

No. 12-17808

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

GEORGE K. YOUNG, JR.,

Plaintiff-Appellant,

v.

STATE OF HAWAI'I; NEIL ABERCROMBIE in his capacity as

Governor of the State of Hawai'i; DAVID M. LOUIE in his capacity as State Attorney General; COUNTY OF HAWAI'I, as a sub-agency of the State of Hawai'i; WILLIAM P. KENOI in his capacity as Mayor of the County of Hawai'i; the HILO COUNTY POLICE DEPARTMENT, as a sub-agency of the County of Hawai'i; HARRY S. KUBOJIRI in his capacity as Chief of Police; JOHN DOES 1-25; JANE DOES 1-25; CORPORATIONS 1-5, and DOE ENTITIES 1-5.,

Defendants-Appellees

On Appeal from the United States District Court for the District of Hawai'i, No. 1:12-cv-00336-HG-BMK (Judge Helen Gillmor)

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

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INTEREST OF *AMICI CURIAE*¹

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.² They are scholars of international reputation whose 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.

Amici's interest in this appeal arises from the significant weight the case law has accorded history in Second Amendment cases. In particular, *amici* are concerned that some courts—including the D.C. Circuit in *Wrenn v. District of*

¹ In accordance with Federal Rule of Appellate Procedure 29, *amici* state that they have filed 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 this case. *Amici* are represented by different counsel in this matter. Because this brief expresses similar 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.

² 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.

Columbia, 864 F.3d 650 (D.C. Cir. 2017), and the panel of the Ninth Circuit that first considered this case—have misunderstood the history and consequently reached erroneous results. In *District of Columbia v. Heller*, 554 U.S. 570, 625 (2008), the Supreme Court emphasized that issues involving the Second Amendment should be decided in a manner consistent with “the historical understanding of the scope of the right.” It is thus of great importance that this Court has an accurate and reliable account of the relevant history. Historians can serve a crucial 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 accordingly renders them particularly well-suited to assist the Court. All parties in the case have consented to the filing of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

The right to carry a firearm in public under Anglo-American law was always understood to be subject to comprehensive regulations. 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 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. Simply put, 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. Between the adoption of the English Declaration of Rights in 1689 and the ratification of the Fourteenth Amendment in 1868, American state statutory law expanded the scope of the right to carry, but also carried forward many traditional limits. 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. Even still, Southern courts consistently found that good-cause limits on public carry laws did not violate the Second Amendment. And by the close of the nineteenth century, the more restrictive approach to public carry had become the dominant view in American law.

The right to carry arms was always weighed against the need to preserve the “peace”—order and calm in local communities. By the end of the nineteenth century, most jurisdictions limited the right to situations where the individual possessed “good cause” (or “proper cause”) to carry because of reasonable fear of imminent threat. The historical record reveals that laws requiring a showing of need to carry a firearm in public have been accepted by courts and legal commenters

throughout American history as a valid exercise of state police power and an appropriate constitutional limit on the right to keep and bear arms.

ARGUMENT

A. Common Law and Statutory Constraints on Public Carry under English 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 expansive, covering all locations 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 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*

³ Over the ensuing decades, the English Parliament re-enacted 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).

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,” which Sir William Blackstone explained thus: “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 of England* 148-149 (1770). In the 1683 edition of his influential justice of the peace manual, Joseph Keble highlighted why English law classified the mere act of armed travel as a per se breach 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, which treated the concept of the peace as central. For this reason, the panel majority erred when it rejected the argument that carrying a weapon was itself sufficient to face punishment under a state-enacted Northampton analogue, declaring

⁴ Davis, *The Office and Authority of a Justice of 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)).

⁵ Keble, *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.

an interpretation of going armed “to the terror” or “in affray” of others as merely purposive language to be an “odd way ... to write a criminal statute!” *Young v. Hawaii*, No. 12-17808, at *43 (9th Cir. July 24, 2018) (Opinion). Yet these provisions were drafted long before the creation of modern legislative norms. Instead, the common law tradition of the preservation of the peace included a general understanding that the act of armed travel itself was a breach of the peace. Under English law, “all offenses are either against the King’s Peace or his crown and dignity.” 1 Blackstone, *Commentaries* 258 (1765). 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 of arms could be taken as a claim to governing authority and a challenge to the crown.”⁶

Going armed undermined the peace because it created an asymmetry of power between the armed individual and those unarmed.⁷ Contrary to Appellant’s assertion that the Statute of Northampton “place[d] some minor restrictions on the carrying of

⁶ 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).

⁷ Ward & 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)).

arms with evil intent” (*see* Appellant’s Opening Brief 10), neither intent to commit a criminal act⁸ nor an actual disruption of the peace was a precondition for violation of the Statute. Rather, 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*, 80 Eng. Rep. 1161, 1162 (K.B. 1615) (emphasis added). Consequently, the public carrying of arms was prohibited precisely because it was taken to have a terrifying effect.

B. The Founding-Era American Tradition

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, during certain periods of heightened risk of attack, 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, contrary to Appellant’s sweeping assertion that “at the time of the Second Amendment’s

⁸ 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).

ratification there was an understood and unquestioned right to carry arms outside the home,” *see* Appellant’s Opening Br. 14, the imposition of such legal obligations on colonial subjects was viewed as part of the colonists’ duty to assist in the public defense and ordinary community-based acts of law enforcement. *See* Cornell, *The Right to Keep and Carry Arms in Anglo-American Law*, 80 *Law and Contemporary Problems* 11, 27-28 (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, 182-83 (2007).

The American Revolution did not mark a sharp break with this English tradition. Instead, early Americans adopted the English idea of “the King’s Peace” into a new republicanized legal idea: the people’s peace.⁹ 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

⁹ *See generally* Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (2009).

manuals on both sides of the Atlantic between the adoption of the English Bill of Rights (1689) and the American Second Amendment (1791). *Compare* Keble, *Assistance*, at 224 (England 1683) (instructing law enforcement to “[a]rrest all such persons they shall find to carry daggers or pistols”) (spelling modernized), *with* Haywood, *A Manual of the Laws of North-Carolina* pt. 2 at 40 (1814) (N.C. constable oath) (“arrest all such persons as in your sight shall ride or go armed.”)¹⁰

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 remove references to the King, so strong were the continuities between English and American law in this area. *See, e.g.*, 1792 N.C. Laws 60, ch. 3 (“[no one shall] go nor ride armed by night nor by day, in fairs, markets, nor in the presence of the

¹⁰ 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.

King’s Justices, or other ministers, nor in no parts elsewhere”) (spelling modernized). Massachusetts criminalized “rid[ing] or go[ing] *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 analogous 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”).¹¹

These state laws were enforced 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” or that a citizen complain about a person’s behavior. Ewing, *A Treatise on the Office & Duty of a Justice of the Peace* 546 (1805); Davis, *supra* note 4, at 13 (stating that Justices of the Peace may apprehend people “upon their own View” *or* “upon

¹¹ 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).

Complaint”) (emphasis added). As was true under English law, the act of armed travel with a firearm, outside of a list of well recognized exceptions (such as the duty of militia members to bear arms to keep the peace or assist justices of the peace and constables), was itself a violation of the law. *Id.*

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

Following *Heller*'s directive to examine history for guidance, a new body of scholarship has uncovered the history of local and state firearms regulation. Clear historical evidence now exists 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 regime 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.

1. “Good Cause” (Or “Massachusetts Model”) Laws

In 1836, Massachusetts reenacted its Northampton-style statute, but included a new, narrow exception allowing individuals with “good cause” to carry arms publicly. The new Massachusetts statute stated: “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). Other than this good cause exception, the law 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 armor in public, by alleging that such a one threatened him, and he wears it for the safety.” (spelling modernized)). It did not, however, create “a fundamental right to carry an arm outside the home.” *See* Appellant’s Opening Br. 17.

Nor did surety laws simply provide a mechanism for discouraging actual violence, rather than regulating the carrying of weapons in public, as some commenters and courts have erroneously concluded (including the panel in *Young*). 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. *See*

Dalton, *The Country Justice Containing the Practice, Duty and Power of the Justices of the Peace*, at 5 (stating that if one violates a peace bond, “the Justice may and ought to bind him anew, and by better Sureties...”). Such surety laws 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).

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.¹²

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.

¹² *See* 1838 Wis. Laws 381, § 16; 1841 Me. Laws 707, 709, ch. 169, § 16; 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.

This Southern model deviated from the more restrictive stances on public carry of firearms adopted in other parts 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 prohibition¹³ or a law following the Massachusetts model. *See supra* n. 12. Southern states defined the public order in terms of the maintenance of slavery and required white residents to do whatever necessary to guard not just against slave uprisings, but also any minor violation of the restrictions placed on enslaved people. 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. For example, in 1821, Tennessee enacted a statute that criminalized carrying “pocket pistols” or other

¹³ *See, e.g.*, 1860 N.M. Laws, Act of Feb. 2, § 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.

weapons, without any exception, and Virginia and North Carolina maintained Northampton-style regulation. 1821 Tenn. Pub. Acts 15, ch. 13; *see supra* at 9-10. The Southern courts that considered good-cause restrictions on the public carry of firearms found them to be constitutional. *See infra* at 16-17.

3. Reconstruction Era Regulations

Public carry restrictions expanded following the Civil War. During Reconstruction, Union forces faced two inter-related problems in restoring order in the South: racially discriminatory state governments imposing restrictions on freedmen, including disarmament (similar to antebellum laws disarming African-Americans); 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 support for longstanding limits on public carrying of firearms. Military governors issued orders shortly after the Civil War banning the carrying 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 (banning the assembling of armed men “and all other acts tending to disorder and violence”);

Fourth Military District General Order No. 28 (prohibiting the assembling of armed organizations or bodies of citizens).

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. For instance, 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).

Southern courts found limiting public carry fully consistent with the Second Amendment and state constitutional analogues. 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 places where people congregate. *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 the second half of the nineteenth century, many additional states also began enacting laws broadly restricting public carry, often containing limited self-defense exceptions.

For instance, after the Civil War, several states enacted laws prohibiting any person from carrying dangerous or deadly weapons, either concealed or otherwise. West Virginia passed a law 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, § 8.¹⁴

¹⁴ 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).

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 concealed weapons on their persons ... of whatever class or description they may be.” 1860 N.M. Laws, Act of Feb. 2, § 1. 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 the second half of the nineteenth century, many cities throughout the country had been imposing such public carry prohibitions for decades.¹⁵ These cities show clearly that the policy established by the Statute of Northampton—that weapon

¹⁵ 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).

carriage was subject to additional regulation in populated areas—remained clearly in effect. *Id.*

D. Twentieth Century Laws

By 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 published in 1896, the *American and English Encyclopedia of Law*. The *Encyclopedia* included a detailed entry on the laws regulating the public carrying of firearms. 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. Such statutes have been held not to conflict with the constitutional right of the people of the United States to keep and bear arms.” Merrill, *The American and English Encyclopedia of Law*, vol. 3, at 408 (Edward Thompson ed., 1887).

A number of states enacted new laws to regulate public carry in the following decades, including laws taking advantage of the growing state administrative apparatus by issuing permits. In 1906, for example, Massachusetts revised its 1836 law to prohibit 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. New York followed suit in 1913, prohibiting carrying a firearm without a permit that required a showing of “proper cause.”¹⁶ 1913 N.Y. Laws 1627, ch. 608.

* * * * *

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, many states had adopted the Massachusetts model that limited public carry to circumstances in which one had a good cause to fear imminent threat. Hawaii’s law sits firmly within this centuries-old legal tradition.

CONCLUSION

The district court’s judgment should be affirmed.

¹⁶ While Appellant attempts to distinguish “proper cause” laws and the law at issue in this case, *see* Appellant’s Opening Br. 17-18, both types of laws fall squarely within the tradition of requiring a heightened need to possess firearms for purposes of self-defense before obtaining licenses to carry, as demonstrated by the foregoing historical analysis.

Respectfully submitted,

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June 4, 2020

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), the undersigned hereby certifies that this brief complies with the type-volume limitation of Circuit Rule 32.1(a)(4) and 29.1(c), as amended by the Court in its April 30, 2020 order. *See* ECF No. 227.

1. Exclusive of the exempted portions of the brief, as provided in Fed. R. App. P. 32(f), the brief contains 4,994 words.

2. The brief has been prepared in proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font. As permitted by Fed. R. App. P. 32(g), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

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ADDENDUM

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**ADDENDUM OF
STATUTES, ORDINANCES,
AND TREATISES**

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THE
GRANTS, CONCESSIONS,
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ORIGINAL CONSTITUTIONS
OF THE PROVINCE OF
NEW JERSEY
THE
ACTS

Passed during the Proprietary Governments, and other
material Transactions before the Surrender
thereof to Queen Anne.

The Instrument of Surrender, and her formal Accept-
ance thereof

Lord CORNBURY'S COMMISSION and Instructions Conse-
quent thereon.

Collected by some Gentlemen employed by the General Assembly.
And afterwards

Published by virtue of an Act of the Legislature of the said Province
With proper Tables alphabetically Digested, containing the prin-
cipal Matters in the Book.

By AARON LEAMING and JACOB SPICER.

PHILADELPHIA:

Printed by W. BRADFORD, Printer to the King's Most Excellent
Majesty for the Province of New Jersey.

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.

STEAM PRINT OF
The Somerset Quarterly.
SOMERSETT, N. J.



L A W S

P A S S E D

UNDER THE

G O V E R N M E N T

OF THE

Twenty Four

P R O P R I E T O R S ,

B E T W E E N

1682, and 1702.



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,

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 courts. *And be it further enacted* by the authority aforesaid, 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.



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



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

Ch. 1.
Confirmed
22 Aug. 1695.



HEREAS great Desolations and Ruins have sundry times happened, by Fire breaking out in the Town of *Boston*, principally occasioned by reason of the Joining and Nearness of the Buildings, being mostly of Timber, and covered with Shingle: For the better preventing of such Accidents for the future, and Damage and Loss thereby, Be it Ordained and Enacted by the Governor, Council, and Representatives, convened in General Court or Assembly; and it is Enacted by the Authority of the same, That henceforth no Dwelling-house, Shop, Ware-house, Barn, Stable, or any other Housing, of more than Eight Feet in Length, or Breadth, and Seven Feet in Height, shall be erected and set up in *Boston*, but of Stone or Brick, and covered with Slate or Tyle, unless in particular Cases, where Necessity requires; being so judged and signified in Writing under the Hands of the Justices and Select-men of the said Town, or major part of both, the Governor, with the Advice and Consent of the Council, shall see Cause to grant Licence unto any Person to build with Timber, or cover with Shingle: And if any Person shall presume to erect, or cause to be erected, any Frame or Building contrary hereto, upon Conviction thereof before Two Justices of Peace (*Quorum Litem*) such Building shall be deemed a Common Nuisance, and the Owner of such Frame or Building shall enter into a Recognizance to demolish the same: and in Default of entering into such Recognizance, shall be committed to Prison until he do cause the same to be demolished; or else such Building shall be demolished by Order of the Quarter-Sessions of the Peace within the said County, and the Charges thereof to be levied by Distraints and Sale of such Offenders Goods, by Warrant from the Court of Quarter-Sessions.

Buildings in Boston to be of Brick or Stone, and covered with Slate.

Governor and Council to grant Licence to build with Timber in Case.

Penalty for transgressing this Act.

One Half of
the Fines and
Forfeitures to
be unto Their
Majesties, and
the other Half
to the Informer.

AND further it is Enacted by the Authority aforesaid, That all Fines, Penalties, and Forfeitures arising by force and virtue of this Act, shall be, the one Half to Their Majesties, towards the Support of the Government of this Province, and the other Half to him or them that shall inform and sue for the same in any of Their Majesties Courts of Record within this Province.

Measurer of
Salt, and Cull-
ler of Fish.

BE it further Enacted by the Authority aforesaid, That there be a Measurer of Salt, and Culler of Fish in every Sea-port Town within this Province, to be appointed, as aforesaid, who being likewise sworn for the faithful Discharge of that Office, shall cull all merchantable Fish, and measure all Salt that shall be imported and sold out of any Ship or other Vessel, and shall have Three-half Pence for every Hoghead of Salt by him so measured, to be paid, the one Half by the Buyer, the other Half by the Seller; and One Penny per Quintal for every Quintal of merchantable Fish by him culled, to be paid, one Half by the Buyer, and the other Half by the Seller.

.....

Ch. 6.

Contin. 1
to Act 1591.

An Act for the Punishing of Criminal Offenders.

Cursing and
Swearing.

BE it Enacted and Ordained by the Governor, Council, and Representatives, in General Court Assembled, and by the Authority of the same, That if any Person or Persons shall prophanely Swear or Curse in the hearing of any Justice of the Peace, or shall be thereof convicted by the Oaths of Two Witnesses, or Confession of the Party, before any Justice or Justices of the Peace, every such Offender shall forfeit and pay unto the Use of the Poor of the Town where the Offence shall be committed, the Sum of Five Shillings; and if the Offender be not able to pay the said Sum, then to be set in the Stocks, not exceeding Two Hours: And if any Person shall utter more prophane Oaths or Curses at the same time, and in hearing of the same Person or Persons, he shall forfeit and pay to the Use aforesaid, the Sum of Twelve Pence for every Oath or Curse after the first, or be set in the Stocks Three Hours.

Procurator.

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

Drunkennes.

FURTHER it is Enacted by the Authority aforesaid, That every Person convicted of Drunkenness by View of any Justice of Peace, Confession of the Party, or Oaths of Two Witnesses, such Person so convicted, shall forfeit and pay unto the Use of the Poor of the Town where such Offence is committed, the Sum of Five Shillings for every such Offence; and if the Offender be unable to pay the said Sum, to be set in the Stocks, not exceeding Three Hours, at the Discretion of the Justice or Justices before whom the Conviction shall be: And upon a second Conviction of Drunkenness, every such Offender, over and above the Penalty aforesaid, shall be bound with Two Sureties in the Sum of Ten Pounds, with Condition for the good Behaviour; and for want of such Sureties, shall be sent to the Common Goal until he find the same.

PROVIDED, That no Person shall be impeached or molested for any Offence against this Act, unless he shall be thereof Presented, Indicted, or Convicted, within Six Months after the Offence committed; and the Justice or Justices before whom Conviction of any of the aforesaid Offences shall be, are hereby impowered and authorized to restrain or commit the Offender, until the Fine imposed for such Offence be satisfied; or to cause the same to be levied by Distress and Sale of the Offender's Goods, by Warrant directed to the Constable, returning

returning the Overplus (if any be.) All such Fines to be levied within One Week next after such Conviction, and delivered to the Select-men, or Overseers of the Poor, for the Use of the Poor, as aforesaid.

It is further Enacted and Ordained by the Authority aforesaid, That whosoever shall steal or purloin any Money, Goods, or Chattels, being thereof convicted by Confession, or sufficient Witnesses upon Oath, every such Offender shall forfeit treble the Value of the Money, Goods, or Chattels so stolen or purloined, unto the Owner or Owners thereof; and be further punished, by Fine or Whipping, at the Discretion of the Court or Justices that have Cognizance of such Offence, not exceeding the Sum of Five Pounds, or Twenty Stripes: And if any such Offender be unable to make Restitution, or pay such Threefold Damages, such Offender shall be enjoined to make Satisfaction by Service; and the Prosecutor shall be, and hereby is empowered to dispose of the said Offender in Service to any of Their Majesties Subjects, for such Term as shall be assigned by the Court or Justices before whom the Prosecution was. And every Justice of the Peace in the County where such Offence is committed, or where the Thief shall 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 Person shall commit Burglary by breaking up any Dwelling-house, Ware-house, Shop, Mill, Malt-house, Barn, Out-house, or any Ship or other Vessel lying within the Body of the County, or shall rob any Person in the Field or High-ways, every Person so offending shall, upon Conviction, be branded on the Forehead with the Letter *B*; and upon a second Conviction, shall be set upon the Gallows for the space of One Hour, with a Rope about his Neck, and one End thereof cast over the Gallows, and be severely Whipt, not exceeding Thirty nine Stripes; and upon a third Conviction of the like Offence, shall suffer the Pains of Death, as being Incurable; and shall likewise, upon the first and second Convictions, pay treble Damages to the Party injured, as is provided in case of Theft.

And it is further Enacted by the Authority aforesaid, That if any Man commit Fornication with any single Woman, upon due Conviction thereof, they shall be fined unto Their Majesties, not exceeding the Sum of Five Pounds; or be corporally punished by Whipping, not exceeding Ten Stripes apiece, at the Discretion of the Sessions of the Peace, who shall have Cognizance of the Offence. And he that is accused by any Woman to be the Father of a Bastard Child, begotten of her Body, she continuing constant in such Accusation, being examined upon Oath, and put upon the Discovery of the Truth in the time of her Travail, shall be adjudged the Reputed Father of such Child, notwithstanding his Denial, and stand charged with the Maintenance thereof, with the Assistance of the Mother, as the Justices in the Quarter-Sessions shall order; and give Security to perform the said Order, and to save the Town or Place where such Child is born, free from Charge for its Maintenance; and may be committed to Prison until he find Sureties for the same, unless the Pleas and Proofs made and produced on the behalf of the Man accused, and other Circumstances, be such as the Justices shall see reason to judge him innocent, and acquit him thereof, and otherwise dispose of the Child: And every Justice of the Peace, upon his Discretion, may bind to the next Quarter-Sessions him that is charged or suspected to have begotten a Bastard Child; and if the Woman be not then delivered, the Sessions 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 aforesaid, That every Justice of the Peace in the County where the Offence is committed, may cause to be staid and arrested all Aftayers, Rioters, Disturbers, or Breakers of the Peace, and such as shall ride or go armed Offensively before any of Their Majesties Justices, or other Their Officers or Ministers doing their Office, or elsewhere,

by

Theft.

Burglary and Robbery.

Fornication.

Reputed Father of a Bastard.

Power of the Justice of Peace.

by Night or by Day, in Fear or Af fray of Their Majesties Liege People; and such others as shall utter any Menaces or Threatning Speeches; and upon View of such Justice or Justices, Confession of the Party, or other legal Conviction of any such Offence, shall commit the Offender to Prison, until he find Sureties for the Peace and good Behaviour, and seize and take away his Armour or Weapons, and shall cause them to be apprizd and answered to the King as forfeited: And may further punish the Breach of the Peace, in any Person that shall smite or strike 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 Sessions of the Peace, as the Nature or Circumstance of the Offence may be; and may make Enquiry of forcible Entry and Detainer, and cause the same to be removed, and make out Hue and Cries after Runaway Servants, Thieves, and other Criminals.

Breach of the Peace.

Forcible Entry and Detainer.

False and Seditious.

AND it is further Enacted by the Authority aforesaid, That if any Person or Persons of the Age of Discretion (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 Person, make or spread any false News or Reports, with Intent to abuse and deceive others, every such Person or Persons offending in any of the Particulars before mentioned, and being duly convicted thereof before One or more Justices of the Peace, shall be fined according to the Degree of such 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 said Fine, then to be set in the Stocks, not exceeding Three Hours, or be corporally punished by Whipping, at the Discretion of the Justice or Justices before whom the Conviction shall be, according as the Circumstances or Nature of the Offence shall be; and the said Justice or Justices may restrain and commit the Offender until he pay the said Fine, and find Sureties for the good Behaviour, or may cause the Fine to be levied by Distress and Sale of the Offender's Goods; and the Party or Parties grieved or injured by reason of any of the Offences aforesaid, shall or may take his or their Suit against any such Offender or Offenders in any Court of Record.

Forgery.

It is further Enacted by the Authority aforesaid, That if any Person or Persons, upon his or their own Head or Imagination, or by false Conspiracy and Fraud with others, shall wittingly, subtilly, and falsely forge or make, or subtilly cause, or wittingly assent to be forged or made, any false Deed, Conveyance, or Writing sealed, or the Will of any Person or Persons in Writing, to the Intent that the Estate of Free-hold or Inheritance, Right, Title, or Interest of any Person or Persons, of, in, or to any Lands, Tenements, or Hereditaments, shall or may be molested, troubled, defeated, recovered, or charged, or shall, as is aforesaid, forge, make, or cause or assent to be made or forged, any Obligation, or Bill Obligatory, Letter of Attorney, or any Acquittance, Release, or other Discharge of any Debt, Account, Action, Suit, Demand, or other Thing Personal; or if any Person or Persons shall pronounce, publish, or shew forth in Evidence, any such false and forged Deed, Conveyance, Writing, Obligation, Bill Obligatory, Letter of Attorney, Acquittance, Release, or Discharge, as true, knowing the same to be false and forged, as is aforesaid, to the Intent above remembred, and shall be thereof convicted, either upon Action or Actions of Forger of false Deeds to be founded upon this Act at the Suit of the Party grieved, or otherwise according to the Order and due Course of Law, or upon Bill or Information, that then every such Offender shall pay unto the Party grieved his double Costs and Damages, to be found and assessed in such Court where the said Conviction shall be; and also shall be set upon the Pillory in some 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 reason

reason of any of the Offences aforesaid, may take his or their Suit against any such Offender or Offenders in any Court of Record, where no Essoign, Injunction, or Protection shall be allowed the Party Defendant.

PROVIDED always, and it is Enacted by the Authority aforesaid, That this Act, or any thing therein contained, shall not extend to charge any Judge of Probate, or Register, with any the Offences aforesaid, for putting their Seal of Office to any Will to be exhibited unto them, not knowing the same to be false or forged, for writing of the said Will or Probate of the same; nor to any other Person or Persons that shall shew forth or give in Evidence any false or forged Writing for true or good, being not party or privy to the forging of the same, nor knowing the same to be false or forged; any thing in this Act to the contrary notwithstanding.

