deemed guilty of a misdemeanor and shall upon conviction thereof be fined not more than \$100, to which may be added imprisonment for not more than sixty days.

Repeal.

SEC. 18. All laws and parts of laws in conflict herewith are hereby repealed.

Unconstitutional Provisions.

SEC. 19. If any provision or section of this act shall be held void or unconstitutional, all other provisions and all other sections of this act, which are not expressly held to be void or unconstitutional, shall remain in full force and effect.

CHAPTER 208.

AN ACT fixing the terms of the circuit court, in the forty-ninth judicial circuit, composed of the counties of Daviess and Martin, and repealing all laws in conflict therewith, and declaring an emergency.

[S. 173. Approved March 12, 1925.]

Daviess and Martin Counties-Terms of Court.

SECTION 1. Be it enacted by the general assembly of the State of Indiana, That there shall be four terms each year of the circuit court in each of the counties of Daviess and Martin, comprising the forty-ninth judicial circuit. The terms in the county of Martin shall begin on the first Monday in January, the fourth Monday in March, the first Monday in August, and the fourth Monday in October of each year, and the terms beginning on the first Monday of January, and the fourth Monday of March, shall continue for four weeks each, and the terms beginning on the first Monday of August, and the fourth Monday of October, shall continue for three weeks each.

The terms in the county of Daviess shall begin on the first Monday of February, the fourth Monday of April, the first Monday of September, and the third Monday of November, and the terms beginning on the first Monday of February, and the first Monday of September, shall continue for six weeks, and the terms beginning on the fourth Monday of April and the third Monday of NovemCase: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 214 of 333

PUBLIC ACTS

OF

THE LEGISLATURE

OF THE

STATE OF MICHIGAN

PASSED AT THE

REGULAR SESSION OF 1925

CONTAINING JOINT RESOLUTIONS



COMPILED BY CHARLES J. DELAND SECRETARY OF STATE

LANSING, MICHIGAN ROBERT SMITH CO., STATE PRINTERS 1925

[No. 313.]

AN ACT to regulate the possession and sale of pistols, revolvers and guns; to provide a method of licensing those carrying such weapons concealed; and to provide penalties for violations of such regulations.

The People of the State of Michigan enact:

SECTION 1. A pistol, revolver or gun as used in this act Pistol, etc., shall be construed to mean any pistol, revolver or gun not defined. exceeding thirty inches in length that can be concealed on or about the person.

SEC. 2. Any person who shall commit or attempt to commit Felony, a felony when armed with a pistol, revolver or gun, as defined penalty for. in section one, shall, in addition to the punishment provided for committing the crime, be punished by imprisonment for not less than two nor more than five years within the discretion of the court.

SEC. 3. The court shall have power to sentence any person second who may be convicted of a second offense to double the addi- offense. tional penalty imposed under section two hereof for carrying such concealed weapon without a license.

SEC. 4. In the trial of a person for the commission of mur- what der, assault with intent to do great bodily harm, robbery, deemed prima facie larceny, or of an attempt to commit any of such offenses, the evidence. fact that he was armed with a pistol, revolver or gun as herein defined and had no permit to carry the same, shall be prima facie evidence of his intention to commit the crime with which he is charged. If any peace officer shall arrest a person on suspicion and with probable cause and without a warrant, for carrying concealed weapons, as herein provided, without a license therefor, and the arrest was in other respects legal and such person was actually in possession of a concealed weapon without a license to carry the same, it shall be presumed that the officer making the arrest had reasonable cause to believe that the alleged offense was being committed.

SEC. 5. No person shall carry a pistol, revolver or gun con- Pistol, etc., cealed on or about his person or in any vehicle owned or when unlawoperated by him, except in his dwelling house, place of business or on his premises, without a license therefor, as hereinafter provided. The provisions of this section, however, shall not apply to the regular and ordinary transportation of pistols, revolvers or guns as merchandise, or to any member of the army, navy or marine corps of the United States, or to the national guard when on duty, or organizations by law authorized to purchase or receive such weapons from the United States or from this state, nor to duly authorized military organizations when on duty, nor to the members thereof when going to or returning from their customary places of assembly, nor to wholesale or retail dealers therein, nor to peace officers of the state.

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PUBLIC ACTS, 1925-No. 313.

Permit to carry, who to issue.

SEC. 6. The prosecuting attorney, sheriff and chief of police of any city or incorporated village in which an applicant for a license to carry a concealed weapon, as herein defined, resides, shall constitute a licensing board for applicants living in cities and incorporated villages of each county. The prosecuting attorney and sheriff shall constitute a board to act upon applications for such a license by applicants not residing in a city or incorporated village in such county. The county clerk of each county shall be clerk of such board. The board as herein constituted may issue a permit to carry concealed, a revolver or gun within the state, to such person residing within the jurisdiction of the licensing board, if it appears that the applicant is a suitable person to be granted a license and there is reasonable cause therefor. The license so issued shall state the reason for granting the same and the length of time for which granted. Such license shall be void when the reason for granting it ceases to exist. A license may also be issued, as herein provided, to any person having a bona fide residence or place of business within the United States, and holding a license to carry the weapons herein mentioned concealed upon his person, issued by the authorities of the United States. The license herein mentioned shall te in a form prescribed by the secretary of state and shall be in triplicate. It shall give the name, address and description of the licensee and the reason for granting a license. Each of said copies shall be signed by the licensee. The original shall be delivered to such licensee; one copy shall be mailed by registered letter within thirty days to the secretary of state and the other copy shall be preserved by the person issuing the license.

No person shall deliver or otherwise transfer a SEC. 7. pistol, revolver or gun, as defined in this act, to a person, unless it be securely wrapped and unloaded. Before the same is delivered to the purchaser, he shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, nationality, the date of sale, the caliber, make, model and manufacturer's number of the weapon. The seller shall, within thirty days thereafter, sign and mail by registered letter one copy thereof to the secretary of state, one copy to the chief of police of the city or village in which t the same was sold or to the sheriff of the county of which the seller is a resident and shall retain the other copy. This section shall not apply to sales at wholesale. Any person convicted of wilfully violating the provisions of this section shall be punished by a fine of not less than one hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment, in the discretion of the magistrate.

SEC. 8. No person, firm or corporation shall hereafter sell or otherwise transfer a pistol, revolver or gun without having obtained a dealer's license therefor. The duly constituted licensing authorities herein mentioned may grant licenses on a form prescribed by the secretary of state, effective for not

Form of license.

Delivery to purchaser; statement required.

Dealer's license. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 217 of 333

PUBLIC ACTS, 1925-No. 313.

more than one year from the date thereof permitting the licensee to sell at retail the firearms herein mentioned, subject to the following conditions:

1. The business shall be conducted only in the building occupied by the licensed dealer.

2. The license or a copy thereof certified by the issuing authority shall be displayed on the premises where it can be readily seen.

A true record in triplicate shall be made of every pistol, 3. revolver or gun, as defined in this act, sold, said record to be made in a book kept for the purpose, the form of which shall be prescribed by the secretary of state as hereinbefore provided. The form shall show the date of sale, the caliber, make, model and manufacturer's number of the weapon and the name. address, occupation and nationality of the purchaser.

SEC. 9. If any person in purchasing or otherwise securing False delivery of a pistol, revolver, or gun, as defined in this act, or information. in applying for a permit to carry the same, shall give any false information or offer false evidence of his identity, he shall be subject to the penalty hereinafter provided.

SEC. 10. No person shall deliberately change, alter, remove Not to or obliterate the name of the maker, model, manufacturer's change, etc., name of number or other mark of identity of any pistol, revolver or maker, etc. gun. Possession of any such firearm upon which the name or number shall have been deliberately changed, altered, removed or obliterated shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same.

SEC. 11. On or before the first day of July, nineteen hun- Registration. dred twenty-five, any person within this state who owns or has in his possession, a pistol, revolver or gun, as herein described, and which have not been by that time legally registered, shall register the same in the office of the sheriff of the county or the chief of police of the city or village in which such person resides. A certificate of registration shall be certificate, issued in triplicate and on a form to be prescribed by the what to consecretary of state, containing the name, address, description and signature of the person registering the same, together with a full description of such firearm. The original shall be delivered to the person registering the same, one copy thereof shall be mailed to the secretary of state by registered letter within thirty days from the date of said registration, and the other copy thereof shall be retained and filed in the office of said sheriff or chief of police. The provisions of this section shall not apply to wholesale or retail dealers or to persons having in their possession pistols, revolvers or guns used solely for the purposes of display as relics, souvenirs or curios and kept as a collection of such.

All licenses heretofore issued within the state, when license SEC. 12. permitting a person to carry a pistol, revolver or gun, as de- to expire. fined in this act, concealed upon his person, shall expire at midnight, December thirty-first, nineteen hundred twentysix.

Conditions.

Add. 171

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4111	

PUBLIC ACTS, 1925-No. 314.

Revocation.

SEC. 13. Any officer issuing a license under the provisions of this act may revoke the same upon receiving a certificate of any magistrate showing that such licensee has been convicted of violating any of the provisions of this act. Such license may also be revoked by the official issuing the same whenever in his judgment the holder thereof has violated any of the provisions of this act or is an unfit person to carry a Hearing. concealed weapon as mentioned herein. Such official shall not revoke a license as herein mentioned, except after a hearing of which reasonable notice shall be given to the licensee either personally or by registered mail to the last known residence of the licensec. No such license shall be revoked except upon the written complaint of a peace officer or person living within the jurisdiction of the licensing official. Such complaint shall be addressed to the licensing official and shall set forth the reasons for requesting that the license be revoked.

When inapplicable.

Penalty for violation.

or guns. SEC. 15. Any person convicted of a violation of this act for which a penalty is not provided shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the state prison for a period of not more than three years, or

SEC. 14. This shall not apply to antique pistols, revolvers

by both such fine and imprisonment, in the discretion of the court.

Sec. 16. This act is declared to be severable and if any section or part of a section shall be held to be unconstitutional, the validity of the balance of the act shall not be affected thereby.

Approved May 26, 1925.

[No. 314.]

AN ACT to amend section one of act number thirty-two of the public acts of eighteen hundred seventy-three, entitled "An act to extend aid to the university of Michigan and to repeal an act entitled 'An act to extend aid to the university of Michigan,' approved March fifteen, eighteen hundred sixtyseven, being sections three thousand five hundred six and three thousand five hundred seven of the compiled laws of eighteen hundred seventy-one," being section one thousand one hundred eighty-three of the compiled laws of nineteen hundred fifteen, as amended by act number two hundred fifty-two of the public acts of the state of Michigan for the year nineteen hundred twenty-three.

The People of the State of Michigan enact:

Section amended.

SECTION 1. Section one of act number thirty-two of the public acts of eighteen hundred seventy-three, entitled "An act to

Saving clause.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 219 of 333

ACTS

OF THE

One Hundred and Forty-ninth Legislature

of the

STATE OF NEW JERSEY

AND

Eighty-first Under the New Constitution



TRENTON, N, J. MACCRELLISH & QUIGLEY CO., STATE PRINTERS.

1925

Add. 173

CHAPTER 64, LAWS OF 1925.

CHAPTER 64.

An Act to amend an act entitled "A further supplement to an act entitled 'An act for the punishment of crimes' (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight," which supplementary act was approved March cleventh, one thousand nine hundred and twenty-four.

BE IT ENACTED by the Schate and General Assembly of the State of New Jersey:

1. The act of which this act is amendatory be and Actamended. the same hereby is amended so that the same shall read as follows:

1. Any person who shall carry any revolver, pistol Carrying con-or other firearm, or other instrument of the kinds known on person as a blackjack, slungshot, billy, sandclub, sandbag, misdemeanor. bludgeon, metal knuckles, dagger, dirk, dangerous knife, stiletto, bomb or other high explosive, other than fixed ammunition, concealed in or about his clothes or person, or in any automobile, carriage, motor cycle, or other vehicle, shall be guilty of a misdemeanor; pro- Proviso: legal vided, however, that nothing in this act contained shall be construed in any way to apply to the sheriff, or the undersheriffs of any county, nor to the regularly employed members of any uniformed police department in any municipality of this State, nor to any prosecutor or assistant prosecutor of any county, jailer, regular fish and game wardens, constable, railway police, canal police, and steamboat police and prosecutor's detectives; nor to any member of the State Police, nor to any motor vehicle inspector; nor to duly authorized military organizations when under orders, nor to the members thereof when going to or from places of meeting of their respective organizations, carrying the weapons prescribed for such drill, exercise or parade; and provided, Proviso. further, nothing in this act contained shall be construed to apply to any person having a written permit to carry

carrying.

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Proviso

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CHAPTER 64, LAWS OF 1925.

any revolver, pistol or other firearm, when such permit has been obtained pursuant to the provisions of this act; nor to public utility corporations in the transportation of explosives; *provided*, *however*, that nothing herein contained shall prevent any person from keeping or carrying about his or her place of business, dwelling, house or premises, any such revolver, pistol, firearm or other weapon, or from carrying the same from any place of purchase to his or her dwelling, house or place of business, or from his or her dwelling, house or place of business to any place where repairing is done, to have the same repaired and returned, or to carry a gun, rifle or knife in the woods or fields or upon the waters of the State for the purpose of hunting or target practice.

2. Any person desirous of obtaining a permit to carry a revolver, pistol or other firearm, pursuant to the provisions of this act, shall in the first instance, make application therefor either 'to the chief police official of the municipality in which the applicant resides or to the sheriff of the county wherein the applicant resides. If such application is approved by the chief police official or by the sheriff, as the case may be, the applicant shall then present such application, so approved as aforesaid, to a Common Pleas judge of the county or to the justice of the Supreme Court or to the judge holding the circuit for the county in which the applicant is resident, who, after investigation, and being satisfied of the sufficiency of the application, and of the need of such person carrying concealed upon his person, a revolver, pistol or other firearm, shall issue a permit therefor. A permit so issued pursuant to the provisions of this act is sufficient authority for the holder thereof to carry concealed upon his person a revolver, pistol or other firearm in all parts of the State of New Jersey. All permits issued pursuant to the provisions of this act shall expire on the thirty-first day of December subsequent to the date of issue, and may thereafter be renewed for a period of five years.

3. Every person engaged in the retail business of selling, leasing or otherwise transferring a pistol, revolver or other firearm of a size capable of being concealed

License to carry weapons.

Application.

Approval.

Permit.

Expiration and renewal.

Record of sale kept.

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upon the person, whether such seller, lessor or transferror is a retail dealer, pawnbroker or otherwise, shall keep a register in which shall be entered the time of sale, date of sale, the name, age, color, nationality, occupation and residence of the purchaser, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, calibre or other marks of identification on such pistol, revolver or other firearm. Such register shall be open at all reasonable hours for the inspection of any police or other peace officer.

The form of such register shall be prepared by the Registry. Secretary of State, and by him transmitted to the clerk of every municipality. The clerk of such municipality I'urnished dealers. shall thereupon prepare said register in accordance with said form so transmitted, and furnish the same to each person, firm or corporation within his said municipality engaged in the business of selling, leasing or otherwise transferring pistols, revolvers or other firearms. The purchaser of any pistol, revolver or other firearm Signature of capable of being concealed upon the person shall sign, seller. and the dealer shall require him to sign his name and affix his address to said register, in duplicate, and the salesman shall affix his name, in duplicate, as a witness to the signature of the purchaser. Any person signing False reprea fictitious name or address, or giving any false information in connection with the making of any such purchase shall be guilty of a high misdemeanor.

The duplicate sheet of such register shall before Duplicate twelve o'clock midnight of the day of sale, lease or transfer be delivered to the office of the chief of police of such municipality, or to the office of the captain of the precinct of any such city, within which the dealer resides, and a receipt shall be given to such dealer therefor; provided, however, that where a sale, lease or Proviso. transfer is made in any municipality having no chief of police, it shall then be the duty of the dealer, from the day of sale to mail to the county clerk of the county within which the sale, lease or transfer was made a duplicate copy of such register. Any person violating Penalty. any of the provisions hereof shall be guilty of a misdemeanor.

scutation.

delivered.

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CHAPTER 64, LAWS OF 1925.

Form of register.

The register provided for in this act shall be substantially in the following form: Sold, leased or transferred by Salesman City, town or township Description of arm (state whether revolver Number Caliber Name of purchaser Years Age Years Permanent residence (state name of city, town or township, street and number of dwelling) Height feet inches Eyes Hair If traveling or in locality temporarily, give local address Signature of purchaser (Signing a fictitious name or address is a misdemeanor.) (To be signed in duplicate.) Witness Salesman.

(To be signed in duplicate.)

4. No person engaged in the retail business of selling, leasing or otherwise transferring any pistol, revolver or other firearm of a size capable of being concealed upon the person shall exhibit for purposes of sale, lease or hire any pistol, revolver or other firearm after the hour of five P. M.; and provided, further, that no pistol, revolver or other firearm shall be delivered to any purchaser until twenty-four hours shall have elapsed from the time of application therefor.

5. The president of any National bank, building and loan association, trust company or other banking institution located in any municipality of this State may make application to the chief of police of such municipality for permits, in blank, to be used by the messengers, clerks or other employees or agents of such institutions for use while engaged in the performance of their respective duties. Upon such issue, as aforesaid, he shall transmit to the chief of police from whom such permits were obtained a record of the persons to whom the same were issued; *provided, however*, that such permits, so as aforesaid issued under this section, shall not exceed twenty in number to any one bank.

No sale after five P. M.

Proviso.

Permits for banking institutions.

Police notified.

Proviso.

CHAPTERS 64 & 65, LAWS OF 1925.

6. Any person who shall alter, change, disfigure or Notatier deface the serial number of any pistol or revolver shall ber. be guilty of a misdemeanor; any person engaged in the retail business of selling, leasing or otherwise transferring pistols, revolvers, or other firearms who shall sell or lease any pistol, or revolver having the serial number thereof altered, changed, disfigured or defaced shall be guilty of a misdemeanor.

7. This act shall take effect immediately. Approved March 12, 1925.

CHAPTER 65.

An Act concerning building and loan associations (Revision of 1925).

BE IT ENACTED by the Schate and General Assembly of the State of New Jersey:

ARTICLE I. AS TO BUILDING AND LOAN AS-SOCIATIONS OF THIS STATE.

I. FORMATION.

1. Purposes.

Upon executing, recording and filing a certificate pur- Formation of suant to this act, nine or more persons, citizens of loan appoint this State, may become an incorporated association for tions. the purpose of assisting each other and all who may become associated with them in acquiring real estate, making improvements thereon and for removing incumbrances therefrom by the payment of periodical installments, as its constitution shall provide; and for the Purposes. further purpose of accumulating a fund, to be repaid to its members, subject to the right of earlier redemption, who do not obtain advances for purposes above mentioned when the funds of such association shall amount to a certain sum per share, to be specified in the certificate of incorporation.

13 Laws

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STATE OF OREGON

Constitutional Amendments Adopted

AND

Laws Enacted by the People at the General Election November 4, 1924

TOGETHER WITH THE

GENERAL LAWS

AND

Joint Resolutions, Concurrent Resolutions and Memorials

ADOPTED BY THE

THIRTY-THIRD REGULAR SESSION OF THE LEGISLATIVE ASSEMBLY

> Beginning January 12 and Ending February 26

> > 1925

Compiled by SAM A. KOZER Secretary of State



SALEM, OREGON: STATE PRINTING DEPARTMENT 1925

GENERAL LAWS OF OREGON, 1925 [Chap. 260

9. County school superintendent, \$1,500. The county school superintendent shall be allowed a deputy or clerk whose salary shall be determined by the county court; all claims of deputy for salary or services must be approved by the county school superintendent *[and the same shall be audited by the county court and paid as other claims against the county are paid. The county school superintendent] shall be allowed such sum as the county court may deem necessary for traveling expenses incurred in the discharge of his duties, which claims shall be audited and paid by the county court out of the general fund of the county.

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Approved by the governor February 26, 1925. Filed in the office of the secretary of state February 26, 1925.

CHAPTER 260

AN ACT

[H. B. 452]

To control the possession, sale and use of pistols and revolvers, to provide penalties.

Be It Enacted by the People of the State of Oregon:

Section 1. On and after the date upon which this act takes effect, any person who within the state of Oregon manufactures or causes to be manufactured or who imports into the state of Oregon or who keeps for sale or offers or exposes for sale or who gives, lends or possesses a pistol or revolver otherwise than in accordance with the provisions of this act shall be guilty of a felony, and, upon conviction thereof, shall be punishable by imprisonment in the state penitentiary for not more than five years.

Section 2. On and after the date upon which this act takes effect no unnaturalized foreign-born person and no person who has been convicted of a felony against the person or property of another or against the government of the United States or of the state of Oregon or of any political subdivision thereof shall own or have in his possession or under his custody or control any pistol, revolver or other firearm capable of being concealed upon the person. The terms "pistol," "revolver," and "firearms capable of being concealed upon the person," as used in this act, shall be construed to apply to and include all firearms having a barrel less than twelve inches in length. Any person who shall violate the provisions of this section shall be guilty of a felony, and, upon conviction thereof, be punishable by imprisonment in the state penitentiary for not less than one year nor for more than five years.

[•] The phrase inserted in brackets appears in the original and engrossed bills, but was not incorporated in the enrolled act.

Chap. 260] GENERAL LAWS OF OREGON, 1925

Section 3. If any person shall commit or attempt to commit any felony within this state while armed with any of the weapons mentioned in section 1 hereof or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm, as hereinafter provided, upon conviction of such felony or of an attempt to commit such felony. he shall, in addition to the punishment prescribed for the crime of which he has been convicted, be punishable by imprisonment in the state penitentiary for not less than five nor for more than ten years. Such additional period of imprisonment shall commence upon the expiration or other termination of the sentence imposed for the crime of which he stands convicted and shall not run concurrently with such sentence. Upon a second conviction under like circumstances such additional period of imprisonment shall be for not less than ten years nor for more than fifteen years, and upon a third conviction under like circumstances such additional period of imprisonment shall be for not less than fifteen nor for more than twenty-five years; such terms of additional imprisonment to run consecutively as before. Upon a fourth or subsequent conviction under like circumstances the person so convicted may be imprisoned for life or for a term of years not less than twenty-five years, within the discretion of the court wherein such fourth or subsequent conviction was had. In the trial of a person charged with committing or attempting to commit a felony against the person of another while armed with any of the weapons mentioned in section 1 hereof, or while armed with any pistol, revolver or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm, as hereinafter provided, the fact that he was so armed shall be prima facie evidence of his intent to commit such felony.

Section 4. In no case shall any person punishable under the preceding sections of this act be granted probation by the trial court, nor shall the execution of the sentence imposed upon such person be suspended by the court.

Section 5. Except as otherwise provided in this act, it shall be unlawful for any person within this state to carry concealed upon his person or within any vehicle which is under his control or direction any pistol, revolver or other firearm capable of being concealed upon the person without having a license to carry such firearm, as hereinafter provided in section 8 hereof. Any person who violates the provisions of this section shall be guilty of a misdemeanor, and if he has been convicted previously of any felony, or of any crime made punishable by this act, he is guilty of a felony. This section

Add. 181

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shall not be construed to prohibit any citizen of the United States, over the age of eighteen years, who resides or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by section 2 hereof, from owning, possessing or keeping within his place of residence or place of business any pistol, revolver or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess or keep any such firearm at his place of residence or place of business shall be required of any such citizen. Firearms carried openly in belt holsters shall not be deemed to be concealed within the meaning of this section.

Section 6. Nothing in the preceding section shall be construed to apply to or affect sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers, nor to any person summoned by any such officers to assist in making arrests or preserving the peace while said person so summoned is actually engaged in assisting such officer; nor to the possession or transportation by any merchant of unloaded firearms as merchandise; nor to members of the army, navy or marine corps of the United States, or the national guard, when on duty, nor to organizations which are by law authorized to purchase or receive such weapons from the United States, or from this state; nor to duly authorized military or civil organizations while parading. nor to the members thereof when going to and from the places of meeting of their respective organizations; nor to members of any club or organization now existing, or hereafter organized, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in this act upon such target ranges, or while going to and from such ranges; nor to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

Section 7. The unlawful concealed carrying upon the person or within the vehicle of the carrier of any pistol, revolver or other firearm capable of being concealed upon the person, is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are hereby declared to be nuisances, and shall be surrendered to the magistrate before whom said person shall be taken, except that in any city, county, town or other municipal corporation the same shall be surrendered to the head of the police force or police department thereof. The officers to whom the same may be so surrendered, except upon the certificate of a judge or a court of record, or of the district attorney of the county,

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that the preservation thereof is necessary or proper to the ends of justice, shall annually, between the first and tenth days of July, in each year, destroy or cause to be destroyed such weapons to such extent that the same shall become and be wholly and entirely ineffective and useless for the purpose for which it was [they were] manufactured; provided, however, that in the event any such weapon has been stolen and is thereafter recovered from the thief or his transferee the same shall not be destroyed but shall be restored to the lawful owner thereof, so [as] soon as its use as evidence has been served, upon his identification of the weapon and proof of ownership thereof; provided, that upon the certificate of a judge or of the district attorney that the ends of justice will be subserved thereby such weapon shall be preserved until the necessity for its use ceases.

Section 8. It shall be lawful for the sheriff of a county. and the board of police commissioners, chief of police, city marshal, town marshal, or other head of the police department of any city, county, town, or other municipal corporation of this state, upon proof before said board, chief, marshal or other police head, that the person applying therefor is of good moral character, and that good cause exists for the issuance thereof, to issue to such person a license to carry concealed a pistol, revolver or other firearm for a period of one year from the date of such license. All applications for such licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry such Any license issued upon such application shall set weapon. forth the foregoing data and shall, in addition, contain a description of the weapon authorized to be carried, giving the name of the manufacturer, the serial number and the caliber thereof. When such licenses are issued by a sheriff a record thereof shall be kept in the office of the county clerk; when issued by police authority such record shall be maintained in the office of the authority by whom issued. Such applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the attorney general.

Section 9. Every person in the business of selling, leasing or otherwise transferring a pistol, revolver or other firearm, of a size capable of being concealed upon the person, whether such seller, lessor or transferor is a retail dealer, pawnbroker or otherwise, except as hereinafter provided, shall keep a register in which shall be entered the time of sale, the date of sale, the name of the salesman making the sale, the place where sold, the make, model, manufacturer's number, caliber Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 230 of 333

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or other marks of identification on such pistol, revolver or other firearm. Such register shall be prepared by and obtained from the state printer and shall be furnished by the state printer to said dealers on application at a cost of \$3 per one hundred leaves, in duplicate, and shall be in the form hereinafter provided. The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require him to sign, his name and affix his address to said register, in duplicate, and the salesman shall affix his signature, in duplicate, as a witness to the signature of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor. The duplicate sheet of such register shall, on the evening of the day of sale, be placed in the mail, postage prepaid, and properly addressed to the board of police commissioners, chief of police, city marshal, town marshal or other head of the police department of the city, county. town or other municipal corporation wherein the sale was made; provided, that where the sale is made in a district where there is no municipal police department, said duplicate sheet shall be mailed to the county clerk of the county wherein the sale is made. A violation of any of the provisions of this section by any person engaged in the business of selling, leasing or otherwise transferring such firearm is a misdemeanor. This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transportation of unloaded firearms as merchandise by mail, express or other mode of shipment, to points outside of the city, county, town or municipal corporation wherein they are situated. The register provided for in this act shall be substantially in the following form:

FORM OF REGISTER

Series No..... Sheet No.

Original

DEALERS' RECORD OF SALE OF REVOLVER OR PISTOL State of Oregon

Notice to Dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in duplicate.

City, town or township
Description of arm (state whether revolver or pistol)
Maker

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Name of purcha	ser				Age	years
Permanent resid number of dv	lence (sta	te name	e of city,	town o	or township,	street and
Height	feet		inches.	Occup	pation	
Color	Skin		Eyes		Hair	
If traveling, or i	in locality	tempor	•. •		address	
Signature of pu	rchaser					
(Signing a signed in duplic	fictitious	name o	or addres	s is a	misdemeano	r. To be
Signed in dupite				~ •		

> Series No..... Sheet No.

473

DUPLICATE

DEALERS' RECORD OF SALE OF REVOLVER OR PISTOL State of Oregon

Notice to Dealers: This carbon duplicate must be mailed on the evening of the day of sale as set forth in the original of this register page. Violation of this law is a misdemeanor.

Sold by	Salesman
City, town or township	
Description of arm (state whethe	er revolver or pistol)
Maker	Number Caliber
Name of purchaser	
Permanent address (state name	of city, town or township, street and
Height feet	inches. Occupation
	Eyes Hair
If traveling, or in locality tempor	arily, give local address
	or address is a misdemeanor. To be

(To be signed in duplicate.)

Section 10. No person shall sell, deliver or otherwise transfer any pistol, revolver or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by section 2 hereof from owning or possessing such firearms, nor to any minor under the age of eighteen years. In no event shall any such firearm be delivered to the purchaser upon the day of the application for the purchase thereof, and when delivered such firearm shall be securely wrapped and shall be unloaded. When neither party to the transaction holds a dealers' license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Any violation of the provisions of this section shall be a misdemeanor. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 232 of 333

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Section 11. The duly constituted licensing authorities of any city, county, town or other municipality within this state may grant licenses in form prescribed by the attorney general, effective for not more than one year from date of issue, permitting the licensee to sell at retail within the said city, county, town or other municipality pistols, revolvers and other firearms capable of being concealed upon the person, subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol or revolver shall be delivered:

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(a) On the day of the application for the purchase, and when delivered shall be unloaded and securely wrapped; or

(b) Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity.

4. No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen.

Section 12. Any person who, without being licensed as above provided, engages in the business of selling or otherwise transferring, or who advertises for sale or offers or exposes for sale or transfer, any pistol, revolver or other firearm capable of being concealed upon the person is guilty of a misdemeanor.

Section 13. No person shall change, alter, remove or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol or revolver. Possession of any such firearm upon which the same shall have been changed, altered, removed or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed or obliterated the same. Violation of this section shall be punished by imprisonment in the state penitentiary for not more than five years.

Section 14. All permits heretofore issued within this state permitting the carrying of pistols or revolvers concealed upon the person shall expire at midnight of June 1, 1925.

Section 15. This act shall not apply to antique pistols or revolvers incapable of use as such.

Section 16. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each section, subsection,

Chap. 261 G	ENERAL	LAWS OF	OREGON.	1925
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sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 17. All acts and parts of acts in conflict herewith are hereby repealed.

Approved by the governor February 26, 1925.

Filed in the office of the secretary of state February 26, 1925.

CHAPTER 261

AN ACT

[H. B. 460]

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Providing for the election of county school superintendents in certain counties, prescribing their powers and duties and providing for payment of salaries and expenses of the office.

Be It Enacted by the People of the State of Oregon:

Section 1. In all counties of this state having a population of 25,000 or more children of school age the county superintendent of schools shall have jurisdiction only of the schools of that county as shall be outside of the corporate limits of districts of the first class. He shall be elected at the biennial election in the year 1928, and every four years thereafter, by the legal voters of the county outside of districts of the first class. He shall take his office on the first Monday of January following his election: provided, that the present county school superintendent at no decrease in salary shall be ex officio county school superintendent until the expiration of his term of office. In districts of the first class, in addition to the authority now conferred upon the city superintendent of such districts, said city superintendent shall be and he hereby is vested with the authority now exercised by the county school superintendent in such districts and all reports heretofore rendered by said district to the *[county school superintendent shall be made to the state superintendent of public instruction.

Section 2. In all counties coming under the provisions of this act the salaries of the county school superintendent, assistant superintendents, and all expenses for clerical help, traveling expenses or for any other expenses of the office of said county school superintendent shall be paid from a fund known as the county school superintendent's fund, hereinafter provided, by warrants drawn on this fund in the same manner that warrants may be drawn for the salaries for other county officials

Section 3. In all counties coming under the provisions of this act on the first Monday of November of each year the

^{*} The phrase inclosed in brackets appears in the engrossed bill, but was omitted in the enrolled act.

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LAWS

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF PENNSYLVANIA

PASSED AT THE

SESSION OF 1931

IN THE

ONE HUNDRED AND FIFTY-FIFTH YEAR OF INDEPENDENCE

TOGETHER WITH

A Proclamation by the Governor, declaring that he has filed certain Bills in the office of the Secretary of the Commonwealth, with his objections thereto

BY AUTHORITY

HARRISBURG, PENNSYLVANIA 1931

Add. 188

SESSION OF 1931.

as having been inspected and passed or otherwise approved as being wholesome and fit for food.

To affix or attach any stamp, brand, emblem, (b) tag, or other marking to any meat or meat-food product, or to any container or wrapping or covering of any meat or meat-food product, indicating or suggesting that the meat or meat-food product was slaughtered, manufactured, or prepared under inspection, unless the stamp, brand, emblem, tag, or other marking shall have been previously approved and the use thereof authorized by the United States Department of Agriculture or the Pennsylvania Department of Agriculture or an incorporated or chartered or established municipality of the Commonwealth of Pennsylvania.

APPROVED-The 10th day of June, A. D. 1931.

GIFFORD PINCHOT

No. 158

AN ACT

Regulating and licensing the sale, transfer, and possession of certain firearms; prescribing penalties, procedure, and rules of evidence; conferring powers and imposing duties on courts of quarter sessions, sheriffs, and heads of police departments; and to make uniform the law with reference thereto.