AND it is further Enacted and Ordained by the Authority aforesaid, If any Person or Persons, either by the Subornation, unlawful Procurement, Reward, sinister Persuasion, or Means of any other, or by their own Act, Consent, or Agreement, shall wilfully and corruptly commit any manner of wilful Perjury by his or their Deposition in any Court of Record, or being examined *Ad perpetuam rei memoriam*, that then every Person and Persons so offending, and being thereof duly convicted, or attainted by Law, shall, for his or their Offence, lose and forfeit Twenty Pounds; the one Moiety thereof unto Their Majesties, and the other Moiety to such Person or Persons as shall be grieved, hindered, or molested by reason of any such Offence, that shall sue for the same by Action of Debt, Bill, Plaint, Information, or otherwise, in any Court of Record, in the which no Wager of Law, Essoign, Protection, or Injunction to be allowed; and also to have Imprisonment by the Space of Six Months without Bail or Mainprize; and the Oath of such Person or Persons so offending, not to be received in any Court of Record, until such time as the Judgment given against the said Person or Persons shall be reversed by Attaint, or otherwise; and upon every such Reversal, the Parties agrieved to recover his or their Damages against all and every such Person and Persons as did procure the said Judgment, so reversed, to be given against them, or any of them, by Action or Actions upon his or their Case or Cases, according to the Course of the Common Law: And if it happen the said Offender or Offenders, so offending, not to have any Goods or Chattels to the Value of Twenty Pounds, that then he or they be set on the Pillory, by the Space of One whole Hour, in some Market-Town where the Offence was committed, or next adjoining to the Place where the Offence was committed, and to have both his Ears nailed; and from thenceforth to be discredited and disabled for ever to be sworn in any Court of Record, until such time as the Judgment shall be reversed. And all and every Person and Persons, who shall unlawfully and corruptly procure any Witness or Witnesses, by Letters, Rewards, Promises, or by any other sinister and unlawful Labour or Means whatsoever, to commit any wilful and corrupt Perjury in any Matter or Cause whatsoever depending, or that shall depend in Suit and Variance by any Writ, Action, Bill, Complaint, or Information in any Court of Record; or to testify *In perpetuam rei memoriam*; every such Offender, being thereof duly convicted, or attainted by Law, shall, for his or their Offence, be proceeded against, and suffer the like Pains, Penalties, Forfeitures, and Disability, in all Respects, as above mentioned.

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

ACTS AND LAWS

OF

HIS MAJESTY'S PROVINCE

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 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 authorized and empower'd, to take cognizance of, hear, try, and determine, any criminal offence against any penal law not exceeding the sum of forty shillings, and to issue all necessary process, and award execution thereon with legal cost ; as well as in all other 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 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 to extend to such cases as by the particular laws aforesaid, are otherwise order'd.

Justices power in criminal cases, by virtue of a paragraph of an act passed 4th of G. 1. relating to sureties upon mean process, &c.

Appeal granted.

Proviso.

And every justice of the peace within this province, may cause to be stayed and arrested, all affrayers, rioters, disturbers or breakers of the peace, or any other who shall go armed offensively, or put his Majesty's subjects in fear, by menaces or threatening speeches : And upon view of such justice, confession of the

Justices power to stay affrayers, rioters &c. and to punish the breach of the peace ; by virtue of a paragraph in an act past

13th of W. 3d,
for punishing
criminal offend-
ers.

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
aid to sheriffs,
&c.

That any of said justices, for the preservation of the peace, upon view of the breach thereof, or of any other transgression of the 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.

Justices power
in civil cases by
virtue of the act
for establishing
courts of justice
in this province,
past the 11th
of W. 3d.

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.

Direction of
writs by 4th of G.
z. prescribing
forms. To be
served 7 days be-
fore the time of
trial.

Pleas in abate-
ment and bar to
be first made.

Judgment may
be given on de-
fault of appear-
ance.

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

Liberty of ap-
pealing.

OF NEW HAMPSHIRE.

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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 appealing, shall observe the same rule in bringing forward his appeal, as is prescribed in this act, to appellants from judgments of the inferior court, and have the same advantage.

How the appeal is to be bro't forward, &c.

And be it further Enacted, That there shall be held and kept, by 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 quorum, a court of general sessions of the peace at Portsmouth in said province, quarterly, every year; to begin on the second Tuesdays of March, June, September, and December: Who are hereby empower'd to hear and determine all matters relating to the conservation of the peace, and punishment of offenders, appeals from 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.

Court of general sessions of the peace by virtue of the said act of the 11th of W. 3d. The time now stated by the act of the 31st of G. the 2d, for altering the times for holding the several courts of justice, &c.

And any person aggrieved at the sentence of the justices, in the court of general sessions of the peace, may appeal from such sentence, the matter being originally heard and tried in the said court, unto the next court of assize and general goal delivery, in said province, there to be finally issued.—*Provided* that no appeal 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 for his personal appearance at the court appealed to, and prosecution 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.

Liberty to appeal to the court of assize, by virtue of a paragraph in said act of 4th of G. 1st, relating to sureties upon mean process, &c.

And such appellant shall, at his or her own cost, take out and present unto the court appealed to, an attested copy of the sentence, and of all the evidences, upon which the same was grounded: and 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.

Time and conditions of granting said appeal.

How the appellant shall bring forward his appeal.

And be it further Enacted, That there shall be held and kept at said Portsmouth, at four terms, an inferior court of common pleas, by four justices, to be appointed and commissioned thereto, by the Governor or Commander in chief for the time being, any three of whom to make a quorum: The said terms to begin on the first Tuesdays of March, June, September, and December, annually. Which said inferior court shall have cognizance of, hear, try, and determine, all civil actions, matters, and causes, triable at the common law, of what nature, kind, or quality soever, appeals from judgments of justices of the peace in civil actions, triable by them as aforesaid— Excepting that no action for the value of forty shillings, and under, shall be commenced at the said

Inferior court established by the said act of the 11th of W. 3d.

Time of the beginning of each term by said act, 31st of G. 2.

Actions of 40s. value and under, to be commenced elsewhere, title of land excepted, by virtue of the act for regulating trials in civil causes, past 13th of W. 3.

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 causes.

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 additional costs, in case the judgment shall be affirmed. And no

Execution stayed

execution shall be awarded or issued, on any judgment, from which an appeal is granted. The said recognizance shall be taken before

Security to be given to prosecute, &c.

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 court, at any time within seven days, next after the judgment given, if the appeal is claimed in court. But if the security for

The time when it may be given.

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.

In default thereof execution may issue.

Appellant to produce a copy of the case.

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.

What shall be done if the appellant shall not produce it.

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.

Superior court of judicature, court of assize, &c. so called by several acts viz. 10th Ann against forging the bills of credit; the 4th of Geo. 1st relating to sureties, &c. another of the 4th of Geo. 1. relating to the office & duty of a coroner, &c. The beginning of each term now stated by the said act of 31st of Geo. 2.

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 commissioned thereto by the Governor or Commander in chief for the time being, any three of whom to make a quorum. The one of said terms to begin on the third Tuesday of May, and the other on the second Tuesday of November, annually. Which court shall have cognizance of all pleas, real, personal, or mixt, or any civil action or cause, as well between his Majesty and any of his subjects as between one subject and another; whether the 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 original process, according to law. And generally all other matters, as fully and amply to all intents and purposes whatsoever, as

The power of the King's Bench, &c.

OF NEW HAMPSHIRE.

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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 superior court, in any civil action, may appeal from the same, unto the Governor and Council, as a court of appeals, to hear and 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.

Liberty of appeal to the Governor and Council as a court of appeals for £100 sterling.

And in civil actions tried at the said superior court, if the matter in controversy exceeds the true value of the sum of three hundred pounds sterling, either party to the suit, may appeal from 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 given by the appellant, as the court shall direct, to the appellee, to answer such cost and damage as shall be sustain'd by the appeal, in case the judgment appealed from shall be affirm'd.

Liberty to appeal from the superior court to the King in council for £300 sterling.

Security to be given.

And be it further Enacted, That all original writs, or writs of review, for bringing any civil actions or suits to trial, in the said inferior court of common pleas, or superior court of judicature, shall be summons, *capias* or attachment, and shall be issued in the form directed in and by an act of this province, entitled "An act prescribing forms of writs in civil causes"; and shall be under 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.

Original writs what sort to be.

Writs how issued and executed. Pass'd 4th of G. 1.

And the justices of the several courts aforesaid, are hereby authorized to make necessary rules, for the more orderly practice, 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.

Courts power to make rules, by 13th W. 3.

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

And to chuse their clerk, by the 13th W. 3.

And be it further Enacted, That in all cases that are or shall be brought for trial in the said superior court of judicature, or 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

Courts power of chancery.

the said courts respectively where the trial is had, are hereby empowered, 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.

Oath.

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 40s. to be commenced at the inferior court, excepting causes wherein the King is concern'd, which may be at either inf. or sup. court. All process to be in English. Not to abate for circumstantial 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 first brought to the inferior court of common pleas, (excepting only actions or causes relating to the Crown, which may be tried at either the inferior court of common pleas, or the superior court of judicature.) And that all writs, processes, declarations, indictments, pleas, answers, replications, and entries, 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-

1786.

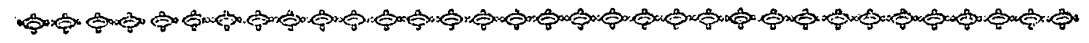
terposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them :

II. *BE it enacted by the General Assembly,* That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

No man compelled to frequent or support any religious worship. All men free to profess, and by argument to maintain their religious opinions.

III. *AND* though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted 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 rights hereby asserted, are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

Declaration that the rights by this Act asserted, are of the natural rights of mankind.



General Assembly, 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.

[Passed the 27th of November, 1786.]

BE it enacted by the General Assembly, That no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or other of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a Jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

Punishment of persons going armed before Courts of Justice, or the Ministers of Justice, or in fairs or markets in terror of the Country.

C H A P. XXII.

An Act against Conspirators.

[Passed the 27th of November, 1786.]

BE it declared and enacted by the General Assembly, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the suit of the Commonwealth, shall be punished by imprisonment and amercement, at the discretion of a Jury.

Who shall be deemed conspirators.

A
COLLECTION
OF THE
STATUTES
OF THE PARLIAMENT OF
ENGLAND
IN FORCE IN THE STATE OF
NORTH-CAROLINA.



PUBLISHED ACCORDING TO A RESOLVE OF THE GENERAL ASSEMBLY
By FRANCOIS-XAVIER MARSHALL, Esq.
COUNSELLOR AT LAW.

NEW BERN:
FROM THE EDITOR'S PRESS.

1792.

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C H A P. VIII.

Nothing shall be taken for Beaupleader.

ITEM, Whereas some of the realm have grievously complained, that they be grieved by Sheriffs, naming themselves the King's approvers, which take money by extortion for Beaupleader, the King will, that the statute of Marlebridge shall be observed and kept in this point.

C H A P. XIV.

None shall commit Maintenance.

ITEM, Because the King desireth that common right be administered to all persons, as well poor as rich, he commandeth and defendeth, that none of his Counsellors, nor of his house, nor none other of his Ministers, nor no great man of the realm by himself, nor by other, by sending 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 disturbance of the common law.

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

C H A P. I.

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

[Unnecessary to be inserted.]

C H A P. III.

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

ITEM, It is enacted, that no man great nor small, of what condition soever 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, be so hardy to come before the King's Justices, or other of the King's

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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 presence of the King's 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 bailiwicks, 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 pertain to their office.

C H A P. V.

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

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 said statute. And also the Justices of Assize 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.

C H A P. VI.

Justices shall have Power to punish Breakers of the Peace.

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 said statute of Winchester, that the Justices assigned 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 same Justices shall have power to punish the offenders and disobeyers.

Q

In the Year of our LORD, 1795.

Common Field in *Norfolk.*

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Acts and Laws

Passed by the GENERAL COURT of
Massachusetts :

Begun and held at BOSTON, in the County of
SUFFOLK, on Wednesday the Twenty-eighth
Day of MAY, ANNO DOMINI, 1794 ; and from
thence continued by adjournment, to Wednes-
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.

WHEREAS the proprietors of a certain tract of meadow land, ly-
ing partly in Dedham, and partly in Sharon, in the county of
Norfolk, are desirous to have the same incorporated into a Common Field : Preamble.

BE it enacted by the Senate and House of Representatives, in General
Court assembled, and by the authority of the same, That all that tract of
land, known by the name of *Pigeon-swamp Meadow*, lying partly in
Dedham, and partly in *Sharon*, in the county of *Norfolk*, and included
in the bounds following, viz:—Beginning at *Trap-hole Brook*, so called,
in the land of *Nathaniel Sumner*, Esq. where the fence now stands which Boundary.
divides said *Sumner's* upland from his meadow, and running southerly
on

In the Year of our LORD, 1795.

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Criminal Offenders.

on said fence, till it comes to the land improved by *George Sumner*; then through said land nearly the same course, till it comes to the south-west corner of said *George Sumner's* home meadow, so called; then turning and running easterly in said meadow, as the ditch which forms the fence is made, till it comes to the south end of *Benjamin Hawes's* meadow; then in the line between said *Hawes's* meadow, and the land of *William Richards*; then in the line between said *Richards's* home lot, and the meadow lots, till it comes to *Cumming's* brook, so called; thence on said brook, till it comes to the line between *Stoughton* and *Sharon*; thence on said line till it comes to *Neponset-river*; thence westerly on said river, till it comes to *Trapole brook*; thence on said brook, till it comes to the bounds first mentioned—shall be considered as *one Common and General Field*; and that the proprietors of said lands, their heirs and successors be, and they hereby are incorporated and invested with all the powers and privileges which the proprietors of Common and General Fields by Law are invested with.

[This Act passed *January 22, 1795.*]

C H A P. II.

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

Act repealed.

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

Justices of the Peace empowered.

And be it further enacted by the authority aforesaid, That every Justice of the Peace, within the county for which he may be commissioned, may 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 terror of the good citizens of this Commonwealth, 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 for his keeping the Peace, and being of the good behaviour; and in want thereof, to commit him to prison until he shall comply with such requisition: And may further punish the breach of the Peace in any person that shall assault or strike another, by fine to the Commonwealth, not exceeding *twenty shillings*, and require sureties, as aforesaid, or bind the offender, to appear and answer for his offence, at the next Court of General Sessions of the Peace, as the nature or circumstances of the case may require.

[This Act passed *January 29, 1795.*]

C H A P.

A C T S

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

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

CHAPTER I.

AN ACT to amend an act, entitled, "An act for the better establishment
and regulation of the militia in this state." (PASSED NOV. 14, 1801.

Section 1. **B**E it enacted by the General Assembly of the State of Tennessee,
That each regiment of militia in this state shall be di-
vided into two battalions, by the regimental court martial at their next
meeting after the passing of this act, having due respect to the conveni-
ency 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 previously di-
vided by law, and in that case the division shall continue as heretofore,
or be discontinued at the discretion of the court martial. The first bat-
talion in each regiment shall hold a battalion muster on the first Thurs-
day in April; the second battalion on the third Thursday in April an-
nually; and a court martial shall be held in each battalion on the day
succeeding the battalion muster; such musters and courts martial to be
conducted under the same rules, regulations and restrictions as regimen-
tal musters and courts martial, reserving to any person who may think
himself aggrieved by any sentence 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 musters 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 requir-
ed to perform at regimental musters and courts martial, and be allow-
ed the same compensation. And the major appointed to the command
of each battalion shall attend the battalion musters, and may preside in
the courts martial, or may direct the senior officer present to preside;
and if he should be absent, the officer next in rank shall perform the
duties of the major at such muster 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 several counties, in either of the months of September, October,
and November annually, except the second regiment of Davidson coun-
ty, who shall hold their regimental muster at the place heretofore pro-
vided for by law, on the Thursday succeeding the court of said county,
in the month of October in each and every year. And the brigadier
general shall attend the several regimental musters in his brigade, at least
once in two years, or oftener if he shall think necessary, and in such ro-
tation as he shall think proper, not inconsistent with this act, for the pur-
pose of reviewing such regiment, & making such regulations as may ap-
pear to him necessary not otherwise inconsistent with this law. *Provided,*

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

Sec. 2. *Be it enacted*, That this act shall be in force until the end of the next stated session of the general assembly.

C H A P. XXI.

AN ACT to amend an act, entitled, "An act to ascertain the boundaries of land, and for perpetuating testimony.—PASSED NOVEMBER 6, 1801;
Be it enacted by the General Assembly of the State of Tennessee, That all the privileges, benefits, and advantages arising under or accruing to others, by virtue of an act, entitled, "An act to ascertain the boundaries of land, and for perpetuating testimony, passed at Knoxville in the year 1799, shall extend to the citizens resident south of French Broad and Holston, and between the rivers Big Pigeon and Tennessee, holding or claiming, or that may hold or claim land by right of occupancy, so 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 tract of country, any thing in the proviso to the fourth section of said recited act to the contrary notwithstanding.

C H A P. XXII.

AN ACT for the restraint of idle and disorderly persons.—PASSED NOVEMBER 13, 1801.

WHEREAS it becomes necessary for the welfare of the community, to suppress wandering, disorderly and idle persons:

Section 1. *Be it enacted by the General Assembly of the State of Tennessee*, That any person or persons who have no apparent means of subsistence, or neglect applying themselves to some honest calling for the support of themselves and families, every person so offending, who shall be found sauntering about neglecting his business, and endeavoring to maintain himself by gaming or other undue means, it shall and may be lawful for any justice of the peace of the county wherein such person may be found, on due proof made, to issue his warrant for such offending person, and cause him to be brought before said justice, who is hereby empowered, on conviction, to demand security for his good behaviour, and in case of refusal 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 shall be set at liberty if nothing criminal appears against him, the said offender paying all charges arising from such imprisonment; and if such person shall be guilty of the like offence from and after the space of thirty days, he, so offending, shall be deemed a vagrant, and be subject to one month's imprisonment, with all costs accruing thereon, which if he neglects or refuses to pay, he may be continued in prison until the next court of the county, who may proceed to try the said offender, and if found guilty by a verdict of a jury of good and lawful men, said court may proceed to hire the offender for any space of time not exceeding six months, to make satisfaction for all costs, but if such person or persons so offending, be of ill fame, so that he or they cannot be hired for the costs, nor give sufficient security for the same and his future good behaviour, in that case it shall and may be lawful for the said court to cause the offender to receive not exceeding thirty nine lashes, on his bare back, after which he shall be set at liberty, and the costs arising thereon shall become a county charge; which punishment may

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be inflicted as often as the person 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 person or persons of ill fame or suspicious character, to remove him or themselves from one county to another in this state, without first obtaining a certificate from some justice of the peace of said county or captain of his company, setting forth his intention in removing, whether to settle in said county, or if travelling, to set forth his business and destination, and if such traveller should be desirous to stay in any county longer than ten days, he shall first apply to some justice of said county for leave, and obtain a certificate for that purpose, setting forth the time of his permission, and if such person shall be found loitering in said county after the expiration of his permit, or fail to obtain the same agreeable to the true intent and meaning of this act, such person or persons so offending, may be apprehended by any person or persons, and carried before some justice of the peace, who may enquire into his character and business; and fine him at his discretion, not exceeding ten dollars: but if said traveller shall be found on examination, to be a person of ill fame, and there is reason to suspect he is loitering in said county for evil purpose, attempting to acquire a living by gambling, or other bad practices, such justice shall have power to commit any person of like character, until he shall find good and sufficient security for his good behaviour, for any time not exceeding ten days, and said justice of the peace or court of the county shall proceed against such offender, in the same manner as is heretofore prescribed for vagrants.

Sec. 3. *Be it enacted,* 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 same, or like kind, under any denomination whatever, shall be deemed and treated as a vagrant, and moreover it shall be the duty of any judge or justice of the peace, by warrant under his hand, to order such gaming table or cloth to be seized and publicly burned or destroyed; said warrant shall be directed to some one constable within the county, whose duty it shall be, forthwith to execute the same: *Provided,* That nothing herein contained, shall be so 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 person of the character aforesaid, 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 person or persons of the aforesaid description, loitering in his or their county, then and in that case he or they shall issue his or their warrant against such person or persons agreeable to this act: *And provided,* he or they shall neglect or refuse so to do, it shall be deemed a misdemeanor in office, for which he or they shall be impeachable, and on conviction be removed from office.

Sec. 6. *Be it enacted,* That if any person or persons shall publicly ride or go armed to the terror of the people, or privately carry any dirk, large knife, pistol or any other dangerous weapon, to the fear or terror of any person, it shall be the duty of any judge or justice, on his

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own view, or upon the information of any other person on oath, to bind such person or persons to their good behaviour and if he or they fail to find securities, commit him or them to goal and if such person or persons shall continue so to offend, he or they shall 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. *Be it enacted*, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite or cut off a nose, ear or lip, or cut off or disable any limb or member, or stab any person whatsoever, in doing so, to maim, wound or disfigure in any of the manners before mentioned, such person or persons so offending, their counsellors, aiders and abettors, knowing of, and privy to the offence, shall be and are hereby declared to be felons, and shall suffer as in case of felony: *Provided nevertheless*, he or they shall be entitled to benefit of clergy, and be further liable to an action of damages to the party injured.

Sec 8. *Be it enacted*, That all fines inflicted by this act, shall be one half to him that will sue for the same, and the other half to the use of the county.

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

C H A P. XXIII.

AN ACT to authorize the several county courts of pleas and quarter sessions to remit and mitigate fines and forfeitures on recognizances as therein mentioned — (PASSED OCTOBER 12, 1801.)

Section 1. *BE it enacted by the General Assembly of the State of Tennessee*, That the several courts of pleas and quarter sessions in this state, shall have power to remit or mitigate all fines by them inflicted, and all forfeitures on recognizances, previous to entering final judgment thereon: *Provided*, a majority or any number not less than nine of the justices of said county be present when such remittance or mitigation shall be made.

Sec 2. *Be it enacted*, That so much of any other act as comes within the purview and meaning of this act is hereby repealed.

C H A P. XXIV.

AN ACT concerning administrations granted on the estates of persons dying intestate, therein mentioned — (PASSED NOVEMBER 10, 1801.)

WHEREAS heretofore the courts of pleas and quarter sessions, during the being of the temporary government called Franklin, granted administrations on the estates of persons who died intestate, and have issued letters of administration accordingly, in virtue and by authority of which, the persons so administering, have proceeded to administer upon the goods and chattels, rights and credits of their intestates respectively: 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 Assembly of the State of Tennessee*, That all administrations granted by any of the said courts of pleas and quarter sessions, and letters of administration by any of the aforesaid courts issued, on the estate or estates of any person who died intestate, and all proceedings in virtue of such letters of administration had and done, of, and concerning any such estate, agreeably to, and in conformi-

L A W S

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.

.....

1830.

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 power, and be the duty of every Justice of the Peace within his county, to punish by fine not exceeding five dollars, all assaults and batteries that are not of a high and aggravated nature, and to examine into all homicides, murders, treasons, and felonies done and committed in his county, and commit to prison all persons guilty, or suspected to be guilty of manslaughter, murder, treason or other capital offence; and to 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.

General jurisdiction of Justices of the Peace, and their duty in criminal cases, in arresting, trying, recognizing and committing of-fenders.

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

Breaches of the by-laws of towns may be prosecuted before Justices of the Peace.

SEC. 3. *Be it further enacted,* That any person aggrieved at the sentence given against him, by any justice of the Peace, may appeal therefrom to the next Circuit Court of Common Pleas to be held within the same county, and shall, before his appeal is granted, recognize to the State in such reasonable sum, not less than twenty dollars, as the Justice shall order, with sufficient surety or sureties for his prosecuting his appeal; and shall be held to produce the copy of the whole process, and all writings filed before the Justice, at the Court appeal-

Persons aggrieved may appeal to the C. Court of Com. Pleas. Must recognize with sureties, and produce copies of case at C. C. Common Pleas.

Failing to prosecute his appeal, his default to be entered. Court may order such case to be laid before Grand Jury, or arrest appellant, and affirm sentence, &c.

Justices may command assistance of sheriff, deputies and constables at riots, affrays, &c.

Justices may, on their own view, (in absence of sheriff, deputies or constables,) require any person to apprehend offenders.

Penalty for refusing to obey such Justice.

If the Justice be known or declared—plea of ignorance of his office not admissible.

Justices may grant subpoenas for witnesses in criminal cases :

But not on behalf of the State without consent of Attorney General, or County Attorney, except before himself.

Justices to account annually to State, County and Town Treasurers for all fines, &c.

Penalty for neglect.

ed to. And if he shall not there prosecute his appeal, and produce the copies as aforesaid, the Court shall order his default to be noted upon their record. And the said Court may order the same case to be laid before the Grand Jury, or may issue an attachment against the body of such appellant, and cause him thereby to be brought before them, and when he is so in Court, shall affirm the sentence of the Justice against 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 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 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 persons to apprehend and bring before him such offender or offenders. And every person so required, who shall refuse or 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 aforesaid. And no person who shall refuse or neglect to obey such Justice, to whom he shall be known, or declare himself to be 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 authorized and empowered to grant subpoenas for witnesses in 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 subpoenas 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 Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer, as the case may be, for all fines by them received or 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.

SEC. 8. *Be it further enacted*, That all civil actions, wherein the debt or damage does not exceed twenty dollars, (and wherein the title of real estate is not in question, and specially pleaded by the defendant,) shall, and may be heard, tried, adjudged and determined by any Justice of the Peace within his county; and the Justices are severally empowered to grant summons, *capias* and attachment, at the request of any person applying for the same, directed to some proper officer within the same county, empowered by law to execute the same. And such summons or *capias* and attachment shall be duly served by such officer, seven days at the least before the day therein set for trial, otherwise the party sued shall not be held to answer thereon; and if after such process shall be duly served, the party sued, after being duly called, shall not appear to answer to the same suit, the charge against him in the declaration shall be taken to be true, and the Justice shall give judgment against him for such damages as he shall find 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 sum of twenty dollars shall be awarded in any action originally brought or tried before a Justice of the Peace; but if the plaintiff shall not support his action, shall fail to prosecute, or become nonsuit, the Justice shall award to the party sued, his reasonable costs, taxed as the law directs. And upon all judgments given by a Justice of the Peace in civil actions, he shall award execution thereon in form by law prescribed.

Justice's jurisdiction in civil actions, (where title to real estate is not in question,) to extend to 20 dollars.

Justices may issue summons, *capias*, attachment, &c.

—to be served seven days before trial.

Proceedings before Justice.

Judgment, &c. if plaintiff prevail.

Damages not to exceed 20 dollars.

Judgment in case defendant prevail.

Execution.

SEC. 9. *Be it further enacted*, That the amount of the sum or several sums, specified, expressed or supposed to be demanded by the plaintiff in his declaration, shall not be considered as any objection against the Justice's jurisdiction, provided the *ad damnum*, or damage is not laid or stated to exceed twenty dollars.

Justice to have jurisdiction where the *ad damnum* does not exceed 20 dollars.

SEC. 10. *Be it further enacted*, That any party aggrieved at the judgment of any Justice of the Peace, in a civil action, where both parties have appeared and plead, may appeal therefrom 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 reasonable sum as the Justice shall order, not exceeding thirty dollars, 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 parties shall be allowed to offer any evidence upon the trial at the Circuit Court of Common Pleas, in the same manner as if the cause had been originally commenced there. And no other appeal shall be had on such action after one trial at the Circuit Court of Common Pleas. And the Circuit Court of Common Pleas, when any person recognized as before men-

Party aggrieved may appeal to C. C. Com. Pleas.

—Must recognize to prosecute.

and produce copies at C. C. C. Pleas.

Proceedings in that Court.

No further appeal.

Defendant in trespass failing to bring for-

ward the action according to his recognition.—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 before Justices and special matter given in evidence except where title to real estate is relied on by defendant.

Justices may grant subpoenas in all civil actions.

May adjourn their Courts by proclamation:

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

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 Justice. And the Circuit Court of Common Pleas shall, when 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 Common 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.

SEC. 12. *Be it further enacted*, That in all civil actions triable before a Justice of the Peace, except such actions of trespass wherein the defendant means to avail himself, by pleading the title of himself or any other person under whom he claims in justification of the trespass or trespasses alleged to be committed on real estate; the defendant shall be entitled to all evidence, under the general issue, which by 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 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.

SEC. 14. *Be it further enacted,* That when an executor or administrator shall be guilty of committing waste, whereby he is rendered unable to pay the judgment recovered before any Justice of the Peace, against the goods and estate of the deceased in his hands, out of the same, the Justice may 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 Peace shall keep a fair record of all his proceedings; and when any Justice of the Peace shall die before a judgment given by him is paid and satisfied, it shall be in the power of any Justice of the Peace in the same county to grant a scire facias upon the same judgment, to the party against whom such judgment was rendered up, for him to show cause if any 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. *Provided always,* That either party may appeal from the judgment as in other personal actions, where judgment is given by a Justice of the Peace. And every Justice of the Peace who shall have complaint made to him, that a judgment given by a Justice of the same county then deceased, remains unsatisfied, shall issue his summons to the person in whose possession the record of the same judgment is, directing him to bring and to produce to him the same record; and if such person shall contemptuously refuse to produce the same record, or shall refuse to be examined respecting the same, upon oath, the Justice may punish the contempt by imprisonment, until he shall produce the same, or until he submits to be examined as aforesaid; and when the Justice is possessed of such record, he shall transcribe the same upon his own book of records, before he shall issue his scire facias; and shall deliver the original back again to the person who shall have produced it, and a copy of such transcription, attested by the transcribing Justice, shall be allowed in evidence in all cases, where an authenticated copy of the original might be received.

SEC. 16. *Be it further enacted,* That all Justices of the Peace before whom actions may be commenced under former commissions, and such commissions shall expire before judgment shall be rendered thereon, or judgment being rendered, the same remains in whole or in part unsatisfied, such Justices of the Peace who shall hereafter have their said commissions seasonably renewed, and being duly qualified agreeably to the Constitution of this State, to act under such commissions, be and they hereby are authorized and empowered to render judgment, and issue execution on all such

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.]

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CHAPTER LXXVII.

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

SEC. 1. **B**E it enacted by the Senate and House of Representatives, in Legislature assembled, That every Justice of the Peace in this State shall have power within his county to 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:—

Justices may take recognizances for debts.

Form of recognizance.

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 Lord _____.

Witness, my hand and seal. A. B.
ss. Acknowledged the day and year last abovesaid.
Before E. F. Justice of the Peace.

To be recorded by the Justice.

Execution may issue thereon within 3 years.

SEC. 2. *Be it further enacted*, That every Justice of the Peace taking any such recognizance, shall immediately record the same at large in a book to be kept by him for that purpose; and after the same is recorded, may deliver it to 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 deputy, or either of the Constables of the town of _____, in said County, Greeting.

Form of execution.

Because A. B. of _____, in the County of _____, on the day of _____, in the year of our Lord _____, before E. F. Esq. one of the Justices of the Peace for the said County of _____, acknowledged that he was indebted to C. D. of _____, in the county of _____ in the sum of _____ which he ought to have paid on the _____ day of _____, and _____ remains unpaid as it is said _____: 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

ACTS

PASSED

AT THE FIRST SESSION

OF THE

FOURTEENTH GENERAL ASSEMBLY

OF THE

STATE OF TENNESSEE.



KNOXVILLE, TENNESSEE,
PRINTED BY
HEISKELL & BROWN,
PUBLIC PRINTERS TO THE STATE.

1821.

equity in this state, where any person or persons may be surrendered by his or their bail in discharge 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*. take the benefit of prison rules.

JAMES FENTRESS,
Speaker of the House of Representatives;
W. HALL,
Speaker of the Senate, *pro tem*

October 18, 1821.

CHAPTER XII.

An Act prescribing certain duties of Sheriffs in this state.

Be it enacted by the General Assembly of the State of Tennessee, That hereafter it shall not be lawful for any sheriff within this state to appoint more than two deputies within the county for which he shall have been appointed sheriff, nor shall it be lawful 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 deputations for the purpose of holding elections. Sheriff to appoint not more than two deputies. No Justice to be a deputy.

JAMES FENTRESS,
Speaker of the House of Representatives.
W. HALL,
Speaker of the Senate, *pro tem*.

October 19, 1821.

CHAPTER XIII.

An Act to prevent the wearing of dangerous and unlawful weapons.

Be it enacted by the General Assembly of the State of Tennessee, That from and after the passage of this act, each and every person so degrading himself, by carrying a dirk, sword cane, French knife, Spanish stiletto, belt 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 Fine for carrying weapons.

Exception as to travelers and the atrop of a shot pouch.

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 nothing herein contained shall affect any person that may carry a knife of any size in a conspicuous manner on the strop of a shot pouch, or any person that may be on a journey to any place out of his county or state.

JAMES FENTRESS,
Speaker of the House of Representatives.
W. HALL,
Speaker of the Senate, *pro tempore*

October 19, 1821.

CHAPTER XIV.

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

SEC. 1. *Be 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.

What shall be a forcible entry and detainer.

SEC. 2. *Be it enacted*, That if any person shall enter upon or into any lands, tenements, or other possessions 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 excite 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.

Whatever makes an entry forcible, makes a detainer forcible.

SEC. 3. *Be it enacted*, That no person who shall lawfully or peaceably enter upon, or into any lands, tenements, or other possessions, shall hold or keep the same unlawfully, and with force or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid, and it is

THE
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.

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.

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

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.

TITLE II.

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 criminal 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.
16. Persons who go armed, may be required to find sureties for the peace, &c.
17. Court may remit part of penalty forfeited.
18. Surety may surrender his principal, who may recognize anew.

Officers' authorized to keep the peace.

SECTION 1. The justices of the supreme judicial court, the justices of the court of common pleas, justices of police courts, in vaca-

TITLE II.] CHAP. 134. SECT. 2—9.

749

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 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 witnesses who may be produced, on oath, and reduce such complaint to writing, and cause the same to be subscribed by the complainant. Complaint, how made.

SECT. 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. Arrest. 1794, 26, § 2.

SECT. 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 this Commonwealth, and especially towards the person requiring such security, for such term as the magistrate may order, not exceeding six 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. Trial. Recognizance to keep the peace. 4 Mass. 497. 8 Mass. 73. 2 B. & A. 278. 1833, 63, §§ 1, & 2.

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

SECT. 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, house of correction, or house of industry, 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. Refusing to recognize, to be committed. 1833, 63, § 1.

SECT. 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 prosecution, who shall thereupon be answerable to the magistrate and the officer for their fees, as for his own debt. Complainant when to pay costs.

SECT. 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 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 legally discharged. Payment of costs in other cases. 1824, 123, § 2. 1834, 151, § 4.

SECT. 9. Any person aggrieved by the order of any justice of the peace, or of a police court, requiring him to recognize as afore- Appeal allowed. 1833, 63, § 1.

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.

On appeal, witnesses to recognize.

SECT. 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.

Proceedings on appeal.

SECT. 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 may be deemed just and reasonable.

Recognizance, when to remain in force.

SECT. 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 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.

Persons committed for not finding sureties, how discharged.

SECT. 13. 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.

Recognizances to be transmitted to the court.

SECT. 14. Every recognizance, taken pursuant to the foregoing 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.

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

SECT. 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, or being of good behavior, for a term not exceeding three months, and in case of refusal, may be committed, as before directed.

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

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 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.

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

SECT. 17. Whenever, upon 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.

Surety may surrender his

SECT. 18. 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 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.

principal, who may recognize anew.

CHAPTER 135.

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

| SECTION | SECTION |
|----------------------------------------------------------------------------|-----------------------------------------------------------------------|
| 1. Officers, empowered to act under this chapter. | 15. Testimony may be reduced to writing. |
| 2. Complaints, warrants, and summonses for witnesses. | 16. Prisoner, when to be discharged. |
| 3. In what counties warrants may be executed. | 17. " when to be bailed, or committed. |
| 4. Prisoners, when to be brought before magistrate, on arrest, &c. | 18. Witnesses to recognize. |
| 5. Magistrate, if he take bail, to return the recognizance to court, &c. | 19. Witnesses, when to recognize with sureties. |
| 6. Officer, how to proceed if prisoner is not bailed | 20. Recognizances of married women and minors. |
| 7, 8. Prisoner when to be carried to the county whence the warrant issued. | 21. Witnesses, refusing to recognize, to be committed. |
| 9. Magistrate may adjourn the examination, &c. | 22. Prisoners, by whom let to bail. |
| 10. In case of default, magistrate to certify recognizance to C. C. Pleas. | 23. Examining magistrate may have associates. |
| 1 Proceedings, when the party fails to recognize. | 24. Examinations and recognizances to be returned. |
| 12, 13, 14. Manner of conducting the examination. | 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 offences, the justices of the supreme judicial court, justices of the court of common pleas, justices of any police court, in vacation as well as in term time, and all justices of the peace, are authorized to issue process, to carry into effect the provisions of this chapter.

Officers, empowered to act under this chapter.

SECT. 2. Upon complaint, made to any such magistrate, that a criminal offence has been committed, he shall examine on oath the complainant, and any witnesses produced by him, and shall reduce 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-

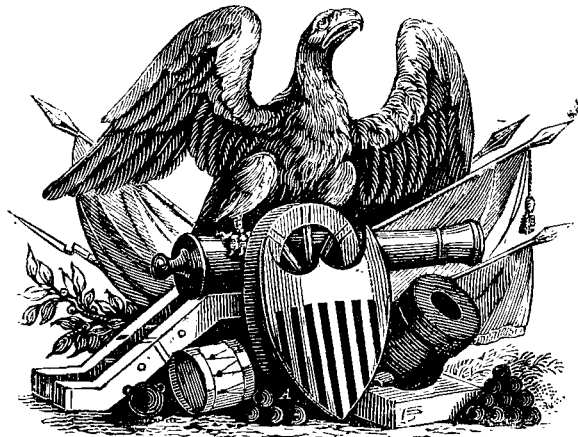
Complaints, warrants, and summonses for witnesses.

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

ALBANY, N. Y.

PRINTED BY PACKARD, VAN BENTHUYSEN & CO.

.....
1839.

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.

Sentence in certain cases. § 1. That in any case of legal conviction where no punishment is provided by statute, the court shall award such sentence as is according to the degree and aggravation of the offence, not cruel or unusual, nor repugnant to the constitutional rights of the party.

Sureties to keep the peace when required. § 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 to stand committed until he shall so recognize.

Forfeiture of recognizance. § 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.

Sheriff to execute sentences. § 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.

Solitary imprisonment to precede hard labor. § 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.

Sentence of punishment when executed. § 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.

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§ 7. When any person shall be convicted of any crime for which sentence of death shall be awarded against him, the clerk of the court, 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.

Proceedings on conviction for capital offence.

§ 8. If it shall appear to the satisfaction of the governor that any convict who is under sentence of death has become insane, the warrant for his execution may be delayed, or if such warrant has been 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.

Ib. when convict insane or quick with child.

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

Sentence of death how executed.

§ 10. Whenever the punishment of death shall be inflicted upon any convict, in obedience to a warrant from the governor, the sheriff 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 with a statement under his hand of his doings therein, as soon as 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.

Sheriff present at execution.

To return warrant.

AN ACT to prevent the commission of crimes.

§ 1. That the justices of the supreme court and district courts 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 statute.

Officers authorized to keep the peace.

§ 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 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.

Complaint how made.

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

Arrest.

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 re-
cognizance.** § 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.

**When dis-
charged.** § 5. Upon complying with the order of the magistrate the party complained of shall be discharged.

**Refusing to
recognize,
committed.** § 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.

**Complainant
when to pay
costs.** § 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 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.

**Payment in
other cases.** § 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.

**Appeal al-
lowed.** § 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.

**Witness to
recognize on
appeal.** § 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.

**Proceedings
on appeal.** § 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.

**Recogni-
zance, when
to remain in
force.** § 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

STATUTES OF WISCONSIN.

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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 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. Not recognizing, how discharged.

§ 14. Every recognizance taken in pursuance of the foregoing provisions 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. Recognizances transmitted to court.

§ 15. Any person who shall, in the presence of any magistrate mentioned in the first section of this statute, 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 refusal may be committed as before directed. When required on view of court, &c.

§ 16. 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 sureties for keeping the peace for a term not exceeding six months, with the right of appealing as before provided. Persons going armed to give security, &c.

§ 17. Whenever, upon 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. Part of penalty remitted.

§ 18. 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 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. Surety may surrender principal.

AN ACT making general provisions concerning crimes and punishments.

§ 1. That every person who shall be aiding in the commission of any offence, which shall be a felony either at common law or by any statute now made, or which shall be hereafter made, or who shall be accessory 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. Accessory to felony before the fact, how punished.

THE
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

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.

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

CHAPTER 169.

OF PROCEEDINGS FOR PREVENTION OF CRIMES.

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| <p>SECT. 1. Of the commencement of criminal proceedings.</p> <p>2. Magistrates may require sureties for the peace and good behavior.</p> <p>3. Of the examination of the complainant.</p> <p>4. When a warrant may issue.</p> <p>5. In certain cases sureties required, for keeping the peace, &c. without binding to appear at any court.</p> <p>6. Party to be discharged, on complying.</p> <p>7. On refusal, to be committed to the county jail; but still entitled to a hearing on his appeal.</p> <p>8. Proceedings, if the complaint be not sustained. Costs, if malicious or frivolous.</p> | <p>SECT. 9. When party, complained of, shall pay costs.</p> <p>10. Appeal to the next district court.</p> <p>11. Proceedings upon the appeal.</p> <p>12. Consequences, if the appellant fail to prosecute.</p> <p>13. Recognizance may be taken, after commitment.</p> <p>14. Return of such recognizance.</p> <p>15. When magistrate may require sureties, without a formal complaint.</p> <p>16. Persons going armed, without reasonable cause.</p> <p>17. Power of court, to remit the penalty of a recognizance.</p> <p>18. Sureties on recognizances may surrender their principals, as in case of bail in civil actions.</p> |
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SECTION 1. No person shall be held to answer in any court for an alleged crime or offence, other than contempt of court, unless upon an indictment by a grand jury, except in the following cases:

Of the commencement of criminal proceedings.

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 district court, justices of municipal courts and police courts in vacation, as well as in open court, and justices of the peace, in their respective counties, 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 be of the good behavior, or both, in the manner provided in this chapter.

Magistrates may require sureties for the peace and good behavior.

SECT. 3. Any such magistrate, on complaint made to him, that any person has threatened to commit an offence against the person 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.

Of the examination of the complainant.

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

When a warrant may issue. 1821, 76, § 1.

CHAP. 169.

In certain cases, sureties required, for keeping the peace, &c. without binding 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 appeal.
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 prosecute.]

Recognizance

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.

SECT. 5. When the person, complained of, is brought before the magistrate, he may be required, after his defence has been heard, to enter into a recognizance with sufficient sureties, in such sum as 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.

SECT. 6. If the person complained of shall comply with the 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 required. The magistrate shall also return a copy of the warrant to 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.

SECT. 9. When the person complained of is required to give 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

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.

CHAP. 169.

may be taken after commitment.
Return of such recognizance.

SECT. 14. Every recognizance, taken pursuant to the foregoing provisions, shall be transmitted to the district court, on or before the 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, mentioned in the second section of this chapter, or before any court of record, shall make any affray or threaten to kill or beat another, or commit any violence against his person or property, or 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 the good behavior for a term, not exceeding three months, and, in case of refusal, may be committed to prison as before directed.

When magistrate may require sureties, without a formal complaint, &c.

SECT. 16. Any person, going armed with any dirk, dagger, sword, pistol, or other offensive and dangerous weapon, without a reasonable cause to fear an assault on himself, or any of his family or property, may, on the complaint of any person having cause to 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.

Persons going armed, without reasonable cause.
1821, 76, § 1.

SECT. 17. In a suit, on such recognizance taken in a criminal case, if a forfeiture is found or confessed, the court, on petition, may remit the penalty, or such part of it as they may think proper, on such terms as they may think right.

Power of court, to remit the penalty of a recognizance.
1821, 50, § 4.

SECT. 18. Any surety in a recognizance may surrender the principal in the same manner, as if he had been his bail in a civil cause, and, on such surrender, shall be discharged from all liability for any act of the principal after such surrender, which would be a breach of the recognizance; and, upon such surrender, the principal 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.

Sureties on recognizances may surrender their principals as in case of bail in civil actions.

CHAPTER 170.

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

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| <p>SECT. 1. Justices may require aid, on view, without a warrant.</p> <p>2. Their jurisdiction.</p> <p>3. When a justice shall issue his warrant.</p> <p>4. Examination, on trial, of the party accused.</p> <p>5. Of commitment or binding over to a higher court.</p> | <p>SECT. 6. Duty of justices, as to arrests, and examinations into treasons, felonies, &c.</p> <p>7. Trial and sentence within their jurisdiction.</p> <p>8. Respondent may appeal; but required to recognize.</p> <p>9. To carry up copies of the case.</p> |
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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 18, 1846, under
the superintendence of

SANFORD M. GREEN.



DETROIT:
BAGG & HARMON, PRINTERS TO THE STATE.

1846.

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.

Complaint, how made.

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.

Arrest.

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.

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

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

PREVENTION OF CRIME.

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this state, and especially towards the person requiring such security, 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.

TITLE XXXI.
CHAPTER 162.

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

Party, when discharged.

SEC. 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 the time for which such security was required.

Refusing to recognize, to be committed.

SEC. 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 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.

Complainant, when to pay costs.

SEC. 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 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.

Payment of cost in other cases.

SEC. 9. Any person aggrieved by the order of any justice of the 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.

Appeal allowed.

SEC. 10. The justice 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.

Witnesses to recognize.

SEC. 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, 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.

Court may affirm order of justice, or discharge appellant, &c.

SEC. 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 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.

Recognizance, when to remain in force.

SEC. 13. Any person committed for not finding sureties, or refusing to recognize, as required by the court or magistrate, may be discharged by any judge, circuit court commissioner or justice of the peace, on giving such security as was required.

Person committed how discharged.

SEC. 14. Every recognizance, taken pursuant to the foregoing provisions, shall be transmitted by the magistrate to the clerk of the circuit 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.

Recognizance to be transmitted to clerk of court.

ARREST &c. OF OFFENDERS.

TITLE XXXI.
CHAPTER 163.Breach of peace
in presence of
magistrate, &c.

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.

Person going
armed to find su-
reties for the
peace.

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.

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

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.

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

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 sureties, 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
may issue pro-
cess for the arrest
of offenders, &c.

SECTION 1. For the apprehension of persons charged with offences, excepting such offences as are cognizable by justices of the peace, the justices of the supreme court, judges of the county courts, circuit 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.

Complainant, &c.
to be examined.

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

Proceedings if it
appear that an
offence has been
committed.

SEC. 3. If it shall appear from such examination, that any criminal 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

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.

TITLE III.**OF PROCEEDINGS IN CRIMINAL CASES.**

- CHAP. 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 juries.
 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.
 26. Of criminal proceedings against slaves, free negroes and mulattoes.

CHAP. XIV.**OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.**

| SECTION | SECTION |
|--------------------------------------------|-----------------------------------------------------------------------------|
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| 2. Complaint, how made. | 13. Persons committed for not recognizing, how discharged. |
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| 8. Payment of costs in other cases. | |
| 9. Appeal allowed. | |
| 10. On appeal, witnesses to recognize. | |
| 11. Proceedings on appeal. | |

1. The judges of the supreme court of appeals, the judges of the general court throughout the commonwealth, all justices of the peace and commissioners in chancery within their respective jurisdictions, 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 behaviour, or both, in the manner hereinafter provided.

Officers authorized to keep the peace.

Power to require security for behaviour.

2. Whenever complaint shall be made to any such magistrate that there is good cause for fear that any person intends to commit an offence 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.

Complaint how made.

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 having jurisdiction of the cause.

Arrest.

- Trial.** **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 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.
- Recognizance to keep peace.**
- Party when discharged.** **5.** Upon complying with the order of the magistrate, the party complained of shall be discharged.
- Refusing to recognize, to be committed.** **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.
- Defendant when discharged.** **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.
- Complainant when to pay costs.**
- Payment of costs in other cases.** **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.
- Appeal against order to recognize allowed.** **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 county or corporation court next to be holden for the said county or corporation.
- On appeal, witnesses to recognize.** **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.
- Proceedings on appeal.** **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 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.
- Costs.**
- Recognizance to be valid unless appeal prosecuted.** **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.
- Persons committed for not recognizing, how discharged.** **13.** Any person committed for not finding securities, 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, or by the county court, on such terms as the court may deem reasonable.
- Recognizances returned to court.** **14.** 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.

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15. Every person who shall, in the presence of any magistrate, mentioned in the first section of this act, 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 behaviour, for a term not exceeding six months, and in case of refusal may be committed as before directed.

Recognizances
required for of-
fences in pre-
sence of magis-
trate or court.

16. If any person shall go armed with any offensive or 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 be required to find sureties for keeping the peace for a term not exceeding twelve months, with the right of appealing as before provided.

Persons armed,
required to find
sureties.

Appeal allowed.

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

Persons not of
good fame to give
surety.

CHAP. XV.

OF ARREST AND COMMITMENT.

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1. Officers empowered to act.
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8. Prisoner, when to be carried to county whence warrant issued.
9. Same subject.
10. Magistrate may adjourn examination.
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12. Proceedings when party fails to recognize.
13. } Manner of conducting examination.
14. }
15. }
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17. When prisoner to be discharged.
18. When to be bailed or committed.
19. If party entitled to examination, &c.
20. If not so entitled, and triable on indictment, &c.
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22. Duty of magistrate, &c.
23. Witnesses to recognize.
24. Witnesses, when to recognize with sureties.
25. Recognizances of minors, &c.
26. Witnesses refusing to recognize.
27. Magistrate may associate others.
28. Prisoner by whom let to bail.
29. Recognizances, &c. to be returned.
30. Commitments, &c. when to be discharged.
31. Orders therefor, how to be filed &c.
32. } Proceedings on forfeited recogni-
33. }
34. }
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 judges of the general court, and all justices of the peace in vacation as well as in term time, are authorized to issue process to carry into effect the provisions of this act.

Process to arrest
for offences, by
whom issued.

2. Upon complaint made to any such magistrate that a criminal offence has been committed, he shall examine on oath the complainant 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-

Examination on
complaint.

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 SUPERVISION OF M. S. WILKINSON.

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1851

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



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.

When person charged to give recognizance.

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.

When to be committed.

Forfeiture of recognizance.

When discharged.

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.

May be delivered on warrant of executive, &c.

Complainant liable for costs, &c.

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.

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CHAPTER 112.

OF PROCEEDINGS TO PREVENT THE COMMISSION OF CRIMES.

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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.

PROCEEDINGS TO PREVENT CRIMES.

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.

SECTION

- 15. After commitment, how defendant may be discharged.
- 16. Recognizance to be transmitted to district court.
- 17. When person may be ordered to recognize without warrant.
- 18. Persons carrying offensive weapons, how punished.
- 19. Suit brought on recognizance.
- 20. Surety may take and surrender principal in recognizance.

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.

What officers to cause public peace to be kept.

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.

Proceedings when complaint is made to magistrate.

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.

Magistrate when to issue warrant.

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.

Proceedings upon examination before magistrate.

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.

Defendant may have counsel.

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.

Defendant when to enter into recognizance.

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

Defendant when to 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.

Defendant when to be committed.

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

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.
- Costs by whom paid**      **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.
- Appeal when allowed.**      **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.
- When magistrate may require witness to recognize.**      **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.
- District court how to proceed upon such appeal.**      **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.
- When appellant fails to prosecute appeal, recognizance to be in force.**      **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.
- After commitment, how defendant may be discharged.**      **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.
- Recognizance to be transmitted to district court.**      **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.
- When person may be ordered to recognize without warrant.**      **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 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.
- Persons carrying offensive weapons how punished.**      **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 sureties for keeping the peace, for a term not exceeding six months, with the right of appealing as before provided.
- Suit brought on recognizance.**      **SEC. 19.** Whenever upon a suit brought on any such recognizances, the penalty thereof shall be adjudged forfeited, the court may remit such

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 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 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.