Section 1. Be it enacted, &c., That "firearm," as The Uniform Fireused in this act, means any pistol or revolver with a barrel less than twelve inches, any shotgun with a "Firearm." barrel less than twenty-four inches, or any rifle with a barrel less than fifteen inches.

"Crime of violence," as used in this act, means any of the following crimes, or an attempt to commit any of the same, namely : murder, rape, mayhem, aggravated assault and battery, assault with intent to kill, robbery, burglary, breaking and entering with intent to commit a felony, and kidnapping.

"Person," as used in this act, includes firm, partner- "Person," defined. ship, association, or corporation; and the masculine shall include the feminine and neuter.

Section 2. If any person shall commit or attempt to commit a crime of violence when armed with a firearm contrary to the provisions of this act, he may, in addi- Additional punish. tion to the punishment provided for the crime, be punished also as provided by this act.

Section 3. In the trial of a person for committing Evidence of or attempting to commit a crime of violence, the fact that he was armed with a firearm used or attempted to he used, and had no license to carry the same, shall

arms Act,

defined.

"Crime of violence," defined.

Crimes committed with firearms.

ment.

intent.

Affixing or attaching stamp which has not been officially approved.

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Add. 189

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LAWS OF PENNSYLVANIA,

be evidence of his intention to commit said crime of violence.

Section 4. No person who has been convicted in this Commonwealth or elsewhere of a crime of violence shall own a firearm, or have one in his possession or under his control.

Section 5. No person shall carry a firearm in any vehicle or concealed on or about his person, except in his place of abode or fixed place of business, without a license therefor as hereinafter provided.

The provisions of the preceding section Section 6. shall not apply to constables, sheriffs, prison or jail wardens, or their deputies, policemen of the Commonwealth or its political subdivisions, or other law-enforcement officers; or to members of the army, navy or marine corps of the United States or of the national guard or organized reserves when on duty; or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this Commonwealth: or any organization incorporated under the laws of this Commonwealth engaged in target shooting with rifle, pistol or revolver, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employes of the United States duly authorized to carry a concealed firearm, or to agents, messengers and other employes of common carriers, banks, or business firms, whose duties require them to protect moneys, valuables and other property in the discharge of such duties, from carrying any such firearm while actually engaged in such duties; or to any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person, having in his possession, using or carrying a firearm in the usual or ordinary course of such business; or to any person while carrying a firearm unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving from one place of abode or business to another.

Section 7. The chief or head of any police force or police department of a city, and, elsewhere in this Commonwealth, the sheriff of a county, may, upon the application of any person, issue a license to such person to carry a firearm in a vehicle or concealed on or about his person within this Commonwealth for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a firearm, and that he is a suitable person to be so

Former convict not to own a firearm, stc.

Firearms not to be carried without a license.

Exceptions.

Police heads in cities and sheriffs in counties may issue licenses.

SESSION OF 1931.

The license shall be in triplicate, in form to License to be licensed. be prescribed by the Secretary of the Commonwealth, Form. and shall bear the name, address, description, and signature of the licensee, and the reason given for desiring The original thereof shall be delivered to a license. the licensee, the duplicate shall, within seven days, be sent by registered mail to the Secretary of the Commonwealth, and the triplicate shall be preserved for six years by the authority issuing said license. The fee Fee. for issuing such license shall be fifty cents (\$0.50), which fee shall be paid into the county treasury, except that if the applicant exhibits a resident hunter's license issued to him for the current license year, the fee shall not be charged.

Any such license to carry firearms may be revoked Revocation. by the person issuing the same, at any time, upon written notice to the holder thereof.

Section 8. No person shall deliver a firearm to any Persons to whom person under the age of eighteen, or to one who he delivery shall not be made. has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

Section 9. No seller shall deliver a firearm to the Time and manner purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said firearm shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a firearm, the statement to be purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, length of barrel, make, model, and manufacturer's number of the firearm to be purchased, and a statement that he has never been convicted in this Commonwealth, or elsewhere, of a crime of violence. The seller shall, within six hours after such Duty of seller. application, sign and attach his address and forward by registered mail one copy of such statement to the chief or head of the police force or police department of the city or the sheriff of the county of which the seller is a resident; the duplicate, duly signed by the seller, shall, within seven days, be sent by him, with his address, to the Secretary of the Commonwealth, the triplicate he shall retain for six years. This section Sales at wholeshall not apply to sales at wholesale.

Section 10. No retail dealer shall sell, or otherwise Betall dealer retransfer or expose for sale or transfer, or have in his guired to be possession with intent to sell or transfer, any firearm without being licensed as hereinafter provided.

Section 11. The chief or head of any police force Issuance of or police department of a city, and, elsewhere in this licenses. Commonwealth, the sheriff of the county, shall grant to

499

of delivery.

signed by purchaser.

asle.

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 238 of 333

500

LAWS OF PENNSYLVANIA,

Form to be prescribed by Secretary of Commonwealth.

Conditions.

Business place.

Display of license.

Known identity of purchaser.

Record.

Display of firearms prohibited.

License fee.

Revocation.

Petition to common pleas for reversal. reputable applicants licenses, in form prescribed by the Secretary of the Commonwealth, effective for not more than one year from date of issue, permitting the licensee to sell firearms direct to the consumer within this Commonwealth, subject to the following conditions in addition to those specified in section nine hereof, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this act:

1. The business shall be carried on only in the building designated in the license;

2. The license, or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read;

3. No firearm shall be sold (a) in violation of any provision of this act, nor (b) shall a firearm be sold, under any circumstances, unless the purchaser is personally known to the seller or shall present clear evidence of his identity;

4. A true record in triplicate shall be made of every firearm sold in a book kept for the purpose, the form of which may be prescribed by the Secretary of the Commonwealth, and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale. the caliber, make, model, and manufacturer's number of the firearm, the name, address, occupation, color, and place of birth of the purchaser, and a statement signed by the purchaser that he has never been convicted in this Commonwealth, or elsewhere, of a crime of violence. One copy shall, within six hours, be sent by registered mail to the chief or head of the police force or police department of the city or the sheriff of the county of which the dealer is a resident; the duplicate, the dealer shall, within seven days, send to the Secretary of the Commonwealth; the triplicate, the dealer shall retain for six years.

5. No firearm or imitation thereof, or placard advertising the sale thereof, shall be displayed in any part of any premises where it can readily be seen from the outside.

The fee for issuing said license shall be ten dollars (\$10.00), which fee shall be paid into the county treasury.

6. Any license granted under this section may be revoked by the person issuing the same, upon written notice to the holder thereof.

Section 12. Any applicant aggrieved by the refusal of his application for a license to carry a firearm or for a dealers license, or any person or retail dealer whose license has been revoked, may file, within thirty days thereafter, in the court of quarter sessions of his county.

SESSION OF 1931.

a petition against the official who refused his application, as defendant, alleging therein, in brief detail, the refusal complained of and praying for a reversal thereof. Upon service of a copy of the petition upon the Procedure. defendant, returnable within ten days from its date, the defendant shall, on or before the return day, file an answer in which he may allege by way of defense the reason for his refusal, and such other reasons as may in the meantime have been discovered. Thereupon. upon application of either party, the cause shall be heard without delay. The court may either sustain or reverse the action of the defendant. If the defendant's action is reversed, he shall forthwith issue the license upon payment of the fee. A judgment sustaining a refusal to grant a license shall not bar, after one year, a new application; nor shall a judgment in favor of the petitioner prevent the defendant from thereafter revoking or refusing to renew such license for any proper cause which may thereafter occur. The court shall have full power to dispose of all costs.

Section 13. No person shall make any loan secured Loans on, or lendby mortgage, deposit, or pledge of a firearm; nor shall arms prohibited. any person lend or give a firearm to another or otherwise deliver a firearm contrary to the provisions of this act.

Section 14. No person shall, in purchasing or other- False evidence of identity. wise securing delivery of a firearm or in applying for a license to carry the same, give false information or offer false evidence of his identity.

Section 15. No person shall change, alter, remove, or Altering or obliterobliterate the name of the maker, model, manufacturer's identification. number, or other mark of identification on any firearm. Possession of any firearm, upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same.

All licenses heretofore issued within Expiration of Section 16. this Commonwealth permitting the carrying of firearms present licenses. concealed upon the person shall expire at midnight of the thirty-first day of August, one thousand nine hundred and thirty-one.

Section 17. This act shall not apply to antique firearms unsuitable for use and possessed as curiosities or ornaments.

Section 18. Any person violating any of the provi-violation. sions of this act shall be guilty of a misdemeanor, and, Misdemeanor. upon conviction thereof, shall be sentenced to pay a fine of not more than three thousand dollars (\$3,000.00), Penalty. or imprisonment for not more than three years, or both.

Section 19. If any part of this act is for any reason of act.

Antique firearms.

Invalidity of part

Add. 193

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5	0	2

LAWS OF PENNSYLVANIA,

declared void, such invalidity shall not affect the validity of the remaining portions of this act.

Section 20. This act may be cited as the "Uniform Firearms Act."

Section 21. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 22. All acts or parts of acts inconsistent herewith are hereby repealed: Provided, however, That this act shall not repeal or in any manner affect any provisions of an act, approved the twenty-fifth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, seven hundred seventy-seven), entitled "An act prohibiting the sale, giving away, transfer, purchasing, owning, possession and use of machine guns; providing penalties; and providing for certain exemptions, and the granting of permits by sheriffs to own and possess machine guns as relics."

APPROVED-The 11th day of June, A. D. 1931.

GIFFORD PINCHOT

No. 159

AN ACT

To amend section three of the act, approved the ninth day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand seven hundred and two), entitled "An act regulating the closing of public highways and providing for the locating, marking, and maintenance of detours necessitated by such closing; requiring boroughs, cities, and towns to notify the Department of Highways of the creation and discontinuance of certain detours; providing penalties for removing, destroying, defacing signs erected for warning or detour purposes, and for driving on, over or across highways which are closed by the proper persons or authorities, except in certain cases; further providing that the authorities responsible for the maintenance of highways which have been damaged, or their agents or contractors, shall have the right to recover the amount of such damages from the person or persons responsible, in addition to the penalties herein provided; and repealing certain acts."

Highways.

Section 8, act of May 9, 1929 (P. L. 1702), amended. Section 1. Be it enacted, &c., That section three of the act, approved the ninth day of May, one thousand nine hundred and twenty-nine (Painphlet Laws, one thousand seven hundred two), entitled "An act regulating the closing of public highways and providing for the locating, marking, and maintenance of detours necessitated by such closing; requiring boroughs, cities and towns to notify the Department of Highways of the creation and discontinuance of certain detours; pro-

Title of act

Uniformity.

Repeal.

Act of April 25, 1929 (P. L. 777), not repealed. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 241 of 333

THE LAWS

PASSED AT THE

Twenty-Fourth Session

OF THE

Legislature

OF THE

STATE OF SOUTH DAKOTA

Begun and held at Pierre, the Capital of said State, on Tuesday, the Eighth day of January, 1935, and concluded on March 8, 1935.

To which are added the Laws passed at the Special Session of the Twenty-third Legislature of the State of South Dakota, which are reprinted herewith, pursuant to the provisions of Senate Joint Resolution, Chapter 141,

Laws of 1935.

ALSO

Vote on State and Federal Constitutional Amendments, Initiated and Referred Laws, and the Constitution of the State of South Dakota.

OFFICIAL EDITION

1935 HIPPLE PRINTING COMPANY Pierre, South Dakota UNIFORM LAWS-CH. 208

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UNIFORM LAWS

CHAPTER 208

(H. B. 212)

ADOPTING THE UNIFORM FIREARMS ACT

AN ACT Entitled, An Act Regulating the Sale, Transfer and Possession of Certain Firearms, Prescribing Penalties and Rules of Evidence, and to Make Uniform the Law with Reference Thereto.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. DEFINITIONS. "Pistol," as used in this Act, means any firearm with barrel less than twelve inches in length.

"Crime of Violence," as used in this Act, means any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, rape, mayhem, assault to do great bodily harm, robbery, burglary, housebreaking, breaking and entering, kidnapping and larceny.

"Person," as used in this Act, includes firm, partnership, association or corporation.

Section 2. COMMITTING CRIME WHEN ARMED. If any person shall commit or attempt to commit a crime of violence when armed with a pistol, he may in addition to the punishment provided for the crime, be punished also as provided by this Act.

Section 3. BEING ARMED PRIMA FACIE EVIDENCE OF IN-TENT. In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with a pistol and had no license to carry the same shall be PRIMA FACIE evidence of his intention to commit said crime of violence.

Section 4. CERTAIN PERSONS FORBIDDEN TO POSSESS ARMS. No person who has been convicted in this State or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

Section 5. CARRYING PISTOL. No person shall carry a pistol in any vehicle or concealed on or about his person, except in his place of abode or fixed place of business, without a license therefor as hereinafter provided.

Section 6. EXCEPTION. The provisions of the preceding Section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen or other law-enforcement officers or employees of railway or express companies while on duty, or to members of the army, navy, or marine corps of the United States or of the national guard or organized reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carryUNIFORM LAWS-CH. 208

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ing a pistol in the usual or ordinary course of such business, or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving from one place of abode or business to another.

Section 7. ISSUE OF LICENSES TO CARRY. The judge of a court of record, the chief of police of a municipality, the sheriff of a county, may upon the application of any person issue a license to such person to carry a pistol in a vehicle or concealed on or about his person within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State, and the triplicate shall be preserved for six years by the authority issuing said license. The fee for issuing such license shall be \$.50, which fee shall be collected by the official issuing such license, and shall be remitted by him to the State Treasurer.

Section 8. DELIVERY TO MINORS AND OTHERS FORBIDDEN. No person shall deliver a pistol to any person under the age of eighteen or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

Section 9. SALES REGULATED. No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been comvicted in this State or elsewhere of a crime of violence. The seller shall within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the Secretary of State; the triplicate he shall retain for six years. This Section shall not apply to sales at wholesale.

Section 10. DEALERS TO BE LICENSED. No retail dealer shall sell, or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

Section 11. DEALERS' LICENSES, BY WHOM GRANTED AND CONDITIONS THEREOF. The duly constituted licensing authorities of any city, town, or political subdivision of this state may grant licenses in forms prescribed by the Secretary of State effective for not more than one year from date of issue, permitting the licensee to sell pistols at retail within this State subject to the following conditions in addition to those specified in Section 9 hereof, for breach of any of which the license shall be forfeited and the licensee subject to punishment as previded in this Act.

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol shall be sold (a) in violation of any provision of this Act, nor (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

4. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the Secretary of State and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, color, and place of birth of the purchaser, and a statement signed by the purchaser that he has never been convicted in this State or elsewhere of a crime of violence. One copy shall within six hours be sent by registered mail to the chief of police of the municipality or the sheriff of the county of which the dealer is a resident; the duplicate the dealer shall within seven days send to the Secretary of State; the triplicate the dealer shall retain for six years.

5. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside.

The fee for issuing said license shall be \$2.00, which fee shall be collected by the official issuing such license, and shall be remitted by him to the State Treasurer.

Section 12. CERTAIN TRANSFERS FORBIDDEN. No person shall make any loan secured by a mortgage, deposit, or pledge of a pistol; nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this Act. Section 13. FALSE INFORMATION FORBIDDEN. No person

Section 13. FALSE INFORMATION FORBIDDEN. No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

Section 14. ALTERATION OF IDENTIFYING MARKS PROHIB-ITED. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be PRIMA FACIE evidence that the possessor has changed, altered, removed or obliterated the same.

Section 15. EXCEPTIONS. This Act shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

Section 16. PENALTIES. Any violation of any provision of this Act constitutes an offense punishable by a fine not exceeding One Hundred Dollars (\$100.00), or imprisonment for not more than one year, or both.

Section 17. CONSTITUTIONALITY. If any part of this Act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Act.

Section 18. SHORT TITLE. This Act may be cited as the "Uniform Firearms Act".

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Section 19. UNIFORM INTERPRETATION. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 20. CERTAIN ACTS REPEALED. All Acts or parts of Acts in conflict with or inconsistent with the provisions of this Act are hereby repealed.

Approved March 14, 1935.

CHAPTER 209

(H. B. 213)

ADOPTING THE UNIFORM NARCOTIC DRUG ACT

AN ACT Entitled, An Act Defining and Relating to Narcotic Drugs and to Make Uniform the Law with Reference Thereto.

Be It Enacted by the Legislature of the State of South Dakota:

Section 1. Definitions. The following words and phrases, as used in this Act, shall have the following meanings, unless the context otherwise requires:

(1) "Person" includes any corporation, association, co-partnership, or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this State and any other person authorized by law to treat sick and injured human beings in this State and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this State.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this State and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this State.
(8) "Hospital" means an institution for the care and treatment

(8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the State Board of Health; as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(9) "Laboratory" means a laboratory approved by the State Board of Health; as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 246 of 333

SESSION LAWS

OF THE

STATE OF WASHINGTON

TWENTY-FOURTH SESSION

Convened January 14, Adjourned March 14

1935

Compiled in Chapters

Under the Direction of ERNEST N. HUTCHINSON, Secretary of State, and Including Two Acts Passed by the People at the General Election, Held on November 6, 1934, and One Act Initiated by the People and Passed by the Legislature, Under the Initiative Provision of the State Constitution.

Marginal Notes and Index

BY

G. W. HAMILTON Attorney General

PUBLISHED BY AUTHORITY

OLYMPIA STATE PRINTING PLANT 1935 Сн. 172.1

CHAPTER 172.

[S. B. 147.]

SHORT FIREARMS.

AN ACT relating to short firearms and other weapons; defining terms; regulating the sale, possession and use thereof; providing for certain licenses and fixing fees; defining certain crimes and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. "Short Firearm" as used in this Definitions. act means any firearm with a barrel less than twelve (12) inches in length.

"Crime of Violence" as used in this act means any of the following crimes or an attempt to commit any of the same: Murder, manslaughter, rape, mayhem, first degree assault, robbery, burglary and kidnapping.

SEC. 2. Committing Crime When Armed. Tf any person shall commit or attempt to commit a crime of violence when armed with a pistol, he may in addition to the punishment provided for the crime, be punished also as provided by this act.

SEC. 3. Being Armed Prima Facie Evidence of Prima facie Intent. In the trial of a person for committing or evidence of intent. attempting to commit a crime of violence, the fact that he was armed with a pistol and had no license to carry the same shall be prima facie evidence of his intention to commit said crime of violence.

SEC. 4. Certain Persons Forbidden to Possess Persons Arms. No person who has been convicted in this forbidden to possess arms. state or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

SEC. 5. Carrying Pistol. No person shall carry Carrying pistol. a pistol in any vehicle or conceal on or about his person, except in his place of abode or fixed place

Committing crime when armed.

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SESSION LAWS, 1935.

[CH. 172.

of business, without a license therefor as hereinafter provided.

Exception to preceding section.

SEC. 6. Exception. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen or other law-enforcement officers, or to members of the army, navy or marine corps of the United States or of the national guard or organized reserves when on duty, or to regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this state, or to regularly enrolled members of clubs organized for the purpose of target shooting and affiliated with a national shooting organization: Provided. Such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business, or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving from one place of abode or business to another.

Issue of licenses.

SEC. 7. Issue of Licenses to Carry. The judge of a court of record, the chief of police of a municipality, the sheriff of a county, shall upon the application of any person issue a license to such person to carry a pistol in a vehicle or concealed on or about his person within this state for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol, and that he is a suitable person Сн. 172.1

SESSION LAWS, 1935.

to be so licensed. The license shall be in triplicate. in form to be prescribed by the state director of licenses, and shall bear the name, address, description and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licenses and the triplicate shall be preserved for six years, by the authority issuing said license. The fee for such license shall be one dollar (\$1.00) which shall be paid into the state treasury.

SEC. 8. Delivery to Minors and Others Forbid-Delivery to den. No person shall deliver a pistol to any person forbidden persons. under the age of twenty-one or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

SEC. 9. Sales Regulated. No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this state or elsewhere of a crime of violence. The seller shall within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the director of licenses; the triplicate he shall

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Sales regulated.

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[CH. 172.

retain for six years. This section shall not apply to sales at wholesale.

Dealers to be licensed.

SEC. 10. Dealers to be Licensed. No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

SEC. 11. Dealer's Licenses, by Whom Granted and Conditions Thereof. The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licenses effective for not more than one year from the date of issue permitting the licensee to sell pistols within this state subject to the following conditions in addition to those specified in section 9 hereof, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this act.

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol shall be sold (a) in violation of any provisions of this act, nor (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

4. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the director of licenses and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, color and place of birth of the purchaser and a statement signed by the purchaser that he

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Dealer's

Сн. 172.]

SESSION LAWS, 1935.

has never been convicted in this state or elsewhere of a crime of violence. One copy shall within six hours be sent by registered mail to the chief of police of the municipality or the sheriff of the county of which the dealer is a resident; the duplicate the dealer shall within seven days send to the director of licenses; the triplicate the dealer shall retain for six years.

5. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside.

The fee for issuing said license shall be five dol- Fee. lars (\$5.00) which fee shall be paid into the state treasury.

SEC. 12. Certain Transfers Forbidden. No person other than a duly licensed dealer shall make any loan secured by a mortgage, deposit or pledge of a pistol. Any licensed dealer receiving a pistol as a deposit or pledge for a loan shall keep such records and make such reports as are provided by law for pawnbrokers and second-hand dealers in cities of the first class. A duly licensed dealer may mortgage any pistol or stock of pistols but shall not deposit or pledge the same with any other person. No person shall lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this act.

SEC. 13. False Information Forbidden. No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

SEC. 14. Alteration of Identifying Marks Prohibited. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on

Certain transfers forbidden.

False information forbidden.

Alteration of identifying marks prohibited. SESSION LAWS, 1935.

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any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same.

Exceptions.

Penalties.

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SEC. 15. *Exceptions.* This act shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

SEC. 16. *Penalties.* Any violation of any provision of this act constitutes an offense punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than one year in the county jail or both, or by imprisonment in the penitentiary for not less than one year nor more than ten years.

Partial invalidity.

tions of this act.

Short title.

Uniform interpretation.

Effective date.

Conflicting statutes repealed. SEC. 18. Short Title. This act may be cited as the "Uniform Firearms Act."

SEC. 17. Constitutionality. If any part of this

act is for any reason declared void, such invalidity shall not affect the validity of the remaining por-

SEC. 19. Uniform Interpretation. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SEC. 20. *Effective Date*. This act shall take effect on the first day of July, 1935.

SEC. 21. Certain Acts Repealed. All laws or parts of laws inconsistent herewith are hereby repealed.

Passed the Senate February 26, 1935. Passed the House March 14, 1935. Approved by the Governor March 23, 1935. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 253 of 333

GENERAL LAWS

(AND JOINT RESOLUTIONS)

OF THE

LEGISLATURE OF ALABAMA

PASSED AT THE EXTRA SESSION OF 1936 HELD AT THE CAPITOL, IN THE CITY OF MONTGOMERY

Commencing Tuesday, February 11, 1936



BIBB GRAVES, Governor THOMAS E. KNIGHT, JR., Lieutenant-Governor D. HARDY RIDDLE, President Pro Tem. of the Senate R. H. WALKER, Speaker of the House

I, Howell Turner, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law.

> HOWELL TURNER, Secretary of State.

BIRMINGHAM PRINTING COMPANY State Printers and Binders Birmingham, Alabama 1936

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STATE HEALTH DEPARTMENT. (1) The salary of the State Health Officer, \$3,600.00 for every year; (2) For other personal services \$193,500.00 for every year; (3) For other expenses including County Health Work \$202,900.00 for every year. 2. PASTEUR TREATMENTS: For Pasteur Treatments \$30,000.00 for every year. 3. STATE SERUM PLANT: Salaries and other expenses \$3,000.00—\$3,000.00. 4. STATE SERVICE COMMISSION: For compensation of Commissioner \$2,400.00; Other salaries \$8,000.00; Supplies and materials \$250.00; Postage, telephone and telegraph \$400.00; Printing and binding \$60.00; Travel Expense \$250.00; Insurance and bonding \$10.00; Rent, lights, heat and water \$630.00— \$12,000.00.

Section 2. This Act shall be effective from October 1, 1935. Approved April 3, 1936.

No. 82)

(S. 63-Simpson

AN ACT

To regulate the sale, transfer and possession of certain types of firearms; to provide for the licensing of dealers and owners of such firearms; to fix rules of evidence in the Courts of this State in prosecutions for violations of this Act; to prescribe penalties for the violations of any provision herein and to make uniform the law with reference thereto.

Be It Enacted by the Legislature of Alabama:

Section 1. DEFINITIONS: "Pistol" as used in this Act, means any firearm with barrel less than twelve inches in length. "Crime of Violence" as used in this Act, means any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, kidnapping, and larceny. "Person" as used in this Act, includes firm, partnership, association or corporation.

Section 2. COMMITTING CRIME WHEN ARMED: If any person shall commit or attempt to commit a crime of violence when armed with a pistol, he may in addition to the punishment provided for the crime, be punished also as provided by this Act.

Section 3. BEING ARMED PRIMA FACIE ÉVIDENCE OF INTENT: In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with a pistol and had no license to carry the same shall be prima facie evidence of his intention to commit said crime of violence.

Section 4. CERTAIN PERSONS FORBIDDEN TO POS-SESS ARMS: No person who has been convicted in this State or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 255 of 333

Section 5. CARRYING PISTOL: No person shall carry a pistol in any vehicle or concealed on or about his person, except in his place of abode or fixed place of business, without a license therefor as hereinafter provided.

Section 6. EXCEPTION: The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen or other law-enforcement officers, or to members of the Army, Navy or Marine Corps of the United States or of the National Guard or Organized Reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this State, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business, or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving from one place of abode or business to another.

Section 7. ISSUE OF LICENSES TO CARRY: The Probate Judge, the Chief of Police of a municipality, the Sheriff of a County, may upon the application of any person issue a license to such person to carry a pistol in a vehicle or concealed on or about his person within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the Secretary of State and the triplicate shall be preserved for six years, by the authority issuing said license. The fee for issuing such license shall be 50c (fifty cents) which fee shall be paid into the State Treasury.

Section 8. DELIVERY TO MINORS AND OTHERS FOR-BIDDEN. No person shall deliver a pistol to any person under the age of eighteen or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, and habitual drunkard, or of unsound mind.

Section 9. SALES REGULATED: No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof,

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and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number of the pistol to be purchased and a statement that he has never been convicted in this State or elsewhere of a crime of violence. The seller shall within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the Secretary of State; the triplicate he shall retain for six years. This section shall not apply to sales at wholesale.

Section 10. DEALERS TO BE LICENSED: No retail dealer shall sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being licensed as hereinafter provided.

Section 11. DEALER'S LICENSES, BY WHOM GRANTED AND CONDITIONS THEREOF: The duly constituted licensing authorities of any city, town, or political subdivision of this State may grant licenses in forms prescribed by the Secretary of State, effective for not more than one year from date of issue, permitting the licensee to sell pistols at retail within this State subject to the following conditions in addition to those specified in Section 9 hereof, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this Act. 1. The business shall be carried on only in the building designated in the license. 2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read. 3. No pistol shall be sold (a) in violation of any provision of this Act, nor (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity. 4. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the Secretary of State and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, color and place of birth of purchaser and a statement signed by the purchaser that he has never been convicted in this State or elsewhere of a crime of violence. One copy shall within six hours be sent by registered mail to the chief of police of the municipality or the sheriff of the county of which the dealer is a resident; the duplicate the dealer shall within seven days send to the Secretary of State; the triplicate the dealer shall retain for six years. 5. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside. The fee for issuing said license shall be 50c (fifty cents) which fee shall be paid into the State Treasury.

Section 12. CERTAIN TRANSFERS FORBIDDEN: No person shall make any loan secured by a mortgage, deposit, or pledge of a pistol contrary to this Act, nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this Act.

Section 13. FALSE INFORMATION FORBIDDEN: No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

Section 14. ALTERATION OF IDENTIFYING MARKS PROHIBITED: No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification of any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed or obliterated the same.

Section 15. EXISTING LICENSES REVOKED: All licenses heretofore issued within this State permitting the carrying of pistols concealed upon the person shall expire at midnight of the 1st day of October, 1936.

Section 16. EXCEPTIONS: This Act shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

Section 17. PENALTIES: Any violation of any provision of this Act constitutes an offense punishable by a fine of not more than \$500.00 (five hundred dollars) or imprisonment for not more than one year, or both.

Section 18. CONSTITUTIONALITY: If any part of this Act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this Act.

Section 19. SHORT TITLE: This Act may be cited as the "Uniform Firearms Act."

Section 20. It is hereby declared to be the Legislative intention in the passage of this Act to further aid in the suppression of crime and the Act is to be liberally construed to effectuate this purpose.

Section 21. EFFECTIVE DATE: This Act shall take effect on the 1st day of October, 1936.

Section 22. CERTAIN ACTS REPEALED: This Act is intended as an entire revision of the subject matter contained herein and all laws or parts of laws inconsistent herewith are hereby repealed.

Approved April 6, 1936.

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The DECLARATION of RIGHTS.

HE parliament of Great-Britain, by a declaratory act, having assumed a right to make laws to bind the colopies in all cafes whatfoever, and in purfuance of fuch claim endeavoured by force of arms to fubjugate the United Colohies to an unconditional submission to their will and power. and having at length confirained them to declare themfelves independent flates, and to affume government under the authority of the people, therefore, We, the delegates of Maryland, in free and full Convention affembled, taking into our most ferious confideration the best means of establishing a good conflitution in this flate, for the fure foundation, and more permanent fecurity thereof, declare,

1. That all government of right originates from the people. is founded in compact only, and inftituted folely for the good of the whole.

2. That the people of this flate ought to have the fole and exclusive right of regulating the internal government and police thereof.

3. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury, according to the courfe of that law, and to the benefit of fuch of the Englifh flatutes, as exified at the time of their first emigration, and which by experience have been found applicable to their local and other circumftances, and of fuch others as have been fince made in England, or Great-Britain, and have been introduced, used, and practifed by the courts of law or equity; and also to all acts of allembly in force on the first of June feventeen hundred and feventy-four, except fuch as may have fince expired, or have been, or may be altered by acts of Convention or this Declaration of Rights, fubjed nevertheleis to the revision of, and amendment or repeal by the legislature of this state ; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his majefty Charles the first to Cacihus Calvert baron of Baltimore.

4. That all perfons invefted with the legiflative or executive powers of government are the truffees of the public, and as fuch accountable for their conduct; wherefore whenever the ends of government are perverted, and public liberty manifefly

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136 GENERAL ORDERS—RECONSTRUCTION.

posts, and in consequence of having to continue their mess bills, might be included. But when their absence from their posts exceeds a week, the officer's mess bill should cease, and he should receive no reimbursement on account of subsistence. By command of Brevet Major General Ord.

O. D. GREENE, Assistant Adjutant General.

HEADQUARTERS FOURTH MILITARY DISTRICT, (MISSISSIPPI AND ARKANSAS,) OFFICE OF CIVIL AFFAIRS, Vicksburg, Miss., August 31, 1887.

For the information and guidance of boards of registration and all others concerned, the general commanding promulgates the opinion of Brevet Colonel Henry Goodfellow. judge advocate 4th military district, in regard to the right of the following classes of persons to register and vote under the recent reconstruction laws of Congress.

[Extract.]

• • • • • An attorney or counsellor at law is not an officer in the sense of the acts of Congress relating to registration, and voting for secession was giving aid and comfort to the enemies of the United States.

By command of Brevet Major General Ord.

O. D. GREENE, Assistant Adjutant General.

[General Orders No. 25.]

HEADQUARTERS FOURTH MILITARY DISTRICT, (MISSISSIPPI AND ARKANSAS.)

Ficksburg, Miss., September 6, 1867.

I. Whenever any person indicted for a criminal offence in the State courts of this military district shall produce to the court the affidavits of two credible citizens, setting forth that during the late rebellion he was in the service of the United States or loyally adhered to them, withholding as far as possible all aid and comfort to their enemies; or these facts shall be known or otherwise satisfactorily shown to the court, and the accused shall himself make oath that, owing to them, he has reason to fear that he will not receive a fair and impartial trial by jury; then the court will not proceed to the trial of the case, but the presiding judge will cause such affidavits to be forwarded to the assistant adjutant general at these headquarters, and will direct the district attorney to transmit to these headquarters a copy of the indictment, with a brief statement of the names and residences of witnesses and the testimony which can be obtained in the case, with a view to its trial by military commission.

II. General Orders No. 12, current series, from these headquarters, suspending until after December 30, 1867, sales of lands, crops, and farming utensils, under executions in cases in which the cause of action accrued prior to January 1, 1856, is hereby so modified as to permit the sale of so much of such property as may be necessary to satisfy the legal costs of court adjudged in such cases.

III. All officials concerned in the administration of the poor laws of the States composing this district are admonished that, as the freed people bear their share of taxation, no denial to them of the benefit of those laws will be tolerated, but every refusal or neglect to properly provide for colored paupers will be treated as a dereliction of official duty and a violation of the spirit of the act of Congress known as the civil rights bill.