Surety may take and surrender principal in recognizance.

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CHAPTER 113.

OF ARRESTS.

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SECTION

1. Arrest defined.
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4. Arrest for felony or misdemeanor how made.
5. Arrest for felony or misdemeanor how made.
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10. Officer may break outer door to make arrest.
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SECTION

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

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

Arrest defined.

SEC. 2. An arrest may be either,

Arrest how and by whom made.

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 warrant, if the officer require his aid, and be present and acting in its execution.

Every person must aid officer in making arrest.

SEC. 4. If the offence charged be a felony, the arrest may be made on 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.

Arrest for felony or misdemeanor how made.

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.

Arrest for felony or misdemeanor how made.

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

Defendant how to be restrained.

THE  
CODE OF ALABAMA.

PREPARED BY

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

WITH HEAD NOTES AND INDEX BY

HENRY C. SEMPLE.

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1852.



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.

§ 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.

Playing cards with slaves or free negroes.

§ 3256. Any white person who plays at cards with any 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.

Disturbing public worship.

§ 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.*

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| 3258. The fraudulent packing of cotton.                                         | 3274. Or pistol, or fire-arms, except under certain circumstances.                           |
| 3259. Exhibiting false samples.                                                 | 3275. Indictments under the preceding section.                                               |
| 3260. Cutting or tearing bales of cotton without consent of the owner.          | 3276. Publishing any one for not fighting, &c.                                               |
| 3261. Taking cotton from the bale without consent of the owner.                 | 3277. Punishment of printer or publisher for refusing to give evidence.                      |
| 3262. Refusing to deliver cotton samples to the owner.                          | 3278. Selling or delivering poisons without labels.                                          |
| 3263. Defendant may show that such samples have been destroyed, &c.             | 3279. Selling poisons to slaves or children.                                                 |
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| 3265. Factors, &c., allowing cotton to be taken from the bale and retained, &c. | 3281. Selling or giving liquor to minors after notice from parents, &c.                      |
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|------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 3288. Duty of magistrates in relation to laws against retailing and trading with slaves. | 3291. Prosecuting suits in the name of another without his consent. |
| 3289. Employing slave or free negro to sample cotton.                                    | 3292. Refusing to obey summons by an officer to aid in arrest.      |
| 3290. Defendant may show in defence that he was the owner of the cotton.                 | 3293. Duty of the officer to present the person so refusing.        |

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

§ 3259. Any person who fraudulently exhibits any false sample of any cotton, or other article or commodity, by means 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. Exhibiting false samples.

§ 3260. Any person who willfully cuts, tears, or otherwise opens any bale of cotton, without the direction or consent of the owner, agent, or consignee of such cotton, must, on conviction, be fined not less than ten or more than one thousand dollars. Cutting cotton bags without consent of owner, &c.

§ 3261. Any person who knowingly and unlawfully takes without the direction or consent of the owner, agent, or consignee, from any bale of cotton, any part thereof, must, on conviction, be imprisoned in jail not less than six or more than twelve months. Taking cotton from bale

§ 3262. Any person authorized to sample cotton, who with intent to defraud, converts such samples to his own use, or refuses to deliver such samples to the owner, agent, or 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. Converting cotton sample to their own use.

§ 3263. In trials on indictments under the preceding section, 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. Defences.

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

§ 3265. Any factor, commission merchant, consignee, or agent, having the control of any cotton, who authorizes, or knowingly permits any person to take from any bale of cotton 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. Factors, &c., permitting cotton to be taken from bale.

Factor appropriating cotton taken from bale.

§ 3266. Any factor, commission merchant, or agent, having the control 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.

Adulterating sugar.

§ 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.

Making or emitting bills for circulation.

§ 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.

Signing bills for circulation.

§ 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.

Passing such paper.

§ 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.

Passing bills under five 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.

Indictment for.

§ 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.

Concealed weapons.

§ 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.

The same.

§ 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.

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

Indictment  
for.  
Excuse.

§ 3276. Any person, who in any newspaper, handbill, or other advertisement, written or printed, publishes or proclaims 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.

Publishing  
another as a  
coward, &c.

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

Printer to  
give evi-  
dence.

Penalty for  
refusing.

§ 3278. Any person who sells and delivers any poisonous substance, without having the word "poison" written or 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, box or parcel, containing the same, must, on conviction, be fined not more than one hundred dollars.

Selling poi-  
sons without  
labels.

§ 3279. Any person who sells to any slave, or free child under ten years of age, any drug, poisonous in its nature, 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.

Selling poi-  
sons to slaves  
or children.

§ 3280. Any licensed retailer or other person, keeping fermented, vinous or spirituous liquors for sale, who sells, gives or delivers to any student of any college, or pupil of any 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.

Selling or  
giving liquor  
to students,  
&c.

§ 3281. Any licensed retailer or other person who sells, 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.

To minors.

§ 3282. Any licensed retailer, who, after taking the affidavit prescribed in section 1057, knowingly sells any vinous

Licensed re-  
tailer trad-

590

PART 4.]

INDICTABLE OFFENCES.

[TITLE 1,

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.

§ 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.

The same.

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

Trading with  
slaves.  
19 Ala., 19.

§ 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.

Evidence on  
indictment.

§ 3286. Upon the trial of indictments under the preceding and section 3283, evidence that the slave was seen in the 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 vinous liquor, or merchandize of any kind, is presumptive evidence of the guilt of the defendant.

Employing  
slave or free  
negro to  
draw off or  
sell.

§ 3287. Any person keeping spirituous liquor for sale, who employs any slave or free person of color in drawing off or selling such liquor, must, on conviction, be fined not less than twenty-five or more than fifty dollars.

Duty of mag-  
istrate in re-  
lation to laws  
against re-  
tailing or  
trading with  
slaves.

§ 3288. Any justice or magistrate, whenever he has good reason to believe, or upon information on oath that any of the laws of this state against retailing or trading with slaves have been violated by any person, must forthwith issue a warrant of arrest against such person, and if the evidence proves the offence, must bind him over to answer therefor at the next circuit court, and on his failing to give bond must commit him.

Permitting  
slave or free  
negro to  
sample cot-  
ton.

§ 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 thousand dollars.

Owner may.

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

Prosecuting  
suits in the  
name of ~~the~~

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



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

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

§ 3293. Any person summoned by any sheriff, or other officer having authority, for the purpose of enabling such officer to make an arrest, or to execute any duty devolving 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. Duty of the officer.

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

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

§ 3296. Any owner, overseer, or other person having the right to correct any slave, who causes the death of such slave 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. Without intention to kill.

§ 3297. Any master, or other person standing towards the slave in that relation, who inflicts, or allows another to inflict on him any cruel punishment, or fails to provide him with a 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. Cruel punishments; not feeding or clothing, &c.

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

# REVISED STATUTES

OF

## 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;

&c. &c.

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PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.

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DOVER, DEL.  
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1852.

**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.**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <p><b>Sec. 1.</b> Number in the several counties.</p> <p><b>2.</b> Power to issue process.</p> <p><b>3.</b> To keep records. Adjournments.</p> <p><b>4.</b> To issue subpoenas.</p> <p><b>5.</b> To administer oaths.</p> <p><b>6.</b> To punish contempts.</p> <p><b>7.</b> To arrest without warrant. To commit or bind to appear. Form of commitment. Form of binding to <b>KEEP THE PEACE.</b></p> <p><b>8.</b> Power to punish assaults and batteries. Form of binding to <b>ANSWER CHARGE.</b> Binding witnesses to appear.</p> <p><b>9.</b> To permit parties to settle cases of assault and battery.</p> <p><b>10.</b> Not to receive fine or costs. To put it in charge of a constable.</p> <p><b>11.</b> To certify fines to the auditor. Penalty.</p> <p><b>12.</b> Power to <b>BIND OVER FOR THREATS.</b></p> <p><b>13.</b> To cause arrests of peace breakers, &amp;c., &amp;c.</p> <p><b>14.</b> To fine drunkards and swearers.</p> <p><b>15.</b> To punish those who resist authority.</p> <p><b>16.</b> Mode of proceeding in criminal cases.</p> <p><b>17.</b> After arrest.</p> <p><b>18.</b> The examination.</p> <p><b>19.</b> The commitment or binding to appear. Binding witnesses.</p> <p><b>20.</b> To deliver recognizances to clerk of the peace. Fee.</p> | <p><b>Sec. 21.</b> To indorse the names of witnesses.</p> <p><b>22.</b> To arrest persons complained against.</p> <p><b>23.</b> Warrant may be executed in any county.</p> <p><b>24.</b> Bail for appearance; how taken; by whom. Commitment in default of bail.</p> <p><b>25.</b> How discharged from prison on bail.</p> <p><b>26.</b> Capital cases; when bail may be taken.</p> <p><b>27.</b> Bail in other cases; how determined.</p> <p><b>28.</b> How taken by sheriff. &amp;c.</p> <p><b>29.</b> <b>SEARCH WARRANTS,</b> when and how to be issued. Complaint must be in writing. Warrant; how directed. When it may be executed at night.</p> <p><b>30.</b> Power of justice to try certain offences by slaves.</p> <p><b>31.</b> Power of two justices to try slaves. Order on master to pay restitution, &amp;c.</p> <p><b>32.</b> Service of notice on master; verification.</p> <p><b>33.</b> Power to punish Sabbath breaking.</p> <p><b>34.</b> Duty of representatives of a deceased justice to deliver records; penalty.</p> <p><b>35.</b> Duty of justice to give transcripts, copies, &amp;c.; penalty. Originals may be required by the court.</p> <p><b>36.</b> Duty to attend elections; penalty.</p> |
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*Number.*

2003  
Number.

New Cas-  
tle.

Kent.  
Sussex.

**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.  
Form.

**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.

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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 judicial proceedings in criminal as well as civil cases. <sup>9005</sup> Records.

He shall have power to adjourn cases on trial before him, taking security for the appearance of the party complained against. <sup>9006</sup> Adjournments.

SEC. 4. He may issue summonses for witnesses in all cases pending before himself, and in all civil cases pending before any magistrates, referees, arbitrators, or other persons authorized to examine witnesses. <sup>9007</sup> Subpoenas.

SEC. 5. He may administer oaths in all cases where an oath is required by law. <sup>9008</sup> Oaths.

SEC. 6. Every justice of the peace may punish such disorderly conduct as shall interrupt any judicial proceedings before him, or before referees appointed by him, or which shall be a contempt of his authority, by fine not exceeding ten dollars, or by imprisonment in the jail of the county not exceeding ten days. <sup>9009</sup> Power to punish contempts.

SEC. 7. Every justice of the peace may, as a conservator of the peace, upon view of any affray, riot, assault, or battery, within his 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. <sup>9010</sup> Power to arrest without warrant.

A commitment may be in this form:—

—— 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.*

{ L. S. } Given under my hand and seal this \_\_\_\_ day of \_\_\_\_  
 { } A. D., 18—. J. P. <sup>9011</sup> Commitment.

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

—— County, ss. *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 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 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*

<sup>9012</sup> Binding to KEEP THE PEACE.

at ———, for the county aforesaid, 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 ——— day of ———, A. D., 18—.

2013  
Power to  
punish as-  
saults 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 against 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 the ——— day of ———, 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 ——— day of ———, A. 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.

2016  
Parties may  
settle as-  
saults and  
batteries.

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.

2017  
Not to re-  
ceive fines.

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,



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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 of accounts, by mail, on the first Tuesday of April and October in each 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; and the court shall, on conviction of such justice, transmit a copy of the record to the general assembly. <sup>§018</sup> To certify fines to auditor. <sup>Penalty.</sup>

SEC. 12. Whoever shall threaten to kill, or wound, another, or to injure him in person, or estate, shall, on proof of such threats, before a justice of the peace, either by the oath of the party threatened, 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. <sup>§019</sup> Power to bind over for THREATS

SEC. 13. Any justice of the peace may also cause to be arrested and bind to surety of the peace all affrayers, rioters, breakers and disturbers of the peace, and all who go armed offensively to the terror of the people, or are otherwise disorderly and dangerous. <sup>§020</sup> To cause arrests.

SEC. 14. He may also cause to be arrested any drunken person, or any person who, in his hearing, shall profanely swear by the name 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. <sup>§021</sup> Drunkards: swearers.

SEC. 15. If any person, arrested by warrant or order, of any court of justice, magistrate, or justice of the peace, shall use abusive, railing, or threatening speeches against such court, magistrate, or justice, 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. <sup>§022</sup> To punish those who resist authority.

SEC. 16. When complaint is made in due form to a justice, alleging that an offence has been committed, the justice shall carefully examine the complainant on oath, or affirmation, and if he considers there is probable ground for the accusation, he shall issue his warrant. <sup>§023</sup> Proceedings in criminal cases: complaint.

A warrant of arrest may be in this form:

<sup>§024</sup> Warrant of arrest

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

Whereas G. H. of — hath 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 hath just cause to suspect and doth suspect C. D. of — hundred, of committing the said offence: You are therefore hereby commanded to take the said

LAWS OF THE

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

{ L. s. } *Witness the hand and seal of the said justice, the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18—.*

2025  
How directed.

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

2026  
Proceeding on arrest.

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.

2027  
Examination. Voluntary declarations

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

2028  
In felonies to be in writing.

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

2029  
Testimony in writing.

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.

2030  
Commitment; or binding to appear.

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.

2031  
Binding the witnesses.

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.

2032  
{2014, &c.}

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

2033  
To deliver recognizances, &c.

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.

Fcc.

2034  
Names of witnesses to be indorsed.

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

## STATE OF DELAWARE.

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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 complaint, all persons found within his county charged with any offence; and all persons who, after committing any offence in such county, shall escape out of the same.

2035  
Duty to arrest persons complained against.

SEC. 23. A warrant of arrest, issued by a justice in one county, may be executed in any county of the State; and the constable, or officer, having it in hand, may command aid as in his own county; but 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.

2036  
Warrant, where executed.

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

2037  
Bail for appearance, how taken.  
By whom.

SEC. 25. A person, so committed, shall be discharged upon giving sufficient bail, or security; and any judge, or justice, may require such person to be brought before him for that purpose.

2038  
How discharged.

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

2039  
Capital cases.  
When bail may be taken.

SEC. 27. When a person arrested by virtue of process issued upon an indictment, or presentment, except for a capital crime, and except 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 sum 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.

2040  
Bail in other cases.  
How determined.

SEC. 28. Bail shall be taken by the sheriff, or officer to whom the process is directed, by a joint and several bond executed, by the accused 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.

2041  
How taken by sheriff.

2042  
Search war-  
rants, when  
and how to  
be issued.

SEC. 29. Any justice of the peace, or other magistrate authorized 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:

2043  
Complaint  
in writing.

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.

2044  
How direct-  
ed.

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.

2045  
When it  
may be exe-  
cuted at  
night.

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.

2046  
Power to try  
offences by  
SLAVES.

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.

Judgment  
for costs.

2047  
Power of  
two justices  
to try offen-  
ces by  
SLAVES.

SEC. 31. Any two justices of the peace for the county shall have 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.

2048  
Order on  
master to  
pay costs,  
&c.

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.

[1577.]

## STATE OF DELAWARE.

397

They shall indorse on any process for the arrest of a slave under this section, an order that the constable shall serve a copy of such process on the master as provided in respect to an original summons. <sup>2049</sup> Service on master. [2066]

The trial shall not proceed, without the appearance of the master, until the return of the service of such copy is duly verified. <sup>2050</sup> To be verified. [2066]

SEC. 32. Justices of the peace shall severally have jurisdiction of the several offences mentioned in section 4, of chapter 131, being violations of the Sabbath day; and may proceed therein upon their own view, or on other competent evidence. <sup>2051</sup> [2002, &c.]

SEC. 33. Upon the death of a justice, or expiration of his term of office, and the appointment of another, it shall be the duty of such justice, or his executors, or administrators, to deliver all his dockets and records, within three months, to his successor in office, if appointed 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 Court may name the justice to whom the delivery shall be made, and enforce an order for such delivery by fine and imprisonment. <sup>2052</sup> Duty of executors of a justice in respect to his records. Penalty.

SEC. 34. It is the duty of a justice of the peace, upon request and payment, or tender, of the legal fee, to make and certify, under his hand and seal, a true transcript of all the docket entries 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, process and papers in or touching such cause; and such transcript, or copy, shall be received in evidence in any court. <sup>2053</sup> Duty of justice to give TRANSCRIPT. Or full copies.

Upon an appeal, a transcript shall be sufficient, unless a full copy be specially requested. Upon a certiorari, the justice shall make a full copy of the entire record and proceedings. <sup>2054</sup> On appeals. On certiorari.

If any justice of the peace shall, upon such request and payment, 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. <sup>2055</sup> Penalties.

The Superior Court may, in a proper case, supported by affidavit, require the production of the original record. <sup>2056</sup> Originals may be required.

SEC. 35. Every justice of the peace shall attend, at the place of election in his hundred, on the day of every general election, or special election, from the opening to the closing of the poll, and shall take care that the peace shall be kept, and that the election shall not be interrupted, or disturbed. <sup>2057</sup> Duty to attend elections.

If any justice shall refuse, or wilfully neglect, to perform this duty, or to obey the lawful commands of the inspector of such election, he shall be deemed guilty of a misdemeanor and shall be fined one hundred dollars. <sup>2058</sup> Penalty.



THE  
S T A T U T E S

OF

OREGON,

ENACTED AND CONTINUED IN FORCE BY THE

LEGISLATIVE ASSEMBLY,

AT THE SESSION COMMENCING

**5th December, 1853.**

OREGON:

ASAHEL BUSH, PUBLIC PRINTER.

—  
1854.

## CHAPTER XVI.

## PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

- SEC. 1. Certain officers conservators of the public peace.
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.
8. Discharge of defendant; complainant, when to pay costs.
9. 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-  
ties may be  
required. 17  
Wen. 181;  
28 do. 639. SEC. 2. Whenever complaint shall be made to any such magis-  
trate, 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 sub-  
scribed 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 pros-  
ecution, on oath, in the presence of the party charged, in relation  
to any matters connected with such charge, which may be deemed  
pertinent.

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

Recogniz-  
ance when  
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.

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complained of, he shall be required to enter into recognizance 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 charged with some offence for which he ought to be held to answer at said court. CHAP. 16.

SEC. 7. 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. When to be committed.  
23 Wen. 639.

SEC. 8. 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 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. Complainant when to pay costs.

SEC. 9. 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. Costs.

SEC. 10. Any person aggrieved by the order of any justice of the 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. Appeal.

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

SEC. 12. 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 it may deem just and reasonable. Power of appellate court

SEC. 13. 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 security for any cost which shall be ordered by the court appealed to, to be paid by the appellant. Failing to prosecute appeal.

SEC. 14. Any person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged. Discharge of party committed.

CHAP. 17. charged by any judge or justice of the peace, on giving such security as was required.

Recognizances when to be transmitted.

SEC. 15. Every recognizance taken in pursuance of the foregoing provisions, 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.

Order to recognize without warrant.

SEC. 16. 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 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 persons, when required to find sureties.

SEC. 17. 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, 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.

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.

Surety may surrender principal.

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.

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## 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.

L A W S

OF THE

TERRITORY OF NEW MEXICO.

PASSED BY THE LEGISLATIVE ASSEMBLY,

Session of 1859-60.

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SANTA FÉ, N. M.:

O. P. HOVEY, PUBLIC PRINTER.

1860.



**Challenges.** 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.

**Panel how completed.** 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.]

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

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

**Carrying weapons prohibited.** 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.

**First conviction fine.** 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.

**Second conviction. Imprisonment.**

son dispuestos ántes. 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 pro- Recusas.  
visiones 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  
completa.  
no está completo, ó no están presentes, será el deber del alguacil mayor, por órden de la corte, de llenar dicho jurado citando tales miembros.

SEC. 11. Que todas las leyes, ó 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 1ª. Que desde y despues del pasaje de este acto no Porte de armas  
prohibido.  
será legal para que ninguna persona porte armas sobre sus personas, ninguna pistola de cualesquiera clase que sea, ni bowie knife (cuchillo de cinto) Arkansas toothpick, daga española, huracana, ó cualesquiera otra arma mortífera de cualesquiera clase ó 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 con-  
viccion, multa.  
portare sobre su persona, ya sea oculta ó de otra manera, cualesquiera armá mortífera de la clase y descripcion mencionada en la seccion anterior, la persona ó personas que así ofendan, sobre conviccion, la cual será por querrela legal en la corte de distrito, será multada en cualesquiera suma que no bajé de cincuenta pesos, ni pase de cien pesos, á la discrecion de la corte

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.

Penalty for cutting or wounding in assemblies.

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.

In case of death, to be deemed murder

Duty of sheriffs and constables to arrest.

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.

Sheriffs and constables to take oath.

Officers excused.

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

Travellers excused.

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 meses ni pase de un año, tambien á la discrecion de la corte que conozca en la causa.

Segunda conviccion, encarcelamiento.

SEC. 3. Decrétese ademas : Que si cualesquiera persona disparare ó sacare cualquier arma mortífera, de la clase ó descripcion citada en la primera seccion de este acto, en cualesquiera baile ó fandango, ó 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.

Disparando armas, pena de.

SEC. 4. Decrétese ademas : Que si cualesquiera persona en algun baile ó fandango, ó en otra concurrencia pública de la clase y descripcion que sea, disparare ó 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 mortíferas 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 conviccion, será considerada culpada de muerte en el primer grado, y sufrirá la pena de muerte en dicho primer grado.

Hiriendo en reuniones públicas, pena de.

SEC. 5. Decrétese ademas : Que será el deber de los alguaciles mayores, sus diputados, ó condestables, de arrestar y tomar toda persona que sea hallada con armas mortíferas, de 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.

Muerte en primer grado.

Deberes de los alguaciles, y ofensores de dar fianzas.

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

Viajeros, &c., exceptuados.

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

Judges to give this act in charge.

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.

Repealing clause.

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.

To be published.

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.]

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*An Act regulating Mercantile Copartnerships.*

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

Who may enter into.

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.

Good faith to be observed.

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.

Articles what to contain and before whom made.

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-



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.

**Challenges.** 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.

**Panel how completed.** 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 :

**Carrying weapons prohibited.** 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.

**First conviction fine.** 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.

**Second conviction. Imprisonment.**

son dispuestos ántes. En los condados de San Miguel, Rio Arriba, y Bernalillo, el primer lunes 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 lunes 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. Recusas.

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

SEC. 11. Que todas las leyes, ó 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 1ª. Que desde y despues del pasaje de este acto no será legal para que ninguna persona porte armas sobre sus personas, ninguna pistola de cualesquiera clase que sea, ni bowie knife (cuchillo de cinto) Arkansas toothpick, daga española, huracana, ó cualesquiera otra arma mortífera de cualesquiera clase ó 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. Porte de armas prohibido.

SEC. 2. Decrétese ademas: Que si cualesquiera persona portare 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 querrela legal en la corte de distrito, será multada en cualesquiera suma que no bajé de cincuenta pesos, ni pase de cien pesos, á la discrecion de la corte. Primera conviccion, multa.

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.

Penalty for cutting or wounding in assemblies.

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.

In case of death, to be deemed murder

Duty of sheriffs and constables to arrest.

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.

Sheriffs and constables to take oath.

Officers excused.

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

Travellers excused.

## LEYES DE NUEVO MÉJICO.

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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 meses ni pase de un año, tambien á la discrecion de la corte que conozca en la causa.

Segunda conviccion, encarcelamiento.

SEC. 3. Decrétese además : Que si cualesquiera persona disparare ó sacare cualquier arma mortífera, de la clase ó descripcion citada en la primera seccion de este acto, en cualesquiera baile ó fandango, ó en cualesquiera otra reunion pública, de la clase que sea, la persona que así ofenda, sobre conviccion de lo mismo, la causa será por querrela 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.

Disparando armas, pena de.

SEC. 4. Decrétese además : Que si cualesquiera persona en algun baile ó fandango, ó en otra concurrencia pública de la clase y descripcion que sea, disparare ó 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 mortíferas 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 conviccion, será considerada culpada de muerte en el primer grado, y sufrirá la pena de muerte en dicho primer grado.

Hiriendo en reuniones públicas, pena de.

Muerte en primer grado.

SEC. 5. Decrétese además : Que será el deber de los alguaciles mayores, sus diputados, ó condestables, de arrestar y tomar toda persona que sea hallada con armas mortíferas, de 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.

Deberes de los alguaciles, y ofensores de dar fianzas.

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

Viajeros, &a., exceptuados.



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

Judges to give  
this act in  
charge.

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.

Repealing  
clause.

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.

To be publish-  
ed.

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.]

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*An Act regulating Mercantile Copartnerships.*

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

Who may en-  
ter into.

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.

Good faith to  
be observed.

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.

Articles what  
to contain and  
before whom  
made.

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-

# THE CODE

OF THE

# STATE OF GEORGIA.

PREPARED BY

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

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

## 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.

4399. Unlawful assemblies.  
 4400. Riot.  
 4401. Affrays.  
 4402. Duelling, challenging.  
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 4404. Duelling, fighting.  
 4405. Officers not preventing.  
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## SECTION.

4407. Libel.  
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 4409. Truth proved.  
 4410. Forcible entry.  
 4411. Forcible detainer.  
 4412. Punishment.  
 4413. Carrying deadly weapons.  
 4414. Other offences.

Unlawful as-  
semblies.

§ 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.

Riot.

§ 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.

Duelling.

§ 4402. SEC. IV. If any person shall deliberately challenge, by word or writing, the person of another, to fight with sword,

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## Division 9.—Offences against the Public Peace and Tranquility.

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, carry and deliver any written or printed challenge, or verbally 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. Seconds same punishment.

§ 4404. SEC. VI. If any person shall be engaged in the act of fighting a duel with sword, pistol, or other deadly weapon, either 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 should ensue from such duel, then all the parties, both principals and seconds, shall be guilty of murder, and suffer the punishment of death. Act of fighting, a misdemeanor. If death ensues.

§ 4405. SEC. VII. If any Justice, or other public officer bound to preserve the public peace, shall have knowledge of an intention 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. Officers knowing and not preventing duels.

§ 4406. SEC. VIII. If any person or persons shall, in any newspaper, or handbill, written or printed, publish or proclaim any other person or persons as a coward or cowards, or use any other opprobrious 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. Proclaiming as "coward," &c., in print.

## Division 9.—Offences against the Public Peace and Tranquility.

- Libel defined** § 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.** § 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.
- 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.
- Forcible entry.** § 4410. SEC. XII. Forcible entry is the violently taking possession of lands and tenements with menaces, force, and arms, and without authority of law.
- Forcible detainer.** § 4411. SEC. XIII. Forcible detainer is the violently keeping possession of lands and tenements with menaces, force, and arms, and without authority of law.
- Punishment of forcible entry or detainer.** § 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.
- Unless 3 years possession.**



## Division 9.—Offences against the Public Peace and Tranquillity.

be made; *And provided, also*, that the only questions to be submitted 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. Title not examinable.

§ 4413. SEC. XV. Any person having or carrying about his person, unless in an open manner and fully exposed to view, any pistol, (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. Carrying concealed, deadly weapons.

§ 4414. SEC. XVI. All other offences against the public peace, not provided for in this Code, shall be prosecuted and indicted 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. Other offences vs. public peace.

## TENTH DIVISION.

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

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4453. Bonds in case of vagrancy.  
4454. Att'y or Sol'r—duty in such case.

§ 4415. SEC. 1. Polygamy, or bigamy, shall consist in knowingly having a plurality of husbands, or wives, at the same time. Polygamy and bigamy.

# A DIGEST

OF THE

# LAWS OF PENNSYLVANIA,

FROM THE

YEAR ONE THOUSAND SEVEN HUNDRED

TO THE

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

---

ORIGINALLY COMPILED BY  
JOHN PURDON, ESQ.

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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 DIGEST," ETC.

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KAY & BROTHER, 19 SOUTH SIXTH STREET,  
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1862.

**Crimes.—Criminal Procedure.**

Acts of assembly to be strictly pursued.

192. In all cases where a remedy is provided, or duty enjoined, or anything directed to be done by any act or acts of assembly of this commonwealth, the directions of the 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.**

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13. Immaterial variances between indictment and proof amendable.
14. Manner of laying the ownership of property in cases of partners and joint owners.
15. Manner of charging frauds against partners and joint owners.
16. Manner of laying property of counties, cities, townships, &c.
17. Forms of indictment in cases of forging, stealing and embezzling, or cheating by false pretences.
18. Forms in other cases.
19. Intent to defraud particular persons need not be alleged or proven in cases of forging, uttering or false pretences.
20. In indictments for murder and manslaughter, means by which the injury was inflicted need not be specified.
21. Requisites of an indictment for perjury.
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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.**

Warrants of arrest, &c.

1. The judges of the supreme court, of the court of oyer and terminer and jail 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 commonwealth, 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 and may be lawful to and for the said judges, or any of them, to issue subpœnas 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 subpœnas, by attachment or otherwise, and under such pains and

Subpœnas.

192. Act 31 March 1860, § 183. P. L. 426.

193. Ibid. § 184.

1. Act 31 March 1860, § 1. P. L. 429.

system by the 13th section of the act of 22d April 1794, § 3 Sm. 190; it will also 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 21st March 1866, § 4 Sm. 332. Report on the Penal Code 38. See

6 S. & R. 289. 11 S. & R. 345. Bright, R. 60. 13 S. & R. 426. 1 R. 457. 5 R. 64. 1 Ash. 46. 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.

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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, subpoena or attachments, to be executed by the sheriff of the county in which the same is awarded, which said writ, precept, summons or subpoena, shall be the sufficient warrant of such sheriff for executing the same throughout 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 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 county of this commonwealth, shall go or escape into any other county thereof, it shall and may be lawful for the president, or any judge of the court of common pleas in the 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 alderman of any city, or justice of the peace of any county in this commonwealth, for 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 be, 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 for which such offender shall be so apprehended, shall be bailable in law by an alderman 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 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, shall be brought, sued, commenced, exhibited or prosecuted by any person, against the alderman, justice or justices, who shall indorse such warrant, for or by reason of his or their indorsing the same, but such person shall be at liberty to bring or prosecute his or 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 affirmation,

2. Act 31 March 1660, § 2. P. L. 429.

3. *Ibid.* § 3.4. *Ibid.* § 4.5. *Ibid.* § 5.

(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 Penal Code 39. The county is not liable for the expenses incurred 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 misdemeanors; a fugitive charged with having committed a misdemeanor in another county can

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

(c) This section is taken from the 3d section of the act of 4th April 1807, 4 Sm. 393. Report on the Penal Code 39.

(d) A warrant issued by a justice of the peace in one county, and indorsed by a justice of another county, charging a misdemeanor to have been committed in the county whence the warrant issued, will not justify the detention of the offender in the jail of the county where the warrant was indorsed. Grant 218.

(e) The 3d and 4th sections are taken from the act of 18th April 1827, 9 Sm. 424. Report on the Penal Code 39.

**Criminal Procedure.**

supposed to be stolen, found in the possession of one accused. tion, of the crime of burglary, robbery or larceny, and the said magistrate shall have issued his warrant to apprehend such person or persons, or to search for such goods as have been described, on oath or affirmation, to have been stolen goods, if any shall be found in the custody or possession of such person or persons, or in the custody or possession 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 discovered 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 surety 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 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 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 full 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 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 or robber, they shall be delivered, together with a certified copy of the said inventory, to the commissioners of the county, who shall indorse a receipt thereon 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 claiming 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 commissioners, 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)

**Inventory.**

**Notice.**

**Restitution.**

**When to be delivered to county commissioners.**

**Disposition of proceeds.**

**Surety of the peace.**

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 peace, 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 cause to fear a breach of the peace therefrom, be required to find surety of the peace as aforesaid. (e)

**Ball.**

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 commonwealth: (g) *Provided also*, That persons accused as aforesaid, of

G. Act 31 March 1860, § 6. P. L. 432.

7. *Ibid.* § 7.

(a) This section is taken from the 10th section of the act 23d September 1791, 3 Sm. 42. Report on the Penal Code 39.

(b) Surety of the peace is demandable of right by any individual who will make the necessary oath. 1 B. 102, n. See 1 Ash. 46. 2 P. 458.

(c) A committing magistrate has no authority to bind a person 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 prisoner, in such sum, and for such length of time, as the public safety requires. 2 Y. 437. 10 Barr

339. 2 Hayw. 73-4. See 12 Eng. L. & Eq. 462.

(e) This section is partly taken from the act of 1760, 1 Sm. 5, the addition thereto provided by this section, against the unnecessarily carrying deadly weapons, is introduced from an obvious necessity, arising from daily experience and observation. Report on the Penal Code 39.

(g) A Justice may take bail after commitment for trial. 6 W & S. 314. 2 P. 458. And see 7 W. 454. 5 B. 512. 1 Sm. 67, n A recognisance taken by a justice to answer the charge of arson is *coram non iudice*, and void. Com. v. Phillips, 2 U S. Law Mag. 316.



## Criminal Procedure.

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murder or manslaughter, shall only be admitted to bail 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, mainperners, and bail in criminal cases, whether bound in recognisances for a particular matter or for all charges whatsoever, shall be entitled to have a bail-piece, duly certified by the proper officer or person before whom or in whose office the recognisance of such surety, mainperners 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 same right of surrender hereinbefore provided. (c)

9. In all cases where a person shall, on the complaint of another, be bound by recognisance to appear, or shall, for want of security, be committed, or shall be indicted for an assault and battery or other misdemeanor, to the injury and damage of the party 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 misdemeanor, 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 empowered to administer the requisite oaths or affirmations to any witness whose name 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 charges the crime substantially in the language of the act of the assembly prohibiting 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. Every objection to any indictment for any formal defect, apparent on the face thereof, 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 taken for any formal defect, may, if it be thought necessary, cause the indictment to be forthwith amended in such particular, by the clerk or other officer of the court, and thereupon the trial shall proceed as if no such defect appeared. (g)

8. Act 31 March 1860, § 8 P. L. 432.

9. *Ibid.* § 9.10. *Ibid.* § 10.11. *Ibid.* § 11.

(a) This section is a consolidation of the first clause of the act of 1705, 1 Sm. 56; and the first section of the act of 30th April 1832, P. L. 393. Report on the Penal Code 39.

(b) See 1 T. & H. Pr. 303-10.

(c) This section is taken from the 3d section of the act of 10th April 1848, P. L. 449. Report on the Penal Code 40.

(d) This section is an extension of the existing law of the 17th March 1806, 4 Sm. 318. Report on the Penal Code 40.

(e) This is taken from the 1st section of the act 5th April 1826, 9 Sm. 136. That witnesses, whose names had not been marked by the district attorney on the bill of indictment, were sworn and examined by the foreman of the grand jury, is not pleadsible in bar; at most, it is only ground for a motion to quash. *Tillard v. Com.*, 13 Leg. Int. 132.

(g) 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 humane of English judges, long since remarked, that such niceties were "grown to be a blemish and an inconvenience in the law, and the administration thereof; that more offenders escaped by the easy ear given to exceptions to indictments, than by the manifestations of their innocence, and that the grossest crimes had gone unpunished, by reason of these unseemly niceties." The reason for recognising these subtleties by the common law, no doubt arose from the humanity of the judges, who, in administering a system in which the punishment of death followed almost every conviction of felony, were naturally disposed, in favor of life, to hold the crown to the strictest rules. Since, however, 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 technical niceties has ceased, and with the cessation of the reason, the technicalities themselves should be expunged from our system. The 11th section of this act proposes what the com-

missioners believe will be an effective remedy to this reproach of the common law, without depriving the accused of any proper privilege; it leaves him, at the outset of his trial, to determine whether he will question the relevancy of his accusation, or take issue on the merits of the charge; if he elects the latter, and is condemned, there seems neither moral nor legal fitness in permitting him to urge formal exceptions, which, if suggested, at an early period, would have been promptly corrected. The 12th and 13th sections are intended to meet cases of frequent occurrence, in which, although an indictment is strictly formal, yet, owing to some accidental slip in its preparation, it is found on the trial that the proofs do not entirely tally with the description of the instrument set forth in the indictment, or in the names of persons or places described therein. By the law as it now stands, where written instruments enter into the gist of the offence, as in forgery, passing counterfeit money, selling lottery tickets, sending threatening letters, &c., they are required to be set out in words and figures: the omission of a figure in an indictment for forgery is fatal. In the case of *Com. v. Gillespie*, 7 S. & R. 409, a mistake in spelling the name of "Burrill," which in the indictment was spelled "Burrill," was adjudged fatal after verdict. So, a variance between the names of the persons aggrieved, and places described in the indictment, and the proofs thereof on trial, will entitle the defendant to an acquittal, on the ground of the want of agreement between the allegata and the probata. The proposed sections authorize the courts to amend such verbal errors, if objected to; and thus terminate a class of technical niceties, which are a reproach to the rational administration of justice. The 14th and 15th sections avoid the existing necessity of setting forth, in indictments, the names of numerous individuals, owners of property feloniously or fraudulently taken, or maliciously injured or destroyed: it will serve to reduce the voluminousness of such indictments, and can do no possible injury to the defendant, who cannot be interested in the fact, whether one person is, or one hundred persons are the owners of property in regard to



T H E  
CODE OF WEST VIRGINIA.

COMPRISING

LEGISLATION TO THE YEAR

1870.

WITH AN APPENDIX, CONTAINING

LEGISLATION OF THAT YEAR.

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PUBLISHED PURSUANT TO LAW.

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WHEELING:

JOHN FREW, PUBLIC PRINTER.

1868.

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

Id. § 28,  
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.

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

27. When a person is convicted of selling, or offering or exposing 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.

Acts of 1868, p.  
124, ch. 149, § 1.

28. No criminal prosecution for any felony or misdemeanor shall 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.

SEC.

1. Conservators of the peace; power to bind to good behavior.
2. } Duty of, on complaint that a crime is in-
3. } tended.
4. Proceedings when accused appears.
5. Right of accused to appeal.
6. } Power of court upon such appeal, and when
7. } the accused is committed.

SEC.

8. Person going armed with deadly weapon, when required to give recognizance, etc.
9. Affray, etc., in the presence of constable.
10. In presence of justice; duty of justice where person brought before him, etc.
11. Proceedings where person suspected of unlawful retailing of spirituous liquors.

Code of Va., p.  
817, § 1.  
Const. art. 7, § 9.  
Acts of 1863, p.  
234, ch. 132, § 1.

1. Every justice and constable shall be a conservator of the peace, within his county. As such conservator, every justice shall have power to require from persons not of good fame, security for their good behavior for a term not exceeding one year.

Code Va., p. 817,  
§ 2.

2. If complaint be made to any justice, as such conservator, that 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.  
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.

4. When such person appears, if the justice, on hearing the parties, 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 thereupon may be according to the two hundred and twenty-seventh section of chapter fifty.

Code Va., p. 818,  
§ 4.

5. A person from whom such recognizance is required may, on 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.

Id. § 6.

6. The court may dismiss the complaint, or affirm the judgment, 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.

Id. § 6.

7. Any person committed to jail under this chapter may be discharged by the circuit court, or the judge thereof in vacation, upon such terms as may be deemed reasonable.

Id. § 7.

8. If 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, with the right of appeal, as before provided, and like proceedings shall be had on such appeal.

Id. § 8.

9. If any person shall, in the presence of a constable and within his county, make an affray, or threaten to beat, wound, or kill 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.

Id. § 9.  
Acts of 1863, p.  
234-5, § 1.

10. If any offense enumerated in the preceding section be com-

Id. p. 235, § 2.



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.  
818, § 10.  
Acts of 1865, p.  
57, ch. 61.

11. If any justice suspect any person of selling, by retail, wine, or ardent spirits, or a mixture thereof, contrary to law; or of selling, 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.

SEC.

1. Duty of justice upon being notified of death by violence, etc.
2. Warrant and summons, how executed.
3. Jury formed; their oath.
4. How witnesses compelled to attend; how evidence taken.
5. Inquisition.
6. Inquisition, evidence, etc., returned; witnesses recognized.

SEC.

7. Justice to issue warrant for the arrest of accused, if not in custody.
8. 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.

A DIGEST  
OF THE  
LAWS OF TEXAS:  
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 PASCHAL'S ANNOTATED  
CONSTITUTION, PASCHAL'S DIGEST OF DECISIONS, ETC., ETC.

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1874.



1322

## 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.

12 Aug., 1870; took effect 12 Oct., 1870. Vol. 21, part 1, p. 63. Persons not to bear arms at public assemblies. Social intercourse and elections not to be made dangerous.

## AN ACT REGULATING THE RIGHT TO KEEP AND BEAR ARMS.

Art. 6512.

Kinds of weapons prohibited.

Fine \$50 to \$500. Notes, 111, 167.

Scalp-lifting country excepted.

Armed officials.

ART. 6511. [1] If any person shall go into any church or religious assembly, any school-room or other place where persons 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.

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 offense. Notes 111, 167.

People at home and officials excepted.

[Carrying weapons to and from market is within the proviso. *Waddell v. The State*, 37 Tex., 356. But carrying a pistol hog hunting in the woods is not within the exception. *Baird v. The State*, 39 Tex., 609.]

Art. 6512. Justification must be immedi-

## 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 of 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

## CRIMINAL CODE.

1323

in danger of an attack on his person, or unlawful interference 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 carried was borne openly and not concealed beneath the clothing; and if it shall appear that this danger had its origin in a difficulty first commenced by the accused, it shall not be considered as a legal defense.

ate and pressing danger;

and weapon not concealed.

Impending danger.

ART. 6514. [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 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, 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, and shall forfeit to the county the weapon or weapons so found on his person; and for every subsequent offense may, in addition to such fine and forfeiture, be imprisoned in the county jail for a term of not more than ninety days.

Attending public meetings armed an offense to be punished in like manner. Society protected and attempted civilization.

Character of arms prohibited.

Fine \$50 to \$100 for first offense, and imprisonment for perseverance.

ART. 6515. [4] This act shall not apply to nor be enforced in any county of the state which may be designated in a proclamation of the governor as a frontier county, and liable to incursions of hostile Indians.

Governor may exempt frontier counties by proclamation.

ART. 6516. [5] All fines collected under the provisions of this act shall be paid into the treasury of the county, and appropriated exclusively to the keeping in repair and maintenance of public 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. All fines under this act must be paid into county treasury.

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 of this act, and to take such person immediately before a justice of the peace of the county where the offense is committed, or before a mayor or recorder of the town or city in which the offense is committed, who shall investigate and try the case without delay. On all such trials the accused shall have the right of a trial 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 approved by the magistrate, and conditioned that the defendant will abide the judgment of the district court that may be rendered

Peace officers to arrest offenders, &c. 1330a. Justices have jurisdiction of this offense. *Hiltard v. The State*, 37 Tex., 359.

Jury trial and appeal allowed. Appeal bond.

Payable to State.

1324

## CRIMINAL CODE.

Forfeiture. 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. 6516.

Art. 6517.  
Officer failing to  
arrest to be dis-  
charged.  
Arts. 6512, 6514.

And fined not  
more than \$500.

District courts to  
have concurrent  
jurisdiction.

Governor to pub-  
lish the 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.

Arts. 2035-2038.

## CHAPTER I.—ILLEGAL BANKING AND PASSING SPURIOUS MONEY.

## AN ACT CONCERNING PRIVATE CORPORATIONS.

2 Dec., 1871; took  
effect from pas-  
sage. Vol. 21, part  
3, p. 82.  
Directors to pub-  
lish semi-annual  
returns; punish-  
ment for failure.  
Arts. 6032-6011.

ART. 6521. [79] Every such corporation shall semi-annually, in the months of July and January, publish in one or more newspapers in the county where such corporation shall have its place of business, a statement, verified by the oath of its president or 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.

How recovered.

Arts. 2043.

## CHAPTER III.—OF SELLING TO INDIANS.

31 Aug., 1866.  
Art. 6347 for cap-  
tion.  
Selling liquor to  
Indians.

Who may pun-  
ish.

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.

9 April, 1873;  
took effect from  
passage. Vol. 22,  
p. 35.

[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.

Keeping gaming  
tables in every  
rurification.

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

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 TREATIES 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, CHEYENNE, WYOMING.  
1876.

## CHAPTER 52.

AN ACT to Prevent the Carrying of Fire Arms and Other Deadly Weapons.

*Be it enacted by the Council and House of Representatives of the Territory of Wyoming:*

Carrying weapons within city, town or village limits, prohibited.

SECTION. 1. That hereafter it shall be unlawful for any resident of any city, town or village, or for any one not a resident of any city, town or village, in said Territory, but a sojourner 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.

Non - resident to be first notified.

SEC. 2. That if any person not a resident of any town, city 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.

Violation of this act a misdemeanor.

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.

Penalty.

In force.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved, December 2nd, 1875.



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.

## 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, by any census or enumeration taken under any law of the 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.

Shall become city of the first class, when.

SEC. 2. All cities of the first class shall be governed by the provisions of this act.

SEC. 3. Each city governed by the provisions of this act shall be a body corporate and politic, and shall have power —

Shall be a body corporate, and have power to sue, etc.

*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 shall be "The city of \_\_\_\_."

Corporate name.

SEC. 5. The power hereby granted shall be exercised by the mayor and council of such city, as hereinafter set forth.

Powers, how exercised.

SEC. 6. All and every process whatever affecting any such 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.

Process, how served.

Extent of tax  
levy.

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.

Bridges, side-  
walks, etc., esti-  
mate of cost to  
be made.

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 estimate. And in no case shall the city be liable for any allowance beyond the original contract price for such work.

Punishment for  
carrying fire-  
arms.

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.

Vagrants,  
tramps, etc.

General fund to  
be used to com-  
promise indebt-  
edness, when.

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.

Sinking fund.

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.

Mayor and coun-  
cil may compel  
sidewalks, etc., to  
be kept in good  
order.

SEC. 26. The mayor and council shall have power to prescribe by ordinance rules and regulations, compelling owners or occupants of real property to keep in good order and proper place any of the improvements of any sidewalk, gutters, and also to clean or remove from sidewalks and gutters ice, snow, or other substances. Such rules and regulations shall be deemed police regulations, and violations thereof may be punished accordingly by fine or imprisonment.

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-

SESSION LAWS  
OF THE  
FIFTEENTH  
LEGISLATIVE ASSEMBLY  
OF THE  
TERRITORY OF ARIZONA.

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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 1. 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 1. 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



## LAWS OF ARIZONA.

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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

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.

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No. 14. AN ACT

To Amend Paragraph 492, Revised Statutes.

*Be it Enacted by the Legislative Assembly of the Territory of Arizona:*

SECTION 1. That Paragraph 492, Chapter 5, Title 13, of the Revised 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 County 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.

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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

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.

AT

BOISE CITY.

PUBLISHED BY AUTHORITY.

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JAMES A. PINNEY, TERRITORIAL PRINTER.

1889.

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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.

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## CARRYING DEADLY WEAPONS.

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### 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.

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 this Territory.

---

GUTHRIE, OKLAHOMA:  
THE STATE CAPITAL PRINTING CO.,  
PUBLISHERS.  
1891.

(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 let-  
 implying, or adapted to imply, any threat, such as is specified in ter.  
 the second section of this article, is punishable in the same man-  
 ner 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  
 of any verbal threat such as is specified in the second section of export money.  
 this article, to extort money or other property from another is  
 guilty of a misdemeanor.

#### ARTICLE 47.—CONCEALED WEAPONS.

##### SECTION.

1. Prohibited weapons enumerated.
2. Same.
3. Minors.
4. Public officials, when privileged.
5. Arms, when lawful to carry.

##### SECTION.

6. Degree of punishment.
7. Public buildings and gatherings.
8. Intent of persons carrying weapons.
9. Pointing weapon at another.
10. Violation of certain sections.

(2432) § 1. It shall be unlawful for any person in the Terri- Prohibited  
 tory of Oklahoma to carry concealed on or about his person, sad- weapons enu-  
 dle, or saddle bags, any pistol, revolver, bowie knife, dirk, dagger, merated.  
 slung-shot, sword cane, spear, metal knuckles, or any other kind  
 of knife or instrument manufactured or sold for the purpose of de-  
 fense except as in this article provided.

(2433) § 2. 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 arti-  
 cle 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 when privileged.  
 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 imprison-  
 ment in the county jail not to exceed thirty days or both at the  
 discretion of the court. On the second and every subsequent con-



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.

Public buildings and gatherings.

(2438) § 7. 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.

Intent of persons carrying weapons.

(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.

Pointing weapons at another.

(2440) § 9. 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.

Violation of section seven.

(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.

- 1. False impersonation, punishment for.
- 2. False impersonation and receiving money.
- 3. Personating officers and others.
- 4. Unlawful wearing of grand army badge.
- 5. Fines, how paid.
- 6. Obtaining property under false pretenses.

SECTION.

- 7. False representation of charitable purposes.
- 8. Falsely representing banking corporations.
- 9. Using false check.
- 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,

Fourth. Does any other act whereby, if it were done by the 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.

WILSON'S  
REVISED AND ANNOTATED  
STATUTES  
OF  
OKLAHOMA

1903

REVISED AND ANNOTATED IN TWO VOLUMES

BY

W. F. WILSON, M. A. LL. B.,  
OF THE OKLAHOMA CITY BAR.

VOL. I.

GUTHRIE, OKLAHOMA,  
THE STATE CAPITAL COMPANY,  
1903.

(2498) § 579. Every person who commits any extortion under color of official right, in cases for which a different punishment is not prescribed by this chapter, or by some of the statutes which it specifies as continuing in force, is guilty of a misdemeanor. Extortion under color of official right.

(2499) § 580. Every person who, by any extortionate means, obtains from another his signature to any paper or instrument, whereby, 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. Obtaining signature by extortion.

(2500) § 581. Every person who, with intent to extort any money or other property from another, sends to any person any letter or 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. Sending threatening letter.

(2501) § 582. Every person who unsuccessfully attempts by means 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. Attempting to extort money.

ARTICLE 45.—CONCEALED WEAPONS.

Section.  
(2502) 583. Prohibited weapons enumerated.  
(2503) 584. Same.  
(2504) 585. Minors.  
(2505) 586. Public officials, when privileged.  
(2506) 587. Arms, when lawful to carry.

Section.  
(2507) 588. Degree of punishment.  
(2508) 589. Public buildings and gatherings.  
(2309) 590. Intent of persons carrying weapons.  
(2310) 591. Pointing weapon at another.  
(2511) 592. Violation of certain sections.

(2502) § 583. It shall be unlawful for any person in the Territory of Oklahoma to carry concealed on or about his person, saddle, 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. Prohibited weapons enumerated.

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 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. Same.

(2504) § 585. It shall be unlawful for any person within this Territory, to sell or give to any minor any of the arms or weapons designated in sections one and two of this article. Minors.

(2505) § 586. Public officers while in the discharge of their 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. Public officials when privileged.

Arms, when  
lawful to  
carry.

(2506) § 587. Persons shall be permitted to carry shot-guns or 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, and not otherwise.

Degree of  
punishment.

(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.

Public  
buildings and  
gatherings.

(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.

Intent of  
persons car-  
rying wea-  
pons.

(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.

Pointing  
weapons at  
another.

(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.

Violation of  
section  
seven.

(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.  
(2512) 593. False impersonation, punish-  
ment for.  
(2513) 594. False impersonation and re-  
ceiving money.  
(2514) 595. Personating officers and oth-  
ers.  
(2515) 596. Unlawful wearing of grand  
army badge.  
(2516) 597. Fines, how paid.