By command of Brevet Major General Ord.

O. D. GREENE, Assistant Adjutant General.

[General Orders No. 28.]

HEADQUARTERS FOURTH MILITARY DISTRICT, (MISSISSIPPI AND ARKANSAS,)

Vicksburg, Miss., September 9, 1867.

For the purpose of securing peace and quiet, and preventing violence, disorder and not throughout the limits of this military district, the assembling of *armed* organizations or bodies of citizens under any pretence, whatever, is prohibited. The proper civil officers, post commanders, sub-assistant commissioners and agents of the Bureau of Refugees, Freedmen and Abandoned Lands will use all means at their disposal to cause the enforcement of this order. Precautionary measures to prevent such assemblages, by sending guards to attend public meetings, or such other action as may be deemed advisable, will be taken by the post commanders on all proper occasions.

In the event of its violation, the authorities above named are directed to make every effort

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LOUISIANA.

pletely readjusting the board of aldermen and assistant aldermen of the city of New Orleans, by the removal of twenty-two of these officials and the designation of a corresponding number to succeed them. The order states that "the reasons for removing these persons are to be found in the disordered condition to which they have reduced the city credit, and the efforts which they have made, and are making, to impede the lawful execution of the law of Congress, dated March 2d, and the acts supplementary thereto."

On the 5th of August Joseph Hernandez, city treasurer of New Orleans, was removed, and Stoddart Howell appointed in his place, and reasons similar to the above assigned for taking that step. On the 8th the chief of police of the same city was removed, and his successor appointed, at the request of Mayor Heath.

Later in the same month, the city surveyor of New Orleans, the city attorney and assistant attorney and the assistant comptroller, were removed for reasons "similar to those given in the order readjusting the common council of the city of New Orleans." Other removals were made and reasons assigned therefor by the following order of August 29th:

Special Orders, No. 129.

HEADQUARTERS FIFTR MILITARY DISTRICT, | NEW ORLEANS LA., August 29, 1867. } 5. For admitting to bail in the sum of five hun-

5. For admitting to bail in the sum of five hundred dollars Thomas McNeeley, who had deliberately murdered a colored man named Jefferson, and for refusing to admit as testimony on the part of the State witnesses of negro blood; on the recommendation of his Excellency Governor Flanders, James C. Morantine, justice of the peace for "Plaisance" ward, parish of Rapides, is hereby removed from that office, and George Dorman appointed in his stead. Before entering upon the duties of his office, Mr.

Dorman will take and subscribe to the oath of office prescribed for officers of the United States.

6. For allowing an alleged murderer, ordered to be confined in jail by Justice Osborn, to escape, and afterward making no efforts to accomplish his arrest, on the recommendation of his Excellency Governor Flanders, James R. Anderson, sheriff of the parish of Rapides, is hereby removed from that office, and A. J. Sypher appointed in his stead.

office, and A. J. Sypher appointed in his stead. Before entering upon his duties, Mr. Sypher will furnish bonds in the usual amount, and take and subscribe to the oath of office prescribed for officers of the United States.

On the recommandation of his Excellency Governor Flanders, Mr. William Simmons is hereby appointed Police Juror for Ward No. 1, parish of Caldwell, vice Richard King, deceased.

Before entering upon the duties of his office, Mr. Simmons will take and subscribe to the oath of office prescribed for officers of the United States.

By command of Maj.-Gen. P. H. SHERIDAN. GEOBOR L. HARTSUFF, Asst. Adjutant-General.

One of the orders issued in effecting the above-mentioned removals, contained also the following important section relating to registration and the qualification of jurors:

2. The registration of voters of the State of Louisiana according to laws of Congress being complete, it is hereby ordered that no person who is not registered in accordance with such laws shall be considered as a duly qualified voter of the State of Louisiana. All persons duly registered as above, and no others, are consequently eligible, under the laws of the State of Louisiana, to serve as jurors in any of the courts of the State. The necessary revision of the jury lists will immediately be made by proper officers. All the laws of the State respecting exemptions, etc., from jury duty, will remain in force.

The President of the United States not being altogether satisfied with the course of General Sheridan in Louisiana, transmitted to General Grant, on the 17th of August, an order relieving that officer of the command of the Fifth District, and assigning General Thomas, hitherto of the Department of the Comberland, to that position. General Sheridan was, by the same order, appointed to the command of the Department of the Missouri, to relieve General Hancock, who was transferred to the Department of the Cumberland. The President having invited General Grant to make any suggestions which he saw fit with regard to these assignments, the latter urged that the order be not insisted upon, saying that General Sheridan had performed his duties faithfully and intelligently, and that his removal would be looked upon as an effort to defeat the laws of Congress. Nevertheless, the necessary orders were issued for carrying into effect the changes to be made by the President's command. In consequence, however, of the unfavorable state of General Thomas's health, a subsequent order of August 26th retained him in his former position, and assigned to the Fifth Mili-tary District Major-General Winfield S. Hancock; while General Sheridan was directed to proceed at once to Fort Leavenworth, Kansas, to assume command of the Department of the Missouri, turning over the command in Louisiana to the next officer in rank to himself, Brevet Major-General Charles Griffin.

General Griffin, who remained at his former post, Galveston, Texas, soon after died of yellow fever, and the temporary command of the Fifth Military District devolved upon Brevet Major-General Joseph A. Mower, of the District of Louisiana.

In various parts of the State, especially in the country parishes, political organizations had been formed, mostly of negroes, for the purpose of military drill. These bands occasioned no little annoyance, and gave rise to feverish apprchensions on the part of many citizens, and General Mower put an end to them by the following order:

General Orders, No. 11.

HEADQUARTERS, DISTRICT OF LOUISIANA, | NEW ORLEANS, LA., Sept. 16, 1867. }

It having come to the knowledge of the Brevet Major-General Commanding, that in various parts of this State the assembling of armed men, for political or other purposes, is of frequent occurrence, and that well-disposed eitizens are often subjected to annorance from armed persons posted as sentinels or videttes, it is hereby ordered that such practices, and all other acts tending to disorder and violence, must be at once discontinued. Commanders of posts, detachments, and stations within this command, will arrest and retain until further orders all armed men found posted as sentinels, pickets, or videttes, or pretending to be on guard duty for any purpose, or by any authority, not duly authorized by law.

By order of Brevet Maj.-Gen. JOSEPH A. MOWER. NATHANIEL BURBAN

Second Lieut. 87th Inf., A. A. Adj.-Gen.

The order announcing the result of the election, and appointing the day for the assembling of the convention, was published on the 21st of October. The delegates chosen, a complete list of whom was given in the order, were notified to assemble at Mechanics' Institute Hall, New Orleans, on the 23d of November, 1867.

Various "impediments to reconstruction". were removed by General Mower in November, the most prominent of which are designated in the following special order :

HEADQUARTERS FIFTH MILITARY DISTRICT, November 21, 1867.

The present incumbents being impediments to reconstruction under the laws of Congress, the following removals and appointments of civil officers in Loui-Siana are hereby made: Albert Voorlies, Lieutenant-Governor, is removed, and Jacob Hawkins appointed in his place; H. H. Hardy, Secretary of Stato, is re-moved, and J. R. G. Pitkin appointed in his place; Adam Griffin, State Treasurer, is removed, and E. J. Jenkins appointed in his place; Hypolito Peralter, Auditor of Public Accounts, is removed, and J. H. Sypher is appointed in his place; R. M. Larker, Su-perintendent of Public Education is removed, and John McNair is appointed in his place; Henry Ben-sel, State Tax-Collector for the Fourth District, is re-moved, and Geo. W. Kendall is appointed in his place. By command of Gen. JOSEPH A. MOWER.

Besides these, several local officers in the parish of Orleans, including a number of district judges, were removed, and their successors appointed. The nature of the influences brought to bear upon General Mower in order to effect these removals, at least in one case, may be seen in the following resolution :

Whereas, By a law of Congress, Harry T. Hays has been and is disfranchised for disloyalty to the Gov-

been and is disfranchised for disloyalty to the Gov-ernment of the United States; and Whereas, The said Hays is now exercising the functions of sheriff of the parish of Orleans, contra-ry to the expressed will of the American people in Congress represented; and Whereas, The retention of said office by said Har-ry T. Hays is a reproach to the dignity of the loyal people of the United States; and Whereas, The law of Congress aforeasid makes it

Whereas, The law of Congress aforesaid makes it the duty of the district commander to remove from office disloyal men; therefore Resolved, That a committee of three be appointed

by this central executive committee of the Radical Republican party of Louisiana, to wait upon General Joseph A. Mower, and respectfully request him to remove from office said Harry T. Hays.

Mr. Hays was removed. General Mower was directed by General Grant to suspend his removals until the arrival of General Hancock; and accordingly an order of November 22d, revoking previous orders, retained in office no less than thirteen persons who had been superseded, among whom were the Lieutenant-Governor, Secretary of State, Treasurer, Auditor, and Superintendent of Public Education.

General Hancock arrived at New Orleans on the 28th of November. On assuming command of the district, he issued the following order :

Special Orders, No. 40.

HEADQUARTERS FIFTH MILITARY DISTRICT, NEW OBLEASS, Notember 29, 1867. First. In accordance with General Orders, No. 81

Headquarters of the Army, Adjutant-General's Of-fice, Washington, D. C., August 27, 1867, Major-General W. S. Hancock hereby assumes command of the Fifth Military District—the department composed of the States of Louisiana and Texas.

Second. The General Commanding is gratified to learn that peace and quiet reign in this department, and it will be his purpose to preserve this condition of things. As a means to this great end, he regards the maintenance of the civil authorities in the faithful execution of the laws as the most efficient under existing circumstances. In war it is indispensable to repel force by force, and overthrow and destroy op-position to lawful authority; but when insurrection-ary force has been overthrown, peace established, and the civil authorities are ready and willing to perform their duties, the military power should cease to lead, and the civil administration resume its natural and rightful dominion.

and rightful dominion. Solemnly impressed with these views, the General announces that the great principles of American lib-erty still are the lawful inheritance of this people, and ever should be. The right of trial by jury, the habeas corpus, the liberty of the press, the freedom of speech, and the natural rights of persons, and the rights of property, must be preserved. Free institu-tions, while they are essential to the prosperity and hearnings of the people, always furnish the strongest happiness of the people, always furnish the strongest inducements to prace and order. Crimes and offences committed in this district must be referred to the consideration and judgment of the regular civil authorities, and these tribunals will be supported in their lawful jurisdiction.

Should there be violations of existing laws which are not inquired into by the civil magistrates, or should failures in the administration of justice by the courts be complained of, the cases will be reported to these headquarters, when such orders will be made as may be deemed necessary. While the General thus indicates his purpose to respect the libertics of the people, he wishes all to understand that armed insurrections or forcible resistance to the laws will be instantly suppressed by arms.

By command of Maj.-Gen. W. S. HANCOCK.

Some of the important changes instituted by General Hancock in the policy of his predecessor are indicated in the following orders:

Special Orders, No. 203.

SEc. 2. The true and proper use of military power, besides defending the national honor against foreign nations, is to uphold the laws and civil government, and to secure to every person residing among us the enjoyment of life, liberty, and property. It is accordingly made, by act of Congress, the duty of the commander of this district to protect all

duty of the commander of the suppress disorder and violence, and to punish, or cause to be punished, all disturbers of the public peace and eriminals. The Commanding General has been officially informed that the administration of justice, and especially criminal justice, in the courts is clogged, if not entirely frustrated, by the enforcement of paragraph No. 2 of the military order numbered Special Order 125, current series, from these headquarters, issued on August 24, 1867, relative to the qualifications of per-sons to be placed on the jury lists of the State of Louisiana. To determine who shall and who shall or height protection and not be jurors appertains to the legislative power, and until the laws in existence regulating this subject shall be amended or changed by that department of the civil government which the constitutions of all the States under our republican system vests with that power, it is deemed best to carry out the will of the people as expressed in the last legislative act upon this subject.

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HEADQUARTEES DEP'T OF THE SOUTH,

CHARLESTON, S. C., March 13, 1867.

General Orders, No. 27. An official copy of the law, entitled "An act to provide for the more efficient government of the rebel States," having been received at these headquarters, it is hereby announced, for the information and government of all concerned, that the said law is in force within the military district composed of North Carolina and South Carolina, from this date.

By command of Brevet Maj. Gen. J. U. Robinson.

JNO. R. MYBICK, A. A. A. G.

HEADQUARTERS SECOND MILITARY DISTRICT, (NORTH CAROLINA AND SOUTH CAROLINA,) COLUMBIA, S. C., March 21, 1867.

General Orders, No. 1. I. In compliance with General Orders No. 10, Headquarters of the Army, March 11, 1867, the undersigned hereby assumes command of the Second Military District, constituted by the act of Congress, Public No. 68, 2d March, 1867, entitled "An act for the more efficient government of the rebel States.

II. In the execution of the duty of the commanding general to maintain the security of the inhabitants in their persons and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and criminals, the local and civil tribunals will be permitted to take jurisdiction of and try offenders, excepting only such cases as may, by the order of the commanding general, be referred to a commission or other military tribunal for trial.

III. The civil government now existing in North Carolina and South Carolina is provisional only, and in all respects subject to the paramount anthority of the United States, at any time to abolish, modify, control, or supersede the same. Local laws and municipal regulations not inconsistent with the Constitution and laws of the United States, or the proclamations of the President, or with such regulations as are or may be prescribed in the orders of the commanding general, are hereby declared to be in force; and in conformity therewith, civil officers are hereby authorized to continue the exercise of their proper functions, and will be respected and obeyed by the inhabitants

IV. Whenever any civil officer, magistrate, or court neglects or refuses to perform an official act properly required of such tribunal or officer, whereby due and rightful security to person or property shall be denied, the case will be reported by the post commander to these headquarters.

V. Post commanders will cause to be arrested persons charged with the commission of crimes and offenses when the civil authorities fail to arrest and bring such offenders to trial, and will hold the accused in custody for trial by military commission, provost court, or other tribunal organized pursuant to orders from these headquarters. Arrests by military authority will be reported promptly. The charges preferred will be accompanied by the evidence on which they are founded.

VI. The commanding general desiring to pro-

serve tranquillity and order by means and agencies most congenial to the people, solicits the sealous and cordial co-operation of civil officers in the discharge of their duties, and the aid of all good citizens in preventing conduct tending to disturb the peace; and to the end that occasion may seldom arise for the exercise of military authority in matters of ordinary civil administration, the commanding general respectfully and earnestly commends to the people and authorities of North and South Carolina unreserved obedience to the authority now established, and the diligent, considerate, and impartial execution of the laws enacted for their government.

VII. All orders heretofore published to the Department of the South are hereby continued in force.

VIII. The following-named officers are announced as the staff of the major general commanding:

D. E. SICKLES, Major General Commanding.

HEADQUARTERS STOOND MILITARY DISTRICT, (NORTH CABOLINA AND SOUTH CAROLINA,) CHARLESTON, S. C., April 1, 1967.

General Orders, No. 5.

When an election for district, county, municipal, or town officers is required to take place, in accordance with the provisions of the local law, within the limits of any post in this command, command officers will promptly report to these headquarters the time and place of such election and the designation of the offices to be filled.

If the present incumbents be ineligible to hold office, or any objection exists, arising out of their misconduct in office, to the continuance of their functions, the facts will be reported by the post commander with his suggestions, having in view the interests of the service and the welfare of the locality immediately concerned.

By command of Major General D. E. Sickles. J. W. CLOUS, A. A. A. G.

[By Tolegraph.] CHABLESTON, S. C., April 1, 1867. Brvt. Brig. Gen. GEEEN, Commanding Richland histrict :

The election [for sheriff] will not be held. When will the term of the present incumbent expire? A successor will be appointed.

By command of Gen. Sickles.

J. W. CLOUS, A. A. A. G.

HEADQUARTERS SECOND MILITARY DISTRICT, CHARLESTON, S. C., April 11, 1867.

General Orders, No. 10. The general destitution prevailing among the population of this military district cannot be relieved without affording means for the development of their industrial resources. The nature and extent of the destitution demand extraordinary measures. The people are borne down by a heavy burden of debt, the crops of grain and garden produce failed last year, many families have been deprived of shelter, many more need food and clothing, needful implements and auxiliaries of husbandry are very scarce ; the laboring population in numerous localities are threatened with starvation unless supplied with food by the Government of the United States ; the inability of a large portion of the people to pay taxes

Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 263 of 333 PROOLAMATION STATISTICS OF DEB.

leaves the local authorities without adequate means of relief, and the gravity of the situation is increased by the general disposition shown by creditors to enforce upon an impoverished people the immediate collection of all claims. To suffer all this to go on without restraint or remedy is to sacrifice the general good. The rights of creditors shall be respected, but the appeal of want and suffering must be heeded. Moved by these considerations, the following regulations are announced. They will continue in force with such modification as the occasion may require until the civil government of the respective States shall be established in accordance with the requirements of the Government of the United States. The commanding general earnestly desires and confidently believes that the observance of these regulations and the co-operation of all persons concerned in employing fairly and justly the advantages still remaining to them, will mitigate the distress now existing, and that the avenues of industry, enterprise, and organization thus opened will contribute to the permanent welfare and future happiness of the people.

I. Imprisonment for debt is prohibited, unless the defendant in execution shall be convicted of a fraudulent concealment or disposition of his property with intent to hinder, delay, and prevent the creditor in the recovery of his debt or demand, and the proceedings now established in North and South Carolina respectively, for the trial and determination of such questions, may be adopted.

II. Judgments or decrees for the payment of money on causes of action arising between the 19th of December, 1860, and the 15th of May, 1865, shall not be enforced by execution against the property or the person of the defendant. Proceedings in such causes of action now pending shall be stayed, and no suit or process shall be hereafter instituted or commenced for any such causes of action.

III. Sheriffs, coroners, and constables are hereby directed to suspend for twelve calendar months the sale of all property upon execution or process on liabilities contracted prior to the 19th of December, 1860, unless upon the written consent of the defendants, except in cases where the plaintiff, or in his absence his agent or attorney, shall upon oath, with corroborative testimony, allege and prove that the defendant is removing or intends fraudulently to remove his property beyond the territorial jurisdiction of the court. The sale of real or personal property by foreclosure of mortgage is likewise suspended for twelve calendar months, except in cases where the payment of interest money accruing since the 15th day of May, 1865, shall not have been made before the day of sale.

IV. Judgments or decrees entered or enrolled on causes of action arising subsequent to the 15th of May, 1865, may be enforced by execution sgainst the property of the defendant, and in the application of the money arising under such executions, regard shall be had to the priority of liens, unless in cases where the good faith of any lien shall be drawn in question. In such cases the usual mode of proceeding adopted in North and South Carolina respectively to determine that question shall be adopted.

V. All proceedings for the recovery of money under contracts, whether under seal or by parole, the consideration for which was the purchase of negroes, are suspended. Judgments or decrees entered or enrolled for such causes of action shall not be enforced.

VI. All advances of moneys, subsistence, implements, and fertilizers, loaned, used, employed, or required for the purpose of aiding the agricultural pursuits of the people, shall be protected, and the existing laws which have provided the most efficient remedies in such cases for the lender will be supported and enforced; wages for labor performed in the production of the crops shall be a lien on the crop, and payment of the amount due for such wages shall be enforced by the like ramedies provided to secure advances of money and other means for the cultivation of the soil.

VII. In all sales of property under execution or by order of any court there shall be reserved out of the property of any defendant who has a family dependent upon his or her labor a dwelling-house and appurtenances and twenty acres of land for the use and occupation of the family of the defendant, and necessary articles of furniture, apparel, subsistence, implements of trade, husbandry or other employment of the value of \$500. The homestead exemption shall inure only to the benefit of families-that is to say, to parent or parents and child or children-in other cases the exemption shall extend only to clothing, implements of trade or other employment usually followed by the defendant, of the value of \$100. The exemption hereby made shall not be waived or defeated by the act of the defendant. The exempted property of the defendant shall be ascertained by the sheriff or other officer enforcing the execution, who shall specifically describe the same, and make a report thereof in each case to the court.

VIII. The currency of the United States declared by the Congress of the United State to be a legal tender in the payment of all debts, dues, and demands, shall be so recognized in North and South Carolina, and all cases in which the same shall be tendered in payment and refused by any public officer will be at once reported to these headquarters or to the commanding officer of the post within which such officer resides.

IX. Property of an absent debtor or one charged as such without fraud, whether consisting of money advanced for the purposes of agriculture or appliances for the cultivation of the soil, shall not be taken under the process known as foreign attachment; but the lien created by any existing law shall not be disturbed, nor shall the possession or the use of the same be in any wise interfered with, except in the execution of a judgment or final decree, in cases where they are authorized to be enforced.

X. In snits brought to recover ordinary debts known as actions an contractu, bail, as heretofors authorized, shall not be demanded by the suitor nor taken by the sheriff or other officer serving the process; in suits for trespass, libel, wrongful conversion of property, and other cases, known as actions an delicito, bail, as heretofore authorized, may be demanded and taken. The prohibition of bail in cases an contractu shall not extend to persons about to leave the State, but the fact of intention must be clearly established

by proof. XI. In criminal proceedings the usual recognizances shall be required and taken by the proper civil officers heretofore authorized by law to take the same, provided that upon complaint being made to any magistrate or other person authorized by law to issue a warrant for breach of the peace or any criminal offense it shall be the duty of such magistrate or officer to issue his warrant upon the recognizance of the complainant to prosecute, without requiring him to give

security on such recognizance. XII. The practice of carrying deadly weapons, except by officers and soldiers in the military service of the United States, is prohibited. The concealment of such weapons on the person will be deemed an aggravation of the offence. A violation of this order will render the offender amenable to trial and punishment by military commission. Whenever wounding or killing shall result from the use of such weapons, proof that the party carried or concealed a deadly weapon shall be deemed evidence of a felonious attempt to take the life of the injured person.

XIII. The orders heretofore issued in this military department prohibiting the punishment of crimes and offenses by whipping, maiming, branding, stocks, pillory, or other corporal punishment is in force and will be obeyed by all persons.

XIV. The punishment of death in certain cases of burglary and larceny imposed by the existing laws of the provisional governments in this military district is abolished. Any person convicted of burglary or of larceny, when the property stolen is of the value of \$25, of assault and battery with intent to kill, or of any assault with a deadly weapon, shall be deemed guilty of felony, and shall be punished by imprisonment at hard labor for a term not exceeding ten years nor less than two years, in the discretion of the court having jurisdiction thereof. Larceny, when the value of the property stolen is less than \$25, shall be punished by imprisonment at hard labor for a term not exceeding one year, in the discretion of the court.

XV. The Governors of North and South Carolina shall have authority within their jurisdictions respectively to reprieve or pardon any person convicted and sentenced by a civil court, and to remit fines and penalties.

XVI. Nothing in this order shall be construed to restrain or prevent the operation of proceedings in bankruptcy in accordance with the acts of Congress in such cases made and provided, nor with the collection of any tax, impost, excise, or charge levied by authority of the United States, or of the provisional governments of North and South Carolina ; but no imprisonment for over due taxes shall be allowed, nor shall this order or any law of the provisional governments of North and South Carolina operate to deny to minor children or children coming of age, or their legal representatives, nor to suspend as to them any right of action, remedy, or proceeding against executors, administrators, trustees, guardians, masters, or clerks of equity courts, or other officers or persons holding a fiduciary relation to the parties or the subject matter of the action or proceeding.

XVII. Any law on ordinance heretofore in force in North or South Carolina inconsistents with the provisions of this general order is hereby suspended and declared inoperative.

By command of Major Gen. D. E. Sickles. J. W. CLOUS, A. A. A. G.

Orders in Third Military District.

HEADQ'ES SUB-DIST. OF ALABAMA

MONTGOMERY, ALA., March 28, 1867. General Orders, No. 1.

I. By direction of General Grant, all State and local elections in this State are disallowed, pending the arrival of the district commander appointed for this district, and his order in the premises.

II. In default of certain information that municipal or other corporate elections have not occurred since the passage of "An act to provide for the more efficient government of the rebel States," all persons chosen to public office in this State during this month will report the fact by letter to these headquarters, for the action of the district commander.

WAGEB SWAYNE, Major General.

HEADQ'RS THIRD MILITARY DISTRICT. MONTGOMERY, ALA., April 1, 1867.

Orders No. 1.

In compliance with General Orders No. 18, dated Headquarters of the Army, March 15, 1867, the undersigned assumes command of the Third Military District, which comprises the States of Alabama, Georgia, and Florida.

I. The districts of Georgia and Alabama will remain as at present constituted, and with their present commanders, except that the headquarters of the district of Georgia will be forthwith

removed to Milledgeville. The district of Key West is hereby merged into the District of Florida, which will be commanded by Colonel John T. Sprague, Seventh United States Infantry. The headquarters of the District of Florida are removed to Tallahassee, to which place the district commander will transfer his headquarters without delay.

II. The civil officers at present in office in Georgia, Florida, and Alabama will retain their offices until the expiration of their terms of service, unless otherwise directed in special cases, so long as justice is impartially and faithfully administered. It is hoped that no necessity may arise for the interposition of the military authorities in the civil administration, and such necessity can only arise from the failure of the civil tribunals to protect the people, without distinetion, in their rights of person and property.

III. It is to be clearly understood, however, that the civil officers thus retained in office shall confine themselves strictly to the performance of their official duties, and whilst holding their offices they shall not use any influence whatever to deter or dissuade the people from taking an active part in reconstructing their State government, under the act of Congress to provide for the more efficient government of the rebel States and the act supplementary thereto.

IV. No elections will be held in any of the States comprised in this military district. except such as are provided for in the act of Congress,

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REVISED ORDINANCES OF THE TOWN OF CHECOTAH

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ORDINANCE NO. 11.

An ordinance relating to the public peace.

Be it ordained by the town council of the incorporated town of Checotah:

Section 1. That it shall be a misdemeanor to do or cause to be done any of the following acts, and any person convicted thereof shall be fined not more than Twenty Five dollars.

Section 2. To be connected with or participate in any masked ball not authorized by the mayor of the town.

Section 3. To wear or carry any pistol of any kind whatever, or any dirk, butcher knife or bowie knife, or a sword, or a spear in a cane, brass or metal knuckles or a razor, slung shot, sand bag, or a knife with a blade over three inches long, with a spring bandle, as a weapon.

Section 4. To be drunk or in a state of intoxication in any public or private place within the town limits.

Section 5. To use rude, boisterous, offensive, obscene or blasphemous language in any public place, or to make, aid, countenance, or assist in making any improper noise, disturbance, breach of the peace or diversion, or conduct one's self in a disorderly manner in any public place, or in any other place within the town limits.

Section 6. To keep a disorderly house or place of public resort in the open air, or by making or cau-ing to be made therein, loud or improper noises, or by collecting therein or permit the collection therein, or allow to remain therein, drunken, disorderly and noisy persons to the annoyance of others and the disturbance of the neighborhood, or to give admission, or cause to be given admission therein, to women of known ill repute or prostitutes, or fail to remove or expel such persons after being notified of their character.

Section 7. To employ any device, noise or performance tending to the collection of persons on the streets or other places to the obstruction of the same, or to exhibit any tricks or legerdemain or other devices of like kind, or perform with bells, orCase: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 266 of 333

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ORDINANCES.

UNLAWFUL CARRYING OF ARMS.

AN ORDINANCE Prohibiting and Punishing the Unlawful Carrying of Arms.

SECTION 1. Be it ordained by the City Council of the City of Dallas, that if any person in the City of Dallas shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slungshot, swordcane, spear, or knuckles made of any metal or hard substance, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by fine of not less than twenty-five nor more than two hundred dollars and shall be confined in the city prison not less than twenty nor more than sixty days.

SEC. 2. That the preceding section shall not apply to a person in actual service as a militiaman, nor to a peace officer, or policeman or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

SEC. 3. That all Ordinances or parts of Ordinances in conflict with this Ordinance be and the same are hereby repealed.

SEC. 4. That this Ordinance take effect from and after its passage.

Approved July 18, 1887.

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CHARTER

ORDINANCES

OF THE-

AND-

CITY OF LA CROSSE,

RULES OF THE COMMON COUNCIL.

WITH THE-

PUBLISHED BY ORDER OF THE COMMON COUNCIL.

THE REPUBLICAN AND LEADER, 1888.

and shall further be liable to the city of La Crosse for all damages occasioned by such violation.

Bells to be used when sleighs are used.

Width of wheel tires on wagons hauling heavy merchandise.

Farmers excepted.

Stone, humber, coal, etc. not to be deposited en public landings,

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SECTION 45. No person shall drive any horse or other animal before a sleigh or sled or other vehicle upon runners upon or through any of the streets, alleys or public grounds of the city of La Crosse at a rate of speed faster than a walk, unless there shall be a sufficient number of bells attached to the harness of such animal, or to the sleigh or sled or other vehicle, to warn

persons of the approach thereof. Any person convicted of violating any provision of this section shall be

punished by a fine not exceeding ten dollars. SECTION 46 On and after the first day of June 1881, every wagon or other vehicle of any description whatever which shall be found in use in the city of La Crosse for the carrying, hauling and transportation of stone, lumber, coal, brick, earth, sand, building materials or of any other heavy merchandise or substances shall have wheel tires of not less than three inches in width; and every person maintaining or using any such wagon or other vehicle in violation of this section shall be punished by a fine of not less than five dollars nor more than twenty-five dollars for each offense. The provisions of this section shall not apply to vehicles making a transient visit to the city, such as farmer wagons bringing in produce.

SECTION 47. [As amended by ordinance No. 118]. It shall be unlawful for any person to throw or deposit upon any public landing in the city of La Crosse any stone, lumber, coal, fire-wood, slabs, or any other materials or substances of any kind whatever and to leave the same thereon for a longer time than two hours. Every person violating any provision of this section shall be punished by a fine of not less than ten dollars nor more than fifty dollars, and shall be subject to a further fine of not less than five dollars nor more than ten dollars for every two hours that he shall neglect or refuse to remove any materials or substances so deposited and left as aforesaid after notice from the board of public works or chief of police to remove the same.

Passed October 8, 1880.

ζ,

Published October 15, 1880.

ORDINANCE NO. 14.

AN ORDINANCE to provide for the government and good

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order of the city of La Crosse, for the suppression of vice and immorality, and the prevention of crime.

The common council of the city of La Crosse do ordain:

SECTION I. Every person who shall set up, use, or keep for use, or permit to be used within the city of La Gambling prohibited. Crosse, any table or gambling device, commonly called A. B. C., faro bank, E. O., roulette, equality, keno, bagatelle or any kind of gambling table or device, adapted, devised or designed for the purpose of playing game of chance for money anv or property, induce, entice or permit any person allowing and shall to bet or play at or upon any such gambling table or gambling device, or at or upon any game played at or by means of such table or device, or on the side of or against the keeper thereof, and every person who shall suffer or permit any gambling table, bank or device hereby prohibited to be set up or used for the purpose of gambling in any house, building, shed, booth, lot or other premises within the limits of the city of La Crosse, to him or her belonging, or by him or her occupied, or of which he or she has at the time possession or con-Penalty for trol; and every person who shall suffer any game or games whatever to be played for gain upon or by means of any gaming device or machine of any denomination owner or agent. whatever in his or her house, or in any outhouse, booth, arbor or building within the limits of the city of La Crosse, of which he or she has the care or possession shall, on conviction thereof, be punished by a fine of not more than two hundred dollars.

SECTION 2. Every person who shall, within the limits of the city of La Crosse, bet any money or property, notes, Betting prodrafts, checks, chips or any other paper or thing representing money, at or upon any gaming table, bank or device prohibited by the preceding section, or who shall bet upon or play at any game played at or by means of any such gaming table, bank or other device, or on the side of or against the keeper thereof; and every person who shall at any time or in any place whatever within the limits of said city play at any game whatever for gain with cards, or dice, or what is known as three-card monte, strap game, patent tobacco box, or any other device which may be adapted to or which may be used in Penalty. playing any game of chance, or shall bet or wager on the hands or sides of such as do play as aforesaid, shall,

renting building to be so used attaches to

games of chance to be played.

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CITY ORDINANCES.

upon conviction thereof, be punished by a fine not ex ceeding fifty dollars.

Penalty for frequenting gambling houses.

Proceedings to cause arrest of persons engaged in gambling.

Duty of police and their powers.

Justice to cause destruction of allgambling

Prostitutes-Penalty for plying voca tion on streets.

Penalty.

SECTION 3. Any person who shall frequent any gambling saloon or other house, building, room or other premises within the limits of said city used for the purpose of gambling or in which gambling is carried on, shall, upon conviction thereof, be fined not less than five dollars, nor more than twenty-five dollars.

SECTION 4. If any person shall make oath before the justice of the peace for the city at large that he suspects or has probable cause to suspect that any house or other building is willfully used as and for a gaming house or for the purpose of gambling for money or other property, and that persons resort to the same for that purpose, said justice, whether the names of the persons last mentioned are known to the complainant or not, shall issue a warrant commanding the chief of police or any of his subordinates, or any patrolman or policeman of said city to enter into such house or building and to arrest all persons who shall be there found playing for money or otherwise, and also the keeper of the same, and

to take into custody all tools, machines, devices, implements of gaming of every kind and nature whatsoever found therein, and to keep the said persons and implements so that they may be forthcoming before said justice to be dealt with according to law; and any officer who may be charged with the execution of any such warrant shall have power, if necessary, to break open doors for the purpose of executing the same. All persons taken into custody by virtue of such warrant may be prosecuted under the foregoing sections of this ordinance and it shall be the duty of said justice of the peace for the city at large to cause all gambling implements, implements, constructions and devices which may be brought before him by virtue of such warrant, to be publicly destroyed by burning or otherwise.