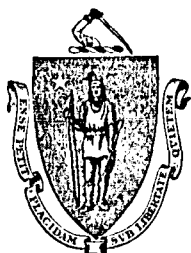
Section.  
(2517) 598. Obtaining property under  
false pretenses.  
(2518) 599. False representation of chari-  
table purposes.  
(2519) 600. Falsely representing banking  
corporations.  
(2520) 601. Using false check.  
(2521) 602. Holding mock auction.

Punishment  
for false im-  
personation.

(2512) § 593. 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,

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.

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 CONCEALED WEAPONS.

*Be it enacted, etc., as follows:*

Licenses may be granted for carrying concealed weapons, etc.

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.

Penalty for carrying concealed weapon without permission.

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 Commonwealth'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.*



# 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, GOVERNOR.  
HENRY B. GRAY, LIEUT.-GOVERNOR.  
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

1909.

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To the person raising the best mule colt under six months of age, \$15.00; 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.

Payment authorized.

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.

Unlawful to carry concealed pistol.

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.

Does not apply to sheriff, etc.

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.

Violations.

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.

May give evidence of good reason.

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

jury may consider in mitigation of the fine or justification of the offense.

Section 5. In an indictment for a violation of this act, it shall be sufficient to charge that the defendant carried a pistol concealed about his person or on premises not his own or under his control and the excuse if any must be proved by the defendant on the trial, to the satisfaction of the jury. Sufficient to charge defendant carried pistol. Excuse must be proved.

Section 6. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed. Conflicting laws 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 Alabama, That on and after the approval of this act by the governor it shall be lawful for the commissioners court, board of revenue, or other court or officers of the county 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 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 Lawful to appropriate funds to aid in construction, etc. of county high schools.

LAWS  
OF THE  
TERRITORY OF HAWAII  
PASSED BY THE  
LEGISLATURE  
AT ITS  
REGULAR SESSION  
1913

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PUBLISHED BY AUTHORITY

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HONOLULU, T. H.  
HONOLULU STAR-BULLETIN, LTD.  
1913

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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.

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.

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VOL. III.

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ALBANY  
J. B. LYON COMPANY, STATE PRINTERS  
1913

Add. 140



<sup>1</sup> 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.

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## 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, 1913, 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 chapter eighty-eight of the laws of nineteen hundred and nine, entitled "An act providing for the punishment of crime, constituting chapter forty of the consolidated laws," as amended by chapter one hundred and ninety-five of the laws of nineteen hundred and eleven, is hereby amended to read as follows:

L. 1909,  
ch. 88,  
§ 1897, as  
amended by  
L. 1911,  
ch. 195,  
amended.

§ 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,

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<sup>1</sup> Following sentence new.

slungshot, billy, sandclub, sandbag, metal knuckles, bludgeon, bomb or bombshell,<sup>1</sup> 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 him<sup>2</sup> 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,<sup>3</sup> 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<sup>4</sup> place, at any time, shall be guilty of a felony,<sup>5</sup> unless authorized by license issued as hereinafter prescribed.

<sup>6</sup> 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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<sup>1</sup> Inclusion of bomb and bombshell, new.

<sup>2</sup> 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 as may be prescribed by ordinance in such city, village or town, shall be guilty of a misdemeanor."

<sup>3</sup> 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."

<sup>4</sup> Word "public" omitted.

<sup>5</sup> Remainder of sentence new.

<sup>6</sup> Following paragraph new.

person to have and carry concealed a pistol or revolver while such person remains in the said employ.

<sup>o</sup> 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, and 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.

<sup>o</sup> 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 resident 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.

<sup>o</sup> Any 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, \*notwithstanding 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, policemen, 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.

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\* So in original.

<sup>o</sup> Following paragraph new.

§ 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. <sup>7</sup>No 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.

<sup>7</sup>Any 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 license<sup>8</sup> 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 be 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.

<sup>7</sup> Following sentence new.

<sup>8</sup> Word "license" substituted for word "permit."

# STATUTES OF CALIFORNIA

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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

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 contemporaneously with the taking effect of amendments to sections one 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. Act takes effect.

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### 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:

3051a. That portion of any lien, as provided for in the next preceding section, in excess of one hundred dollars, for any work, services, care, or safekeeping rendered or performed at the request of any person other than the holder of the legal 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. Limitation on amount recoverable where written notice not given.

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### 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*



*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, carry-  
ing, etc.,  
certain  
dangerous  
weapons  
prohibited.

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, slung-shot, billy, sandclub, 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.

Aliens and  
felons must  
not possess  
certain  
firearms.

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.

Committing  
felony while  
carrying  
dangerous  
weapon.

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 impris-

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 attempting to commit a felony against the person of another 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, the fact that he was so armed shall be prima facie evidence of his intent to commit such felony. Evidence.

SEC. 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. No probation or suspension of sentence

SEC. 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 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. Carrying certain firearms without license.

This section 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 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. Exceptions.

SEC. 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 Police officers, soldiers, etc., excepted.

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 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; or to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

Nuisances.

SEC. 7. The unlawful concealed carrying upon the person 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 nuisances, 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 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 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 thereof. Blackjacks, slungshots, billys, sandclubs, sandbags 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 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.

Destruction  
of weapons.Licenses to  
carry  
firearms.

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-

cealed 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 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 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.

Applications.

Record.

SEC. 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 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 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 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 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, 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 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, city and county, town or municipal corporation wherein

Dealers registers.

Cost.

Signatures.

Disposition of duplicate sheets.

Penalty.

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.

Sold by----- Salesman-----  
City, town or township -----  
Description of arm (state whether revolver or pistol)-----  
Maker----- Number----- Caliber-----  
Name of purchaser -----age-----years.  
Permanent residence (state name of city, town or township, street and number of dwelling)-----  
Height -----feet-----inches. Occupation-----  
Color -----skin-----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.)

Series No.-----  
Sheet No.-----

DUPLICATE.

Dealers' Record of Sale of Revolver or Pistol.  
State of California.

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 whether revolver or pistol)-----  
Maker -----number-----caliber-----

Name of purchaser \_\_\_\_\_ age \_\_\_\_\_ years.  
 Permanent address (state name of city, town or township,  
 street and number of dwelling) \_\_\_\_\_

Height \_\_\_\_\_ feet \_\_\_\_\_ inches. Occupation \_\_\_\_\_  
 Color \_\_\_\_\_ skin \_\_\_\_\_ 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.)

SEC. 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 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.

Restrictions  
 on transfer  
 of certain  
 firearms.

SEC. 11. The duly constituted licensing authorities of any county, city and county, city, 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 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:

Local  
 licenses for  
 sale of cer-  
 tain firearms.

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.



Penalty for dealing in certain firearms without license.

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.

Tampering with marks on certain firearms.

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.

Penalty.

Expiration of current licenses.

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.

Antique pistols, etc.

SEC. 15. This act shall not apply to antique pistols or revolvers incapable of use as such.

Constitutionality.

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.

Stats. 1917, p. 231, repealed.

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.

L A W S  
PASSED AT  
THE EIGHTEENTH SESSION  
OF  
Legislative Assembly  
OF THE  
STATE OF NORTH DAKOTA

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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

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KNIGHT PRINTING CO., FARGO, N. D. - BLANK BOOKS - ENBOSSING



## 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 construed as meaning any firearm with barrel less than twelve inches in length.

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

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 preserved 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 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 be punished by a fine of not less than \$100 or by

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 CONDITIONS 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.



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.

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## PLEDGE

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### CHAPTER 267.

(H. B. No. 177—Cole.)

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#### 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:

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

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*BY AUTHORITY*

FREDERICK E. SCHORTEMEIER, Secretary of State

---

INDIANAPOLIS:  
WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING  
1925

Add. 160

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.

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#### 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

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

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-

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,



(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,

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.**

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

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.

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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 Novem-

**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**  
**1025**

## [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 shall be construed to mean any pistol, revolver or gun not exceeding thirty inches in length that can be concealed on or about the person. Pistol, etc.,  
defined.

SEC. 2. Any person who shall commit or attempt to commit a felony when armed with a pistol, revolver or gun, as defined 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. Felony,  
penalty for.

SEC. 3. The court shall have power to sentence any person who may be convicted of a second offense to double the additional penalty imposed under section two hereof for carrying such concealed weapon without a license. Second  
offense.

SEC. 4. In the trial of a person for the commission of murder, assault with intent to do great bodily harm, robbery, larceny, or of an attempt to commit any of such offenses, the 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. What  
deemed  
prima facie  
evidence.

SEC. 5. No person shall carry a pistol, revolver or gun concealed on or about his person or in any vehicle owned or operated by him, except in his dwelling house, place of business or on his premises, without a license therefor, as herein-after 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. Pistol, etc.,  
when unlaw-  
ful to carry.

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 be 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.

Form of  
license.

Delivery to  
purchaser;  
statement  
required.

SEC. 7. No person shall deliver or otherwise transfer a 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 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.

Dealer's  
license.

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



more than one year from the date thereof permitting the licensee to sell at retail the firearms herein mentioned, subject to the following conditions:

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.

3. A true record in triplicate shall be made of every pistol, 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 delivery of a pistol, revolver, or gun, as defined in this act, or 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.

False information.

Sec. 10. No person shall deliberately change, alter, remove or obliterate the name of the maker, model, manufacturer's number or other mark of identity of any pistol, revolver or 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.

Not to change, etc., name of maker, etc.

Sec. 11. On or before the first day of July, nineteen hundred 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 issued in triplicate and on a form to be prescribed by the secretary 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.

Registration.

Certificate, what to contain, etc.

Sec. 12. All licenses heretofore issued within the state, permitting a person to carry a pistol, revolver or gun, as defined in this act, concealed upon his person, shall expire at midnight, December thirty-first, nineteen hundred twenty-six.

When license to expire.



# 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.

MACRELLISH & QUIGLEY Co., STATE PRINTERS.

1925

## CHAPTER 64, LAWS OF 1925.

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## 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 eleventh, one thousand nine hundred and twenty-four.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The act of which this act is amendatory be and the same hereby is amended so that the same shall read as follows:

1. Any person who shall carry any revolver, pistol or other firearm, or other instrument of the kinds known as a blackjack, slungshot, billy, sandclub, sandbag, 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; *provided, 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, further*, nothing in this act contained shall be construed to apply to any person having a written permit to carry

Act amended.

Carrying concealed weapon on person or in vehicle a misdemeanor.

Proviso: legal carrying.

Proviso.

- 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.
- Proviso.**
- License to carry weapons.** 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.
- Application.**
- Approval.**
- Permit.**
- Expiration and renewal.**
- Record of sale kept.** 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

## CHAPTER 64, LAWS OF 1925.

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upon the person, whether such seller, lessor or transferrer 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 Secretary of State, and by him transmitted to the clerk of every municipality. The clerk of such municipality 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 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 name, in duplicate, as a witness to the signature of the purchaser. Any person signing a 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 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 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 any of the provisions hereof shall be guilty of a misdemeanor.

Registry.

Furnished  
dealers.Signature of  
buyer and  
seller.False repre-  
sentation.Duplicate  
delivered.

Proviso.

Penalty.



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 or pistol) ..... Maker .....  
 Number ..... Caliber ..... Name of purchaser ..... Age ..... Years .....  
 Permanent residence (state name of city, town or township, street and number of dwelling) .....  
 Height ..... feet ..... inches .....  
 Occupation ..... Color ..... Skin .....  
 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.)

No sale after five P. M.

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.

Proviso.

Permits for banking institutions.

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.

Police notified.

Proviso.

CHAPTERS 64 & 65, LAWS OF 1925.

6. Any person who shall alter, change, disfigure or deface the serial number of any pistol or revolver shall 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.

Not alter serial number.

7. This act shall take effect immediately.

Approved March 12, 1925.

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CHAPTER 65.

An Act concerning building and loan associations  
(Revision of 1925).

BE IT ENACTED by the Senate and General Assembly  
of the State of New Jersey:

ARTICLE I. AS TO BUILDING AND LOAN ASSOCIATIONS OF THIS STATE.

I. FORMATION.

1. Purposes.

Upon executing, recording and filing a certificate pursuant to this act, nine or more persons, citizens of this State, may become an incorporated association for 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 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.

Formation of building and loan associations.

Purposes.

STATE OF OREGON

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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

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Compiled by  
SAM A. KOZER  
Secretary of State



SALEM, OREGON:  
STATE PRINTING DEPARTMENT  
1925

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.

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.

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

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,



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 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 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

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.

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.

Sold by ..... Salesman.....

City, town or township .....

Description of arm (state whether revolver or pistol).....

Maker ..... Number ..... Caliber .....

Name of purchaser ..... Age ..... years  
 Permanent residence (state name of city, town or township, street and  
 number of dwelling) .....  
 Height ..... feet ..... inches. Occupation.....  
 Color ..... Skin ..... 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.)

Series No.....  
 Sheet No.....

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 whether revolver or pistol).....  
 Maker ..... Number ..... Caliber .....  
 Name of purchaser ..... Age ..... years  
 Permanent address (state name of city, town or township, street and  
 number of dwelling) .....  
 Height ..... feet ..... inches. Occupation.....  
 Color ..... Skin ..... 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.)

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.

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:

(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,

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]

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.

**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**



*as having been inspected and passed or otherwise approved as being wholesome and fit for food.*

*(b) To affix or attach any stamp, brand, emblem, 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.*

Affixing or attaching stamp which has not been officially approved.

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 used in this act, means any pistol or revolver with a barrel less than twelve inches, any shotgun with a barrel less than twenty-four inches, or any rifle with a barrel less than fifteen inches.

The Uniform Firearms Act.

"Firearm," defined.

"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.

"Crime of violence," defined.

"Person," as used in this act, includes firm, partnership, association, or corporation; and the masculine shall include the feminine and neuter.

"Person," defined.

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 addition to the punishment provided for the crime, be punished also as provided by this act.

Crimes committed with firearms.

Additional punishment.

Section 3. In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with a firearm used or attempted to be used, and had no license to carry the same, shall

Evidence of intent.

be evidence of his intention to commit said crime of violence.

Former convict not to own a firearm, etc.

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.

Firearms not to be carried without a license.

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.

Exceptions.

Section 6. The provisions of the preceding section 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.

Police heads in cities and sheriffs in counties may issue licenses.

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

## SESSION OF 1931.

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- licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of the Commonwealth, 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 the Commonwealth, and the triplicate shall be preserved for six years by the authority issuing said license. The 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 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 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. No seller shall deliver a firearm 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 firearm shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a firearm, 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, 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 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 shall not apply to sales at wholesale.
- Section 10. No retail dealer shall sell, or otherwise transfer or expose for sale or transfer, or have in his 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 or police department of a city, and, elsewhere in this Commonwealth, the sheriff of the county, shall grant to
- License to be issued in triplicate. Form.
- Fee.
- Revocation.
- Persons to whom delivery shall not be made.
- Time and manner of delivery.
- Statement to be signed by purchaser.
- Duty of seller.
- Sales at wholesale.
- Retail dealer required to be licensed.
- Issuance of licenses.

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## LAWS OF PENNSYLVANIA,

Form to be prescribed by Secretary of Commonwealth.

Conditions.

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:

Business place.

1. The business shall be carried on only in the building designated in the license;

Display of 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;

Known identity of purchaser.

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;

Record.

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.

Display of firearms prohibited.

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.

License fee.

The fee for issuing said license shall be ten dollars (\$10.00), which fee shall be paid into the county treasury.

Revocation.

6. Any license granted under this section may be revoked by the person issuing the same, upon written notice to the holder thereof.

Petition to common pleas for reversal.

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.

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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 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.

Procedure.

Section 13. No person shall make any loan secured by mortgage, deposit, or pledge of a firearm; nor shall any person lend or give a firearm to another or otherwise deliver a firearm contrary to the provisions of this act.

Loans on, or lending or giving firearms prohibited.

Section 14. No person shall, in purchasing or otherwise 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.

False evidence of identity.

Section 15. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's 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.

Altering or obliterating marks of identification.

Section 16. All licenses heretofore issued within this Commonwealth permitting the carrying of firearms concealed upon the person shall expire at midnight of the thirty-first day of August, one thousand nine hundred and thirty-one.

Expiration of present licenses.

Section 17. This act shall not apply to antique firearms unsuitable for use and possessed as curiosities or ornaments.

Antique firearms.

Section 18. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than three thousand dollars (\$3,000.00), or imprisonment for not more than three years, or both.

Violation.

Misdemeanor.

Penalty.

Section 19. If any part of this act is for any reason

Invalidity of part of act.

declared void, such invalidity shall not affect the validity of the remaining portions of this act.

**Title of act**

Section 20. This act may be cited as the "Uniform Firearms Act."

**Uniformity.**

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.

**Repeal.**

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."

Act of April 25,  
1929 (P. L. 777),  
not repealed.

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 3, 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 (Pamphlet 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-



THE LAWS  
PASSED AT THE  
Twenty-Fourth Session  
OF THE  
Legislature  
OF THE  
STATE OF SOUTH DAKOTA

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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.

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OFFICIAL EDITION

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1935  
HIPPLE PRINTING COMPANY  
Pierre, South Dakota

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## UNIFORM LAWS

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### 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 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 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 carry-

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 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. **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 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 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 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 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".

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 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.

**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

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**PUBLISHED BY AUTHORITY**

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OLYMPIA  
STATE PRINTING PLANT  
1935

**Add. 200**



## 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 act means any firearm with a barrel less than twelve (12) inches in length. Definitions.

"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.* 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. Committing crime when armed.

SEC. 3. *Being Armed Prima Facie Evidence 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. Prima facie evidence of intent.

SEC. 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. Persons forbidden to possess arms.

SEC. 5. *Carrying Pistol.* No person shall carry a pistol in any vehicle or conceal on or about his person, except in his place of abode or fixed place Carrying pistol.

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

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 Forbidden.* No person shall deliver a pistol to any person 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.

Delivery to  
minors and  
forbidden  
persons.

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

Sales  
regulated.

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.

Dealer's licenses, by whom granted and conditions thereof.

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

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 dollars (\$5.00) which fee shall be paid into the state treasury. Fee.

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. Certain transfers forbidden.

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. False information forbidden.

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 Alteration of identifying marks prohibited.

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.** SEC. 15. *Exceptions.* This act shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

**Penalties.** 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.** 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 portions of this act.

**Short title.** SEC. 18. *Short Title.* This act may be cited as the "Uniform Firearms Act."

**Uniform interpretation.** 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.

**Effective date.** SEC. 20. *Effective Date.* This act shall take effect on the first day of July, 1935.

**Conflicting statutes repealed.** 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.



**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**

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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.

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**BIRMINGHAM PRINTING COMPANY**  
State Printers and Binders  
Birmingham, Alabama  
1936

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 here-in 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 EVIDENCE 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 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 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 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, 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,

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 tripli-

cate 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.



## The DECLARATION of RIGHTS.

**T**HE parliament of Great-Britain, by a declaratory act, having assumed a right to make laws to bind the colonies in all cases whatsoever, and in pursuance of such claim endeavoured by force of arms to subjugate the United Colonies to an unconditional submission to their will and power, and having at length constrained them to declare themselves independent states, and to assume government under the authority of the people, therefore, We, the delegates of Maryland, in free and full Convention assembled, taking into our most serious consideration the best means of establishing a good constitution in this state, for the sure foundation, and more permanent security thereof, declare,

1. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

2. That the people of this state ought to have the sole 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 course of that law, and to the benefit of such of the English statutes, as existed at the time of their first emigration, and which by experience have been found applicable to their local and other circumstances, and of such others as have been since made in England, or Great-Britain, and have been introduced, used, and practised by the courts of law or equity; and also to all acts of assembly in force on the first of June seventeen hundred and seventy-four, except such as may have since expired, or have been, or may be altered by acts of Convention or this Declaration of Rights, subject nevertheless 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 majesty Charles the first to Cecilius Calvert baron of Baltimore.

4. That all persons invested with the legislative or executive powers of government are the trustees of the public, and as such accountable for their conduct; wherefore whenever the ends of government are perverted, and public liberty ma-

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nifestly



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, 1867.*

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.)  
*Vicksburg, 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, 1866, 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 riot 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



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 FIFTH MILITARY DISTRICT, }  
NEW ORLEANS, LA., August 29, 1867. }

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.

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 recommendation 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,  
GEORGE 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 Cumberland, 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 Military 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 apprehensions 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 citizens are often subjected to annoyance 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 BURBANK,  
Second Lieut. 37th 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 Louisiana are hereby made: Albert Voorlies, Lieutenant-Governor, is removed, and Jacob Hawkins appointed in his place; H. H. Hardy, Secretary of State, is removed, and J. R. G. Pitkin appointed in his place; Adam Griffin, State Treasurer, is removed, and E. J. Jenkins appointed in his place; Hypolite Peralter, Auditor of Public Accounts, is removed, and J. H. Sypher is appointed in his place; R. M. Larker, Superintendent of Public Education is removed, and John McNair is appointed in his place; Henry Bensenel, State Tax-Collector for the Fourth District, is removed, 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 Government of the United States; and

*Whereas*, The said Hays is now exercising the functions of sheriff of the parish of Orleans, contrary to the expressed will of the American people in Congress represented; and

*Whereas*, The retention of said office by said Harry T. Hays is a reproach to the dignity of the loyal people of the United States; and

*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 ORLEANS, November 29, 1867. }

*First*. In accordance with General Orders, No. 81, Headquarters of the Army, Adjutant-General's Office, 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 opposition to lawful authority; but when insurrectionary 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.

Solemnly impressed with these views, the General announces that the great principles of American liberty 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 institutions, while they are essential to the prosperity and happiness of the people, always furnish the strongest inducements to peace 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 liberties 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 persons in their rights; to suppress disorder and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals. 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 persons to be placed on the jury lists of the State of Louisiana. To determine who shall and who shall 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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POLITICAL MANUAL.

HEADQUARTERS 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. C. Robinson.

JNO. R. MYRICK, 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 authority 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 pre-

serve tranquility and order by means and agencies most congenial to the people, solicits the zealous 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 SECOND MILITARY DISTRICT,  
(NORTH CAROLINA AND SOUTH CAROLINA),  
CHARLESTON, S. C., *April 1, 1867.*

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 Telegraph.]

CHARLESTON, S. C., *April 1, 1867.*

Bvt. Brig. Gen. GREEN, *Commanding Richland District:*

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



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 against 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 remedies 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 States 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 suits brought to recover ordinary debts known as actions *ex contractu*, bail, as heretofore 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 *ex delicto*, bail, as heretofore authorized, may be demanded and taken. The prohibition of bail in cases *ex 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 reprove 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 or ordinance heretofore in force in North or South Carolina inconsistent 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'RS 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.

WAGER 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 distinction, 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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ORDINANCE NO. 11.

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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 mavor 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 handle, 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 causing 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, or

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, sword-cane, 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.



# CHARTER

—AND—

## ORDINANCES

—OF THE—

# CITY OF LA CROSSE,

—WITH THE—

## RULES OF THE COMMON COUNCIL.

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PUBLISHED BY ORDER OF THE COMMON COUNCIL.

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LA CROSSE, WIS.:  
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.

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.

Width of wheel tires on wagons hauling heavy merchandise.

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.

Farmers excepted.

Stone, lumber, coal, etc. not to be deposited on public landings.

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.

Published October 15, 1880.

#### ORDINANCE NO. 14.

AN ORDINANCE to provide for the government and good



## CITY ORDINANCES.

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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 1. Every person who shall set up, use, or keep for use, or permit to be used within the city of La 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 any game of chance for money or property, and shall induce, entice or permit any person 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 control; 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 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.

Gambling prohibited.

Penalty for allowing games of chance to be played.

Penalty for renting building to be so used attaches to owner or agent.

SECTION 2. Every person who shall, within the limits of the city of La Crosse, bet any money or property, notes, drafts, 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 playing any game of chance, or shall bet or wager on the hands or sides of such as do play as aforesaid, shall,

Betting prohibited.

Penalty.

upon conviction thereof, be punished by a fine not exceeding fifty dollars.

Penalty for frequenting gambling houses.

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.

Proceedings to cause arrest of persons engaged in gambling.

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, constructions and devices which may be brought before him by virtue of such warrant, to be publicly destroyed by burning or otherwise.

Duty of police and their powers.

Justice to cause destruction of all gambling implements.

Prostitutes—Penalty for plying vocation on streets.

SECTION 5. Any person who shall solicit or procure another to visit or become an inmate of a house of ill-fame, 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-

Penalty.



## CITY ORDINANCES.

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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 found at or frequenting a house of ill-fame, or a house 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.

House of ill fame—Penalty for being inmate.

SECTION 7. Any person who shall keep any assignation 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.

Houses of assignation.

SECTION 8. Any policeman or other officer, having a warrant for the apprehension of the keeper of any 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.

Inmates and visitors to be arrested.

SECTION 9. No person shall swim or bathe in the Mississippi river, Black river or La Crosse river, within the corporate limits of the city of La Crosse, between 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.

Bathing in public streams prohibited in day time.

SECTION 10. No person shall indecently exhibit any stud horse or jack or let any such horse or jack to any 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.

Use of stallions within city.

SECTION 11. 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 person, or be guilty of lewd and indecent behavior, or 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.

Penalty for indecent exposure of person.

SECTION 12. Any person who shall cruelly beat, injure or abuse any horse, ox or other animal within the

Cruelty to animals

limits of the city of La Crosse shall be punished by a fine not exceeding twenty-five dollars.

Committing  
nuisance.

SECTION 13. Any person found committing any nuisance upon any street, alley, vacant lot, or upon any public ground, shall be punished by a fine not exceeding five dollars.

Penalty for  
intoxica-  
tion, 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 in 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.

Penalty for  
carrying  
concealed  
weapons

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.

Penalty for  
interfering  
with street  
lamps, lamp  
posts, or in-  
juring  
fences,  
trees, plants,  
buildings,  
sign-boards,  
etc.

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 Crosse, or extinguish any lamp or climb upon any post, or destroy, remove, throw down or injure any fence or other enclosure on land belonging to or lawfully occupied 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



## CITY ORDINANCES.

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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.

Penalty for injuring public or private property.

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 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.

Penalty for disturbing lawful assemblages of people.

SECTION 18. Any person violating any rule posted in 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.

Violation of cemetery rules.

SECTION 19. It shall be unlawful for any person to use firearms or to shoot off a gun or pistol or to hunt game or birds within the limits of any cemetery in the city of La Crosse; or to rob 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.

Unlawful to use firearms in cemeteries, or disturb bird's-nests therein—When and how cemeteries may be entered.

SECTION 20. Any person who shall wilfully or wantonly destroy, mutilate, injure or remove any tomb, monument, gravestone, building or other structure, fence, wall, railing, tree, shrub, plant or flower within the limits of any burying ground or cemetery, or any other thing

Penalty for interfering with anything in cemetery.

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 bills—  
Rules relat-  
ing thereto. SECTION 21. No bill poster or other person shall post 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 twenty-five dollars.

Steamboat  
whistles not  
to be sound-  
ed at land-  
ings or  
wharfs. 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.

Vagrants, idle  
persons,  
drunkards,  
gamblers,  
prostitutes,  
etc. 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.

Penalty.

Duty of chief  
of police in  
regard to  
vagrants,  
gamblers,  
prostitutes,  
etc. SECTION 24. It shall be the duty of the chief of police 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



## CITY ORDINANCES.

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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 whenever in his opinion a sufficient number of persons 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 several 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.

Prisoners to break and pound stone.

Overseer to be appointed.

SECTION 26. Any person in confinement who shall refuse to work when required by the chief of police or by said overseer as herein set forth, shall be subject to imprisonment not less than three days for each and every offense.

Penalty for refusal to work.

SECTION 27. It shall be the duty of the mayor, at the expense of the city of La Crosse, to provide all the balls, chains and tools that may be necessary to be used in carrying out the provisions of the two preceding sections of this ordinance.

Balls and chains to be provided by the city.

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 1 [As amended by ordinance No. 118]. The scales erected by the city of La Crosse, and now situate on lot 1 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

Public city scales.



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.



(13.)

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ORDINANCE NO. 20.

UNLAWFULLY CARRYING ARMS.

Be it ordained by the city council of the city of McKinney:

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 imminent and threatening as not to admit of the arrest of the party about to make such attack, upon legal process.

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ORDINANCE NO. 21.

INDECENT PUBLICATION AND EXPOSURES.

Be it ordained by the city council of the city of McKinney:

That if any person within the limits of the city of McKinney, 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.

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## CHAPTER 108.

## CARRYING PISTOLS, BOWIE-KNIVES, ETC.

## SECTION

1. Penalty imposed for carrying pistols, bowie-knives, etc.
2. Duty of the police to arrest all persons carrying such weapons.
3. Penalty imposed on police officer for failing to arrest persons carrying deadly weapons.

## SECTION

4. 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 pocket-knife 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



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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.
2. No vehicle to be laden on Sunday.
3. No grocery or other place of ordinary business to be kept open on the Sabbath; tavern-

## SECTION

- keepers and apothecaries excepted.
4. 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, keel-boat, 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

## 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



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.

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### 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.

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### LAMPS.

Section.

194. Court of Common Council may order lamps to be set up.

Section.

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



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 1. 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





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.





ORDINANCES OF THE CITY OF SALINA.

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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 than 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.

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.



## REVISED CRIMINAL ORDINANCES.

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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 with 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,

City marshal to designate place or stand.

**Sec. 3.** The badge provided for in Section 1 of this ordinance shall not be transferable.

Badge not transferable.

**Sec. 4.** All persons permitted to pursue the occupation 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.

Foot blacks under supervision of city marshal.

**Sec. 5.** Any person violating any of the provisions of this ordinance shall be fined in any sum not exceeding five dollars (\$5.00) for each offense.

Penalty affixed.

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 CHAPTER TEN.

## CONCEALED WEAPONS.

**Section 1.** If any person, within the corporate limits 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

Carrying concealed weapons.

Penalty.



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 ex-  
empted.

**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 de-  
fined.

**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 drive any horse or other animal whether attached 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 penitentiary of the county for not less than ten nor more than thirty days.

Immoderate driving and riding.

Penalty.

§ 6. Any person who shall solicit alms in the 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 the county for ten days for each offense.

Soliciting alms.

Penalty.

§ 7. Any person who shall carry about his or her person any dirk, bowie knife, sword or spear cane, 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 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.

Carrying of deadly weapons.

Penalty.

§ 8. Any person who shall ring any gong or bell or cry any auction in any street, lane {or alley, or upon any sidewalk, or upon any piazza, step or

Ringling of gongs and bells.

**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, ALSO**

**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, 52d, 53d, 54th, 55th, 56th and 57th Councils.**

**For Laws passed since June 3, 1853, see Index opposite page 396.**



**Prepared and Published by order of the Corporation of Washington.**

**Washington:**  
**PRINTED BY ROBERT A. WATERS.**  
**1853 & 1860.**



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.*

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#### 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.*

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.*

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#### 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.*

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#### 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-



## OF THE CITY OF WICHITA.

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- | SECTION.                                                                                                                  | SECTION.                                                                                                                                                                          |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 80. Selling Wearing Apparel by Club Drawing.                                                                              | 95. Hitching to Fire Hydrant or Pole with Alarm Box.                                                                                                                              |
| 81. Stealing Parts of a House.                                                                                            | 96. Ball Playing in Streets.                                                                                                                                                      |
| 82. Moving Houses with Unpaid Tax.                                                                                        | 97. Running Water into Streets.                                                                                                                                                   |
| 83. Time for Hauling Slops Along Street.                                                                                  | 98. Throwing Rubbish into the Street.                                                                                                                                             |
| 84. Dead Animals, Disposition of.                                                                                         | 99. Projections Over the Sidewalks.                                                                                                                                               |
| 85. Traction and Threshing Engine on Paved Streets.                                                                       | 100. Stringing Banners Across Streets.                                                                                                                                            |
| 86. Manure not to be Thrown in Streets or Alleys; Limits; Provisions to Make Pen for.                                     | 101. Crowds Upon Sidewalks, Streets and Crossings.                                                                                                                                |
| 87. Privy Vaults to be Cleaned and not to be Transferred.                                                                 | 102. Obstructing Crossings with Engines or Cars.                                                                                                                                  |
| 88. Stables and Water Closets to be on Line of Alley.                                                                     | 103. Digging and Leaving Holes in the Street.                                                                                                                                     |
| 89. Secondhand and Junk Dealers; Buying from Minors; Description book; Night Purchases.                                   | 104. Breaking Horses Upon Streets.                                                                                                                                                |
| 90. Leaving Holes for Stagnant Water.                                                                                     | 105. Leaving Horse, Mule or Ox on Street After Midnight.                                                                                                                          |
| 91. Advertisement on Street Poles.                                                                                        | 106. Auction Sales not on Certain Streets.                                                                                                                                        |
| 92. Bicycle Riding Regulated; Sidewalks, Speed, Dismounting, by Threes, Alarm Bell.                                       | 107. Height of Telegraph, Telephone and Light-Wires, (20 ft.)                                                                                                                     |
| 93. Obstructing Streets or Walks; How Used by Merchants and Builders; Gutters not to be Obstructed; Debris to be Cleared. | 108. Building Lines Located by Engineer; Cellar-way Excavation; Power of Mayor and Council to Permit or Remove; Nuisance Declared and Abated; Penalty; Proviso for Parking Fence. |
| 94. Red Night Lights on Building Material on Street.                                                                      | 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.*** SECTION 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



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.

1° EDW. III. Stat. 2. c. 15—17.

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escritz de venir au Roi a force & armes, en chescun temps qils furent maunde, sur peine de vie & de membre, & de q'nt qil p'roient forfaire; p force des queux escritz plusours de la Fre ount este disement destrutz; Le Roi eyaunt regard q̄ tieux escritz furent faitz a deshonor du Roi, desicome chescun feust tenu de faire au Roi come a seign' lige ceo q̄ a luy appendoit sanz escrit, Voet q̄ tieux escritz desormes ne soient faitz; et q̄ ceux q̄ sont faitz, p la veue de Chancellor & Tresorer, soient monstrez au Roi; & le Roi fra dampner ceux q̄ sont faitz contre droit & reson.

Item pur la pees meultz garder & meyntener, le Roi veot qen chescun Countee q̄ bones gentz & loialx, queux ne sont mye meyntenours de malveis baretz en pays, soient assignez a la garde de la pees.

Item le Roi comaunde q̄ les viscontes & Baillifs des franchises, & toutz autrs q̄ pnent enditementz a lor tourns, ou aillours ou enditementz g'ront faitz, preignent tieux enditementz p roule endente dount lune ptie demeorge vs les enditours, & lautre ptie de vs cely qi prendra Lenqueste, issint q̄ les enditementz ne soient beseelez come avant ces heures ount este, & issint q̄ un de lenqueste peut monstrez lune ptie de lendenture a la Justice q'nt il vendra p' la delivance faire.

Memorand qd̄ ista duo statuta pcedencia missa fuerunt in Hibn̄ in forma patentis, cum quodam bñ inferi<sup>o</sup> 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 Barrators'] 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 Indictments 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 Indictments 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.

<sup>1</sup> No Maintainers of cursed Barrators 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.<sup>1</sup>

<sup>1</sup> See Memorandum at the End of Stat. 5 Edw. III.

None shall be bound by Writing to come with Arms to the King.

XVI. Keepers of the Peace in each County.

XVII. Indictments shall be taken by Indenture.

Anno 2° EDWARDI, III. A.D. 1328.

Statutu editu apud North't, anno r. R. E. t'ciii 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.

Nre seign' le Roi Edward, le tierz aps le conqueste, a son plement tenuz a North as trois semeins de Pasch, Lan de son regne secund, desiraunt q̄ la pees de sa Fre, & les leis & estatuz avant ces heures ordenez & usez, soient gardez & meintenuz en touz poyntz, Al hon' de dieu & de seinte eglise, & a cōe pfit du poeple, p assent des Prelatz, Countes & Barons & autres g'ntz, & tote la cōe du roialme, au dit plement somons, ordena & establil en meisme le plement les choses southescrites en la forme q̄ sensuit.

En primes q̄ la g'nte Chartre & la Chartre de la foreste soient tenuz en touz pointz.

Ensement p' ceo q̄ meffesours ont este esbauditz de ce q̄ chartres de pdoun ont este si leg'ment g'ntees avant ces heures, des homicides, robies, felonies & autres trespasss countre la pees; acorde est & establil q̄ tiels chartres ne soient mes g'ntees fors qen cas ou le Roi le poet faire p son g'ment, cest assavoir en cas ou home tue autre soi defendant, ou p infortune: Et auxint ont este esbauditz de ceo q̄ Justiceries as delivances des gaoles, & a oier & yminer, ont estez g'ntees as gentz p'cez countre forme de lestatut fait en temps le Roi Edward, ael

OUR Lord King Edward, the Third after the Conquest, 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.

FIRST, That the Great Charter, and the Charter of the Forest, be observed in all Points.

ITEM, Whereas Offenders have been greatly encouraged, because [the'] Charters of Pardon have been so easily granted in times past, of Manslaughters, Robberies, 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<sup>1</sup> against the Form of the Statute made in the xxvij year of the reign of King Edward,

<sup>1</sup> that

<sup>1</sup> Commissions of Gaol Delivery and of Oyer and Terminer have been granted to Persons procur'd

I. The Charters.

II. Pardons for Felony.



27 Ed. I. c. 3.

Justices  
of Assise  
and Gaol-  
delivery.Oyers and  
Terminers.III.  
Riding or  
going armed  
in Affray of  
the Peace.IV.  
The Statute  
of Lincoln,  
9 Edw. II.  
concerning  
Sheriffs, &c.  
confirmed.V.  
The Statute  
Westminster  
the Second,  
13 Edw. I.  
chapter 39,  
concerning  
the Delivery  
of Writs to  
the Sheriff,  
confirmed.

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 such [Justices'] shall not be made against the Form of the said Statute; and that the Assises, Attaints, and 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;] and that the Oyers and Terminers shall not be granted but before Justices of the 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 none otherwise.

ITEM, It is enacted, That no Man great nor small, of what Condition soever 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,] 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 Bailiwicks, 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.

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 Sheriffs and Bailiffs of Fee shall cause their Counties and Bailiwicks to be kept by such as have Lands therein.

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

\* Commissions  
upon a Proclamation of Deeds of Arms in time of Peace, and that in Places where such Deeds are to be done.—See Lib. Rub. Scac. Westm. fo. 122 b. a Writ reciting a Grant of K. Richard I. "qd Torneamenta sint in Angl in v. placias: In p. Sarf & Wilton: In p. Warrewich & Kenelingworth: In p. Stanford & Warnesford: In p. Brakete & Mixebf: In p. Blie & Tykehill. Ita qd pax fere nre no infringer, n' potestas Justiciarum minorabit' Nec de f. testis nris dāpnū inferret."  
\* of the King

nre Seign' le Roi qore est, en quele est contenuz q̄ les Justices as assises p̄ndre assignez sils soient lais, facent les delivances; et si lun soit cleric, & autre lais, q̄ le dit lais, associe a lui un autre du pais, facent la delivance des gaols; p̄ qoi acorde est & establi, q̄ tiels Justiceries ne soient mes ḡntees countre la forme du dit estatut, & q̄ les assises, atteintes, & c̄ifications soient p̄ses devant les Justices cōmunement assignez, q̄ soient bones gentz & loialx & conissantz de la lei, & nemie autres; solonc la forme dun autre statut fait en temps meisme le ael; et q̄ les oiers & r̄miners ne soient grantees forsq̄ - - - devant les Justices de lun Baunk & de lautre, ou les Justices errantz; & ce p' led & orrible trespas, & de lespecial ḡce le Roi, solonc forme de statut de ce ordene en temps meisme le ael; & nemie autrement.

Ensement acorde est & establi, q̄ nul, ḡnt ne petit de quele condicion qil soit, save les s̄jantz le Roi en la p̄sence le Roi, & les Ministres le Roi, enfesantz execucion des mandementz le Roi, ou de leur office, & ceux qi sont en leur compaignies, eidantz as ditz ministres, & auxint au cri de fait darmes de pees, & ce en lieux ou tielx faitz se ferront, soit si hardi de venir devant les Justices le Roi, ou autres Ministres le Roi enfesant leur 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 faieres, marches, nen p̄sence des Justices, ne dautres Ministres, ne nule part aillours, sur peine de p̄dre leur armures au Roi & de leur corps a la prisone a la volente le Roi. Et q̄ Justices le Roi en leur p̄sences, viscountes & autres Ministres le Roi en leur baillies, seign's des franchises & leur baillifs en yceles, & Meire & Baillifs des Citees & Burghs deinz meismes les Citees & Burghs, Burghaldres, conestables, & gardeins de la pees deinz leur gardes, eient poair affaire execucion de cest acord. Et q̄ les Justices assignez, a leur venu en pais, eient poair denquere coment tielx Ministres & seign's ont use leur office en ce, & de punir ceux qils trovont, qi nount mie fait ce q̄ a leur office appent.

Et p̄ce q̄ la pees ne poet mie estre bien garde sauntz bons ministres, come Viscountes, Baillifs, & Hundreders qi doivent faire execucion, auxibien des p̄vetez le Roi come dautres choses tochantes le Roi & son poeple, acorde est & establi q̄ lestatut fait en temps le Roi Edward, pere le Roi qore est, a Nicole, contenant q̄ Viscontes, Hundreders & Baillifs soient des gentz eantz v̄res en meismes les Countez, ou baillies, soit garde en touz pointz solonc la forme dycel, & auxint q̄ les Viscountes & Baillifs de fee, facent garder meismes leur Countez & Baillies p̄ gentz eantz v̄res en yceles.

Ensement la ou ordene est, p̄ statut de Westmonst' le secund, q̄ ceux q̄ liv̄er volent leur briefs as viscountes, les liv̄ent en plein Counte, ou en rerecounte, & q̄ visconte ou southvisconte facent sur ce bille; acorde est & establi q̄ a quele heure ou a queu lieu deinz le Counte home livre a viscountes, ou a southviscontes, briefs, qils les resceivent & facent bille en la forme contenue en le dit estatut, & ce sanz rien p̄ndre; et sils refusent de faire bille, mettent autres leur seax qi v̄ront p̄sentz; et si le Visconte ou le Southvisconte ne retourne mie les briefs, soient puniz solonc la forme contenue en le dit estatut; & jadumeins eient les Justices as assises p̄ndre assignez poair denquer de ce a chescuny plainte & de agarder damages, eant regard au delai, & a les p̄tes & p̄ils qi p̄ront avenir.

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 Wyncestř, soient tenuz & gardez en touz pointz; ajouste au dit estatut de Wyncestř, la ou contenez 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 & oppressions du poeple, faitz en temps passe; acorde est q' nře Seign' le Roi assigne Justices en div's lieux de sa ĩre, ove le Baunk le Roi p aillours, come estoit faite en temps de son dit ael, des g'ntz de la ĩre qi sont de g'nt poair, ovesq's 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 & ĩminer totes manes des felonies, robies, homicides, larcins, oppressions, conspiracies, & grevances faitz au poeple, countre la lei, Les estatuz & la custume de la ĩre, auxibien p ministres le Roi come p autres, qi qils soient, & ce auxibien dedeinz fraunchises come dehors. Et auxint denquere des Viscontes, Coroners, Southeschetours, Hundreders, Bailiffs, Conestables, & touz autres Ministres deinz franchise & dehors, & leur southministres, & doier & ĩminer a la seute le Roi & de ptie. Et nře Seign' le Roi & touz les g'ntz du Roialme en plein plement ont empris de maintenir la pees, garder & sauver les Justices 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 ĩront p eux covtz ne meintenez en p've nen apt: Mes nest pas lentencion du Roi ne de son conseil q' p ceste acord ĩjudice aveigne a les g'ntz de la ĩre, eantz franchises, ne a la Citee de Loundres, ne as autres Citees ne Burghs, ne a les Cynkportz en droit de leur fraunchises.

Ensement acorde est & establi q' mande ne soit, p le g'nt seal ne p le petit seal, a destourber ou delayer cōe 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 leur marchandises en Engleĳre, solonc la tenour de la g'nte Chartre; & q' s' ceo briefs soient mandez a touz les viscontes Dengleĳre & as Meires & baillifs des bones villes ou mestier ĩra.

Ensement come le Roi Edward, pere le Roi q'ore est, pdona a son poeple ancienzementz & issues forfaitz, jesq's al vintisme an du regne son pere ael le Roi quore est, le Roi p' ees de son poeple ad pdone touz les fins q' ont este faitz en Chancellerie p' briefs avoir, tanq, al vintisme an avantdit.

Et p' ce q' p remuement du cōe Bank les pleez bien sovent ont demore saunz jour, a g'ntz damage, & en pil de desħitance 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 q'eles ne pdent mie leur pces.

Et come touz les Countez Dengleĳre furent ancienzement assis a ĩteine ferme, & adonq's furent touz les Hundredz & les Wapentakes, en les meins des viscontes, aporcionez a cele ferme, et puis furent approwours mandez en div's Contez, les queux encrustrent les fermes dascuns Hundredz & Wapentakes, et puis les Rois en div's temps ont g'ntez as div's gentz pties des Hundredz & Wapentakes, p' les ancienes fermes tantseulement, & jatardeis les viscontes 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 <sup>(1)</sup> 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:] 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 Cities 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 Commandments 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 Tenor 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 Time, so that they may adjourn the Parties by such Time that they shall not lose their Process.

ITEM, Whereas all the Counties in England were in 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 Fermes of some Hundreds and Wapentakes; and after, the Kings at divers Times have granted to many Men part of the same Hundreds and Wapentakes for the old Fermes only; and now late the Sheriffs be wholly charged of the

<sup>1</sup> add to the said Statute of Winchester, where it is contained at the end thereof

<sup>2</sup> Not in the Original.

<sup>3</sup> with the King's Bench besides,

<sup>4</sup> the effect of, that

<sup>5</sup> or <sup>6</sup> Sub-Escutors

<sup>7</sup> to maintain the peace, to keep and save the King's Justices wherever they come, and to aid by themselves, and theirs, that the Judgements

VI.  
The Statute of Wynton, 13 Edw. I. confirmed, &c.

VII.  
Justices assigned to enquire of Felonies, Robberies, &c.

VIII.  
Commands shall not be in delay of Justice.

IX.  
All Staples shall cease.

X.  
Pardon of Fines for Writs in Chancery.

XI.  
The Common Bench not to be removed without Warning.

XII.  
Hundreds and Wapentakes shall be annexed to Counties, and not let to Ferm.



Increase, which amounteth to a great Sum, to the great hurt of the People, and Dishonour 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 Fermes 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.

XIII.  
Trespas  
in the late  
King's Time.

ITEM, It is accorded and enacted, that like process shall be made of Trespas done in the Time of King Edward, father to the King that now is, as of Trespas done in the Time of the King that now is.

XIV.  
Measure  
and Assise  
of Cloths  
imported.

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 [defouling<sup>1</sup>] 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 Assise, 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 morrow 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.

XVI.  
See Stat.  
12 Edw. II.

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,

<sup>1</sup> defouling MS. 7r. 2.—some old Printed Copies read "marring."

encrees q̄ amount a ḡnte sūme, a ḡnt damage du poeple & deshitance de viscountes & de lour heirs; acorde est & establi q̄ des Hundredz & Wapentakes baillez a ferme p̄ le Roi qore est, soit il a t̄me de vie ou autrement, q̄ auncienement furent annex as fermes des Countez ou les viscontes sont chargez, soient rejointz as Countez, et q̄ de temps passe eient les viscountes ou lour heires allowance; & q̄ desore en avant teux Wapentakes, ne Hundredz ne soient donez ne sevez des Countez.

Ensement est acorde & establi q̄ a tieu p̄ces soit fait des trespas fait en temps le Roi Edward, pierre le Roi qore est, come de de trespas fait en temps le Roi qore est.

Ensement est acorde & establi p̄ n̄re Seign' le Roi & son conseil, q̄ de la saint Michel p̄schein avenir en avant, touz les draps es lieux ou ils s̄ront mis a t̄re, soient aunez p̄ le auneour le Roi, en p̄sence des Meire & Bailiffs ou Meire y est, ou des bailiffs ou meire nyest, de meisme les lieux; cest assavoir la longure de chescun draḡ de Raye p̄ une corde de sept aunes quatrefoitz mesure p̄ le list, & la laoure de chescun draḡ de Reye sis q̄rters de lee, mesure p̄ laune; et de draḡs de colour la longure soit mesure p̄ le dos p̄ un corde de sis aunes & demi q̄trefoitz mesure; & la laoure sis quart's & demi mesure p̄ laune sanz defoler les draḡs; et q̄ Meire & Bailiffs ou Meire y est, ou Bailiffs ou Meire nest pas, des villes ou lieux ou les draps vendront, soient p̄stz a lassai faire, quele heure q̄ils soient requis p̄ launeour, sanz rien p̄ndre des marchantz; et q̄ touz les draḡs q̄ s̄ront trovez de la dite assise, soient n̄chez auxibien p̄ Meire & Bailiffs ou Meire y est, ou p̄ bailiffs ou Meire nest pas, come p̄ launeour, et les draps q̄ ne s̄ront pas trovez de lassise avantdite, soient forfaitz au Roi, & p̄sez a la v̄reie value, en p̄sence des ditz Meire & Bailiffs, & demoergent dev̄s launcour p̄ endenture entre eux faite, a respondre des ditz draps issint forfaitz au Roi; et q̄ les ditz Meire & Bailiffs, les endentures issint faites de tieux draps forfaitz, facent liḡver chescun an a Lescheḡr a lendemeyn de Saint Michel, p̄ charger le dit auneour; & a meisme le temps soit le dit auneour a Lescheḡr a respondre des dites forfaitures. Et est lentencion de n̄re dit Seign' le Roi & de son conseil q̄ cest acord se tiegne des draps q̄ vendront en la t̄re ap̄s la dite feste de Saint Michel; & q̄ cest acord soit public & crie p̄ tout le Roialme, Issint q̄ les Marchantz ne p̄vez nestrangues soient supp's p̄ meisme lacord.

Ensement est acorde & establi q̄ maunde soit a touz les viscountes Dengleḡre, & p̄ aillours ou mestier s̄ra, a crier & publier, deinz f̄unchises & dehors, q̄ touz les Seign's q̄ feires enount, soit il p̄ t̄eine ferme ent rendant au Roi, ou autrement, les tiegnent p̄ le temps q̄ils dev̄ont, & nemie outre; cest asavoir ceux q̄ les ount p̄ ch̄res des Rois p̄ les temps a eux ḡuntez p̄ les dites ch̄res; et ceux q̄ les ount sanz ch̄re p̄ temps queux ils les deivent tenir de droit. Et q̄ chescun Seign' au comencement de sa feire face crier & publier en ycele come longement sa feire se tendra, Issint q̄ les Marchantz ne seessent es dites feires outre le temps issint publiez, sur peine destre grevement puniz dev̄s le Roi; ne q̄ les ditz Seign's outre les droitz temps les tiegnent, sur peine ap̄ndre les feires en la meyn le Roi, a demorer tanq̄ils eient fait fin au Roi p̄ le trespas, ap̄s ceo q̄ trove s̄ra duement qe les Seign's les ount tenuz plus longement q̄ils dev̄ont, ou q̄ les marchantz ount sis outre le temps issint publiez & criez.