> SECTION 5. Any person who shall solicit or procure another to visit or become an inmate of a house of illfame, for the purpose of prostitution or lewdness; and any common prostitute or lewd woman who shall walk or be upon any street or public thoroughfare in this city, in the night time, or who shall walk the streets of said city for the purpose of plying her vocation, shall be punished by a fine not exceeding twenty-five dollars, and not less than five dollars, or be imprisoned not exceed-

ing sixty days, or by both such fine and imprisonment at the discretion of the court.

SECTION 6. Any person being an inmate of, or being House of ill fame-Penfound at or frequenting a house of ill-fame, or a house alty for be-ing inmate. resorted to for the purpose of prostitution or lewdness, or an assignation house, shall be punished by a fine not exceeding twenty-five dollars for each offense.

SECTION 7. Any person who shall keep any assigna-Houses of assignat assignation. tion house, or place resorted to for the purpose of prostitution or lewdness, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars.

SECTION 8. Any policeman or other officer, having Inmates and a warrant for the apprehension of the keeper of any visitors to be arrested. house of ill-fame, or the keeper of any assignation house, or house resorted to for the purpose of prostitution or lewdness, shall be authorized to arrest and detain in custody all inmates and visitors of such houses found therein at the time of executing such warrant.

SECTION 9. No person shall swim or bathe in the Bathing in Mississippi river, Black river or La Crosse river, within streams prothe corporate limits of the city of La Crosse, between hibited in day time. the hours of sunrise and sunset of each day under a penalty of not less than one dollar, nor more than ten dollars for each offense.

SECTION 10. No person shall indecently exhibit any Use of stallstud horse or jack or let any such horse or jack to any city. mare or mares within the limits of the city, unless in some enclosed place out of public view, under a penalty of not less than five dollars nor more than fifty dollars for every such offense.

SECTION II. Any person who shall appear in a public place in a state of nudity, or in a dress not belonging to his or her sex, or in an indecent or lewd dress, or who shall make any indecent exposure of his or her Fenalty for indecent experson, or be guilty of lewd and indecent behavior, or person. who shall exhibit or offer to sell any indecent or lewd picture, book or other thing, or shall perform any indecent or lewd act or representation, shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars.

SECTION 12. Any person who shall cruelly beat, in-jure or abuse any horse, ox or other animal within the imals

posure of

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CITY ORDINANCES.

limits of the city of La Crosse shall be punished by a fine not exceeding twenty-five dollars.

nuisance upon any street, alley, vacant lot, or upon any public ground, shall be punished by a fine not exceeding

SECTION 13. Any person found committing any

Committing nuisance.

five dollars.

Penalty for intoxication, using indecent language or creating riots.

SECTION 14. Every person who shall be found in a state of intoxication in any street, thoroughfare or public place within the corporate limits of the city of La Crosse; or who shall make use of any vulgar, indecent or obscene language; or who shall make use of any loud, boisterous, profane or insulting language, or of any language tending to excite a breach of peace, or who shall be engaged in fighting; or who shall make or assist m making any riots, noise or disturbance in said city, or shall aid or countenance any riotous or disorderly assemblage therein; or who shall be guilty of any disorderly or improper conduct in said city of La Crosse, shall upon conviction be punished by a fine of not less than one dollar nor more than one hundred dollars.

SECTION 15. It shall be unlawful for any person other than a policeman or other officer authorized to maintain the peace and to serve process to carry or wear any pistol, slungshot, knuckles, bowie knife, dirk or any other dangerous weapon, and any person convicted of a violation of this section shall be punished by a fine not exceeding one hundred dollars. In all cases of conviction hereunder, any and all dangerous weapons found on the person of the accused shall be confiscated and become the property of the city of La Crosse, and may be sold for the benefit thereof at such times and in such manner as the common council may from time to time direct.

SECTION 16. Every person who shall wilfully, maliciously or wantonly break the glass on any street lamp post or in any window or sky light in the city of La humps, hump Crosse, or extinguish any lamp or climb upon any post, or destroy, remove, throw down or injure any fence or . trees, plants, other enclosure on land belonging to or lawfully occusign-boards, pied by another, or interfere with any gate or bars in any such enclosure, or destroy, injure or carry away any tree or plant, or tear down, mutilate, deface or injure any building, signboard, fence or railing being the property of another; or who shall wilfully, maliciously or wantonly injure, destroy or remove any useful or ornamental tree or plant of any kind, vase, statue, arbor, stand or any

Penalty for carrying concealed weapons

Penalty for interfering with street posts, or injuring fences, etc.

other building or any other structure standing or being in any street or public ground, or destroy, mutilate or injure any milestone or board or guide post; or who shall wilfully, maliciously or wantonly injure, deface or destroy any property not his own, whether real or personal, or whether belonging to any private person or to any private or public corporation, shall upon being convicted of a violation of any of the provisions of this section, be punished by a fine not exceeding one hundred dollars.

SECTION 17. Any person who shall wilfully maliciously or wantonly interrupt or in any way molest or disturb any private or public school or Sunday school or church Penalty for or other place where religious worship is held, or shall create or encourage any noise, riot or disturbance at, in or near the same, which shall have the effect to disturb or hinder the exercises of any such school or the services of any such church or place of religious worship, or who shall wilfully, wantonly or maliciously interrupt, molest or disturb any lawful assemblage of people, or shall create any noise or disturbance at or in the place of any concert, theatre or other public entertainment, shall upon being convicted of a violation of any provision of this section, be punished by a fine not exceeding fifty dollars.

SECTION 18. Any person violating any rule posted in violation of a conspicuous place in any cemetery in the city of La Crosse, shall upon conviction be punished by a fine not exceeding twenty-five dollars.

SECTION 19. It shall be unlawful for any person to use firearms or to shoot off a gun or pistol or to hunt game Unlawful to or birds within the limits of any cemetery in the city of La Crosse; or to 10b or disturb birds' nests therein, or to enter any cemetery except by the gate, and then only at such times as the same may be open to the public; or to enter the same as a thoroughfare in going from one place to another. Any person violating any provision of this section, shall upon conviction, be fined in a sum not more than ten dollars, and in case of a second conviction shall be imprisoned not more than sixty days nor less than ten days.

SECTION 20. Any person who shall wilfully or wan-penalty for tonly destroy, mutilate, injure or remove any tomb, interfering monument, gravestone, building or other structure, fence, thing in wall, railing, tree, shrub, plant or flower within the limits of any burying ground or cemetery, or any other thing

Penalty for injuring public or private property.

disturbing lawful assemblages of people.

cemetery rules.

use firearms in cemeteries, or disturb bird's-nests therein-When and how cemeteries may be entered.

with anycemetery.

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intended for the ornamentation or protection thereof, shall be punished by imprisonment in the county jail not more than three months or by a fine not exceeding one hundred dollars.

Posting billsing thereto.

SECTION 21. No bill poster or other person shall post Rules relat. or in any other manner put up any written or printed bill, notice or advertisement upon any building or fence within the city of La Crosse, without the consent of the owner or lessee thereof. Any person who shall violate any of the provisions of this section, shall upon conviction thereof, be punished by fine not exceeding twentyfive dollars.

> SECTION 22. Any person, master or captain, in charge of any steamboat or other craft which shall enter the corporate limits of the city of La Crosse and remain at any wharf or landing for any purpose whatever, who shall blow or cause to be blown any steam whistle on said boat while lying at such landing, unless sounded as an alarm or signal of danger, shall forfeit the penalty of five dollars for each and every offense.

SECTION 23. All idle persons who, not having visible means to maintain themselves, live without employment, all persons wandering abroad and lodging in sheds, barns, outhouses or in the open air and not giving a good account of themselves; all common drunkards, all lewd, wanton or lascivious persons in speech or behavior; any and all persons who shall be engaged in gambling at what is known as three card monte, strap game, faro, patent tobacco box, or with any kind of device adapted to, devised or designed for the purpose of playing any game of chance for money or property, and any person who shall induce another to engage in gambling, or who shall bet or play at or upon any such gambling device, or at or upon any game played at or by means of cards or any device; all gamblers, all common prostitutes, all frequenters of houses of ill-fame shall be and are hereby declared vagrants and shall be punished by a fine of not less than five dollars nor more than one hundred dollars, or by imprisonment for a period of not less than ten days nor more than six months.

of police in regard to vagrants, gamblers. prostitutes, etc.

Penalty.

SECTION 24. It shall be the duty of the chief of police Duty of chief whenever he shall be satisfied that any person within the limits of the city of La Crosse is a common gambler, a common prostitute, or a frequenter of houses of ill-fame, or a person out of employment and having no visible

Steamboat whistles not to be sounded at landings or wharts.

Vagrants, idle persons, drunkards, gamblers, prostitutes, etc.

means of support and being of suspicious character, to verbally notify such person to depart from the city of La Crosse within six hours, and in case any person so notified shall wilfully fail or refuse to depart within the time prescribed, he shall be subject to such fine or imprisonment as is prescribed in the preceding section.

SECTION 25. It shall be the duty of the chief of police Prisoners to whenever in his opinion a sufficient number of persons break and pound stone. shall be in confinement for offenses committed against the provisions of this ordinance or against the provisions of any other ordinance of the city of La Crosse, to provide, with the advice of the mayor, a suitable person as overseer, and also to put balls and chains on each of said several persons in confinement and set each of said sev- ^{Overseer to be} appointed. eral persons in confinement to pounding or breaking stone under the direction of said overseer, said stone to be used in making docks and street crossings within the city of La Crosse.

SECTION 26. Any person in confinement who shall Penalty for refusal to refuse to work when required by the chief of police or by work. said overseer as herein set forth, shall be subject to imprisonment not less than three days for each and every offense.

SECTION 27. It shall be the duty of the mayor, at the Balls and expense of the city of La Crosse, to provide all the balls, chains to be provided by chains and tools that may be necessary to be used in the city. carrying out the provisions of the two preceding sections of this ordinance.

Passed October 8, 1880.

Published October 22, 1880.

ORDINANCE NO. 15.

AN ORDINANCE to regulate the place and manner of weighing and selling hay, grain and pork, and selling fuel and other gross commodities within the city of La Crosse.

The common council of the city of La Crosse do ordain:

SECTION I [As amended by ordinance No. 118]. The scales erected by the city of La Crosse, and Public city scales. now situate on lot I in block 14, of Dunn, Dousman, and Cameron's addition to the original plat of the town of La Crosse, are hereby established as the public city scales for the weighing and measuring of

OF THE CITY OF LOS ANGELES.

the city limits for the purpose of seeing that said ordinance is not violated. That before entering, said Marshal or policeman shall first inform the owner, or person having control of said back yard, the purpose of such entry, and any such owner or person having charge or control of the same, who shall refuse or resist such entry shall thereupon be arrested, and upon conviction thereof, shall be fined in a sum not more than twenty-five dollars, nor less than five, or imprisonment not more than ten days. Approved Nov. 22, 1869.

- 34 Every owner or occupant of every store, hotel, bar-room, or public house of any kind, as also each and every person occupying a house having two rooms or more facing the street, shall hang a light outside of the door of his or their building, the first two and a half hours of every dark night, under a penalty of two dollars for the first offence and five dollars for each and every subsequent offence.
- 35 Every person who shall draw any species of fire-arms, or any sword or sword-cane, or knife, or dirk, or other deadly weapon upon the person of another within the limits of this city, unless in lawful defence of person or property, shall be fined not to exceed one hundred dollars, and imprisonment at the discretion of the Mayor, not to exceed ten days.
- 36 In future, no persons, except peace officers, and persons actually traveling, and immediately passing through Los Angeles city, shall wear or carry any dirk, pistol, sword in a cane, slung-shot, or other dangerous or deadly weapon, concealed or otherwise, within the corporate limits of said city, under a penalty of not more than one hundred dollars fine, and imprisonment at the discretion of the Mayor, not to exceed ten days.

It is hereby made the duty of each police officer of this city, when any stranger shall come within said corporate limits wearing or carrying weapons, to, as soon as possible, give them information and warning of this ordinance; and in case they refuse or decline to obey such warning by depositing their weapons in a place of safety, to complain of them immediately.

37 No person shall ride any mule, horse or other animals within the fire limits of this city, at a furious rate, or at a greater speed than eight miles per hour. Nor shall any person drive any wagon, carriage, or other vehicle, at a greater speed than as above stated. Nor shall any person leave any horse or mule, saddled or harnessed, loose in the aforesaid limits.

Add. 230

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(13.)

ORDINANCE NO. 20.

UNLAWFULLY CARRYING ARMS.

Be it ordained by the city council of the city of Mc-Kinney:

Sec 1. If any person in the limits of the city of McKinney shall carry on or about his person. saddle, or in his saddle bags, any pistol, dirk, dagger, slung shot, sword cane, spear or nuckles made of any metal or of any hard substance Bowie knife or any other knife manufactured or sold for the purposes of offense or defense, he shall be punished by fine not less than twenty-five nor more than two hundred dollars.

Sec. 2. The preceding section shall not apply to a person in actual service as a militiaman, nor to a peace officer or a policeman or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so iminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

ORDINANCE NO. 21.

INDECENT PUBLICATION AND EXPOSURES.

Be it ordained by the city council of the city of Mc-Kinney:

That if any person within the limits of the city of Mc-Kinney, shall make, publish or print any indecent and obscene print, picture or written composition manifestly designed to corrupt the morals of the youth, or shall designedly make any obscene and indecent exhibition of his own or the person of another in public, he shall be fined not exceeding one hundred dollars. 340

ORDINANCES.

CHAPTER 108.

CARRYING PISTOLS, BOWIE-KNIVES, ETC.

SECTION

SECTION

- 1. Penalty imposed for carrying pistols, bowie-knives, etc.
- Duty of the police to arrest all persons carrying such weapons.
- Penalty imposed on police officer for failing to arrest persons carrying deadly weapons.
- Police Commissioners instructed to increase number of patrolmen to thirty-four.
- 5. Provisions against carrying deadly weapons do not extend to police officers.

SECTION 1. That every person found carrying a pistol, bowie-knife, dirk-knife, slung-shot, brass knucks or other deadly weapon, shall be deemed guilty of a misdemeanor, and, upon conviction of such first offense, shall be fined from ten to fifty dollars, at the discretion of the court, but upon conviction of every such subsequent offense, shall be fined fifty dollars; *Provided*, *however*, That no ordinary pocketknife and common walking-canes shall be construed to be deadly weapons.

SEC. 2. That it shall be the duty of every police officer who sees any person or persons with, or knows of any person carrying, such deadly weapons, to immediately arrest every such person, that they may be dealt with according to the provisions of this act.

SEC. 3. That every police officer who may refuse or neglect to immediately arrest every such person seen with or known to be carrying such deadly weapons, shall be deemed guilty of dereliction of duty, and, upon conviction thereof, shall be dismissed from service, and any two respectable citizens shall be deemed competent to prefer charges to the proper authorities against, such police officer for such dereliction of duty.

SEC. 4. To the end that the provisions of this act may be more fully carried out, the Police Commissioners be, and are hereby, instructed to increase the number of patrolmen to thirty-four, to be uniformed, paid and controlled in accordance with the present police law.

SEC. 5. It is expressly understood that the provisions of this act relating to carrying such deadly weapons as are mentioned in the preceding sections, do not extend to police or other officers, or persons that are entitled by law to carry

ORDINANCES.

such deadly weapons, nor does it extend to the act of handling or moving such deadly weapons in any ordinary business way.

SEC. 6. That all laws and parts of laws in conflict with this act are hereby repealed, and this act to take effect from and after its passage, the public welfare requiring it.

Approved December 26, 1873.

CHAPTER 109.

SABBATH.

SECTION

- 1. No water-craft to unload on Sunday.
 - No vehicle to be laden on Sunday.
 - No grocery or other place of ordinary business to be kept open on the Sabbath; tavern-

SECTION

keepers and apothecaries excepted.

- Vendors of ice, ice-cream, soda water, cigars and tobacco excepted.
- 5. No games allowed on Sunday.

SECTION 1. That if any owner or owners of any steamboat, keel-boat, barge or other water-craft, should load or unload, or cause to be laden or unladen, any such steamboat, keelboat, barge or other water-craft, on the Sabbath day, within the limits of the corporation of Nashville, unless by the written permission of the Mayor, every person so offending shall forfeit and pay, on conviction thereof, not less than twenty-five nor more than fifty dollars for every such offense.

SEC. 2. That if any person or persons shall load, or cause to be laden, any wagon, cart or dray on the Sabbath day, with any article or package of merchandise, cotton, tobacco or any produce of the country, or unload, or cause to be unladen, any such wagon, cart or dray, or shall receive into his, her or their house, store or warehouse, any such article or package of merchandise, cotton, tobacco, or produce of the country, every person so offending shall forfeit and pay the sum of one dollar for each and every offense.

SEC. 3. That no person or persons shall be allowed to keep his, her or their grocery, dram-shop, confectionery or other place of ordinary business open on the Sabbath day, nor to sell any spirituous liquors on said day, or to deal out the same

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ORDINANCES OF.

all the charges and remove the same for the period of twenty-four hours after the service of such notice, the said officer shall proceed to sell the same at public auction, first giving two days notice, by not less than five hand-bills conspicuously posted, of the time and place of said sale, which said notice shall also contain a brief description and the name of the owner or custodian thereof, if known.

SEC. 4. If the owner or custodian shall not be known to said officer he shall immediately advertise the same for sale for at least three days prior to such sale, by three handbills conspicuously posted in said city, which said notice shall contain a description of the swine to be sold, where the same were taken up, the time and place of said sale.

SEC. 5. The officer's fees for proceedings under this ordinance shall be as follows, to-wit: One dollar per head for impounding the necessary expenses for keeping; twenty-five cents for each notice served, and twenty per cent of sales for selling.

SEC. 6. From the proceeds of the sale of each hog or lot of swine belonging to one individual the officer shall pay the fees and expenses as hereinbefore provided for, and the balance if any there be, shall be paid to the city treasurer and be kept by him as a separate fund and shall only be paid out by warrant duly drawn and made payable to the party justly entitled thereto.

SEC. 7. This ordinance shall take effect and be in force from and after its passage and approval.

Approved, April 16, A. D. 1872.

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ORDINANCE No. 7.

An Ordinance prohibiting the carrying of fire arms and concealed weapons.

SECTION 1. Be it ordained by the Mayor and Councilmen of the city of Nebraska City, That it shall be, and it is hereby declared to be unlawful for any person to carry, openly or concealed, any musket, rifle, shot gun, pistol, sabre, sword, bowie knife, dirk, sword cane, billy, slung shot, brass or other metallic knuckles, or any other dangerous or deadly weapons, within the corporate limits of Nebraska City, Neb.; Provided, that nothing herein contained shall prevent the carrying of such weapon by a civil or military officer, or by a soldier in the discharge of his duty, nor by any other person for mere purposes of transportation from one place to another.

SECTION 2. Upon complaint before the Police Judge that an offence in violation of this ordinance has been committed, he shall inquire into the circumstances of the case to determine whether the charge is well founded, and exercise his own discretion as to the dismissal thereof. If the complaint shall be made good, and the Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 281 of 333

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City for any such purpose, shall forfeit and pay a penalty of not less than ten, nor more than fifty dollars for every such offense.

SEC. 192. Every person who shall carry in said City, any steel or brass knuckles, pistol, or any slung shot, stiletto or weapon of similar character, or shall carry any weapon concealed on his person without permission of the Mayor or Superintendent of Police in writing, shall, on conviction, pay a penalty of not less than five, nor more than fifty dollars for every such offense.

JURORS OF THE CITY COURT.

Section.

193. Penalty for neglecting to serve as juror when summoned.

Be it ordained by the Court of Common Council of the City of New Haven:

SEC. 193. If any person chosen, drawn and summoned to serve on a jury at any session of the City Court of said City, in accordance with the provisions of the Charter of said City, shall make default of appearance, according to the direction of the summons, which shall have been duly served upon him, and returned to Court, he shall forfeit and pay a penalty of five dollars, unless on cause shown, said City Court shall excuse him therefrom.

LAMPS.

Section.

Section.

194. Court of Common Council may order lamps to be set up.

195. Unauthorized interference with lamps prohibited, etc.; penalty.

Be it ordained by the Court of Common Council of the City of New Haven:

SEC. 194. The Court of Common Council is hereby authorized to cause to be set up such lamps in the streets and public places in said City, for the purpose of

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CITY OF RAWLINS.

more than one hundred dollars for each and every offense.

SEC. 4. If any person shall expose for sale in any market, house, shop or elsewhere in this city, any emaciated, tainted or putrid meat or provision, which from these or other causes may be deemed unwholesome, every such person, on conviction, shall forfeit and pay a penalty of five dollars for each offense.

SEC. 5. No person shall steam, or boil, or in any way render any offal, tainted or damaged lard or tallow, or steam, boil or render any animal substance in such a manner as to occasion any offensive smell, or which by steaming, boiling or otherwise rendering will so taint the air so as to render it unwholesome to the smell within the limits of the city. Any person who shall violate the provisions of this section, shall, on conviction, be fined in a sum not less than ten dollars nor more than one hundred dollars.

ARTICLE VII,

CARRYING FIRE ARMS AND LETHAL WEAPONS.

SECTION I. It shall be unlawful for any person in said city to keep or bear upon the person any pistol, revolver, knife, slungshot, bludgeon or other lethal weapon, except the officers of the United States, of the State of Wyoming, of Carbon County and of the City of Rawlins.

SEC. 2. Any person convicted of a violation of the preceding section shall be fined not exceeding one hundred dollars, or imprisoned in the city jail not exceeding thirty days.

SEC. 3. Persons not residing in said city shall



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be notified of this Ordinance by the police or any citizen, and after thirty minutes from the time of notification, shall be held liable to the penalties of this article, in case of its violation.

SEC. 4. The city marshal and policemen of the city shall arrest, without warrant, all persons found violating the provisions of this article, and are hereby authorized to take any such weapon from the person of the offender and to imprison the offender for trial, as in case of violations of other Ordinances of said city.

SEC. 5. This ordinance shall be in force and take effect from and after its passage.

Revised, passed and adopted March 3, 1893.

CHAS. E. BLYDENBURGH, President of Board.

Approved, . John C, Davis, Mayor.



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ORDINANCES OF THE CITY OF SALINA.

ORDINANCE No. 268.

An Ordinance relating to the carrying of deadly weapons.

Be it ordained by the Mayor and Councilmen of the city of Salina:

SECTION 1. That it shall be unlawful for any person to carry on or about his person any pistol, bowie knife, dirk, or other deadly or dangerous weapon, anywhere within the limits of the city of Salina, save and except as hereinafter provided.

SEC. 2. This ordinance shall not apply to cases when any person carrying any weapon above mentioned is engaged in the pursuit of any lawful business, calling or employment and the circumstances in which such person is placed at the time aforesaid, are such as to justify a prudent man in carrying such weapon, for the defense of his person, property or family, nor to cases where any person shall carry such, weapon openly in his hands, for the purpose of sale, barter, or for repairing the same, or for use in any lawful occupation requiring the use of the same.

SEC. 3. Any person violating any of the provisions of this ordinance shall, upon conviction thereof before the police court, be fined in any sum not less that twenty-five nor more than one hundred dollars.

SEC. 4. This ordinance shall take effect and be in force from and after its publication in pamphlet form.

Approved June 24th, 1879

WM. BERG, Mayor.

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Attest: E. E BOWEN, City Clerk.

I hereby certify the above and foregoing to be a true copy of an ordinance passed by the mayor and councilmen of the city of Salina on the 24th day of June, 1879. See page 97 of the Journal B for the record of the final vote on its passage.

[CITY SEAL.]

E. E. BOWEN, City Clerk.

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some conspicuous place about his person, and said badge shall authorize the person holding the same to pursue such occupation only during good behavior, and at the pleasure of the mayor.

Sec. 2. The city marshal, on said person complying City marshal to dewith Section 1 of this ordinance, shall designate a place or beat, on the public sidewalk or street, where the said person may pursue and follow his said occupation,

signate place or stand.

Sec 3. The badge provided for in Section 1 of this Badge not transferable. ordinance shall not be transferable.

Sec. 4. All persons permitted to pursue the occupa- Boot blacks under tion hereinbefore provided for shall be under the immediate supervision and control of the city marshal and police, and it shall be unlawful for any person to pursue and follow said occupation without first complying with Sections 1 and 2 of this ordinance; and it shall be unlawful to pursue said occupation at any other place or beat than that indicated by the city marshal.

Sec. 5. Any person violating any of the provisions of Penalty affixed. this ordinance shall be fined in any sum not exceeding five dollars (\$5.00) for each offense.

CHAPTER TEN.

CONCEALED WEAPONS.

Section 1. If any person, within the corporate limits Carrying concealed of the city of San Antonio, shall carry on or about his or her person, saddle, or in his saddle bags, any pistol, dirk, dagger, sling shot, sword cane, spear, or knuckles made of any metal

supervision of city marshal.

weapons.

Penalty.

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or any hard substance, bowie knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he or she shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00).

What persons exempted. Sec. 2. The preceding section shall not apply to a person in actual service as a soldier of the United States army or as a militia man, nor to a peace officer or policeman engaged in the discharge of official duty, or person summoned to his aid, or other person authorized or permitted by law to carry arms at the places therein designated, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has a reasonable ground for fearing an unlawful attack upon his person, where the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

CHAPTER ELEVEN.

DISORDERLY HOUSES.

Disorderly house defined. Section 1. A disorderly house is one kept for prostitution, or where prostitutes are permitted to resort or reside, for the purpose of plying their vocation, or any theatre, play house or house where spirituous, vinous, or malt liquors are kept for sale, and prostitutes, lewd women, or women of bad reputation for chastity, are employed, kept in service, permitted to display or conduct themselves in a lewd, lascivious, or indecent manner, or to which persons resort for the purpose of smoking or in any manner using opium.

THE CITY OF SYRACUSE.

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three months, or to both such fine and imprisonment.

§ 5. Any person who shall immoderately ride or Immoderate driving drive any horse or other animal whether attached and riding. to a private or public ambulance or other vehicle in any avenue, street, alley or lane in the city, shall be subject to a fine of not less than five nor more than fifty dollars, or to imprisonment in the peni-^{Penalty.} tentiary of the county for not less than ten nor more than thirty days.

§ 6. Any person who shall solicit alms in the Soliciting city for any purpose whatever, without permission from the mayor, shall be subject to a fine of two dollars or to imprisonment in the penitentiary of ^{Penalty.} the county for ten days for each offense.

§7. Any person who shall carry about his or her Carrying of deadly person any dirk, bowie knife, sword or spear cane, weapons. pistol, revolver, slung shot, jimmy, brass knuckles, or other deadly or unlawful weapon, or shall use any deadly or unlawful weapon, with intent to do bodily harm to any person, shall be subject to a fine of not less than twenty-five nor more than one Penalty. hundred dollars, or to imprisonment in the penitentiary of the county for not less than thirty days nor longer than three months, or to both such fine and imprisonment.

§8. Any person who shall ring any gong or bell Ringing of or cry any auction in any street, lane for alley, or bells. upon any sidewalk, or upon any piazza, step or Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 288 of 333

CORPORATION LAWS

OF THE

CITY OF WASHINGTON,

TO THE

End of the Fiftieth Council,

(To June 3d, 1853, inclusive,)

REVISED AND COMPILED

BY JAMES W. SHEAHAN,

Under the direction of a Joint Committee, consisting of the Mayor and one member of the Board of Aldermen and one member of the Board of Common Council:

AND, AL.80

THE ACTS OF INCORPORATION AND OTHER ACTS OF CON-GRESS, WITH AN APPENDIX,

TO WHICH ARE ADDED

THE LAWS ENACTED FROM JUNE 3, 1853 TO JUNE 1, 1860,

EMBRACING THE

51st, 52, 53d, 54th 55th 56th and 57th Councils. For Laws pass since June 3, 1853, see Index opposite page 396. NELLis n of Washington. Prepared and Pu by order of the Co Mashington: PRINTED BY ROBERT A. WATERS. 1853 & 1860.

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1857.]

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the limits of this city, shall be fifty dollars per annum, to be paid to this Corporation by the insurance company or agent applying for such license before the issuing thereof; and all licenses under this act shall be issued for one year from the date of the application and payment of the tax, and shall be issued by the Register, under the direction of the Mayor, by whom they shall be signed, and countersigned by the Register, and shall express on their face the name of the insurance company authorized by it to establish an agency in this city, where such company is established or located, the kind of insurance it is authorized to effect, and the name of its agent; and such licenses shall confer authority to establish an agency in this city only to the company and the agent therein named: Provided, That a license issued to one insurance company or agent may be transferred to another insurance company or agent : but no such transfer shall be valid, or confer any rights or privileges under it until the transfer has been recorded in the Register's office, and endorsed on the license by the Register: And provided, also, That no person shall be authorized, under one license, to act as agent for more than one insurance company, and that one the company named in such license; and any person offending against the provisions of this section shall be liable for every offence to the fine imposed by the first section of this act.

SEC. 3. And be it enacted, That all former acts or parts of acts inconsistent with the provisions of this act be, and the same are hereby repealed: *Provided*, That this act shall not be construed so as to affect licenses for insurance agencies already issued until the expiration of the time for which said licenses have been so issued.—(See page 78, Sheahan's Digest.)

Approved October 29, 1857.

CHAP. 5.

AN ACT to prevent the carrying of dangerous weapons in the City of Washington.

Be it enacted by the Board of Aldermen and Board of Common Council of the city of Washington, That it shall not hereafter be lawful for any person or persons to carry or have about their persons any deadly or dangerous weapons, such as dagger, pistol, bowie knife, dirk knife, or dirk, colt, slung shot, or brass or metal knuckles, within the city of Washington; and any person or persons who shall be duly convicted of so carrying or having on their persons any such weapon shall forfeit and pay upon such conviction not less than twenty nor more than fifty dollars, which fines shall be prosecuted and recovered in the same manner as other penalties and forfeitures accruing to the city are sued for and recovered: Provided, That the police officers, members of the Auxiliary Guard, and the military, when on duty, shall be exempt from such penalties and forfeitures.

Approved November 4, 1857.

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56TH COUNCIL,

stationery, and for all other contingent and necessary expenses of each of said schools; and it shall be the duty of the two Boards to make provision by law for the payment of all such salaries and other necessary expenses, out of any money to the credit of the School Fund, and when that shall be insufficient, out of the General Fund; and all such appropriations shall be subject to the order of the Board of. Trustees, from time to time, as the same may be required, to be properly disbursed, and for which, receipts shall in every case, be taken and returned to the Register of the Corporation, for settlement.

SEC. 12. And be it enacted, That all acts or parts of acts heretofore passed relative to the Public Schools; to organize and establish a Board of Trustees of the Public Schools, the salary of the Secretary and Treasurer, and the duties of the Board, be, and the same are hereby, repealed.—(See page 261, Sheahan's Digest.)

Approved November 12, 1858.

CHAP. 11.

AN ACT to prevent the carrying of concealed and dangerous weapons in the City of Washington.

Be it enacted by the Board of Aldermen and Board of Common Council of the city of Washington, That it shall not hereafter be lawful for any person or persons, to carry or have concealed about their persons any deadly or dangerous weapons, such as dagger, pistol, bowie-knife, dirk-knife or dirk, colt, slung-shot, or brass or other metal knuckles, within the city of Washington, and any person or persons who shall be duly convicted of so carrying or having concealed about their persons any such weapon, shall forfeit and pay upon such conviction, not less than twenty dollars nor more than fifty dollars : which fines shall be prosecuted and recovered in the same manner as other penalties and forfeitures accruing to the city, are sued for and recovered; *Provided*, That the Police officers and the members of the Auxiliary Guard, when on duty, shall be exempt from such penalties and forfeitures.

Approved November 18, 1858.

CHAP. 12.

AN ACT explanatory of the Seventh section of the "Act regulating Auctions in the City of Washington," approved June fourth, eighteen hundred and twenty-nine.

Be it enacted by the Board of Aldermen and Board of Common Council of the city of Washington, That the true intent and meaning of the seventh section of the "Act regulating auctions in the city of Washington," is to prevent two or more persons who shall take a joint license as auctioneers, from having different houses of business or es-

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OF THE CITY OF WICHITA.

SECTION.

- Selling Wearing Apparel by Club Drawing.
- 81. Stealing Parts of a House.
- Moving Houses with Unpaid Tax.
- Time for Hauling Slops Along Street.
- 84. Dead Animals, Disposition of.
- Traction and Threshing Engine on Paved Streets.
- Manure not to be Thrown in Streets or Alleys; Limits; Provisions to Make Pen for.
- Privy Vaults to be Cleaned and not to be Transferred.
- Stables and Water Closets to be on Line of Alley.
- Secondhand and Junk Dealers; Buying from Minors; Description book; Night Purchases.
- 90. Leaving Holes for Stagnant Water.
- 91. Advertisement on Street Poles.
- Bicycle Riding Regulated; Sidewalks, Speed, Dismounting, by Threes, Alarm Bell.
- 98. Obstructing Streets or Walks; How Used by Merchants and Builders; Gutters not to be Obstructed; Debris to be Cleared.
- 94. Red Night Lights on Building Material on Street.

SECTION.

95. Hitching to Fire Hydrant or Pole with Alarm Box.

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- 96. Ball Playing in Streets.
- 97. Running Water into Streets.98. Throwing Rubbish into the Street.
- 99. Projections Over the Sidewalks.
- 100. Stringing Banners Across Streets,
- 101. Crowds Upon Sidewalks, Streets and Crossings.
- 102. Obstructing Crossings with Engines or Cars.
- 103. Digging and Leaving Holes in the Street.
- 104. Breaking Horses Upon Streets.
- 105. Leaving Horse, Mule or Ox on Street After Midnight.
- 106. Auction Sales not on Certain Streets.
- 107. Height of Telegraph, Telephone and Light-Wires, (20 ft.)
- 108. Building Lines Located by Engineer; Cellar-way Excavation; Power of Mayor and Council to Permitor Remove; Nuisance Declared and Abated; Penalty; Proviso for Parking Fence.
- 109. Injuring Shade or Ornamental Trees.
- 110. Public Vehicles; Limits Prohibited.
- 111. Take Effect.

ORDINANCE NO. 1641.

AN ORDINANCE relating to certain public offenses and fixing the penalty therefor.

Be it ordained by the Mayor and Councilmen of the City of Wichita:

Drawing Deadly Weapons Upon Another. SEC-TION 1. That any person, not an officer of the law in the execution of his duty, who shall in the city of Wichita, draw a pistol, revolver, knife or any other deadly weapon upon another person shall upon conviction, be fined not less than twenty-five dollars nor more than one hundred dollars.

Carrying Unconcealed Deadly Weapons. SEC. 2. Any person who shall in the city of Wichita carry unconcealed, any fire-arms, slungshot, sheath or dirk knife, or any other weapon, which when used is likely to produce

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death or great bodily harm, shall upon conviction, be fined not less than one dollar nor more than twenty-five dollars.

Using or Carrying Bean Snapper. SEC. 3. Any person who shall, in the city of Wichita, use or carry concealed or unconcealed, any bean snapper or like articles shall upon conviction be fined in any sum not less than one dollar nor more than twenty-five dollars.

Carrying Concealed Deadly Weapons. SEC. 4. Any person who shall in the city of Wichita, carry concealed about his person any fire-arm, slungshot, sheath or dirk knife, brass knuckles, or any weapon, which when used is likely to produce death or great bodily harm, shall upon conviction, be fined in any sum not exceeding one hundred dollars.

Disturbing the Peace. SEC. 5. Any person who shall in the city of Wichita, disturb the peace of the city, or any lawful assembly of persons, or of any neighborhood, family, person, or persons, shall upon conviction, be fined in any sum not exceeding one hundred dollars.

Cursing and Using Violent Language. SEC. 6. Any person who shall in the city of Wichita, curse, swear, quarrel or use violent or threatening language, or make any great noise, so as to disturb the peace of any person or neighborhood shall, upon conviction be fined in any sum not exceeding twenty-five dollars.

Assault and Battery. SEC. 7. Any person who shall, in the city of Wichita, assault and beat or wound another, shall be deemed guilty of an assault and battery and shall, upon conviction, be fined in any sum not exceeding one hundred dollars, or imprisonment in the city jail not exceeding three months.

Provoking Another to Breach of Peace. SEC. 8. Any person who shall, in the city of Wichita, by signs, words or gestures, provoke or attempt to provoke another to commit assault and battery or other breach of the peace, shall, upon conviction, be fined in any sum not less than three dollars, nor more than twenty-five dollars.

Aiding Resistance or Escape from Officer. SEC 9. Any person who shall, in the city of Wichita, in any **A.D.1326-**7.

escritz de venir au Roi a force & armes, en chescun temps gils furent maundez, sur peine de vie & de membre, & de q'nt qil p'roient forfaire; p force des queux escritz plusours de la Pre ount este div. sement destrutz; Le Roi eyaunt regard q tieux escritz furent faitz a deshonour du Roi, desicome chescun feust tenu de faire au Roi come a seign' lige ceo q a luy appendoit sanz escrit, Voet q tieuz escritz desormes ne soient faitz; et q ceux q sont faitz, p la veue de Chanceller & Tresorer, soient monstrez au Roi; & le Roi fra dampner ceux q sont faitz contre droit & reson.

Itm pur la pees meultz garder & meyntener, le Roi veot qen chescun Countee q bones gentz & loialx, queux ne sont mye meyntenours de malveis baretz en pays, soient assignez a la garde de la pees.

Iîm le Roi comaunde q les viscontes & Baillifs des franchises, & toutz autrs q pnent enditementz a lor tourns, ou ailliours ou enditementz grount faitz, preignent tieux enditementz p roule endente dount Lune ptie demeorge Vs les enditours, & lautre pue devs cely qi prendra Lenqueste, issint q les enditementz ne soient beseleez come avant ces houres ount este, & issint q un de lenqueste peut monstrer lune ptie de lendenture a la Justice q'nt il vendra p' la delivaunce faire.

Memorand qd ista duo statuta Pcedencia missa fuerunt in Hibn in forma patenti, cum quodam bri inferi⁹ seqñ.

themselves by Writing, to come to the King with Force and Arms, whensoever they should be sent for, upon Pain of Life and Limb, and to forfeit all that ever they might forfeit; by virtue of which Writings divers of this Land have been often destroyed : The King, considering that such Writings were made to the King's dishonour, sithence that every Man is bound to do to the King, as to his Liege Lord, all that pertaineth to him without any manner of Writing, Willeth, that from henceforth no such Writing be made; and that such as be made, by the sight of the Chancellor and Treasurer, shall be shewed to the King; and the King shall cause all such as be made against Right and Reason to be cancelled.

ITEM, For the better keeping and maintenance of the Peace, the King will, that in every County good Men and lawful, which be [no Maintainers of Evil, or Barretors '] in the Country, shall be assigned to keep the Peace.

ITEM, The King commandeth, That the Sheriffs and Bailiffs of Franchises, and all other that do take Indictments in their Turns, or elsewhere, where Indicaments ought to be made, shall take such Indictment by Roll indented, whereof the one Part shall remain with the Indictors, and the other Part with him that taketh the Inquest; so that the Indicaments shall not be imbezilled as they have been in times past; and so that one of the Inquest may shew the one part of the Indenture to the Justices, when they come to make Deliverance.

' No Maintainers of cursed Barretors MS. Tr. 2.

Be it Remembered, that the two preceding Statutes were sent into Ireland in form of Letters Patent, with a certain Writ hereunder following.¹

* See Memorandum at the End of Stat. 5 Edw. III.

Anno 2° EDWARDI, III. A.D.1328.

Statutu editu apud Mozh't', anno r. R. E. t'cii post conquestu sc'do. STATUTE made at NORTHAMPTON;

In the SECOND Year of the Reign of K. EDWARD the THIRD after the Conquest,

Ex magno Rot. Stat. in Turr. Lond. m. 28.

N re seign' le Roi Edward, le tierz abs le con-queste, a son plement tenuz a Nortit as trois semeins de Pasch, Lan de son regne secund, desiraunt q la pees de sa Vre, & les leis & estatuz avant ces heures ordenez & usez, soient gardez & meintenuz en touz poyntz, Al hon' de dieu & de seinte eglise, & a cõe pfit du poeple, p assent des Prelatz, Countes & Barons & autres gentz, & tote la cõe du roialme, au dit plement somons, ordena & establit en meisme le plement les choses southescrites en la forme q sensuit.

OUR Lord King Edward, the Third after the Con-quest, at his Parliament holden at Northampton, at the three weeks of Easter, in the second year of his Reign, desiring that the Peace of his Land, and his Laws and Statutes, ordained and used before this Time, may be kept and maintained in all Points; to the Honour of God and of Holy Church, and to the common Profit of the People, by Assent of the Prelates, Earls, Barons, and other great Men, and all the Commonalty summoned to the same Parliament, hath ordained and established in the said Parliament these Things underwritten, in Form following.

None shall be bound by Writing to come with Arms to the King.

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XVI. Keepers of the Peace in each County.

XVII. IndiAments shall be taken by Indeuture.

En primes q la g'nte Chartre & la Chartre de la foreste soient tenuz en touz pointz.

Ensement p' ceo q meffesours ont este esbauditz de ce q chartres de pdoun ont este si legsment gentees avant ces heures, des homicides, robies, felonies & autres trespas countre la pees; acorde est & establi q tiels chartres ne soient mes g'ntees fors qen cas ou le Roi le poet faire p son sment, cest assavoir en cas ou home tue autre soi defendant, ou p infortune : Et auxint ont este esbauditz de ceo q Justiceries as delivances des gaoles, & a oier & Uminer, ont estez g'ntees as gentz pourez countre forme de lestatut fait en temps le Roi Edward, ael

i .

FIRST, That the Great Charter, and the Charter of I. the Forest, be observed in all Points. The Charters.

ITEM, Whereas Offenders have been greatly encou-Π. raged, because [the '] Charters of Pardon have been so Pardona easily granted in times past, of Manslaughters, Robberies, for Felony. Felonies, and other Trespasses against the Peace; It is ordained and enacted, That such Charter shall not be granted, but only where the King may do it by his Oath. that is to say, where a Man slayeth another in his own defence, or by Misfortune : And also they have been encouraged, because that ['the Justices of Gaol-delivery, and of Oyer and Terminer, have been procured by great Men'] against the Form of the Statute made in the xxvij year of the reign of King Edward,

Commissions of Gaol Delivery and of Oier and Terminer have been granted to Persons procured

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2° EDW. III. Stat. Northampt. c. 2-5.

A.D.1328.

37 Ed. J. c. 3. Grandfather to our Lord the King that now is, wherein is contained, that Justices assigned to take Assises, if they be Laymen, shall make Deliverance; and if the one be a Clerk, and the other a Layman, that the Lay Judge, with another of the Country associate to him, shall deliver the Gaols: Wherefore it is enacted, That Justices such [Justices '] shall not be made against the Form of of Assise and Gaolthe said Statute; and that the Assises, Attaints, and delivery. Certifications be taken before the Justices commonly assigned, which should be good Men and lawful, having Knowledge of the Law, and none other, after the Form of another Statute made in the Time of the said [King Edward the First; 2] and that the Oyers and Ter-Oyers and miners shall not be granted but before Justices of the Terminers. one Bench or the other, or the Justices Errants, and that for great [hurt,] or horrible Trespasses, and of the King's special Grace, after the Form of the Statute thereof ordained in Time of the said Grandfather, and

III. Riding or going armed in Affray of the Peace.

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none otherwise. ITEM, It is enacted, That no Man great nor small, of what Condition socver he be, except the King's Servants in his presence, and his Ministers in executing of the King's Precepts, or of their Office, and such as be in their Company assisting them, and also [upon a Cry made for Arms to keep the Peace, and the same in such places where such Acts happen, 1] be so hardy to come before the King's Justices, or other of the King's Ministers doing their office, with force and arms, nor bring no force in affray of the peace, nor to go nor ride armed by night nor by day, in Fairs, Markets, nor in the presence of the Justices or other Ministers, nor in no part elsewhere, upon pain to forfeit their Armour to the King, and their Bodies to Prison at the King's pleasure. And that the King's Justices in their presence, Sheriffs, and other Ministers (*) in their Baili-wicks, Lords of Franchises, and their Bailiffs in the same, and Mayors and Bailiffs of Cities and Boroughs,. within the same Cities and Boroughs, and Borough-Holders, Constables, and Wardens of the Peace within their Wards, shall have Power to execute this Act. And that the Justices assigned, at their coming down into the Country, shall have Power to enquire how such Officers and Lords have exercised their Offices in this Case, and to punish them whom they find that have not done that which pertained to their Office.

IV. The Statute of Lincoln, 9 Edw. 11. concerning Sheriffs, &c. confirmed.

ITEM, Because the Peace cannot be well kept without good Ministers, as Sheriffs, Bailiffs, and Hundreders, which ought to do Execution as well of the King's Privities as of other Things touching our Lord the King and his People; It is ordained and established, That the Statute made in the time of King Edward, Father to the King that now is, at Lincoln, containing that Sheriffs, Hundreders, and Bailiffs shall be of such People as have Lands in the same Shires or Bailiwicks, shall be observed in all Points after the Form thereof; and that Sheriff's and Bailiff's of Fee shall cause their Counties and Bailiwicks to be kept by such as have Lands therein.

V. The Statute Westminster the Second, 13 Ldw. I. chapter 39. concerning the Delivery of Writs to the Sheriff, confirmed.

ITEM, Where it was ordained by the Statute of Westminster the Second, that they which will deliver their Writs to the Sheriff, shall deliver them in the full County, or in the Rere County, and that the Sheriff or under Sheriff shall thereupon make a Bill; It is accorded and established, that at what Time or Place in the County a Man doth deliver any Writ to the Sheriff or to the Under-Sheriff, that they shall receive the same Writs, and make a Bill, after the form contained in the same Statute, without taking any Thing therefore ; and if they refuse to make a Bill, others that be present shall set to their Seals; and if the Sheriff or Under-Sheriff do not return the said Writs, they shall be punished after the form contained in the same Statute; and also the Justices of Assises shall have power to enquire thereof at every Man's Complaint, and to award Damages, as having respect to the Delay, and to the loss and peril that might happen

nre Seign' le Roi qore est, en quele est contenuz q les Justices as assises pndre assignez sils soient lais, facent les delivances; et si lun soit clerc, & lautre lais, q le dit lais, associe a lui un autre du pais, facent la delivance des gaols; p qoi acorde est & establi, q tiels Justiceries ne soient mes g'ntees countre la forme du dit estatut, & q les assises, atteintes, & cufications soient p'ses devant les Justices comunement assignez, q soient bones gentz & loialx & conissantz de la lei, & nemie autres; solonc la forme dun autre statut fait en temps meisme le ael; et q les oiers & Uminers ne soient grantees forsq. ---- devant les Justices de lun Baunk & de lautre, ou les Justices errantz ; & ce p' led & orrible trespas, & de lespeciale gece le Roi, solone forme de statut de ce ordene en temps meisme le ael; & nemie autrement.

Ensement acorde est & establi, q nul, gent ne petit de quele condicion qil soit, sauve les sjantz le Roi en la psence le Roi, & les Ministres le Roi, enfesantz execucion des mandementz le Roi, ou de lour office, & ceux qi sont en lour compaignies, eidantz as ditz ministres, & auxint au cri de fait darmes de pees, & ce en licux ou tielx faitz se ferront, soit si hardi de venir devant les Justices le Roi, ou autres Ministres le Roi enfesant lour office, a force & armes; ne force mesner en affrai de la pees, ne de chivaucher ne daler arme, ne de nuit ne de jour, en faires, marchees, nen psence des Justices, ne dautres Ministres, ne nule part aillours, sur peine de pdre lour armures au Roi & de lour corps a la prisone a la volunte le Roi. Et q Justices le Roi en lour psences, viscountes & autres Ministres le Roi en lour baillies, seign's des fraunchises & lour baillis en yceles, & Meire & Baillifs des Citees & Burghs deinz meismes les Citees & Burghs, Burghaldres, conestables, & gardeins de la pees deinz lour gardes, eient poair affaire execucion de cest acord. Et q les Justices assignez, a lour venu en pais, eient poair denquere coment tielx Ministres & seign's ont use lour office en ce, & de punir ceux gils trovont, qi nount mie fait ce q a lour office appent.

Et p'ce q la pecs ne poet mie estre bien garde sauntz bons ministres, come Viscountes, Baillifs, & Hundreders qi deivent faire execucion, auxibien des p'vetez le Roi come dautres choses tochantes le Roi & son poeple, acorde est & establi q lestatut fait en temps le Roi Edward, piere le Roi qore est, a Nicole, contenant q Viscontes, Hundreders & Baillifs soient des gentz eantz Pres en meismes les Countez, ou baillies, soit garde en touz pointz solone la forme dycel, & auxint q les Viscountes & Baillifs de fee, facent garder meismes lour Countez & Baillies p gentz eantz Vres en yceles.

Ensement la ou ordine est, p statut de Westmons? le secund, q ceux q liver volent lour briefs as viscountes, les livent en plein Counte, ou en rerecounte, & q visconte ou southvisconte facent sur ce bille; acorde est & establi q a quele heure ou a queu lieu deinz le Counte home livre a viscountes, ou a southviscontes, briefs, gils les resceivent & facent bille en la forme contenue en le dit estatut, & ce sanz rien pndre; et sils refusent de faire bille, mettent autres lour sealx qi Bront psentz; et si le Viscounte ou le Southviscounte ne retorne mie les briefs, soient puniz solonc la forme contenue en le dit estatut; & jadumeins eient les Justices as assises pndre assignez poair denquer de ce a chescuny pleinte & de agarder damages, eant regard au delai, & a les ptes & pils qi p'ront avenir.

Commissions

Commissions Grandfather upon a Proclamation of Deeds of Jirms in time of Peace, and that in Places where such Deeds are to be done,—See Lib. Rub. Scac.Westin, fo. 122 b. a Writ reciting a Grant of K. Richard I. " qd Torneaffita sint in Angt in v. placias : In? Sarr & Wilton ; Inf Warrewich & Kenelingworth : Inf Stanford & Warneford : Inf Brakele & Mixebr : Inf Blie & Tykchilt. Ita qd pax fre nic nö infringet', n^c potestas Justiciaria minorabit' Nec de fotestis nris däpnü inforct'. *of the King* A.D.1328.

Et q'nt a la garde de la pees en temps avenir, acorde est & establi q les estatuz faites en temps passez, ovesq, lestatut de Wyncestr, soient tenuz & gardez en touz pointz; ajouste au dit estatut de Wyncestr, la ou contenuz est en la fin, q Justices assignez eient poair denquere des defautes & des reporter au Roi en plement, dont home nad pas veu issue, q les ditz Justices assignez eient poair de punir les desobeissantz & contrevenantz.

Et q'nt au punissement de felonies, robies, homicides, trespas & oppssions du poeple, faitz en temps passe; acorde est q nre Seign' le Roi assigne Justices en divs lieux de sa Vre, ove le Baunk le Roi p aillours, come estoit faite en temps de son dit ael, des g'ntz de la Vre qi sont de g'nt poair, ovesqs ascuns des Justices de lun Baunk ou de lautre, ou autres sages de la lei, denquere, auxibien a seute de ptie, come a la seute le Roi, et doier & rminer totes manles des felonies, robies, homicides, larcins, oppssions, conspiracies, & grevances faitz au poeple, countre la lei, Les estatuz & la custume de la tre, auxibien p ministres le Roi come p autres, gi gils soient, & ce auxibien dedeinz fraunchises come dehors. Et auxint denquere des Viscontes, Coroners, Southeschetours, Hundreders, Baillifs, Conestables, & touz autres Ministres deinz franchise & dehors, & lour southministres, & doier & Iminer a la seute le Roi & de ptie. Et nre Seign' le Roi & touz les g'ntz du Roialme en plein plement ont empris de meintenir la pees, garder & sauver les sustices le Roi, p la ou ils veignent, & deider p eux & les leurs, q les juggementz & les execucions ne soient pas arestuz, mes executz, & q le meffesours ne gront p eux covtz ne meintenuz en p've nen apt : Mes nest pas lentencion du Roi ne de son conseil q p ceste acord Pjudice aveigne a les gentz de la Vre, eantz franchises, ne a la Citee de Loundres, ne as autres Citees ne Burghs, ne a les Cynkportz en droit de lour fraunchises.

Ensement acorde est & establi q mande ne soit, p le g'nt seal ne p le petit seal, a destourber ou delayer coe droit; & mesq, tielx mandementz veignent q p tant les Justices ne s'sessent pas de faire droit en nul point.

Ensement est acorde & establi q les estaples p decea & p delaa, ordeinez p les Rois en temps passe, & les peines sur ce ordeinees, cessent ; & q touz marchantz aliens & p'veez peussent aler & venir od lour marchandises en Engletre, solonc la tenour de la gente Chartre; & q s' ceo briefs soient mandez a touz les viscontes Dengle-Yre & as Meires & baillifs des bones villes ou mestier 3ra.

Ensement come le Roi Edward, piere le Roi qore est, pdona a son poeple amciementz & issues forfaitz, jesqs al vintisme an du regne son piere ael le Roi quore est, le Roi p' ees de son poeple ad pdone touz les fins q ont este faitz en Chauncellerie p' briefs avoir, tang, al vintisme an avantdit.

Et p' ce q p remuement du cõe Bank les pleez bien sovent ont demore saunz jour, a g'ntz damage, & en pil de destitance des pluseurs; acorde est & establi q desore en avant les Justices, avant ce q le Bank se remuera, soient garniz p temps, issint queux peussent ajorner les pties si p temps qeles ne pdent mie lour pces. Et come touz les Countez Denglerre furent auncienement assis a deine ferme, & adongs furent touz les Hundredz & les Wapentakes, en les meins des viscountes, aporcionez a cele ferme, et puis suront approwours mandez en divs Contez, les queux encrustrent les fermes dascuns Hundredz & Wapentakes, et puis les Rois en divs temps ont gentez as divs gentz pties des Hundredz & Wapentakes, p' les auncienes fermes tantsoulement, & jatardeis les viscountes sont chargez entierment del

ITEM, As to the keeping of the Peace in Time to come, It is ordained and enacted, that the Statutes made in Time past, with the Statute of Winchester, shall be observed and kept in every point; [and where it is contained in the End of the said Statute of Winchester,'] that the Justices assigned shall have power to enquire of Defaults, and to report to the King in his Parliament, [and the King to remedy it,'] which no Man hath yet seen (1) the same Justices shall have Power to punish the Disobeyers and Resisters.

ITEM, As to the Punishment of Felonies, Robberies, Manslaughters, Trespasses, and Oppressions of the People committed in times past : It is accorded that our Sovereign Lord the King, shall assign Justices in divers places of this Land, [within the King's Bench, and elsewhere,'] as it was done in the Time of his said Grandfather, of great Men of the Land, which be of great Power, with some of the Justices of the one Bench, or of the other, [with 3] other learned Men in the Law, to enquire as well at the Suit of the Party, as at the King's Suit, and to hear and determine all manner of Felonies, Robberies, Manslaughters, Theft, Oppressions, Conspiracies, and Grievances done to the People against the Law, Statutes, and Customs of the Land, as well by the King's Ministers, as by other whatsoever they be, and that as well within Franchises as without. And also to enquire of Sheriffs, Coroners, [Under Sheriffs,] Hundreders, Bailiffs, Constables, and all other Ministers within Liberties and without, and of their under-ministers; and to hear and determine at the King's Suit, and also the Party's. And our Sovereign Lord the King, and all the great Men of the Realm in the full Parliament, have taken upon them [to maintain and keep the peace; and they and theirs to save the King's Justices, and aid them where they come, so that the judgement '] and executions be not let, but executed; and the Offenders be not hid by them, nor maintained privily nor apertly: but the intent of the King and his Council is not, that by this Act any prejudice should ensue to the great Men of the Land having Liberties, nor to the City of London, nor to other Clitics nor Burghs, nor to the Five Ports in the right of their Franchise.

ITEM, It is accorded and established, That it shall not be commanded by the great Seal nor the little Seal to disturb or delay common Right; and though such Com-mandments do come, the Justices shall not therefore leave to do right in any point. ITEM, It is enacted, That the Staples beyond the Sea

and on this Side, ordained by Kings in Times past, and the Pains thereupon provided, shall cease; and that all Merchant Strangers and privy, may go and come with their Merchandises into England, after the l'enor of the Great Charter; and that Writs thereupon shall be sent to all Sheriffs of England, and to Mayors and Bailiffs of good Towns, where need shall require.

ITEM, Whereas King Edward, Father to the King that now is, did pardon his People of Issues and Amerciaments, that were forfeit till the twenty year of the Reign of his Father, Grandfather to the King that now is: The King for ease of his People, hath pardoned all the Fines that have been made in the Chancery, for to have Writs till the xx. year aforesaid.

ITEM, Whereas by removing of the Common Bench, the Pleas have oftentimes abiden without Day, to the great hurt, and peril of Disherison of divers; It is enacted, That from henceforth the Justices before that the Common Bench be removed, shall be warned by a Warning. ime, so that they may adjourn the Parties by such Time that they shall not lose their Process.

VI. The Statute of Wynton, 13 Edw. I. confirmed, &c.

VII. Justices assigned to enquire of Felonies, Robberies, &c.

VIII. Command. shall not be in delay of Justice.

IX. All Staples thall cease.

х. Pardon of Fines for Writs in Chancery.

X1. The Common Bench not to be removed without

ITEM, Whereas all the Counties in England were in XII. old Time assessed to a certain Ferm, and then were all the Hundreds and Wapentakes in the Sheriffs Hands rated to this Ferm ; and after were Approvers sent into divers Counties, which did increase the Ferms of some Hundreds and Wapentakes; and after, the Kings at not let to divers Times have granted to many Men part of the same Hundreds and Wapentakes for the old Ferms only; Ferm. and now late the Sheriffs be wholly charged of the

add to the said Statute of Winchester, where it is contained at the end thereof

thereof 'Not in the Original. 'with the King's Bench besides, 'or 'Sub-Escheators to maintain the peace, to keep and save the King's Justices where-toever they come, and to aid by themselves, and theirs, that the Judgements

Hundredsand Wapentakes shall be annexed to Counties, and Increase, which amounteth to a great Sum, to the great hurt of the People, and Disherison of the Sheriffs and their Heirs: It is ordained, That the Hundreds and Wapentakes let to Ferm by the King that now is, be it for Term of Life or otherwise, which were sometimes annexed to the Ferms of the Counties where the Sheriffs be charged, shall be joined again to the Counties; and that the Sheriffs and their Heirs have Allowance for the Time that is past; and that from henceforth such Hundreds and Wapentakes shall not be given nor severed from the Counties.

ITEM, It is accorded and enacted, that like process

shall be made of Trespass done in the Time of King

Edward, father to the King that now is, as of Trespass

XIII. Trespass in the late King's Time.

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XIV. Measure and Assise of Cloths imported.

done in the Time of the King that now is. ITEM, It is enacted by our Sovereign Lord the King, and his Council, that from the Feast of Saint Michael, next coming forward, all Cloths in such Places where they shall be put to Land, shall be measured by the King's Aulnegeours in the presence of the Mayor and Bailiffs, where there is a Mayor, and where no Mayor is, in presence of the Bailiffs of the same Places; that is to say, the Length of every Cloth of Ray, by a Line of seven Yards, four times measured by the List, and the Breadth of every Ray Cloth six Quarters of measure by the Yard; and of coloured Cloths the Length shall be measured by the Back, by a Line of six Yards and a half, four times measured, and the breadth six Quarters and an half measured by the yard without [defoiling'] the Cloths; and that the Mayor and Bailiffs where a Mayor is, or the Bailiffs where no Mayor is, of the Towns or Places where such Cloths shall come, shall be ready to make Proof what time they shall be required by the Meter, without taking any thing of the Merchants; and Cloths which be of the said Assisc, shall be marked by the Mayor and Bailiffs, where a Mayor is, or by the Bailiffs where there is no Mayor, as well as by the Aulnegeour; and that all the Cloths which shall be found defective of the same Assise, shall be forfeit to the King, and prised at their true Value in the presence of the said Mayor and Bailiffs; and to remain with the Aulnegeours by Indenture between them, to answer to the King of the said Cloths so forfeit; and that the Mayor and Bailiffs shall deliver the Indentures made of such Cloths forfeit, every year into the Exchequer, the morrrow after the Feast of Saint Michael, for to charge the said Aulnegeour; and at the same time shall the Aulnegeour be put to answer at the Exchequer of the said Forfeitures. It is in the King's mind and his Counsels, that this act shall extend to such Cloths as shall come into the Land after the Feast of Saint Michael; and this act shall be published and proclaimed throughout the Realm, so that no Merchant, Privy nor Stranger, shall be surprised by this Statute.

XV. Keeping of Fairs, for the Time limited by Charter, &c.

ITEM, It is established, That it shall be commanded to all the Sheriffs of England, and elsewhere where need shall require, to cry and publish within Liberties and without, that all the Lords which have Fairs, be it for yielding certain Ferm for the same to the King, or otherwise, shall hold the same for the Time that they ought to hold it, and no longer ; that is to say, such as have them by the King's Charter granted them, for the Time limited by the said Charters; and also they that have them without Charter, for the Time that they ought to hold them of right. And that every Lord at the beginning of his Fair shall there do cry and publish how long the Fair shall endure; to the Intent that Merchants shall not be at the same Fairs over the Time so published, upon pain to be grievously punished towards the King; nor the said Lords shall not hold them over the due Time, upon pain to seize the Fairs into the King's hands, there to remain till they have made a Fine to the King for the Offence, after it be duly found, that the Lords held the same Fairs longer than they ought, or that the Merchants have sitten above the Time so cried and published.

encrees q amount a g'nte sume, a g'nt damage du poeple & deshitance de viscountes & de lour heirs; acorde est & establi q des Hundredz & Wapentakes baillez a ferme p le Roi qore est, soit il a tre de vie ou autrement, q auncienement furent annex as fermes des Countez ou les viscontes sont chargez, soient rejointz as Countez, et q de temps passe eient les viscountes ou lour heires allowance; & q desore en avant teux Wapentakes, ne Hundredz ne soient donez ne sevez des Countez.

Ensement est acorde & establi q a tieu pces soit fait des trespas fait en temps le Roi Edward, piere le Roi qore est, come de de trespas fait en temps le Roi qore est.

Ensement est acorde & establi p nre Seign' le Roi & son conseil, q de la seint Michel pschein avenir en avant, touz les draps es lieux ou ils sront mis a tre, soient aunez p le auneour le Roi, en psence des Meire & Baillifs ou Meire y est, ou des baillifs ou meire nyest, de meisme les lieux ; cest assavoir la longure de chescun drap de Raye p une corde de sept aunes quatrefoitz mesure p le list, & la laoure de chescun drap de Reye sis q'rters de lee, mesure p laune; et de draps de colour la longure soit mesure p le dos p un corde de sis aunes & demi g'trefoitz mesure; & la laoure sis quart's & demi mesure p laune sanz defoler les draps; et q Meire & Baillifs ou Meire y est, ou Baillifs ou Meire nest pas, des villes ou lieux ou les draps vendront, soient pstz a lassai faire, quele heure qils soient requis p launeour, saunz rien pndre des marchauntz; et q touz les draps q Sront trovez de la dite assise, soient nichez auxibien p Meire & Baillifs ou Meire y est, ou p baillifs ou Meire nest pas, come p launeour, et les draps q ne bront pas trovez de lassise avantdite, soient forfaitz au Roi, & p'sez a la Vreie value, en psence des ditz Meire & Baillifs, & demoergent devs launeour p endenture entre eux faite, a respondre des ditz draps issint forfaitz au Roi; et q les ditz Meire & Bailiffs, les endentures issint faites de tieux draps forfaitz, facent liver chescun an a Lescheur a lendemeyn de Seint Michel, p' charger le dit auneour; & a meisme le temps soit le dit auneour a Lescheqr a respondre des dites forfaitures. Et est lentencion de nre dit Seign' le Roi & de son conseil q cest acord se tiegne des draps q vendront en la Fre ap's la dite feste de Seint Michel; & q cest acord soit publie & crie p tout le Roialme, Issint q les Marchauntz ne p'vez nestraunges soient supp's p meisme lacord.

Ensement est acorde & establi q maunde soit a touz les viscountes Denglet're, & p aillours ou mestier 'sra, a crier & publier, deinz f'unchises & dehors, q touz les Seign's q feires enount, soit il p' dicine ferme ent rendant au Roi, ou autrement, les tiegnent p' le temps qils devont, & nemie outre; cest asavoir ceux qi les ount p chires des Rois p' les temps a cux g'untez p les dites chires; et ceux qi les ount sanz chire p' temps queux ils les deivent tenir de droit. Et q chescun Seign' au comencement de sa feire face crier & publier en ycele come longement sa feire se tendra, Issint q les Marchantz ne seessent es dites feires outre le temps issint publicz, sur peine destre grevement puniz devs le Roi; ne q les ditz Seign's outre les droitz temps les tiegnent, sur peine apndre les feires en la meyn le Roi, a demorer tangils eient fait fin au Roi p' le trespas, aps ceo q trove sra duement qe les Seign's les ount tenuz plus longement gils devont, ou q les marchauntz ount sis outre le temps issint publiez & criez. Et come en un estatut fait a Evwyk, en temps le piere nre Seign' le Roi gore est, soit contenuz g les enquestes & jurees qe sont & sront ap'ndre, q ne sont mie de g'nt examinement, soient p'ses devant

2° EDW. III. Stat. Northampt. c. 12-16.

XV1. See Stat. 11 Edw. 11. ITEM, Whereas in a Statute made at York, in the Time of the Father of our Lord the King that now is, it is contained that inquests and Juries, which be and shall be hereafter taken, requiring no great Examination, defouling MS. 7r. 2.—some old Printed Copies read "marring." **A.D.1328**.

un Justice de la place ou la plee est, associe a lui un odhöme du pais, Chivaler ou autre, issint q ctein jour soit done en Bank, & ctein jour & lieu en pais en psence de pties, si le demandant le p'e; & auxint les enquestes & jurces en plee de Vre, qe demandent g'nt examinement, soient p'ses en pais en la forme susdite devant deux Justices du Bank : acorde est & establi q totes tiels enquestes, q sont ou en temps avenir a pndre Bront, en plee de Vre, soient p'ses auxibien a la p'ere le tenant come le demandant; tout lautre pces acorde en dit estatut, en tieu cas sauve & garde.

Auxint est acorde & establi q brief de deceit soit meintenu & lieu tiegne, auxibien en cas de garnissement q touche plee du Vre, ou tieu garnissement est done, come en cas de somons en plee de tre.

B Vič Norht, saltm. Quoddam statutū p nos & conciliū nrm in pleno pliamento nro apud Norhamptoñ convocato, ad emendacoem stat9 populi regni nii, editū, sigillo nro consignatū tibi mittim⁹; mandantes qd statutū illud, & omes articulos in eo contentos, in pleno Com tuo & in Civitatib3, Burgis, villis meatoriis, & aliis locis in balliva tua ubi expedire videris, tam infra libtates q'm ext', legi & publice pclamari & observari fač. T.R. apud Norht xxii die Junii.

Eodem modo mand est singulis vicecomitib3 p Angl. Memorand qd istud statutum missum fuit in Hibn in forma patenti cum quodam bri inferius seqn.

shall be taken before one Justice of the Place where the Plea is, adjoining to him one discreet Man of the Country, Knight, or other, so that a certain Day be given in the Bench, and a certain Day and Place in the Country, in the presence of the Parties, if the Demandant pray the same; and also the Inquests and Juries in Plea of Land, which require great Examination, shall be Inquests in the Country taken in the Country in the said Form before Two Jusshall be tices of the Bench : It is accorded and enacted, That granted on all such Inquests which are, or in Time to come shall Request of the Tenant. be taken, in Plea of Land, shall be taken as well at the Request of the Tenant as the Demandant ; all other Process according to the said Statute in such Case saved and kept.

ITEM, It is enacted, That a Writ of Deceit shall be Writ of maintainable, and hold Place, as well in the Case of Deceit. Garnishment touching Plea of Land, where such Garnishment is given, as in case of Summons in Plea of Land. [Dated at Northampton.]

The King to the Sheriff of Northampton, Greeting. A certain Statute, by Us and our Council, in our full Parliament called at Northampton, for the Amendment of the State of the People of our Realm, set forth, We do send to you under our Seal; Commanding that the same Statute, and all the Articles therein contained, in your full County Court, and in the Cities, Boroughs, Market Towns, and other Places in your Bailiwick, where you shall see meet, as well within Liberties as without, you do cause to be read and to be publicly proclaimed and observed. Witness the King at Northampton the twenty-second day of June.

In the same manner it was commanded to the several Sheriffs throughout England.

Be it Remembered, that this Statute was sent into Ireland, in form of Letters Patent with a certain Writ hereunder following.

See Memorandum at the end of Stat. 5 Edw. III.

Anno 4° EDWARDI, III. A.D.1330.

Statutu editu apud Mestm, anno regni R. E. t'cii post conquest' quarto.

STATUTE made at WESTMINSTER;

In the FOURTH Year of the Reign of K. EDWARD the THIRD after the Conquest.

Ex magno Rot. Stat. in Turr. Lond. m. 27.

U Parlement somons a Westmostier, le Lundy A pscheyn aps la feste de Seinte Katine, lan du regne nre Seign' le Roi Edward, tierz aps le Conquest, quart, Si sont les choses soutzescriptes, a la requeste de la Comunalte, assentuz & acordez p nre Seign' le Roi, Prelatz, Countes, Barons, & autres g'ntz de mesme le plement, les queux choses nre Seign' le Roi voet qen touz les Counteez de Englevre soient mandez, a publier & fermement garder. Adep'mes acorde est q la G'nde Chartre & la Chartre de la Foreste, & les estatuz faitz en temps des pgenitours nie Seign' le Roi, & auxint en son temps demeigne, soient gardez & meyntenuz en touz pointz. Ensement est acorde q bones gentz & sages, autres q des places si home les puisse trover suffisantz, soient assignez en touz les Counteez Dengletre apadre les assises, jureez & Etificacions, & a deliver les gaoles; et q les ditz Justices preignent les assises, jurees, & ctificacions, & delivent les gaoles, au meyns troiz foitz p an, & plus sovent si mestier Bra, & soient auxint assignez

T the Parliament, summoned at Westminster, the Monday next after the Feast of Saint Katherine, in the Fourth Year of the Reign of King Edward, the Third after the Conquest, these Things underwritten, at the request of the Commons be established and enacted by our Lord the King, his Prelates, Earls, and Barons, and other (') of the same Parliament ; which Things our Lord the King will (') to be published, and surely observed in all his Counties of England.

XVII.

FIRST, It is accorded, That the Great Charter, and I. the Charter of the Forest, and all other Statutes, made as Charters and Statutes well in the time of the King's Progenitors, as in the confirmed. King's time that now is be kept and maintained in all Points.

ITEM, It is ordained, that good and discreet Persons, Π. Justices of other than of the Places, if they may be found suf-Assise, Gaolficient, shall be assigned in all the Shires of England, to delivery, and take Assises, Juries, and Certifications, and to deliver Justices of the Gaols; and that the said Justices shall take the the Peace. Assises, Juries, and Certifications, and deliver the Gaols, at the least three times a Year, and more often, if need be; also there shall be assigned good and lawful Men

* great men

* that they be sent

Anno 7° RICARDI, II. A.D.1383.

Statutu apud WESTMINSTER zu wur Spurwwy

In Margine Rotuli.

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STATUTE MADE AT WESTMINSTER IN THE SEVENTH YEAR.

[R ICHARD by the Grace of God, &c. to the Sheriff of York,'] Greeting. Know thou, that at our Parliament holden at Westminister the Monday next before the Feast of All Saints last past, to the Honour of God and of Holy Church, and for the common Profit of the Realm, of the Assent of the Prelates, Lords, and Commons being at the said Parliament, We have caused to be made certain Statutes and Ordinances in the Form following:

I. Liberties of the Church confirmed.

II. The Charters and Statutes confirmed.

III. For Trespasses within the Forest, Juries shall give their Verdict where they received their Charge.

IV. Penalty on undue Imprisonment by the Officers of the Forest; Double Damages and Fine to the King.

V. Confirmation of 5 Ed. III. chapter 14. Church have and enjoy all her Liberties and Franchises as wholly as she hath had and enjoyed them in the Time of the [King's noble Progenitors.'] ITEM, That the Great Charter and the Charter of the Forest, and all other good Statutes and Ordinances made before this Time, and not repealed, shall be holden

FIRST, It is assented and accorded, That Holy

the Forest, and all other good Statutes and Ordinances made before this Time, and not repealed, shall be holden and kept, and put in due Execution according to the Effect of the same.

ITEM, At the grievous Complaint which is now made of the Officers of the Forest, It is assented and accorded, That no Manner of Jury shall be from henceforth compelled by any Officer of the Forest, or other Person whatsoever, to travel from Place to Place out of the Places where their Charge is given to them, against their Gree; nor by Malice, nor by Menace, or other Duress, constrained to give their Verdict of a Trespass done in the Forest, otherwise than their Conscience will clearly inform them; but they shall give their Verdicts upon their Charge in the Places where their Charge is given them, as above is said :

ITEM, It is assented, That no Man be taken nor imprisoned by any Officer of the Forest without due Indictment, or being taken with the Maner, or respassing in the Forest; nor shall be constrained to make any Obligation or Ransom to any Officer of the Forest in any Sort against their Agreement and the Assise of the Forest; and if any do against this Ordinance in any Point, and thereof be attainted, he shall pay to the Party damnified their double Damages, and Fine and Ransom to the King for his Offence.

ITEM, It is ordained and assented, That the Statutes made in the Time of King Edward, Grandfather to our Sovereign Lord the King that now is, of Roberdsmen and Drawlatches be firmly holden and kept and moreover it is ordained and assented, to refrain the Malice of divers People, Feitors and wandering from Place to Place, running in the Country more abundantly than they were wont in Times past, that from henceforth the Justices of Assises in their Sessions, the Justices of Peace, and the Sheriffs in every County shall have Power to enquire of all such Vagabonds and Feitors, and of their Offences, and upon them to do that the Law demandeth; and that as well the Justices and Sheriffs, as the Mayors, Bailiffs, Constables, and other Governors of Towns and Places where such Feitors and Vagabonds shall come, shall from henceforth have Ex Rot. Stat. in Turr. Lond. II. m. 19, 18.

L E ROI a nre Viscount de Kent, '] saluz. Sachez qa nre plement tenuz a Westm le Lundy pchein devant le feste des Toutz Seintz darrein passe al hono' de Dieu & de Seinte Esglise & p' cõe pfit du roialme de lassent des Prelatz l's & Cões esteantz el dit plement avons fait faire cteins estatutz & ordinances en la fo'me q sensuit :

Primerement est assentuz & accordez q Seinte Esglise eit & enjoise toutes ses libtoes & fraunchises auxi entierement come ele les ad euz & enjoiez en temps des nobles Rois Denglerre pgenito's nre l' le Roi qore est.

Item q la g'nt Chartre & la Chartre de la Foreste & toutz les autres bones estatuz & ordinances avant ces heures faitz, & nient repellez, soient tenuz & gardez & duement executz selonc leffect dicelles.

Item a la grevouse pleinte qest ore faite des Ministres de la Foreste, est assentuz & accordez q nulle mahe de jurree soit desore artez p ascun Ministre de la Foreste nautre psone quelconq, de t'vailler de lieu en lieu, hors des lieux ou leur charge lour est donez, contre leur gree, ne p malice ou p manace ou autre duretee constreinte de dire lo' veredit, de trespas fait en foreste aurment q leur conscience ne leur ent vorra clerement enfourmer, einz dient ils lours vereditz sur leur charge, es lieux ou celle charge lour est donez come desus est dit: et est assentuz q nult home soit pris nenprisonez p Ministre de Foreste sanz due enditement ou mainoevre, ou Pspassant en la Foreste, ne constreint de faire obligacion ou redempcion a ascun Ministre du Foreste p qconq, mahle encontre lo' gree & lassise de foreste; et si ascun face encontre cest ordinance en aucun point, & de ce soit atteint, paie as pties endamagez lo's doubles damages, & fyn & raunceon au Roy pur son malefait.

Item ordeignez est & assentuz \tilde{q} lestatutz faitz en temps luy noble Roy Edward aiel nre f' le Roi qore est, de Robdesmen & Drawelacches soient fermement tenuz & gardez; et outre ce est ordeignez & assentuz pur restreindre la malice des divses gentz faitours & vagerantz de lieu en lieu currantz de p'sent p paiis pluis habundantement \tilde{q} ne soloient avant ces heures, \tilde{q} desore les Justices des assises en leur Sessions, les Justices de la paix & les Viscontz en chescun Contee, aient poair denquere de toutz tielx vagerantz & faito's & de lo's malfaitz & sur eux faire ce \tilde{q} la ley demande ; & \tilde{q} si bn les ditz Justices & Viscontz come les Mairs Baillifs Conestables & aurs Govnours des villes & lieux ou tielx faitours & vagerantz vendront, aient desore iiij.

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Justices, &c. empowered to bind over Vagabonds to their good Behaviour, &c.

* The King to cur Sheriff of Kent,

Noble Kings of England, Progenitors of our Lord the King that now is.

Richard, &c. a Visconte Devwyk, Old Printed Copies.

A.D.1383.

poair de leur examiner diligealment & compeller de trover seurtee de lo' bon port, p sufficiantz mainpno's des tielx q soient destreinables si ascune defaute feusse deslors trovez en mesmes les faitours & vagerantz; & sils ne poient tiele seurtee trover soient mandez al pscheine gaole p' y dem'er tang, a la venue des Justices assignes p' delivance des gaoles, les queux en tiel cas aient poair de faire sur les ditz vagerantz & faitours issint emprisonez ceo q̃ leur ent semblera mieutz affaire p la Ley.

Item sur les grevouses meschiefs & compleintz qe aveignent de jo' en autre des robies larcins homicides arsures des meisons & chivachees es routes & g'ndes compaignies chescune pt du roialme; ordeignez est & assentuz q lestatut de Wyncestre, dont le teno' estoit envoiez p nre l' le Roi en lan pschein passez en chescun Countee Denglerre p' y estre pclamez, soit tenuz & gardez en toutz pointz, & mys en bone & hastive execucion a la plaint & p'suite de chescun qi se sentera grevez, encountre le tenour dicelle; & au fyn q home ne se purra desore excuser p ignorance de mesme lestatut, est auxint assentuz q chescun Viscont Dengletre soit tenuz decy en avant en ppre psone de faire pelamacion de mesme lestatut quatre foitz lan en chescun hundred de sa baillie & p ses baillifs en chescune ville marchee sion deinz franchises come dehors.

Item encontre le meschief qavient as divses gentz du roialme queux sont empanellez & reto'nez devant les Justices & Barons de lescheqir en quel cas p cause q lenqueste nest mye p'sue au fyn p ceux qi sont pties, einz mys en delay dan en an, les jurro's y pdent g'ndement & ascuns pluis q la value de leur tre est p an, a lo' l'sg'nt empovissement & destruccion, est accordez & assentuz q desore en avant en toutes mahes des plees en queux brief de Nisi prius est g'ntable doffice aps le gende destresce trois foitz sviz & reto'nez devant les Juges devs la Juree, & sur ce les pties demandez si nutt des dčes pties veulle p'suire, ou si les pties refusent davoir brief de Nisi prius en le cas, adonqs a la p'suyte daucun diceux Jurro's qi soit psent, soit brief de nisi prius fait & g'ntez, & ce auxibn en lescheqir come aillo's, & sur ce la querele myse au fyn sanz delay selonc ce q le cas requiert & la ley demande.

Item assentuz est & accordez q les estatutz des p'veo's faitz avant ces heures soient fermement tenuz & gardez & mysez en bone & due execucion; adjoustez a ycell, q si les svantz dauts s's ou dames qi ne sont comprises es ditz estatutz pignent desore ascun pt deinz le roialme vitailles ou cariages al oeps de lo's I's & dames, autment gils nent purront accorder ovesq les possesso's & vendo's dicelles, p paiement ent affaire [pstement'] en poin, q mesmes celles svantz encourgent la peyne en toutes choses comprise es dites estatutz des Purveo's, & nientmeyns eit la ptie p iceux svantz endamagee sil vorra sa suite a la cõe ley. Item sur le meschief qavient de jo' en autre sur la fauxine & deceite qest trovez es draps vendables sibn de colour come des raies contre lassise ent ordeignez devant ces heures, est ordeignez & assentuz q toutz les estatutz ent faitz devant ces heures avec les estatutz faitz de les alneours & coillours del Subside des ditz draps soient tenuz & gardez & myses [en bone'] & due execucion; adjoustez a ycell q celuy qi desore espiera, & pvera defaute en ascun tiel drap mys a vente contre lassise ordeignee des ditz draps & contre la forme des ditz estatutz, eit la tierce ptie de chescun tiel drap defective pur son t'vaill p la livee des Viscontz sils

Power to examine them diligently, and to compel them to find Surety of their good bearing, by sufficient Main-pernors, of such as be distrainable, if any Default be found in such Feitors and Vagabonds; and if they cannot find such Surety, they shall be sent to the next Gaol, there to abide till the coming of the Justices assigned for the Deliverance of the Gaols, who in such Case shall have Power to do upon such Feitors and Vagabonds so imprisoned, that that thereof to them best shall seem by the Law.

ITEM, for the grievous Mischiefs and Complaints that do daily happen of Robberies, Thefts, Manslaughters, Burning of Houses, and Ridings in Routs and great Companies in every Part of the Realm; It is ordained and assented, That the Statute of Winchester, the Tenour whereof is sent by our Lord the King this Year last past into every County of England to be proclaimed, (') be holden and kept in all Points, and put in good and hasty Execution, at the Complaint and Pursuit of every Man that feeleth himself grieved against the Tenour of the same; and to the Intent that no Man shall excuse himself by Ignorance of the same Statute, it is also assented, that every Sheriff of England shall be bound from henceforth in proper Person to make Proclamation of the same Statute four Times in a Year in every Hundred of his Bailiwick, and by his Bailiffs in every Market Town, as well within Liberties as without.

ITEM, Against the Michief that happeneth to divers People of the Realm, which be impanelled and returned before the Justices and Barons of the Exchequer; in which Case, because that the Inquest is not pursued to the End by those that be Parties, but put in Delay from Year to Year, the Jurors do greatly lose, and some much more than the Value of their Land is by Year, to their great Impoverishing and Hindrance: It is accorded, That from henceforth in all Manner of Pleas where a Nisi Prius is grantable of Office, after the great Distress [returned, and three Times served'] before the Justices against the Jurors, and thereupon the Parties demanded, if none of the said Parties will pursue, or if the Parties refuse to have a Writ of Nisi Prius in the Case, then at the Suit of any of the Jurors that be present, a Writ of Nisi Prius shall be made and granted, and that as well in the Exchequer as elsewhere, and thereupon the Quarrel shall be set at an End without Delay, according as the Case requireth, and the Law demandeth.

ITEM, It is accorded and assented, That the Statutes of Purveyors made before this Time be firmly holden and kept, and put in good and due Execution; joining to the same, that if the Servants of other Lords and Ladies which be not comprised in the said Statutes, do from henceforth take, in any Part within the Realm, Victuals or Carriages to the Use of their Lords and Ladies, otherwise than they thereof may agree with the Owners and Sellers of the same by Payment thereof to be made readily in Hand, that the same Servants shall incur the Pain (1) comprised in the said Statutes of Purveyors, and nevertheless the Party endamaged by such Servants, if he will, shall have his Suit at the Common Law.

ITEM, For the Mischief which daily happeneth upon the Falsehood and Deceit which is found in Cloths vendible, as well coloured as Ray Cloths, against the Assise thereof ordained before this Time, It is orbe sold, and dained and assented, That all the Statutes thereof made against Aulnegers and Collectors of in Times past, with the Statutes made of Aulnegers and Collectors of the Subsidy of the said Cloths, be the Subsidy holden, kept, and put in due and good Execution; of Cloths. confirmed : Joining to the same, that he which from henceforth shall espy and prove Default in any such Cloth set to Sale, against the Assise thereof ordained of the said Cloths, and against the Form of the said Statutes, shall have the Third Part of every such Cloth defective for his Labour, by the Delivery of the Sheriffs, if they

The Statute of Winchester confirmed.

Ever Sheriff shall proclaim it, quarterly.

VII. In what case a Nisi prius shall be granted at the Suit of any of the Jurors.

VIII. The Statutes of Purveyors confirmed and extended to Servants of Subjects

IX. Statutesmade against deceit in Cloths to

LX.

} Interlined on the Roll.

See Rot. Claus. 5 Ric. II. m. 15 d. and Note to Stat. Wynton, 13 Edw. I. Vol. I. page 96.

* three times served, and returned * in al thynges MS. Tr. 2.

Add. 253

7° RIC. II. c. 9-12.

*A.D.*1383.

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xj.

Application of the Forfeitures.

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be present, or of the Lords of the Fairs and Markets, and other Places where such Cloths shall be found defective, or of their Stewards or Bailiffs, or of the Constables of the Towns and Places aforesaid, by Indenture betwixt them duly to be made; which Indentures shall be every Year at the Feast of St. Michael delivered into the Exchequer, by them which so shall make the said Delivery, to the Intent there to charge the Aulnegers and Collectors aforesaid, by whom such Defaults ought to have been searched, corrected, and mended, and be not, but commonly maintained and concealed in all Parts; for which Third Part that pertaineth to the King as his Forfeiture by force of the Statutes made in Times past, the Aulnegers and Collectors aforesaid, in every County and Place where such Cloths defective shall be found, for the Pain against the said Offences and Concealment, shall make Gree of their own Money to our Lord the King in his Exchequer, of the Value of the same Third Part ; so that as well of the same Third Part as of the Remnant of the said Cloth, the King shall be wholly answered at his said Exchequer.

X. Trial of Assize for Rent out of Lands lying in Two Counties. ITEM, It is ordained and assented, That an Assise of Novel Disseisin shall be from henceforth granted and made of Rent behind, due of Tenements being in divers Counties, to be holden in the Confine of the Counties, within which the Tenements be; and thereupon the Assise taken and tried by People of the said Counties in the same Manner as is done of a Common of Pasture being in one County, and appendant to Tenements in another County; and that as well of Disseisins done in Time past, as of Disseisins yet to be done; and that Writs thereupon at the Suit of the Plaintiffs be made from henceforth in the Chancery without any Manner of Contradiction, in a due Form.

ITEM, Whereas in divers Parliaments holden at West-

minster, the Fifth and Sixth Years of our said Lord the

King, divers Ordinances and Statutes of Fishers of Lon-

don and other Victuallers were made, and also of Vint-

ners, and of the Sale of Wines, and thereupon the same

Ordinances and Statutes, with the Pains in them con-

tained, were published and proclaimed throughout the

Realm, as in the said Statutes and Ordinances more

plainly may appear: Nevertheless for certain Causes, at

the Request of the Commons of England thereupon

specially made, It is assented and agreed, That the same

Ordinances and Statutes of Fishers, Vintners, and Vic-

tuallers, made in the Years aforesaid, shall be wholly

annulled and repealed, and shall lose their Effect and

Strength: Nevertheless saving to the King all the For-

feitures of Wines for the Time past that to him pertaineth

by virtue of the same Ordinances and Statutes : Provided

always, that all the [Vintners and '] Victuallers, as well

Fishers as other coming with their Victuals to the City of

London, shall be from henceforth under the Governance and Rule of the Mayor and Aldermen of the said City

for the Time being, as in Time past it hath been used.

XI. The Statutes 5 Ric. II. c. 4, 5. and 6 Ric. II. c. 7, 11, 13, concerning Fishmongers, Victuallers, and Vintners, repealed.

Victuallers of London shall be under the Rule of the Mayor and Aldermen.

XII. Stat. 3 Ric.II. c. 3. recited 3

ITEM, Whereas late in the Parliament holden at Westminster, the Third Year of the Reign of our said Lord the King, at the Request of the Commons, and

soient psentz ou des l's des feires & marchees, & auts lieux ou tielx draps defectives front trovez, ou de lo's Seneschalx & Baillifs ou des Conestables des villes & lieux avantditz p endentures ent entre eux duement affaires; les queles endentures soient chescun an a le feste de Seint Michel livez en lescheqir p ceux gensi ferront la dite livee, al effect de charger illoeqs les Alneours & coillours avantditz p queux tielx defautes deussent estre Schez chastiez & amendez & ne sont my einz cõement maintenuz ou concelez toutz ptz; pur quele tierce ptie qapptient au Roi come sa forfaiture p force de lestatutz devant ore faitz les alneo' & coillo' avantditz, en chescun Countee & lieu ou tielz draps defectives 'sront trovez p' peine encontre lo's ditz mal fait & concelement, facent gree de lo's ppres deniers a nre dit f' le Roi en son Escheqir de la value de celle tierce ptie, issint q sion de mesme la tierce ptie come del remenant du dit drap nre & le Roi soit entierement responduz a son Escheqir avantdit.

Item est ordeignez & assentuz qassise de Novele Disseisine soit desore g'nte & faite de rent aderiere, due des teñz esteantz es divses Countees a tenir en la confyne des Countees deinz queux les teñz sont, & sur ce lassise prise & triee p gentz des ditz Countees en mesme la mane come est fait du cõe de pasture esteantz en un Countee & appendante as teñz en autre Countee, & ce auxi avant des disseisines faites devant ceste heure, come de disseisines unqore affaire, & q briefs sur ceo a la p'suyte des pleinuifs soient desore faitz en la Chauncellerie sanz nulle mane de cont diccion en due forme.

Item comon q nadgairs en divses plementz tenuz a Westm les ans du regne nre dit & le Roi quint & sisme, furent faitz divses ordinances, & estatutz des pessoners de Londres & dauys vitaillers & auxint des vineters & la vente des vins, & sur ce mesmes les ordinances & estatutz ovesq, les peynes en ycelles contenuz furent publiez & pclamez pmy le Roialme sicome en les ditz ordinances & estatutz pluis pleinement purra apparoir; Nientmeyns p' cteins enchesons a la requeste des Cões Denglet're sur ceo especialment faite, est assentuz & accordez q mesmes les ordinances & estatutz des Pessoners Vineters & Vitaillers, faitz en les ans desuisditz, soient de tout anientiz & repellez & pdent lour force & vtue; Sauvez nientmeins a nre l' le Roi toutz les forfaitures des vins a lui apptenantes p Vtue de mesmes les ordinances & estatutz gantal temps passez. Purveuz toutz foitz q toutz les [vins'] & vitaillers sibn Pessoners come aurs ove leur vitailles venantz a la de Citee de Londres, soient desore desouz le gounaile [& reulle 1] des Meir & Aldermannes de la Citee avandče p' le temps esteantz come auncienement y soleient estre.

Item come nadgairs en plement tenuz a West \overline{m} lan du regne n $\overline{r}e \, e^{r}$ le Roi tierce, a la requeste des Cões & p assent des e^{r} s temporels, estoit ordeignez & assentuz & sur grevouse peyne defunduz \widetilde{q} nutt liege le Roi nautre psone quelcon \widetilde{q} de quel estat ou condicion qil fuist, pndroit ne resceivoit delors enavant deinz le Roialme Dengletre pcuracie, tre datto'ne, ne ferme, nautre administracion p endenture nen autre manbe quelconq de nulle psone dascun benefice de Seinte Esglise deinz le dit Roialme fors tantsoulement des lieges n $\tilde{r}e \, e^{r}$ le Roi de mesme le Roialme sanz especiale g'ce & expesse congie de n $\tilde{r}e \, e^{r}$ le Roi sur cteine peine comprise en lestatut avantdit, assentuz est ore & accordez p mesmes les $e^{r}s \, \tilde{q}$ mesme lestatut tiegne ses M. 18.

xij.

confirmed and extended to Aliens holding Benefices in England ;

by the Assent of the Lords Temporal, it was ordained and assented, and upon a grievous Pain prohibited, that no Subject of the King nor other Person, of what Estate or Condition he were, should take, neither receive from thenceforth, within the Realm of England, Procuracy, Letter of Attorney, ne Ferm, nor any other Administration by Indenture, or in any other Manner, of any Person concerning any Benefice of Holy Church within the Realm, but only of the King's Subjects of the same Realm, without the especial Grace and express Licence of our said Lord the King, upon a certain Pain contained in the said Statute; It is assented and agreed by the same Lords, That the same Statute shall keep his 'Wine, and the

' Vinters Old Printed Copies.

* Interlined on the Roll.

A.D.1383.

force & Vtue en toutz pointz; et outre ceo est auxint assentuz q si ascun alien eit purchacez ou desore purchace ascun benefice de Seinte Esglise Dignite ou autre & en ppre psone pigne possession dicelle ou loccupie de fait, deinz mesme le Roialme, soit il a son oeps ppre, ou al oeps dautri sanz especiale congie du Roi, soit il compris en mesme lestatut, & outre ceo encourge en toutz pointz tielx peines & forfaiture come sont ordeignez p un autre estatut fait en lan xxv* del regne luy noble Roi E. aiel nre 4" le Roi gore est, contre ceux qi purchacent pvisions dabbeies ou Priories; et enoutre au fyn q tielx licences ne se facent desore enavant, le Roi voet & comande a toutz ses lieges & autres gils lour abstiegnent de cy enavant de luy prier dascuns tiels licences doner; et si voet auxi le Roi luy mesmes abstiegner de doner ascune tiele licence, durantes les guerres horspris au Cardinal de Naples ou a autre especiale psone a qi le Roi soit p especiale cause tenuz.

Item est ordeignez & assentuz & le Roi defende q

desoremes nutt home chivache deinz le Roialme armez,

encontre la forme de lestatut de Norhamptoñ sur ce

fait, ne ovesq, lancegay deinz mesme le Roialme, les

queux lancegayes soient de tout oustez deinz le dit

Roialme come chose defendue p nre l' le Roi, sur peine

de forfaiture dicelx lancegaies armures & aurs herneys

quelconges es mayns & possession de celluy qi les porta

xiij.

xiiij.

desore deinz mesme le Roialme contre cestz estatut & ordinances sanz especiale congie de Roi nre ℓ' . Item es briefs de Pmunire fac est assentuz & accordez q ceux Vs queux tielx briefs sont portez, & qi sont de psent hors de Roialme & sont de bone fame & aient faitz lo' genalx atto'nes devant lo' deptir, q le Chaunceller [Denglet're '] pur le temps esteant, p ladvis des Justices purra g'ntier q mesmes les psones purront apparoir & respondre & faire & resceivre ce q la ley demande, p lo' genalx atto'nes avantdiz siavant come es autres cas & quereles; et ceux psones qi decy enavant passeront p licence nre fr le Roi & soient auxint de bone fame, q a lo' requeste le dit Chaunceller p ladvis des Justices lour purra g'ntier defaire lo' gehalx atto'nes en la Chancellerie p patent du Roi devant lo' passer, [a respondre'] sibn es ditz briefs de Pmunire fač, come en aut's quereles en quel cas toutes voies soit expsse mencion [faite '] des briefs & quereles de pmu. nire fac; et celle patente ensi faite, purront des lors les ditz atto'nes en absence de lo' Meistres, respondre p eux & aurs atto'nes desouz eux, devant quelconq, juge du Roialme & faire & resceivre el dit cas, siavant come en nult autre cas nientcontresteant ascun estatut fait a contrie avant ces heures.

Item sur la grevouse pleinte qest faite des meynteno's des quereles & chaumpto's; est ordeignez & assentuz q lestatutz ent faitz en les ans du regne le Roi Edward aiel nie dit f le Roi primer & quart, et auxint en lan de nre l' le Roi qore est primer, soient tenuz & gardez & duement executz en toutz pointz. Item est assentuz & le Roi defende estroitement q decy enavant nulle psone aliene ou denszein de quelconq estat ou condicion qil soit amesne ou envoie ou face amesner ou envoier p tre ou p meer hors du Roialme Denglerre as ascunes pties Descoce en prive ne en appt ascune mable darmure de blee de brees ne dautre vitaille ou dautre refressichement queconqu sur peine de forfaiture de mesmes les vitailles armures & des autres choses avantdites ensemble avec les niefs vesseulx charettes & chivalx qi les portent ou amement, ou de la Proie value dicelles, si ensi ne soit q le

Force and Effect in all Points; and moreover it is assented, That if any Alien have purchased, or from henceforth shall purchase any Benefice of Holy Church, Dignity, or other Thing, and in his proper Person take st. 5. c. 22. Possession of the same, or occupy it himself within the Realm, whether it be to his own proper Use, or to the Use of another, without especial Licence of the King, he shall be comprised within the same Statute; and moreover shall incur all Pains and Forfeitures in all Points as is before ordained by another Statute made the Five and twentieth Year of the noble King Edward the Third, Grandfather to our Lord the King that now is, against them that purchase Provisions of Abbeys or Priories; and to the Intent that such Licences shall not be from henceforth made, the King willeth and commandeth to all his Subjects and other, that they shall abstain them from henceforth to pray him for any such Licence to be given; and also the King himself will refrain to give any such Licence during the Wars, except to the Cardinal of Naples, or to some other special Person to whom the King is beholden for a special Cause.

ITEM, It is ordained and assented, and also the King doth prohibit, That from henceforth no Man shall ride in Harness within the Realm, contrary to the Form of the Statute of Northampton thereupon made, neither with Launcegay within the Realm, the which Launcegays be clearly put out within the said Realm, as a Thing prohibited by our Lord the King, upon Pain of Forfeiture of the said Launcegays, Armours, and other Harness, in whose Hands or Possession they be found that bear them within the Realm, contrary to the Statutes and Ordinances aforesaid, without the King's special Licence.

ITEM, In Writs of Præmunire facias, It is assented and agreed, That they against whom such Writs be sued, and who at this Time be out of the Realm, and be of good Fame, and have made their general Atturnies before their departing, that the Chancellor of England for the Time being, by the Advice of the Justices, may grant, that the same Persons may appear to answer, to do, and to receive that Thing which the Law demandeth, by their general Atturnies aforesaid, as well as in other Causes and Quarrels; and those Persons which from henceforth shall pass by the King's Licence, and be of good Fame, that at their Request the Chancellor, by the Advice of the Justices, may grant to them to make their general Atturnies in the Chancery by the King's Patent, before their Passage, to answer as well in the said Writs of Præmunire facias, as in other Writs and Plaints; in which Case express Mention shall be made at all Times of the Writs and Plaints of Præmunire facias; and this Patent so made, the said Atturnies from henceforth, in Absence of their Masters, may answer [for them, and make'] other Atturnies under them, before any Judge of the Realm, [to'] do and receive in the said Case as much as in any other Case or Matter, notwithstanding any Statute made to the contrary heretofore.

ITEM, For the grievous Complaint that is made of Maintainers of Quarrels, and Champertors; It is ordained and assented, That the Statutes thereof made in stat 2. c. 14; dained and assented, 1 nat the obstudies include the first and Fourth Years of King Edward, Grandfather 4E.III c.11; the First and Fourth Years of King Edward, Grandfather 1 Ric.II.c.4; to our Lord the King that now is, and also in the First Year of our Lord the King that now is, shall be holden againt Main-tenance, &c. and kept, and duly executed in all Points.

who shall also the Penalties of 25 Ed. III.

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The King's Licences to the contrary shall not be asked for.

XIII. No Man shall ride armed contrary to the Statute 2 Edw. III. chapter 3.

XIV. For enabling Parties out of the Realm to appoint Attornies n Writs of Premunire.

XV. Statutes 1 Edw. III.

Add. 255

1 * 3 Interlined on the RolL

ITEM, It is assented, and the King straitly defendeth, XVI. That from henceforth no Person, Alien nor Denizen, of No Armour or Victual whatsoever Estate or Condition that he be, shall carry shall be sent nor send, nor do to be carried nor sent, by Land nor into Scotland by Sea, out of the Realm of England, to any Parts of without Scotland, privily nor apertly, any Manner of Armour, Licence of Corn, Malt, or other Victuals, or any other refreshing, the King ; on Pain of upon Pain of Forfeiture of the same Victuals, Armours, Forfeiture and other Things aforesaid, together with the Ships, thereof. Vessels, Carts, and Horses which shall bring or carry the same, or of the very Value of the same, except so it be

* by themselves and

1 and

7° Ric. II. c. 16, 17.

A.D.1383.

that the King do give his special Licence to the contrary. And to the Intent that these Ordinances be duly kept and put in due Execution, It is also assented, that he which after Proclamation thereof made, espy and prove that any hath offended or forfeit in any Point against the Form of this Ordinance, shall have the Third Part of the said Forfeitures wholly to his own Use (').

XVII. When Mainpernors shall be liable in Damages by Delay. ITEM, It is assented and accorded, That in Writs of Debt, Trepass, and Account, and in all other Cases where Mainprise and Writs of Supersedeas be grantable, that if the Persons [comprised ³] come not before the Judges at a Day comprised in the same Mainprise, and by so much the Plaintiff is put to Delay and Loss, the said Mainpernors shall be answerable to the Plaintiffs of a certain Sum of Silver, to be limited by the Discretion and Advice of the said Judges, having Consideration to the Quality and Quantity of the Damages of the Parties, and of the Things in Demand. And this Ordinance of Mainpernors shall endure in Assay till the next Parliament only.

[³ And therefore We command you that as well the said Statute of Winchester, four times in each Year from henceforth, in Manner as above is ordained, as the other Statutes and Ordinances above written, in all the Cities, Boroughs, Market Towns, and other notable laces within your Bailiwick, where it shall seem to you most expedient, within Franchise and without, you do cause to be proclaimed on our behalf, and to be published and duly kept and observed according to the Form and Effect of the same. Given under the Witness of our Great Seal at our Palace of Westminster the Twentysixth Day of November, in the Seventh Year of our Reign.³]

Like Commands of the King are directed to the several Sheriffs throughout England, under the same Date.

for his labour
 read only thus :

And therefore We command you, &c. Dated, &c.

Roi nre l'nent donne sa licence especiale a cont^{*}rie. Et au fyn q ceste ordinance soit duement gardez & mys en bone execucion est auxint assentuz q celluy qi aps q proclamacion ent soit faite purra espier & pver qascun eit mespris, ou forfait en ascun point contre la forme de ceste ordinance, eit la tierce ptie des dites forfaitures entement a son ppre oeps p' son t'vaille.

Item est assentuz & accordez qen briefs de dette trespas & de accompte, & en toutz autres cas ou maynprise & brief de Supsedeas sont g'ntables, si les psones maunprisez ne viegnent mye devant les Juges au jo' compris en mesme la meynprise, & p tant le pleintif soit mys en delay & pde, soient les ditz meinpnours respoignables as pleintifs dune êteine some, (') a limiter p la discrecion & advis des ditz Juges, eiantz consideracion a la qualitee & quantitee des damages du ptie & de la chose en demande. Et si durera ceste ordinance des mainpno's en assaie, tanq, al pchein plement tantsoulement.

Et purce vous mandons q sibn le dit Estatut de Wyncestre quatre foitz chescun an decy enavant p mahe q dessus est ordeignez, come les autres Estatutz & ordinances dessusescritz en toutz les Citees Burghs villes marchees & autres lieux notables deinz vre baillie ou vous verrez q mieutz soit affaire deinz franchise & dehors, facez pclamer dep nous & publier & duement garder & tenir selonc la forme & effect dicelles. Doñ p tesmoignance de nre g nt Seal a nre Paleys de Westm avantdit le xxvj^m jour de Novembre lan de nre regne septisme.

Consimilia mandata & dirigunt' singulis Vicecomitiby p Angt sub eadem dai.

¹ dargent Old Printed Copies.

Anno 8° RICARDI, II. A.D. 1384.

Statutu apud Mestm anno octavo editu.

In Margine Rotuli.

STATUTE MADE AT WESTMINSTER IN THE EIGHTH YEAR.

TO the Honour of God, and at the Request of the Commonalty of the Realm of England made to our Lord the King in his Parliament holden at Westminster in the Morrow of St. Martin, the Eighth Year of his Reign; the same our Lord the King of the Assent of the Prelates, Great Men, and Commons aforesaid, hath caused to be made in the same Parliament, a certain Statute for the common Profit of the said Realm, and especially for the good and just Governance, and due Execution of the Common Law, in the Form following.

I. Liberties of the Church, and Statutes FIRST, It is [ordained and enacted,'] that Holy Church have all her Liberties; and that the Great Charter, and the Charter of the Forest, the Statutes of

Ex Rot. Stat. in Turr. Lond. II. m. 18.

A D honorem dei & requisicõem cõitatis regni Angt fčam dño Regi in pliamento suo tento apud Westmi in Crastino Sči Martini anno regni sui octavo, idem dñs Rex de assensu Prelatoz Magnatū & Cõitatis Pdče quoddam statutū in eodem pliamento p cõi utilitate dĉi regni & Psertim p bona & justa gubnaĉõe ac debita execuçõe cõis legis fieri fecit in forma subsequenti:

In primis concordatū est & statutū qd sča ecclia heat omes libtates suas, & qd Magna Carta & Carta de Foresta, Statuta de pvisorib3 & laboratorib3 & omia alia statuta & ordinações ante hec tepora edita & minime revocata teneant' observent' & execuçõi debite demandent' juxta formam & effêm eoadem. Item concordatū est & statutū qd nullus homo de lege sit decelo Justič assisaa vel cõis delibaçõis gaolaa in ppria pria sua et qd capitalis Justič de cõi Banco assignet' int' alios ad h⁹i assisas capiend & ad gaolas deliband set quoad capitalem Justič de Banco Regis hat sicut p majori pte Centū annoa px ptitoa fieri consuevit.

confirmed. Purveyors and Labourers, and all other Statutes and Ordinances heretofore made and not repealed, shall be holden and observed, and put in due Execution according to the Form and Effect of the same.

11. No Lawyer shall be a Judge in his own Country. ITEM, It is [ordained and assented,'] That no Man of Law shall be from henceforth Justice of Assises, or of the common Deliverance of Gaols in his own Country; and that the Chief Justice of the Common Bench be assigned amongst other to take such Assises, and deliver Gaols; but as to the Chief Justice of the King's Bench, it shall be as for the most part of an hundred Years last past was wont to be done.

1 accorded and statuted MS. Tr. 2.

17° Ric. II. c. 13.

Ward of Farringdon-Within may elect an Alderman, wise, sufficient, and able to govern the said Ward Within, and to be named the Aldermen of the Ward of Farringdon-Within; and that between this and the said Feast of Saint Gregory the People of the Ward of Farringdon-Without may elect another Alderman, wise, sufficient, and able to govern the said Ward Without; and to be named the Alderman of the Ward of Farringdon-Without: And that the said Two Aldermen so elected may be established and not removed, except for Cause reasonable, as is ordained and granted by our said Lord the King in this Parliament, of the other Aldermen of the said City.

For the proclaiming the Statute.

THE King to the Sheriff of Kent, Greeting. A certain Statute, in our last Parliament holden at Westminster, by Us with the Assent of the Great Men and Commons of our Realm of England there assisting Us, made, We do send to you in Form Patent; Commanding that the same Statute and all and singular the Articles in the same contained, in the Cities, Boroughs, Market Towns, and other Places within your Bailiwick, where you shall see it to be most expedient, you do cause to be publicly proclaimed, and as far as in you lieth, to be firmly and inviolably observed. Witness the King at Westminster, the first Day of June.

By the King Himself and Council.

Like Writs are directed to the several Sheriffs throughout England; and to John Duke of Aquitain and Lancaster, or to his Chancellor in the same Duchy of Lancaster, under the same Date. garde de Farndoñ dedeins puissent eslire un Alderman sage sufficeant & able p' govner mesme la garde dedeins, & estre nome laldermañ de la garde de Farndoñ dedeins; et q pentre cy & le dit fest de Seint Gregoire les gentz de la garde de Farndoñ dehors puissent eslire un autre Aldirman sage sufficeant & able p' govner mesme la garde dehors, & estre nomez lalderman de la garde de Farndoñ dehors. Et q les ditz deux Aldermans issint esluz puissent estre establiz & nemye remoez si noun p cause resonable, come ordeinez est & g'ntez p nre dit d' le Roi en cest plement des auts Aldermans du dite Citee.

B Vič Kanč, saltm. Quoddam statutum in ultimo D pclamacõe stapliamento nõu apud Westm tento p nos de assensu tuto; pclamanđ. Magnatum & Cõitatis regni nõi Angt nobiscum ibidem tunc assistenciü editü tibi mittim⁹ in forma patenti; Mandantes qd Statutum illud & omes & singulos articulos in eodem contentos, in Civitatibus Burgis Villis micatoriis & aliis locis infra ballivā tuam ubi melius expediri videris, publice pclamari & quantum ad te ptinet firmit & inviolabilit observari fač. T. B. apud Westm primo die Junii.

p ipm Regem & consilium.

Consimilia bria dirigunt' singulis Vicecomitibs p Angi; ac Johi Duci Aquit & Lancastr vel ejus Cancellario in eodem Ducatu Lancastr sub eadem data.

Anno 20° RICARDI, II. A.D. 1396-7.

Statutu de Anno vicesimo.

In Margine Rotuli.

A.D.1393-4

STATUTE OF THE TWENTIETH YEAR.

THE KING at his Parliament holden at Westminster in the Feast of Saint Vincent, the Twentleth Year of his Reign, by the Assent of the Prelates, Lords, and Commons of his Realm [of England,] assembled in the same present Parliament, for the Quietness and Tranquillity of his People, hath made certain Statutes and Ordinances in the Form which followeth: FIRST, Whereas in a Statute made the Seventh Year Recital of St. 7 R. II. c. 131 of the Reign of the King that now is, it is ordained and assented, That no Man shall ride armed within the Realm, against the Form of the Statute of Northampton thereupon made, nor with Launcegays within the same Realm; and that the said Launcegays shall be utterly put out within the said Realm, as a Thing prohibited by the King, upon Pain of Forfeiture of the same Launcegays, Armours, or any other Harness, in the Hands and Possession of them that bear them, from henceforth within the same Realm against the same Statutes and Ordinances, without the King's special Licence:

Ex Rot. Stat. in Turr. Lond. II. m. 4.

L E ROY en son parlement tenuz a Westm en la feste de Seint Vincent lan de son roialme vintisme, del assent des Prelatz s & Comunes de son roialme en mesme le parlement, pur quiete & t'nquillite de son poeple ad fait cheins estatutz & ordenances gensuient.

Primement, come en un estatut fait lan sepuisme du

regne nre Seignur le Roy soit ordeignez & assentuz q nult home chivache deins le Roialme armez contre la fourme de lestatut de Norhampton sur ce fait, ne ovesq lancegaye deins mesme le roialme, et q les ditz lancegayes soient de tout oustez deins le dit Roialme, come chose defendue par le Roy sur peyne de forfaiture dicelles lancegayes armures & aurs hernoys quelconques, es mayns & possession dycelx qui les porra delors deinz mesme le Roialme encontre ycelles estatutz & ordenances sanz espale congie du Roy:

A.D.1396-7.

20° Ric. II. c. 1-5.

Nre Seignur le Roy considerant le g'nt clamour a luy fuit en cest psent plement de ce q le dit estatut nest mye tenuz, Si ad ordeignez & establiz en mesme le plement q les ditz estatutz soient pleinement tenuz & gardez & duement executz; et q les ditz lancegayes soient tout ourment oustez sur la peine contenue en le dit estatut de Northamptoñ & outre de fair fyn & ranceon au Roy. Et outre ce q nutt ?, Chivaler nautre petit ne g'nt aile ne chivache p noet ne jour armez ne porte Palet ne chapett de ferre nautre armure sur la peine susdče; Sauvez & exceptz les offics & Ministres du Roy enfaisantz leur offices. Et outre ce le Roy voet & ad ordeignez q lestatut fait lan de son regne prime de livee des Chaperons soit tenuz & gardez sur la peine contenue en mesme lestatut & sur peine destre emprisonez & de fair fyn & ranceon au Roy.

Item q Vadletz appellez Yomen ne nutt aut de meindre estat qesquier ne use ne porte null signe ne livee appelle livee de compaignie dascun 🦨 deins le roialme, sil ne soit menial & familier ou officer continuel de son dit & et q les Justices de la paix' aient poair denquer de ceux qi font a lencontre & de les punir selonc leur discrecion.

Item le Roy voet & defende q nult f' nautre du pais petit ne g'nt ne soit seant en Bank ovesq, les Justices as assises pndre en leur sessions es Countees Denglerre sur grief forfaiture vs le Roy; Et ad chargez ses ditz Justices gils ne soeffrent le contraire estre fait.

Item q come il soit contenuz en un estatut de ℓ' Edward nadgairs Roy Denglerre Aiel a nre & le Roy qorest lan de son regne vynt & oetisme, q nulle mane de nief q soit frette devs Englerre ou aillours soit artez de venir a nul port Denglet're ne y dem'er contre le gree des Mestres & Marins dicelle, ou des Marchantz as queux les biens sont, et si tielx niefs veignent de gree ou soient chacez p tempeste ou aut infortune ou meschief a ascun port Denglerre & les Meistres & marih's ou Marchantz de mesmes les niefs voillent vendre & deliver ptie de leur mchandises p loure bone voluntee, bien lise a chescuny tieles michandises achatre franchement sanz empeschement en le port ou tieles niefs viendront, tout ne soient les mchandises mises a la tre pur vendre; Et q les Meistres Marines & Marchantz, aps ce qils avont issint venduz ce q lour plerra de leur ditz biens & paie ent la custume, puissent f'unchement deptier & aler ove lour niefs & tout le remenant de lour bis pla ou lour plerra sanz custume ent paier : Nie Seignur le Roy p' la quiete & ease de son poeple voet q le dit estatut soit tenuz & gardez en toutz pointz & duement executez nient contreesteant ascune ordeignance ou usage a cont'rie. Item pur ce q les Comunes cunt fait compleint q plusours g'ntz meschiefs extorsions & disease sont faitz p divses gentz de mauveis condicion q de leure auctoritee demesne pignont & font pndre roialment chivalx & auts choses & bestes hors de leur charues charettes & mesons, disantz & imaginantz qils sont a chivaucher en hastifs messages ou bosoignes, la ou en vite ils ne sont aucunement privez de nulle bosoigne ou message, mes soulement en deceite & subtilite p' pndre chivalx

Our Lord the King, considering the great Clamour made to him in this present Parliament, because that the said Statute is not holden, hath ordained and established in the said Parliament, That the said Statutes shall be fully holden and kept, and duly executed; and that the said Launcegayes shall be clear put out upon the Pain contained in the said Statute of Northampton, and also to make Fine and Ransom to the King. And moreover, that no Lord, Knight, nor other, little nor great, shall go nor ride by Night nor by Day armed, nor bear [Sallet'] nor Skull of Iron, nor [of'] other Armour, upon the Pain aforesaid; save and except the King's Officers and Ministers in doing their Office. And Moreover, the King will and hath ordained, that The Statute the Statute made the First Year of his Reign, of Liveries of Hats, shall be holden and kept upon the Pain contained in the same Statute, and upon Pain to be imprisoned, and make Fine and Ransom to the King.

ITEM, That no Varlets called Yeomen, nor none other of less Estate than Esquire, shall use nor bear no [Sign of Livery'] called Livery of Company of any Lord within the Realm, unless he be menial and familiar or continual Officer of his said Lord. And that the Justices of the Peace shall have Power to enquire of them, which do to the contrary, and them to punish according to their Discretion.

ITEM, The King doth will and forbid, That no Lord, nor other of the Country, little nor great, shall sit upon the Bench with the Justices to take Assises, in their Sessions in the Counties of England, upon great Forfeiture to the King ; and hath charged his said Justices, that they shall not suffer the contrary to be done.

ITEM, Whereas it is contained in a Statute of the late King Edward, Grandfather to the King that now is, the xxviij Year of his Reign, That no Manner of Ship, which is freighted toward England, or elsewhere, shall be compelled to come to any Port of England, nor there to tarry against the [Agreement 1] of the Masters and Mariners of the same, or of the Merchants to whom the Goods be; and if such Ships come of their own Good-will, or be driven by Tempest, [Casualty, or other Misfortune,⁴] to any Port of England, and the Masters or Mariners, or Merchants of the same Ships, will sell or deliver Part of their Merchandizes with their Good-will, it shall be lawful to every Person to buy such Merchandizes freely without Impeachment in the Port where such Ships shall come, albeit the Merchandizes be not [put to Sale to the Land ; 6] And the Masters, Mariners, and Merchants, after that they have so sold so much as pleaseth them of their said Goods, and the Custom thereof paid, may freely depart and go with their Ships, and all the Remnant of their Goods, where it shall please them, without paying thereof Custom : Our said Lord the King, for the Quietness and Ease of his People, willeth, That the said Statute shall be holden and kept in all Points, and duly executed, notwithstanding any

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Confirmation thereof.

No Man shall ride or go armed.

1 Ric. II. c.7, touching giving of Liveries, confirmed.

11. Liveries of Companies restrained.

III. None shall sit upon the Bench with Justices of Anine.

IV. Recital of St. 28 Edw. 111. chapter 13, concerning Merchants Strangers.

Confirmation thereof.

Ordinance or Usage to the contrary.

ITEM, Forasmuch as the Commons have made Complaint, that many great Mischiefs, Extortions, and Oppressions be done by divers People of evil Condition, which of their own Authority take and cause to be taken royally Horses and other Things, and Beasts out of their Wains, Carts, and Houses, saying and devising that they be to ride on hasty Messages and Business, where of I'ruth they be in no wise privy of any Business or Message, but only in Deceit and Subtilty by such Colour

* Pettle * Omit this word. * Badge or Livery * Will * or other Misfortune or Mischief, * put to land, to sell.

Penalty for taking Homes, &c. for the King's out Warrant.

20° Ric. II. c. 5, 6.

A.D.1396-7.

and Device to take Horses, and the said Horses [too '] hastily do ride and evil intreat, having no Manner of Conscience or Compassion in this Behalf, so that the said Horses become all spoiled and foundered, paying no Manner of thing nor penny for the same, nor giving them any Manner of Sustenance ; and also that some such Manner of People changing and altering their Names, do take and ride such Horses, and carry them far from thence to another Place, so that they to whom they belong, can never after by any mean see, have again, nor know their said Horses where they be, to the great Mischief, Loss, Impoverishment, and Hindrance of the King's poor People, their Husbandry, and of their Living: Our Lord the King willing, for the Quietness and Ease of his People, to provide Remedy thereof, will and hath ordained, That none from henceforth shall take any such Horse or Beast in such Manner against the Consent of them to whom they be; and if any that do, and have no sufficient Warrant nor Authority of the King, he shall be taken and imprisoned till he hath made due Agreement to the Party.

VI. Licence to Belknap and others to return to England; notwithstanding Statute 11 Ric. II. ITEM, Our Sovereign Lord the King hath assented and granted of his special Grace, by Assent and Accord of all Lords Spiritual and Temporal, and of all the Commons in this present Parliament, to Robert Belknap, John Holte, and William Burghe, Knights [of the Bath,^{*}] and dwelling in Ireland, That they shall come again into England, there to dwell for Term of their Lives ; and that they shall be Persons able [to³] the Common Law as the King's liege People, without being thereof impeached ; notwithstanding the Statute thereof made the xj. Year of the Reign of our said Sovereign Lord the King. Saving always against them all the other Points contained in the said Statute.

¹ 50 MS. Tr. 2. ¹ at MS. Tr. 2. ¹ banshid MS. Tr. 2. ¹ banshid MS. Tr. 2. p tiel colour & ymaginacion, & les ditz chivalx si hastyvement chivachent & defolent nient eiantz ascun mahe conscience ou compassion en celle prie, issint q les ditz chivalx deviegnent tout depduz & foundez, nutt matte chose ne denier paiantz pur ycelles, ne ascun mable de viand donantz a eux; et auxi q ascuns de tielx mans de gentz, chaungeantz & variantz lour nouns, si pignent & chivachent tielx chivalx & les amesnent tout hors aillours, issint qils as queux ils sont ne p'ront unqs enaps p nul make voye lour ditz chivalx veire reavoir ne savoir ou ils sont devenuz, a gent meschief pde & anientissement & destruccion & arrerisement du poure poeple du Roy leur husbandre & de leur vivre: Nre l' le Roy veullant p' quiete & ease de son poeple ent faire remede, voet & ad ordene q nul desore en avant pigne nutt tiel chival ne beste en tiel matte contre le gree [de ceux '] a qui ils sont; et si ascun le face & neit signe ou auctoritee du Roy suffisant, soit pris & emprisonez tang il ava fait duement gree a partie.

Item nie l' le Roy est assentuz & ad g'untez de sa grace especiale p assent & accord de toutz l's espirituelx & temporeles & de toutz les Cömunes en cest parlement a Robt Bealknapp Johan Holt & William de Burgh Chivalers bannuz & dem'antz en Ireland, qils revendront en Englerre illeoques a demurer pur t'me de lour vies; et qils soient psones hables al comune ley come lieges du Roy sanz estre de ce empescheez. Nient contresteant lestatut ent fait lan du regne nie dit l' le Roi unzisme. Sauvant toutdiz Vs eux toutz aurs points en le dit estatut contenues.

Interlined on the Roll.

Anno 21° RICARDI, II. A.D.1397-8.

STATUTE OF THE TWENTY-FIRST YEAR.

In Margine Rotuli.

T is to be understood, that our Lord the King ('), by the Grace of God King of England and of France, and Lord of Ireland, at his Parliament summoned and begun at Westminster the Monday next after the Feast of the Exaltation of the Holy Cross, and from thence adjourned to Shrewsbury until the Fifteenth of (') Hilary then next ensuing, and there ended, to the Honour of God and Holy Church, and for the Preservation, Salvation, and Surety of his Realm, and good Governance of his People, of the Assent and Accord of the Prelates, Dukes, Earls, Barons, and Commons of his Realm there assembled, hath made certain Statutes and Ordinances hereafter following. FIRST, That Holy Church, and the Lords Spiritual and Temporal, and all Cities and Boroughs and other Commonalties of the Realm, have and enjoy their Liberties and Franchises from henceforth, as they have reasonably had and enjoyed in Time of his noble Progenitors Kings of England, and in his Time.

Ex Rot. Stat. in Turr. Lond. II. m. 4, 3, 2, 1.° PAIT assavoir q nre f' le Roy Richard par la g'ce de Dieu Roy Dengletre & de France & Seignio' Dirland, a son plement somons & comencez a Westm lundy pschein aps le fest del Exaltacion de la Seinte Croice & dilloeqes adjo'nez a [Solopbirs'] a la quinzeme de Seint Hiller adonges pschein ensuant & illoeges

rminez, al hon' de Dieu & de Seinte Esglise & p' la

salvacion & seuretee de son roialme & bone govnance

I. Confirmation of Libertics. de son liege poeple, de lassent & accord des Prelates Ducs Contes Barons & Cões de son roialme illoeqes assemblez ad fait cteines estatutz & ordenances qensuient. Primement q Seinte Esglise & les &'s espirituels & temporels & auxint Citees & Burghs & auts Cõialtees du roialme eient & enjoyent leur libtees & franchises si avant come ils avoient & enjoierent resonablement en temps de ses nobles Pgenitours Roys Denglerre & en son temps.

Saint

Ricbard

Salophirs

• The Various Readings in the Notes are from a separate Roll, containing a Duplicate of the Statute of this Twenty-first Year.

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COMMENTARIES

ON THE

LAWS

OF

ENGLAND.

BOOK THE FIRST.

BY

WILLIAM BLACKSTONE, Esq. VINERIAN PROFESSOR OF LAW,

AND SOLICITOR GENERAL TO HER MAJESTY.

OXFORD,

PRINTED AT THE CLARENDON PRESS.

M. DCC. LXV.

1765 [from hectures read 1758

Add. 260

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gative, for which the offender's lands shall be seised till he return; and then he is liable to fine and imprisonment *.

III. ANOTHER capacity, in which the king is confidered in domestic affairs, is as the fountain of justice and general confervator of the peace of the kingdom. By the fountain of uffice the law does not mean the author or original, but only the diffributor. Justice is not derived from the king, as from his free gift; but he is the steward of the public, to dispense it to whom it is due". He is not the fpring, but the refervoir; from whence right and equity are conducted, by a thousand chanels, to every individual. The original power of judicature, by the fundamental principles of fociety, is lodged in the fociety at large : but as it would be impracticable to render complete justice to every individual, by the people in their collective capacity, therefore every nation has committed that power to certain felect magistrates, who with more ease and expedition can hear and determine complaints; and in England this authority has immemorially been exercifed by the king or his substitutes. He therefore has alone the right of erecting courts of judicature : for, though the conftitution of the kingdom hath entrusted him with the whole executive power of the laws, it is impossible, as well as improper, that he should perfonally carry into execution this great and extensive truft : it is confequently necefiary, that courts should be erected, to affist him in executing this power; and equally neceffary, that, if erected, they should be erected by his authority. And hence it is, that all jurifdictions of courts are either mediately or immediately derived from the crown, their proceedings run generally in the king's name, they pass under his seal, and are executed by his officers.

It is probable, and almost certain, that in very early times, before our constitution arrived at it's full perfection, our kings in perfon often heard and determined causes between party and party.

* 1 Hawk. P. C. 22.

Y Ad hoc autem creatus est et electus, ut justitiam faciat universis. Bract. 1.3. 1r.1. c.9. I i But

The RIGHTS

BOOK I.

But at prefent, by the long and uniform usage of many ages, our kings have delegated their whole judicial power to the judges of their feveral courts; which are the grand depositary of the fundamental laws of the kingdom, and have gained a known and stated jurisdiction, regulated by certain and established rules, which the crown itself cannot now alter but by act of parliament². And, in order to maintain both the dignity and independence of the judges in the fuperior courts, it is enacted by the statute 13 W. III. c. 2. that their commissions shall be made (not, as formerly, durante bene placito, but) quamdiu bene se gesferint, and their falaries afcertained and established; but that it may be lawful to remove them on the address of both houses of parliament. And now, by the noble improvements of that law in the statute of 1Geo. III. c.23. enacted at the earnest recommendation of the king himfelf from the throne, the judges are continued in their offices during their good behaviour, notwithstanding any demife of the crown (which was formerly held * immediately to vacate their feats) and their full falaries are abfolutely fecured to them during the continuance of their commissions: his majefty having been pleafed to declare, that "he looked upon the inde-" pendence and uprightness of the judges, as effential to the im-" partial administration of justice ; as one of the best securities of "the rights and liberties of his fubjects; and as most conducive " to the honour of the crown b."

In criminal proceedings, or profecutions for offences, it would ftill be a higher abfurdity, if the king perfonally fate in judgment; becaufe in regard to thefe he appears in another capacity, that of *profecutor*. All offences are either againft the king's peace, or his crown and dignity; and are fo laid in every indictment. For, though in their confequences they generally feem (except in the cafe of treafon and a very few others) to be rather offences againft the kingdom than the king; yet, as the public, which is an invifible body, has delegated all it's power and rights, with re-

² 2 Hawk. P. C. 2.

^b Com. Journ. 3 Mar. 1761.

² Ld Raym. 747.

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gard to the execution of the laws, to one visible magistrate, all affronts to that power, and breaches of those rights, are immediately offences against him, to whom they are so delegated by the public. He is therefore the proper perfon to profecute for all public offences and breaches of the peace, being the perfor injured in the eye of the law. And this notion was carried fo far in the old Gothic conflitution, (wherein the king was bound by his coronation oath to conferve the peace) that in cafe of any forcible injury offered to the perfon of a fellow fubject, the offender was accused of a kind of perjury, in having violated the king's coronation oath; dicebatur fregisse juramentum regis juratume. And hence also arises another branch of the prerogative, that of pardoning offences; for it is reasonable that he only who is injured should have the power of forgiving. And therefore, in parliamentary impeachments, the king has no prerogative of pardoning : because there the commons of Great Britain are in their own names the profecutors, and not the crown; the offence being for the most part avowedly taken to be done against the public. Of profecutions and pardons I shall treat more at large hereafter; and only mention them here, in this curfory manner, to shew the conflitutional grounds of this power of the crown, and how regularly connected all the links are in this vaft chain of prerogative.

IN this diffinct and separate existence of the judicial power, in a peculiar body of men, nominated indeed, but not removeable at pleasure, by the crown, confists one main prefervative of the public liberty; which cannot fubfift long in any ftate, unlefs the administration of common justice be in some degree separated both from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty, and property, of the fubject would be in the hands of arbitrary judges, whole decifions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legiflators may depart from, yet judges are bound to obferve. Were

" Stiernh. de jure Goth. 1.3. c.3. A notion somewhat similar to this may be found in the mirrour c. 1. §. 5. it

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BOOK I.

it joined with the executive, this union might foon be an overballance for the legislative. For which reason, by the statute of 16 Car. I. c. 10. which abolished the court of star chamter. effectual care is taken to remove all judicial power out of the hands of the king's privy council; who, as then was evident from recent inftances, might foon be inclined to pronounce that for law, which was most agreeable to the prince or his officers. Nothing therefore is more to be avoided, in a free conftitution, than uniting the provinces of a judge and a minister of state. And indeed; that the abiolute power, claimed and exercifed in a neighbouring . nation, is more tolerable than that of the eastern empires, is in great measure owing to their having vested the judicial power in their parliaments, a body separate and distinct from both the legislative and executive: and, if ever that nation recovers it's former liberty, it will owe it to the efforts of those affemblies. In Turkey, where every thing is centered in the fultan or his ministers, despotic power is in it's meridian, and wears a more dreadful aspect.

A CONSEQUENCE of this prerogative is the legal *ubiqui.y* of the king. His majefty, in the eye of the law, is always prefent in all his courts, though he cannot perfonally diffribute juffice⁴. His judges are the mirror by which the king's image is reflected. It is the regal office, and not the royal perfon, that is always prefent in court, always ready to undertake profecutions, or pronounce judgment, for the benefit and protection of the fubject. And from this ubiquity it follows, that the king can never be nonfuit^e; for a nonfuit is the defertion of the fuit or action by the non-appearance of the plaintiff in court. For the fame reafon alfo, in the forms of legal proceedings, the king is not faid to appear by bis attorney, as other men do; for he always appears in contemplation of law in his own proper perfon^f.

FROM the fame original, of the king's being the fountain of justice, we may also deduce the pre ogative of isluing proclama-

* Fortefc. c. 8. 2 Inft. 186.

f Finch. L. 81.

* Co. Litt. 139.

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tions, which is vefted in the king alone. These proclamations have then a binding force, when (as fir Edward Coke observes⁸) they are grounded upon and enforce the laws of the realm. For, though the making of laws is entirely the work of a diffinct part, the legiflative branch, of the fovereign power, yet the manner, time, and circumstances of putting those laws in execution must frequently be left to the difcretion of the executive magistrate. And therefore his constitutions or edicts, concerning these points, which we call proclamations, are binding upon the fubject, where they do not either contradict the old laws, or tend to establish new ones; but only enforce the execution of fuch laws as are already in being, in fuch manner as the king shall judge necesfary. Thus the established law is, that the king may prohibit any of his fubjects from leaving the realm : a proclamation therefore forbidding this in general for three weeks, by laying an embargo upon all fhipping in time of war h; will be equally binding as an act of parliament, because founded upon a prior law. A proclamation for difarming papifts is also binding, being only in execution of what the legislature has first ordained : but a proclamation for allowing arms to papifts, or for difarming any protestant fubjects, will not bind; becaufe the first would be to assume a difpenfing power, the latter a legislative one; to the vefting of either of which in any fingle perfon the laws of England are abfolutely strangers. Indeed by the statute 31 Hen. VIII. c. 8. it was enacted, that the king's proclamations should have the force of acts of parliament : a statute, which was calculated to introduce the most despotic tyranny; and which must have proved fatal to the liberties of this kingdom, had it not been luckily repealed in the minority of his fuccessor, about five years after i.

IV. THE king is likewife the fountain of honour, of office, and of privilege: and this in a different fenfe from that wherein he is ftiled the fountain of justice; for here he is really the parent of them. It is impossible that government can be maintained

² 3 Inft. 162.

^b 4 Mod. 177, 179.

¹ Stat. 1 Edw. VI. c. 12.

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III. THE next species of subordinate magistrates, whom I am to confider, are justices of the peace; the principal of whom is the *custos rotulorum*, or keeper of the records of the county. The common law hath ever had a special care and regard for the confervation of the peace; for peace is the very end and foundation of civil society. And therefore, before the present constitution of justices was invented, there were peculiar officers appointed by the common law for the maintenance of the public peace. Of these some had, and still have, this power annexed to other offices which they hold; others had it merely by itself, and were thence named *custodes* or *conservatores pacis*. Those that were so *virtute officii* still continue; but the latter fort are superfeded by the modern justices.

THE kings majesty * is, by his office and dignity royal, the principal confervator of the peace within all his dominions; and may give authority to any other to fee the peace kept, and to punish such as break it: hence it is usually called the king's peace. The lord chancellor or keeper, the lord treasurer, the lord high fteward of England, the lord mareschal, and lord high constable of England (when any fuch officers are in being) and all the justices of the court of king's bench (by virtue of their offices) and the master of the rolls (by prescription) are general confervators of the peace throughout the whole kingdom, and may commit all breakers of it, or bind them in recognizances to keep it^y: the other judges are only fo in their own courts. The corone- is alfo a confervator of the peace within his own county "; as is also the sheriff^{*}; and both of them may take a recognizance or fecurity for the peace. Constables, tythingmen, and the like, are also confervators of the peace within their own jurifdictions; and may apprehend all breakers of the peace, and commit them till they find furcties for their keeping it b.

* Lambard. Eirenarch. 12.

* F. N. B. 81. * Lamb. 14.

^y Lamb. 12. ^a Britton. 3.

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THOSE that were, without any office, fimply and merely confervators of the peace, were chosen by the freeholders in full county court before the sheriff; the writ for their election directing them to be chosen "de probioribus et melioribus in comitatu suo "in custodes pacis "." But when queen Isabel, the wife of Edward II, had contrived to depose her husband by a forced refignation of the crown, and had fet up his fon Edward III in his place; this, being a thing then without example in England, it was feared would much alarm the people; especially as the old king was living, though hurried about from caftle to caftle; till at last he met with an untimely death. To prevent therefore any rifings, or other disturbance of the peace, the new king fent writs to all the sheriffs in England, the form of which is preferved by Thomas Walfingham^d, giving a plaufible account of the manner of his obtaining the crown; to wit, that it was done ipfius patris beneplacito : and withal commanding each sheriff that the peace be kept throughout his bailiwick, on pain and peril of difinheritance and loss of life and limb. And in a few weeks after the date of these writs, it was ordained in parliament , that, for the better maintaining and keeping of the peace in every county, good men and lawful, which were no maintainers of evil, or barretors in the country, should be assigned to keep the peace. And in this manner, and upon this occasion, was the election of the confervators of the peace taken from the people, and given to the king^f; this affignment being conftrued to be by the king's commission ^g. But still they were called only confervators, wardens, or keepers of the peace, till the statute 34 Edw. III. c. I. gave them the power of trying felonies; and then they acquired the more honorable appellation of juffices^h.

 ^c Lamb. 16. ^d Hift. A.D. 1327. ^e Stat. 1 Edw. III. c. 16. ^f Lamb. 20. 	 8 Stat. 4 Edw. III. c. 2. and 18 Edw. ft. 2. c. 2. ^b Lamb. 23. 	Πť.
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BOOK I.

THESE justices are appointed by the king's special commission under the great feal, the form of which was fettled by all the judges, A. D. 1590ⁱ. This appoints them all k, jointly and feverally, to keep the peace, and any two or more of them to enquire of and determine felonies, and other misdemesnors : in which number fome particular justices, or one of them, are directed to be always included, and no bufinefs to be done without their prefence; the words of the commission running thus, "quo-"rum aliquem vestrum, A. B. C. D. &c. unum esse volumus ;" whence the perfons fo named are ufually called juffices of the quorum. And formerly it was cuftomary to appoint only a felect number of justices, eminent for their skill and discretion, to be of the quorum; but now the practice is to advance almost all of them to that dignity, naming them all over again in the quorum claufe, except perhaps only fome one inconfiderable perfon for the fake of propriety: and no exception is now allowable, for not expreffing in the form of warrants, &c, that the justice who isfued them is of the quorum¹.

TOUCHING the number and qualifications of these justices; it was ordained by statute 18 Edw. III. c. 2. that two, or three, of the best reputation in each county shall be affigned to be keepers of the peace. But these being found rather too few for that purpose, it was provided by statute 34 Edw. III. c. 1. that one lord, and three, or four, of the most worthy men in the county, with some learned in the law, shall be made justices in every county. But afterwards the number of justices, through the ambition of private persons, became so large, that it was thought necessary by statute 12 Ric. II. c. 10. and 14 Ric. II. c. 11. to restrain them at first to fix, and afterwards to eight only. But this rule is now disregarded, and the cause feems to be (as Lambard observed long ago^m) that the growing number of statute

laws,

¹ Lamb. 43. ¹ Stat. 26 Geo. II. c. 27. ¹ See the form itfelf, Lamb. 35. Burn. ¹ Lamb. 34. ¹ Lamb. 34.

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laws, committed from time to time to the charge of justices of the peace, have occafioned alfo (and very reafonably) their encrease to a larger number. And, as to their qualifications, the statutes just cited direct them to be of the best reputation, and most worthy men in the county: and the statute 13 Ric. II. c. 10. orders them to be of the most sufficient knights, esquires, and gentlemen of the law. Also by statute 2 Hen.V. st. I. c. 4. and ft. 2. c. 1. they must be refident in their feveral counties. And because, contrary to these statutes, men of small substance had crept into the commission, whose poverty made them both covetous and contemptible, it was enacted by statute 18 Hen. VI. c.11. that no justice should be put in commission, if he had not lands to the value of 201. per annum. And, the rate of money being greatly altered fince that time, it is now enacted by statute 5 Geo. II. c. 11. that every justice, except as is therein excepted, shall have 1001. per annum clear of all deductions; and, if he acts without fuch qualification, he shall forfeit 100% which " is almost an equivalent to the 20 l. per annum required in Henry the fixth's time: and of this qualification ° the justice must now make oath. Alfo it is provided by the act 5 Geo. II. that no practifing attorney, folicitor, or proctor, shall be capable of acting as a justice of the peace.

As the office of these justices is conferred by the king, so it subsists only during his pleasure; and is determinable, 1. By the demise of the crown; that is, in fix months after ^p. 2. By express writ under the great seal⁹, discharging any particular person from being any longer justice. 3. By superseding the commission by writ of *supersedeas*, which superseding the power of all the justices, but does not totally destroy it; seeing it may be revived again by another writ, called a *procedendo*. 4. By a new commission, which virtually, though filently, discharges all the former justices that are not included therein; for two commissions

See bishop Fleetwood's calculations in his chronicon pretiofum. Stat. 1 Ann. c. 8.
Lamb. 67.

• Stat. 18 Geo. II. c. 20.

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BOOK I.

cannot fublift at once. 5. By acceffion of the office of fheriff or coroner'. Formerly it was thought, that if a man was named in any commiffion of the peace, and had afterwards a new dignity conferred upon him, that this determined his office; he no longer answering the description of the commission: but now' it is provided, that notwithstanding a new title of dignity, the justice on whom it is conferred shall fill continue a justice.

THE power, office, and duty of a justice of the peace depend on his commission, and on the feveral statutes, which have created objects of his jurifdiction. His commission, first, empowers him fingly to conferve the peace; and thereby gives him all the power of the antient confervators at the common law, in supprefling riots and affrays, in taking fecurities for the peace, and in apprehending and committing felons and other inferior criminals. It also empowers any two or more of them to hear and determine all felonies and other offences; which is the ground of their jurifdiction at feffions, of which more will be faid in it's proper place. And as to the powers given to one, two, or more justices by the feveral statutes, that from time to time have heaped upon them fuch an infinite variety of bufinefs, that few care to undertake, and fewer understand, the office; they are fuch and of fo great importance to the public, that the country is greatly obliged to any worthy magistrate, that without finister views of his own will engage in this troublesome service. And therefore, if a well meaning justice makes any undefigned flip in his practice, great lenity and indulgence is shewn to him in the courts of law; and there are many statutes made to protect him in the upright discharge of his office ': which, among other privileges, prohibit fuch justices from being fued for any overfights without notice beforehand; and ftop all fuits begun, on tender made of fufficient amends. But, on the other hand, any malicious or tyrannical abuse of their office is fure to be severely punished; and all perfons who recover a verdict against a justice, for any wilful or malicious injury, are entitled to double cofts.

⁷ Stat. 1 Mar. ft. 1. c. 8.

^s Stat. 1 Edw.VI. c.7.

¹ Stat. 7 Jac. I. c. 5. 21 Jac. I. c. 12. 24 Geo. II. c. 44. I T Ch. 9. of PERSONS. 343

It is impossible upon our prefent plan to enter minutely into the particulars of the accumulated authority, thus committed to the charge of these magistrates. I must therefore refer myself at present to such subsequent parts of these commentaries, as will in their turns comprize almost every object of the justices' jurisdiction: and in the mean time recommend to the student the perusal of Mr Lambard's eirenarcha, and Dr Burn's justice of the peace; wherein he will find every thing relative to this subject, both in antient and modern practice, collected with great care and accuracy, and disposed in a most clear and judicious method.

I SHALL next confider fome officers of lower rank than those which have gone before, and of more confined jurifdiction; but ftill fuch as are universally in use through every part of the kingdom.

IV. FOURTHLY, then, of the constable. The word constable is frequently faid to be derived from the Saxon, koning-staple, and to fignify the fupport of the king. But, as we borrowed the name as well as the office of constable from the French, I am rather inclined to deduce it, with fir H. Spelman and Dr Cowel, from that language, wherein it is plainly derived from the Latin comes stabuli, an officer well known in the empire; so called becaufe, like the great constable of France, as well as the lord high constable of England, he was to regulate all matters of chivalry, tilts, turnaments, and feats of arms, which were performed on horfeback. This great office of lord high constable hath been difused in England, except only upon great and folemn occasions, as the king's coronation and the like, ever fince the attainder of Stafford duke of Buckingham under king Henry Vill; as in France it was suppressed about a century after by an edict of Louis XIII ": but from his office, fays Lambard ", this lower constableship was at first drawn and fetched, and is as it were a very finger of that hand. For the statute of Winchester*, which

" Philips's life of Pole. ii. III.

* 13 Edw. I. c. 6.

• of constables, 5.

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COMMENTARIES

ON THE

LAWS

OF

ENGLAND.

BOOK THE FOURTH.

ΒY

WILLIAM BLACKSTONE, Esq. Solicitor general to her majesty.

THE FOURTH EDITION.

. O X F O R D,

PRINTED AT THE CLARENDON PRESS. M. DCC. LXX. Case: 18-55717, 11/20/2018, ID: 11095467, DktEntry: 29, Page 319 of 333

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BOOK IV.

CHAPTER THE ELEVENTH.

OF OFFENCES AGAINST THE PUBLIC PEACE.

W E are next to confider offences against the public *peace*; the confervation of which is intrusted to the king and his officers, in the manner and for the reasons which were formerly mentioned at large *. These offences are either such as are an actual breach of the peace; or constructively so, by tending to make others break it. Both of these species are also either felonious, or not felonious. The felonious breaches of the peace are strained up to that degree of malignity by virtue of several modern statutes: and, particularly,

1. THE riotous affembling of twelve perfons, or more, and not difperfing upon proclamation. This was first made high treason by statute 3 & 4 Edw. VI. c. 5. when the king was a minor, and a change in religion to be effected: but that statute was repealed by statute 1 Mar. c. 1. among the other treasons created fince the 25 Edw. III; though the prohibition was in substance re-enacted, with an inferior degree of punishment, by statute 1. Mar. st. 2. c. 12. which made the same offence a single felony. These statutes specified and particularized the nature of the riots they were meant to suppres; as, for example, such as were set on foot with intention to offer violence to the privy council, or to change the laws of the kingdom, or for certain other specific purpoles: in which cases, if the persons were

^a Vol. I. pag. 117. 268. 350.

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commanded by proclamation to difperfe, and they did not, it was by the statute of Mary made felony, but within the benefit of clergy; and also the act indemnified the peace officers and their affiftants, if they killed any of the mob in endeavouring to fupprefs fuch riot. This was thought a neceffary fecurity in that fanguinary reign, when popery was intended to be re-established, which was like to produce great difcontents : but at first it was made only for a year, and was afterwards continued for that queen's life. And, by statute 1 Eliz. c. 16. when a reformation in religion was to be once more attempted, it was revived and continued during her life alfo; and then expired. From the accession of James the first to the death of queen Anne, it was never once thought expedient to revive it : but, in the first year of George the first, it was judged necessary, in order to support the execution of the act of fettlement, to renew it, and at one ftroke to make it perpetual, with large additions. For, whereas the former acts expressly defined and specified what should be accounted a riot, the statute 1 Geo. I. c. 5. enacts, generally, that if any twelve perfons are unlawfully affembled to the difturbance of the peace, and any one justice of the peace, sheriff, under-fheriff, or mayor of a town, shall think proper to command them by proclamation to difperfe, if they contemn his orders and continue together for one hour afterwards, fuch contempt shall be felony without benefit of clergy. And farther, if the reading of the proclamation be by force opposed, or the reader be in any manner wilfully hindered from the reading of it, fuch oppofers and hinderers are felons, without benefit of clergy : and all perfons to whom fuch proclamation ought to have been made, and knowing of fuch hindrance, and not difperfing, are felons, without benefit of clergy. There is the like indemnifying claufe, in cafe any of the mob be unfortunately killed in the endeavour to disperse them; being copied from the act of queen Mary. And, by a fubfequent claufe of the new act, if any perfons, fo riotoufly affembled, begin even before proclamation to pull down any church, chapel, meeting-houfe, dwelling-houfe, or out-houfes, they shall be felons without benefit of clergy.

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2. By flatute I Hen. VII. c. 7. unlawful hunting in any legal foreft, park, or warren, not being the king's property, by night, or with painted faces, was declared to be fingle felony. But now by the flatute 9 Geo. I. c. 22. to appear armed in any open place by day, or night, with faces blacked or otherwife difguifed, or (being fo difguifed) to hunt, wound, kill, or fleal any deer, to rob a warren, or to fleal fifh, is felony without benefit of clergy. I mention this offence in this place, not on account of the damage thereby done to private property, but of the manner in which that damage is committed; namely, with the face blacked or with other difguife, to the breach of the public peace and the terror of his majefly's fubjects.

3. ALSO by the fame flatute 9 Geo. I. c. 22. amended by flatute 27 Geo. II. c. 15. knowingly to fend any *letter* without a name, or with a fictitious name, *demanding* money, venifon, or any other valuable thing, or *threatening* (without any demand) to kill, or fire the houfe of, any perfon, is made felony, without benefit of clergy. This offence was formerly high treafon, by the flatute 8 Hen. V. c. 6.

4. To pull down or deftroy any *turnpike-gate*, or fence thereunto belonging, by the ftatute 1 Geo. II. c. 19. is punished with public whipping, and three months imprisonment; and to deftroy the toll-houses, or any *fluice or lock* on a navigable river, is made felony to be punished with transportation for seven years. By the ftatute 5 Geo. II. c. 33. the offence of deftroying turnpike-gates or fences, is made felony also, with transportation for seven years. And, laftly, by ftatute 8 Geo. II. c. 20. the offences of destroying both turnpikes upon roads, and fluices upon rivers, are made felony, without benefit of clergy; and may be tried as well in an adjacent county, as that wherein the fact is committed. The remaining offences against the public peace are merely middemessions, and no felonics: as,

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5. AFFRAYS (from affraier, to terrify) are the fighting of two or more perfons in fome public place, to the terror of his majesty's subjects: for, if the fighting be in private, it is no affray but an affault^b. Affrays may be suppressed by any private perfon prefent, who is justifiable in endeavouring to part the combatants, whatever confequence may enfue'. But more especially the constable, or other similar officer, however denominated, is bound to keep the peace; and to that purpofe may break open doors to suppress an affray, or apprehend the affrayers; and may either carry them before a justice, or imprifon them by his own authority for a convenient fpace till the heat is over; and may then perhaps also make them find fureties for the peace^d. The punishment of common affrays is by fine and imprisonment; the measure of which must be regulated by the circumstances of the cafe : for, where there is any material aggravation, the punifhment proportionably increases. As where two perfons coolly and deliberately engage in a duel : this being attended with an apparent intention and danger of murder, and being a high contempt of the justice of the nation, is a ftrong aggravation of the affray, though no mifchief has actually enfued^e. Another aggravation is, when thereby the officers of justice are disturbed in the due execution of their office: or where a refpect to the particular place ought to reftrain and regulate men's behaviour, more than in common ones; as in the king's court, and the like. And upon the fame account alfo all affrays in a church or church-yard are efteemed very heinous offences, as being indignities to him to whole fervice those places are confecrated. Therefore mere quarrelfome words, which are neither an affray nor an offence in any other place, are penal here. For it is enacted by statute 5 & 6 Edw. VI. c. 4. that if any perfon shall, by words only, quarrel, chide, or brawl, in a church or church-yard, the ordinary shall suspend him, if a layman, ab ingreffu ecclefiae; and, if a clerk in orders,

• 1 Hawk. P. C. 134.

^c Ibid. 136.

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^d Ibid. 137. ^c Ibid. 138. **T**

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from the ministration of his office during pleafure. And, if any perfon in fuch church or church-yard proceeds to fmite or lay violent hands upon another, he shall be excommunicated *ipfo* facto; or if he strikes him with a weapon, or draws any weapon with intent to strike, he shall besides excommunication (being convicted by a jury) have one of his ears cut off; or, having no ears, be branded with the letter F in his cheek. Two perfons may be guilty of an affray: but,

6. RIOTS, routs, and unlawful affemblies must have three perfons at least to constitute them. An unlawful affembly is when three, or more, do affemble themfelves together to do an unlawful act, as to pull down inclosures, to deftroy a warren or the game therein; and part without doing it, or making any motion towards it^f. A rout is where three or more meet to do an unlawful act upon a common quarrel, as forcibly breaking down fences upon a right claimed of common, or of way; and make fome advances towards it^B. A riot is where three or more actually do an unlawful act of violence, either with or without a common cause or quarrel^h: as if they beat a man; or hunt and kill game in another's park, chafe, warren, or liberty; or do any other unlawful act with force and violence; or even do a lawful act, as removing a nufance, in a violent and tumultuous manner. The punishment of unlawful assemblies, if to the number of twelve, we have just now feen may be capital, according to the circumstances that attend it ; but, from the number of three to eleven, is by fine and imprifonment only. The fame is the cafe in riots and routs by the common law; to which the pillory in very enormous cafes has been fometimes fuperaddedⁱ. And by the ftatute 13 Hen. IV. c. 7. any two justices, together with the sheriff or under-sheriff of the county, may come with the posse comitatus, if need be, and suppress any such riot, affembly, or rout, arreft the rioters, and record upon the fpot the nature and circumstances of the whole transaction;

^f 3 Inft. 176. ^k Bro, Abr. t. Riot. 4. 5. ^k I Hawk. P. C. 159.

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which record alone shall be a fufficient conviction of the offenders. In the interpretation of which statute it hath been holden, that all perfons, noblemen and others, except women, clergymen, perfons decrepit, and infants under fifteen, are bound to attend the justices in supprofing a riot, upon pain of fine and imprisonment; and that any battery, wounding, or killing the rioters, that may happen in suppressing the riot, is justifiables. So that our antient law, previous to the modern riot act, feems pretty well to have guarded against any violent breach of the public peace; especially as any riotous assessed on a public or general account, as to redress grievances or pull down all inclofures, and also resisting the king's forces if fent to keep the peace, may amount to overt acts of high treason, by levying war against the king.

7. NEARLY related to this head of riots is the offence of *tumultuous petitioning*; which was carried to an enormous height in the times preceding the grand rebellion. Wherefore by ftatute 13 Car. II. ft. 1. c. 5. it is enacted, that not more than twenty names fhall be figned to any petition to the king or either houfe of parliament, for any alteration of matters eftablifhed by law in church or ftate; unlefs the contents thereof be previoufly approved, in the country, by three juffices, or the majority of the grand jury at the affifes or quarter feffions; and, in London, by the lord mayor, aldermen, and common council^k: and that no petition fhall be delivered by a company of more than ten perfons: on pain in either cafe of incurring a penalty not exceeding 100 l, and three months impriforment.

8. An eighth offence against the public peace is that of a *forcible entry* or *detainer*; which is committed by violently taking or keeping possession of lands and tenements, with menaces, force, and arms, and without the authority of law. This was for-

j 1 Hal. P. C. 495. 1 Hawk. P. C. 161. the reftoration, ufually taken the lead in ^k This may be one reafon (among others) petitions to parliament for the alteration of why the corporation of London has, fince any eftablished law.

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merly allowable to every perfon diffeifed, or turned out of poffeffion, unless his entry was taken away or barred by his own neglect, or other circumftances; which were explained more at large in a former volume¹. But this being found very prejudicial to the public peace, it was thought neceffary by feveral ftatutes to reftrain all perfons from the use of fuch violent methods, even of doing themfelves justice; and much more if they have no justice in their claim^m. So that the entry now allowed by law is a peaceable one; that forbidden is fuch as is carried on and maintained with force, with violence, and unufual weapons. By the statute 5 Ric. II. st. 1. c. 8. all forcible entries are punished with imprisonment and ransom at the king's will. And by the feveral statutes of 15 Ric. II. c. 2. 8 Hen. VI. c. 9. 31 Eliz. c. 11. and 21 Jac. I. c. 15. upon any forcible entry, or forcible detainer after peaceable entry, into any lands, or benefices of the church, one or more justices of the peace, taking fufficient power of the county, may go to the place, and there record the force upon his own view, as in cafe of riots; and upon fuch conviction may commit the offender to gaol, till he makes fine and ranfom to the king. And moreover the justice or justices have power to fummon a jury, to try the forcible entry or detainer complained of : and, if the fame be found by that jury, then, besides the fine on the offender, the justices shall make reftitution by the sheriff of the possession, without inquiring into the merits of the title; for the force is the only thing to be tried, punished, and remedied by them : and the fame may be done by indictment at the general feffions. But this provision does not extend to fuch as endeavour to maintain poffession by force, where they themfelves, or their anceftors, have been in the peaceable enjoyment of the lands and tenements, for three years immediately preceding.

9. THE offence of *riding* or *going armed*, with dangerous or unufual weapons, is a crime against the public peace, by terrifying the good people of the land; and is particularly prohibited

¹ See Vol. III. pag. 174, &c. I Hawk. P. C. 141.

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by the statute of Northampton, 2 Edw. III. c. 3. upon pain of forfeiture of the arms, and imprisonment during the king's pleafure: in like manner as, by the laws of Solon, every Athenian was finable who walked about the city in armourⁿ.

10. SPREADING falle news, to make difcord between the king and nobility, or concerning any great man of the realm, is punished by common law° with fine and imprisonment; which is confirmed by statutes Westm. 1. 3 Edw. I. c. 34. 2 Ric. II. st. 1. c. 5. and 12 Ric. II. c. 11.

II. FALSE and pretended prophecies, with intent to diffurb the peace, are equally unlawful, and more penal; as they raife enthufiaftic jealoufies in the people, and terrify them with imaginary fears. They are therefore punished by our law, upon the fame principle that fpreading of public news of any kind, without communicating it first to the magistrate, was prohibited by the antient Gauls^P. Such falfe and pretended prophecies were punished capitally by statute 1 Edw. VI. c. 12. which was repealed in the reign of queen Mary. And now by the statute 5 Eliz. c. 15. the penalty for the first offence is a fine of 100%, and one year's imprisonment; for the second, forfeiture of all goods and chattels, and imprisonment during life.

12. BESIDES actual breaches of the peace, any thing that tends to provoke or excite others to break it, is an offence of the fame denomination. Therefore challenges to fight, either by word or letter, or to be the bearer of fuch challenge, are punishable by fine and imprisonment, according to the circumstances of the offence⁹. If this challenge arifes on account of any mo-

ⁿ Pott. Antiqu. b. 1. c. 26.

• 2 Init. 226. 3 Inft. 198.

" republica a finitimis rumore aut fama acceperit, Gall. lib. 6. cap. 19. " uti ad magistratum deferat, neve cum alio " communicet: quod faepe homines temerarios

ney

[&]quot; atque imperitos falsis rumoribus terreri, st " ad facinus impelli, et de summis rebus consi-P " Habent legibus fanctum, si quis guid de " lium capere, cognitum est." Caes. de bell.

^{9 1} Hawk, P. C. 135, 138.

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ney won at gaming, or if any affault or affray happen upon fuch account, the offender, by statute 9 Ann. c. 14. shall forfeit all his goods to the crown, and suffer two years imprifonment.

13. OF a nature very fimilar to challenges are libels, libelli famoli, which, taken in their largest and most extensive fense, fignify any writings, pictures, or the like, of an immoral or illegal tendency; but, in the fenfe under which we are now to confider them, are malicious defamations of any perfon, and efpecially a magistrate, made public by either printing, writing, figns, or pictures, in order to provoke him to wrath, or expose him to public hatred, contempt, and ridicule^r. The direct tendency of these libels is the breach of the public peace, by ftirring up the objects of them to revenge, and perhaps to bloodshed. The communication of a libel to any one perfon is a publication in the eye of the law^s: and therefore the fending an abusive private letter to a man is as much a libel as if it were openly printed, for it equally tends to a breach of the peace'. For the fame reason it is immaterial with respect to the effence of a libel, whether the matter of it be true or falfe"; fince the provocation, and not the falfity, is the thing to be punished criminally : though, doubtless, the falshood of it may aggravate it's guilt, and enhance it's punishment. In a civil action, we may remember, a libel must appear to be false, as well as scandalous"; for, if the charge be true, the plaintiff has received no private injury, and has no ground to demand a compenfation for himfelf, whatever offence it may be against the public peace : and therefore, upon a civil action, the truth of the accusation may be pleaded in bar of the fuit. But, in a criminal profecution, the' tendency which all libels have to create animofities, and to difturb the public peace, is the fole confideration of the law. And therefore, in fuch profecutions,

£	1 Hawk. P. C. 193.	Poph. 139. 1 Hawk. P. C. 195.
\$	Moor. S13.	" Moor. 627. 5 Rep. 125. 11 Mod. 99.
t	2 Brownl. 151. 12 Rep. 35. Hob. 215.	* See Vol. III. pag. 125.
		the

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the only points to be confidered are, first, the making or publifting of the book or writing; and, fecondly, whether the matter be criminal: and, if both these points are against the defendant, the offence against the public is complete. The punishment of fuch libellers, for either making, repeating, printing, or publishing the libel, is fine, and fuch corporal punishment as the court in it's diferention shall inflict; regarding the quantity of the offence, and the quality of the offender *. By the law of the twelve tables at Rome, libels, which affected the reputation of another, were made a capital offence : but, before the reign of Augustus, the punishment became corporal only^y. Under the emperor Valentinian^z it was again made capital, not only to write, but to publish, or even to omit deftroying them. Our law, in this and many other refpects, corresponds rather with the middle age of Roman jurifprudence, when liberty, learning, and humanity, were in their full vigour, than with the cruel edicts that were established in the dark and tyrannical ages of the antient decemviri, or the later emperors.

IN this, and the other inftances which we have lately confidered, where blafphemous, immoral, treafonable, fchifmatical, feditious, or fcandalous libels are punifhed by the Englifh law, fome with a greater, others with a lefs degree of feverity; the *liberty of the prefs*, properly underftood, is by no means infringed or violated. The liberty of the prefs is indeed effential to the nature of a free ftate: but this confifts in laying no *previous* reftraints upon publications, and not in freedom from cenfure for criminal matter when publifhed. Every freeman has an undoubted right to lay what fentiments he pleafes before the public: to forbid this, is to deftroy the freedom of the

^{* 1} Hawk. P. C. 196.

Y Quinetiam lex Poenaque lata, male quae nollet carmine quenquam Deferibi: vertere modum formidine fuflis. Hor. ad Aug. 152. ² Cod. 9. 36.

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BOOK IV.

prefs : but if he publishes what is improper, mischievous, or illegal, he must take the confequence of his own temerity. To subject the press to the restrictive power of a licenser, as was formierly done, both before and fince the revolution^a, is to fubject all freedom of fentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government. But to punish (as the law does at prefent) any dangerous or offensive writings, which, when published, shall on a fair and impartial trial be adjudged of a pernicious tendency, is neceffary for the prefervation of peace and good order, of government and religion, the only folid foundations of civil liberty. Thus the will of individuals is ftill left free; the abufe only of that free will is the object of legal punishment. Neither is any reftraint hereby laid upon freedom of thought or enquiry : liberty of private fentiment is still left; the diffeminating, or making public, of bad fentiments, destructive of the ends of fociety, is the crime which fociety corrects. A man (fays a fine writer on this fubject) may be allowed to keep poifons in his clofet, but not publicly to vend them as cordials. And to this we may

* The art of printing, foon after it's introduction, was looked upon (as well in England as in other countries) as merely a matter of state, and subject to the coercion of the crown. It was therefore regulated with us by the king's proclamations, prohibitions, charters of privilege and of licence, and finally by the decrees of the court of flarchamber; which limited the number of printers, and of preffes which each fhould employ, and prohibited new publications unless previously approved by proper licenfers. On the demolition of this odious jurifdiction in 1641, the long parliament of Charles I, after their rupture with that prince, affumed the fame powers as the flarchamber exercifed with refpect to the licenfing of books; and in 1643, 1647, 1649, and 1652, (Scobell. i. 44, 134. ii. 88,

230.) issued their ordinances for that purpose, founded principally on the starchamber decree of 1637. In 1662 was paffed the ftatute 13 & 14 Car. II. c. 33. which (with fome few alterations) was copied from the parliamentary ordinances. This act expired in 1679, but was revived by statute 1 Jac. II. c. 17. and continued till 1692. It was then continued for two years longer by statute 4 W. & M. c. 24. but, though frequent attempts were made by the government to revive it, in the fubsequent part of that reign, (Com. Journ. 11 Feb. 1694. 26 Nov. 1695. 22 Oct. 1696. 9 Feb. 1697. 31 Jan. 1698.) yet the parliament refisted it fo ftrongly, that it finally expired, and the press became properly free, in 1694; and has ever fince fo continued.

add,

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add, that the only plaufible argument heretofore ufed for reftraining the juft freedom of the prefs, "that it was neceffary "to prevent the daily abufe of it," will entirely lofe it's force, when it is fhewn (by a feafonable exertion of the laws) that the prefs cannot be abufed to any bad purpofe, without incurring a fuitable punifhment: whereas it never can be ufed to any good one, when under the control of an infpector. So true will it be found, that to cenfure the licentioufnefs, is to maintain the liberty, of the prefs.

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Form 8. Certificate of Compliance Pursuant to 9th Circuit Rules 28.1-1(f), 29-2(c)(2) and (3), 32-1, 32-2 or 32-4 for Case Number 18-55717

Note: This form must be signed by the attorney or unrepresented litigant *and attached to the end of the brief*. I certify that (*check appropriate option*):

This brief complies with the length limits permitted by Ninth Circuit Rule 28.1-1.
 The brief is ______ words or ______ pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

This brief complies with the length limits permitted by Ninth Circuit Rule 32-1.
 The brief is 6.782 words or pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

□ This brief complies with the length limits permitted by Ninth Circuit Rule 32-2(b). The brief is ______ words or ______ pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable, and is filed by (1) □ separately represented parties; (2) □ a party or parties filing a single brief in response to multiple briefs; or (3) □ a party or parties filing a single brief in response to a longer joint brief filed under Rule 32-2(b). The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

This brief complies with the longer length limit authorized by court order dated
 The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6). The brief is words or pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable.

☐ This brief is accompanied by a motion for leave to file a longer brief pursuant to Ninth Circuit Rule 32-2
 (a) and is ______ words or ______ pages, excluding the portions exempted by Fed. R. App. P. 32
 (f), if applicable. The brief's type size and type face comply with Fed. R .App. P. 32(a)(5) and (6).

This brief is accompanied by a motion for leave to file a longer brief pursuant to Ninth Circuit Rule 29-2 (c)(2) or (3) and is ______ words or ______ pages, excluding the portions exempted by Fed. R. App. P. 32(f), if applicable. The brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6).

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Signature of Attorney or Unrepresented Litigant

/s/ Mark D. Selwyn

Date Nov 20, 2018

("s/" plus typed name is acceptable for electronically-filed documents)

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

> /s/ Mark D. Selwyn MARK D. SELWYN WILMER CUTLER PICKERING HALE AND DORR LLP 950 Page Mill Road Palo Alto, CA 94304 (650) 858-6000