Et come en un estatut fait a Eḡwyk, en temps le pierre n̄re Seign' le Roi q̄ore est, soit contenuz q̄ les enquestes & jurees qe sont & s̄ront ap̄ndre, q̄ ne sont mie de ḡnt examenement, soient p̄ses devant

un Justice de la place ou la plee est, associe a lui un p̄dhōme du pais, Chivaler ou autre, issint q̄ ōtein jour soit done en Bank, & ōtein jour & lieu en pais en p̄sence de p̄tes, si le demandant le p̄c; & auxint les enquestes & jurees en plee de l̄re, qe demandent ḡnt examinement, soient p̄ses en pais en la forme susdite devant deux Justices du Bank: acorde est & establi q̄ totes tiels enquestes, q̄ sont ou en temps avenir a p̄ndre ōront, en plee de l̄re, soient p̄ses auxibien a la p̄re le tenant come le demandant; tout lautre p̄ces acorde en dit estatut, en tieu cas sauve & garde.

Auxint est acorde & establi q̄ brief de deceit soit meintenu & lieu tiegne, auxibien en cas de garnissement q̄ touche plee du l̄re, ou tieu garnissement est done, come en cas de somons en plee de l̄re.

R̄ Viç Norht, saltm. Quoddam statutū p̄ nos & conciliū n̄rm in pleno pliamto n̄ro apud Northampton convocato, ad emendacōem stat<sup>o</sup> populi regni n̄ri, editū, sigillo n̄ro consignatū tibi mittim<sup>o</sup>; mandantes qd̄ statutū illud, & om̄es articulos in eo contentos, in pleno Com̄ tuo & in Civitatibz, Burgis, villis m̄catoriis, & aliis locis in balliva tua ubi expedire videris, tam infra libertates q̄m ext<sup>a</sup>, legi & publice p̄clamari & observari faç. T. R. apud Norht xxii die Junii.

Eodem modo mand est singulis vicecomitibz p̄ Angl.

Memorand qd̄ istud statutum missum fuit in Hibn in forma patenti cum quodam b̄ri inferius seq̄n.

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 taken in the Country in the said Form before Two Justices of the Bench: It is accorded and enacted, That all such Inquests which are, or in Time to come shall 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 maintainable, and hold Place, as well in the Case of 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.

<sup>1</sup> See Memorandum at the end of Stat. 5 Edw. III.

Inquests in the Country shall be granted on Request of the Tenant.

XVII. Writ of Deceit.

## Anno 4° EDWARDI, III. A.D.1330.

Statutū editū apud Westm̄, anno regni R. E. t̄cii 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.*

AU Parlement somons a Westmostier, le Lundy p̄scheyn ap̄s la feste de Seinte K̄tine, lan du regne n̄re Seign' le Roi Edward, tierz ap̄s le Conquest, quart, Si sont les choses soutzscriptes, a la requeste de la Cōmunalte, assentuz & acordez p̄ n̄re Seign' le Roi, Prelatz, Countes, Barons, & autres ḡntz de mesme le plement, les queux choses n̄re Seign' le Roi voet qen touz les Counteez de Englel̄re soient mandez, a publier & fermement garder.

Adep̄mes acorde est q̄ la Ḡnde Chartre & la Chartre de la Foreste, & les estatuz faitz en temps des p̄genitours n̄re Seign' le Roi, & auxint en son temps demeigne, soient gardez & meyntenuz en touz pointz.

Ensement est acorde q̄ bones gentz & sages, autres q̄ des places si hōme les puisse trover suffisantz, soient assignez en touz les Counteez Denglel̄re ap̄ndre les assises, jureez & ōtifications, & a deliv̄er les gaoles; et q̄ les ditz Justices preignent les assises, jurees, & ōtifications, & deliv̄ent les gaoles, au meyns troiz foitz p̄ an, & plus sovent si mestier ōra, & soient auxint assignez

AT 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.

FIRST, It is accorded, That the Great Charter, and the Charter of the Forest, and all other Statutes, made as well in the time of the King's Progenitors, as in the King's time that now is be kept and maintained in all Points.

ITEM, It is ordained, that good and discreet Persons, other than of the Places, if they may be found sufficient, shall be assigned in all the Shires of England, to take Assises, Juries, and Certifications, and to deliver the Gaols; and that the said Justices shall take the 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

<sup>1</sup> great men

<sup>2</sup> that they be sent

I. Charters and Statutes confirmed.

II. Justices of Assise, Gaol-delivery, and Justices of the Peace.

( 32 )

Anno 7<sup>o</sup> RICARDI, II. A.D.1383.

Statutū apud Westm̄ Anno septimo editū.

In Margine  
Rotuli.

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 Westminster 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. **FIRST**, It is assented and accorded, That Holy 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.']

II. **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 and kept, and put in due Execution according to the Effect of the same.

III. **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 :

IV. **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 trespassing 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.

V. **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

I.  
Liberties of  
the Church  
confirmed.II.  
The Charters  
and Statutes  
confirmed.III.  
For Tres-  
passes within  
the Forest,  
Juries shall  
give their  
Verdict where  
they received  
their Charge.IV.  
Penalty  
on undue  
Imprison-  
ment by the  
Officers of  
the Forest;  
Double  
Damages  
and Fine  
to the King.V.  
Confirmation  
of 5 Ed. III.  
chapter 14.Justices, &c.  
empowered  
to bind over  
Vagabonds  
to their good  
Behaviour,  
&c.

' The King to our Sheriff of Kent.

' Noble Kings of England, Progenitors of our Lord the King that now is.

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 Westm̄ le Lundy pchein devant le feste des Toutz Seintz darrein passe al hono' de Dieu & de Sainte Eglise & p' cōe pfit du roialme de lassent des Prelatz f's & Cōes esteantz el dit plement avons fait faire cteins estatutz & ordinances en la fo'me q̄ sensuit :

Primerement est assentuz & accordez q̄ Sainte Eglise eit & enjoise toutes ses libtoes & fraunchises auxi entierement come ele les ad euz & enjoiez en temps des nobles Rois Dengleire pgenito's nre f' le Roi qore est.

Item q̄ la g'nt Chartre & la Chartre de la Foreste & toutz les autres bones estatutz & ordinances avant ces heures faitz, & nient repellez, soient tenuz & gardez & duement executz selonc leffect dicelles.

Item a la grevouse plainte qest ore faite des Ministres de la Foreste, est assentuz & accordez q̄ nulle manie 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 contrainte de dire lo' veredit, de trespas fait en foreste au'ment q̄ leur conscience ne leur ent vorra clerement enfourmer, einz dient ils leurs vereditz sur leur charge, es lieux ou celle charge lour est donez come desus est dit : et est assentuz q̄ null hōme soit pris nenprisonnez p Ministre de Foreste sanz due enditement ou mainoeuvre, ou t'passant en la Foreste, ne contraint de faire obligacion ou redempcion a ascun Ministre du Foreste p q̄conq, manie 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 q̄ lestatutz faitz en temps luy noble Roy Edward aiel nre f' le Roi qore est, de Robdesmen & Drawelaches 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 paüs plus habundamment q̄ ne soloient avant ces heures, q̄ 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 q̄ la ley demande; & q̄ si bn les ditz Justices & Viscontz come les Mairs Baillifs Conestables & au's Gov'nours des villes & lieux ou tielx faitours & vagerantz vendront, aient desore

' Richard, &amp;c. a Visconte De'wyk, Old Printed Copies.



poair de leur examiner diligement & compeller de trover seurtee de lo' bon port, p' sufficientz mainpno's des tielx q̄ soient destreinables si ascune defaute feusse deslors trovez en mesmes les faitours & vagerantz; & sils ne poient tiele seurtee trover soient mandez al pecheine gaole p' y dem'er tanq, 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 emprisonnez ceo q̄ leur ent semblera mieutz affaire p' la Ley.

Item sur les grevous 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 q̄ lestatut de Wyncestre, dont le teno' estoit envoiez p' n're f' le Roi en lan pschein passez en chescun Countee Dengle're p' y estre p'clamez, 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 q̄ hōme ne se purra desore excuser p' ignorance de mesme lestatut, est auxint assentuz q̄ chescun Viscont Dengle're soit tenuz decy en avant en p'pre p'sone de faire p'clacion de mesme lestatut quatre foitz lan en chescun hundred de sa baillie & p' ses baillifs en chescune ville marchee sibn deinz franchises come dehors.

Item encountre le meschief q'vient as d'v'ses gentz du roialme queux sont empanellez & reto'nez devant les Justices & Barons de lescheqir en quel cas p' cause q̄ lenqueste nest mye p'sue au fyn p' ceux qi sont p'ties, einz mys en delay dan en an, les jurro's y p'dent g'ndement & ascuns plus q̄ la value de leur t're est p'an, a lo' p'g'nt empov'issement & destruccion, est accordez & assentuz q̄ desore en avant en toutes man'es des p'lees en queux brief de Nisi prius est g'ntable doffice ap's le g'nde destresse trois foitz viz & reto'nez devant les Juges dev's la Juree, & sur ce les p'ties demandez si null des d'ces p'ties veulle p'suire, ou si les p'ties refusent d'avoir brief de Nisi prius en le cas, adonq's a la p'suyte daucun diceux Jurro's qi soit p'sent, soit brief de nisi prius fait & g'ntez, & ce auxint en lescheqir come aillo's, & sur ce la querele myse au fyn sanz delay selonc ce q̄ le cas requiert & la ley demande.

Item assentuz est & accordez q̄ les estatutz des p'veo's faitz avant ces heures soient fermement tenuz & gardez & mysez en bone & due execucion; adjoustez a ycell, q̄ si les d'vantz dau's f's ou dames qi ne sont comprises es ditz estatutz p'ignent desore ascun pt deinz le roialme vitailles ou cariages al oeps de lo's f's & dames, autment qils nent purront accorder ovesq, les possesso's & vendo's dicelles, p' paiement ent affaire [p'stement'] en poin, q̄ mesmes celles d'vantz encourgent la peyne en toutes choses comprise es dites estatutz des Purveq's, & nientmeyns eit la p'tie p' iceux d'vantz endamagee sil vorra sa suite a la cōe ley.

ix.

Item sur le meschief q'vient 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 q̄ toutz les estatutz ent faitz devant ces heures avec les estatutz faitz de les alneours & coillours del Subside des ditz draps soient tenuz & gardez & mys [en bone'] & due execucion; adjoustez a ycell q̄ celui qi desore espiera, & p'vera defaute en ascun tiel draḡ mys a vente contre lassise ordeignee des ditz draps & contre la forme des ditz estatutz, eit la tierce p'tie de chescun tiel draḡ defecive pur son t'vaill p' la liv'ee des Viscontz sils

} Interlined on the Roll.

Power to examine them diligently, and to compel them to find Surety of their good bearing, by sufficient Mainpners, 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.

VI.  
The Statute  
of Winchester  
confirmed.

Every  
Sheriff shall  
proclaim it,  
quarterly.

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.

VII.  
In what case  
a Nisi prius  
shall be  
granted at  
the Suit of  
any of the  
Jurors.

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 (' ) comprised in the said Statutes of Purveyors, and nevertheless the Party damaged by such Servants, if he will, shall have his Suit at the Common Law.

VIII.  
The Statutes  
of Purveyors  
confirmed  
and extended  
to Servants  
of Subjects.

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 ordained and assented, That all the Statutes thereof made in Times past, with the Statutes made of Aulnegers and Collectors of the Subsidy of the said Cloths, be holden, kept, and put in due and good Execution; 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

IX.  
Statutes made  
against deceit  
in Cloths to  
be sold, and  
against Aul-  
negers and  
Collectors of  
the Subsidy  
of Cloths,  
confirmed:

<sup>1</sup> See Rot. Claus. 5 Ric. II. m. 13 d. and Note to Stat. Wynton, 13 Edw. I. Vol. I. page 96.

<sup>2</sup> three times served, and returned

<sup>3</sup> in al thynges MS. Tr. 2.

Application  
of the  
Forfeitures.

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 Assize 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 Assize 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.

XI.  
The Statutes  
5 Ric. II.  
c. 4, 5, and  
6 Ric. II.  
c. 7, 11, 12,  
concerning  
Fishmongers,  
Vintners,  
and Victuallers,  
repealed.

ITEM, Whereas in divers Parliaments holden at Westminster, the Fifth and Sixth Years of our said Lord the King, divers Ordinances and Statutes of Fishers of London and other Victuallers were made, and also of Vintners, and of the Sale of Wines, and thereupon the same Ordinances and Statutes, with the Pains in them contained, 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 Victuallers, 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 Forfeitures 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.

XII.  
Stat. 3 Ric. II.  
c. 3. recited;

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 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

confirmed  
and extended  
to Aliens  
holding  
Benefices in  
England;

<sup>1</sup> Wines, and ibi

soient p̄entz ou des f̄s des feires & marcheas, & au<sup>1</sup>s lieux ou tielx draps defectives ſront trovez, ou de lo's Seneschalx & Baillifs ou des Conestables des villes & lieux avantditz p̄ indentures ent entre eux duement afaires; les queles indentures soient chescun an a le feste de Seint Michel li<sup>2</sup>vez en lescheqir p̄ ceux qensi ferront la dite li<sup>2</sup>vee, al effect de charger illoe<sup>3</sup>s les Alneours & coillours avantditz p̄ queux tielx defautes deussent estre ſchez chastiez & amendez & ne sont my einz cōement maintenuz ou concelez toutz ptz; pur quele tierce ptie qapptient au Roi come sa forfaiture p̄ 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 p̄pres deniers a n̄re dit f' le Roi en son Escheqir de la value de celle tierce ptie, issint q̄ sibn de mesme la tierce ptie come del remenant du dit drap n̄re f' le Roi soit entierement responduz a son Escheqir avantdit.

Item est ordeignez & assentuz qassise de Novele Disseisine soit desore ḡnte & faite de rent aderiere, due des teñz esteantz es di<sup>2</sup>ses Countees a tenir en la confyne des Countees deinz queux les teñz sont, & sur ce lassise prise & triee p̄ gentz des ditz Countees en mesme la man<sup>2</sup>re come est fait du cōe 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, & q̄ briefs sur ceo a la p̄suyte des pleintifs soient desore faitz en la Chancellerie sanz nulle man<sup>2</sup>re de cont'diccion en due forme.

Item combn q̄ nadgairs en di<sup>2</sup>ses plementz tenuz a Westm̄ les ans du regne n̄re dit f' le Roi quint & sisme, furent faitz di<sup>2</sup>ses ordinances, & estatutz des pessoners de Londres & dau<sup>1</sup>s vitailleurs & auxint des vineters & la vente des vins, & sur ce mesmes les ordinances & estatutz ovesq̄ les peynes en ycelles contenuz furent publiez & p̄clamez p̄my le Roialme sicome en les ditz ordinances & estatutz plus pleinement purra apparoir; Nientmeyns p' c̄teins enchesons a la requeste des Cōes Dengle<sup>1</sup>re sur ceo especialment faite, est assentuz & accordez q̄ mesmes les ordinances & estatutz des Pessoners Vineters & Vitailleurs, faitz en les ans desuisditz, soient de tout anientiz & repellez & p̄dent lour force & v̄tue; Sauvez nientmeins a n̄re f' le Roi toutz les forfaitures des vins a lui apptenantes p̄ v̄tue de mesmes les ordinances & estatutz q̄antal temps passez. Purveuz toutz foitz q̄ toutz les [vins'] & vitailleurs sibn Pessoners come au<sup>1</sup>s ove leur vitailles venantz a la d̄ce Citee de Londres, soient desore desouz le gov̄naile [& reulle'] des Meir & Aldermannes de la Citee avand̄ce p' le temps esteantz come auncienement y soleient estre.

Item come nadgairs en plement tenuz a Westm̄ lan du regne n̄re f' le Roi tierce, a la requeste des Cōes & p̄ assent des f̄s temporels, estoit ordeignez & assentuz & sur grevouse peyne defunduz q̄ null liege le Roi nautre psone quelconq̄ de quel estat ou condicion qil fuist, p̄ndroit ne resceivoit delors enavant deinz le Roialme Dengle<sup>1</sup>re p̄curacie, tre datto'ne, ne ferme, nautre administraciōn p̄ indenture nen autre man<sup>2</sup>re quelconq̄ de nulle psone dascun benefice de Seinte Eglise deinz le dit Roialme fors tantsoulement des lieges n̄re f' le Roi de mesme le Roialme sanz especiale g'ce & exp̄sse congie de n̄re f' le Roi sur c̄teine peine comprise en lestatutz avantdit, assentuz est ore & accordez p̄ mesmes les f̄s q̄ mesme lestatutz tiegne ses

<sup>1</sup> Vinters Old Printed Copies.

<sup>2</sup> Interlined on the Roll.

x.

xj.

M. 18.

xij.



force & v̄tue en toutz pointz; et outre ceo est auxint assentuz q̄ si ascun alien eit purchacez ou desore purchace ascun benefice de Sainte Eglise Dignite ou autre & en p̄pre p̄sone p̄sone possession dicelle ou loccupie de fait, deinz mesme le Roialme, soit il a son oeps p̄pre, ou al oeps dautri sanz especiale congie du Roi, soit il compris en mesme lestatut, & outre ceo encourage en toutz pointz tielx peines & forfaiture come sont ordeignez p̄ un autre estatut fait en lan xxv° del regne luy noble Roi E. aiel n̄re f̄ le Roi qore est, contre ceux q̄ purchacent p̄visions dabbeyes ou Priories; et en outre au fyn q̄ tielx licences ne se facent desore enavant, le Roi voet & comande a toutz ses lieges & autres q̄ils lour abstiegnent de cy enavant de luy prier dascuns tiels licences doner; et si voet auxi le Roi luy mesmes abstiegnent de doner ascune tiele licence, durantes les guerres horspris au Cardinal de Naples ou a autre especiale p̄sone a q̄ le Roi soit p̄ especiale cause tenuz.

xiiij. Item est ordeignez & assentuz & le Roi defende q̄ desoremes null hōme chivache deinz le Roialme armez, encontre la forme de lestatut de Northampton sur ce fait, ne ovesq̄ lancegay deinz mesme le Roialme, les queux lancegayes soient de tout oustez deinz le dit Roialme come chose defendue p̄ n̄re f̄ le Roi, sur peine de forfaiture dicelx lancegayes armures & auts herneys quelconques es mayns & possession de celluy q̄ les port'a desore deinz mesme le Roialme contre cestz estatut & ordinaances sanz especiale congie de Roi n̄re f̄.

xiiij. Item es briefs de p̄munire fāc est assentuz & accordez q̄ ceux v̄s queux tielx briefs sont portez, & q̄ sont de p̄sent hors de Roialme & sont de bone fame & aient faitz lo' gen̄alx atto'nes devant lo' deupir, q̄ le Chaunceller [Dengleŕre'] pur le temps esteant, p̄ ladvis des Justices purra ḡntier q̄ mesmes les p̄sones purront apparoir & respondre & faire & reseivre ce q̄ la ley demande, p̄ lo' gen̄alx atto'nes avantdiz siavant come es autres cas & queeles; et ceux p̄sones q̄ decy enavant passeront p̄ licence n̄re f̄ le Roi & soient auxint de bone fame, q̄ a lo' requeste le dit Chaunceller p̄ ladvis des Justices lour purra ḡntier defaire lo' gen̄alx atto'nes en la Chancellerie p̄ patent du Roi devant lo' passer, [a respondre'] siñ es ditz briefs de p̄munire fāc, come en auts queeles en quel cas toutes voies soit exp̄se mencion [faite'] des briefs & queeles de p̄munire fāc; et celle patente ensi faite, purront des lors les ditz atto'nes en absence de lo' Meistres, respondre p̄ eux & auts atto'nes desouz eux, devant quelconq̄ juge du Roialme & faire & reseivre el dit cas, siavant come en null autre cas nientcontresteant ascun estatut fait a cont̄rie avant ces heures.

Item sur la grevousse plainte qest faite des meyn-teno's des queeles & chaumpto's; est ordeignez & assentuz q̄ lestatutz ent faitz en les ans du regne le Roi Edward aiel n̄re dit f̄ le Roi primer & quart, et auxint en lan de n̄re f̄ le Roi qore est primer, soient tenuz & gardez & duement executz en toutz pointz.

Item est assentuz & le Roi defende estroitement q̄ decy enavant nulle p̄sone aliene ou denszein de quelconq̄ estat ou condicion qil soit amesne ou envoie ou face amesner ou envoier p̄ v̄re ou p̄ meer hors du Roialme Dengleŕre as ascunes pties Descocce en prive ne en appt ascune maibe darmure de blee de bree ne dautre vitaille ou dautre refressichement queconq̄, sur peine de forfaiture de mesmes les vitailles armures & des autres choses avantdites ensemble avec les niefs vesseulx charettes & chivalx q̄ les portent ou amesment, ou de la v̄roie value dicelles, si ensi ne soit q̄ le

Interlined on the Roll.

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 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 Abbeyes 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 Ordinaances 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 Attornies 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 Attornies 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 Attornies 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 Attornies from henceforth, in Absence of their Masters, may answer [for them, and make'] other Attornies 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 the First and Fourth Years of King Edward, Grandfather 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 and kept, and duly executed in all Points.

ITEM, It is assented, and the King straitly defendeth, That from henceforth no Person, Alien nor Denizen, of whatsoever Estate or Condition that he be, shall carry nor send, nor do to be carried nor sent, by Land nor by Sea, out of the Realm of England, to any Parts of Scotland, privily nor apertly, any Manner of Armour, Corn, Malt, or other Viſuals, or any other refreshing, upon Pain of Forfeiture of the same Viſuals, Armours, and other Things aforesaid, together with the Ships, 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

and

who shall also be liable to the Penalties of 25 Ed. III. st. 5. c. 22.

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 in Writs of Præmunire.

XV. Statutes 1 Edw. III. stat. 2. c. 14; 4 E. III. c. 11; 1 Ric. II. c. 4; against Maintenance, &c. confirmed.

XVI. No Armour or Viſual shall be sent into Scotland without Licence of the King; on Pain of Forfeiture thereof.

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 Main-  
perners shall  
be liable in  
Damages  
by Delay.

ITEM, It is assented and accorded, That in Writs of Debt, Trespass, and Account, and in all other Cases where Mainprise and Writs of Supersedeas be grantable, that if the Persons [comprised'] 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 Mainperners 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 Mainperners shall endure in Assay till the next Parliament only.

['] 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.')

Like Commands of the King are directed to the several Sheriffs throughout England, under the same Date.

<sup>1</sup> for his labour

<sup>2</sup> mainprised

<sup>3</sup> Former Translations read only thus:

And therefore We command you, &c. Dated, &c.

Roi nre f' nent donne sa licence speciale a cont'rie. Et au fyn q̄ ceste ordinance soit duement gardez & mys en bone execucion est auxint assentuz q̄ celluy qi ap̄s q̄ proclamacion ent soit faite purra espier & p̄ver qascun eit mespris, ou forfait en ascun point contre la forme de ceste ordinance, eit la tierce p̄tie des dites forfaitures entement a son p̄pre oepe 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 ḡntables, si les p̄sones maunprisez ne viegnent mye devant les Juges au jo' compris en mesme la meynprise, & p̄ tant le pleintif soit mys en delay & p̄de, soient les ditz meynpours respoignables as pleintifs dune c̄teine s̄ome, (') a limiter p̄ la discrecion & advis des ditz Juges, eiantz consideracion a la qualitee & quantitee des damages du p̄tie & de la chose en demande. Et si durera ceste ordinance des mainpno's en assaie, tanq̄ al p̄chein p̄lement tantsolement.

Et purce vous mandons q̄ sibn le dit Estatut de Wyncestre quatre foitz chescun an decy enavant p̄ man̄e q̄ dessus est ordeigne, come les autres Estatutz & ordinances dessusescritz en toutz les Citees Burghs villes marchees & autres lieux notables deinz v̄re baillie ou vous verrez q̄ mieutz soit affaire deinz franchise & dehors, facez p̄clamer dep nous & publier & duement garder & tenir selonc la forme & effect dicelles. Doñ p̄ tesmoignance de nre ḡnt Seal a nre Paleys de Westm̄ avantdit le xxvj<sup>m</sup> jour de Novembre lan de nre regne septisme.

Consimilia mandata & dirigunt' singulis Vicecomitib; p̄ Angl sub eadem dat̄.

<sup>1</sup> dargent Old Printed Copies.

## Anno 8° RICARDI, II. A.D. 1384.

### Statutū apud Westm̄ anno octavo editū.

#### STATUTE MADE AT WESTMINSTER IN THE EIGHTH YEAR.

In Margine  
Rotuli.

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  
confirmed.

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 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.

II.  
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.

<sup>1</sup> accorded and statuted MS. Tr. 2.

Ex Rot. Stat. in Turr. Lond. II. m. 18.

AD honorem dei & requisicōem cōitatis regni Angl f̄cam dño Regi in pliamto suo tento apud Westm̄ in Crastino S̄ci Martini anno regni sui octavo, idem dñs Rex de assensu Prelatoꝝ Magnatū & Cōitatis p̄d̄ce quoddam statutū in eodem pliamto p̄ cōi utilitate d̄ci regni & p̄sertim p̄ bona & justa gūnacōe ac debita execuōe cōis legis fieri fecit in forma subsequenti:

In primis concordatū est & statutū qd̄ sc̄a ecclia heat om̄es libtates suas, & qd̄ Magna Carta & Carta de Foresta, Statuta de p̄visorib; & laboratorib; & om̄ia alia statuta & ordinaōes ante hec tēpora edita & minime revocata teneant' observent' & execuōi debite demandent' juxta formam & eff̄m̄ eoꝝdem.

Item concordatū est & statutū qd̄ nullus homo de lege sit deceōo Justic̄ assisaꝝ vel cōis delibacōis gaolaꝝ in p̄pria p̄ria sua et qd̄ capitalis Justic̄ de cōi Banco assignet' inl' alios ad h̄i assisas capiend' & ad gaolas deliband set quoad capitalem Justic̄ de Banco Regis fiat sicut p̄ majori pte Centū annoꝝ p̄ p̄itoꝝ fieri consuevit.

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 Farndon dedeins puissent eslire un Alderman sage sufficeant & able p' govner mesme la garde dedeins; & estre nome lalderman de la garde de Farndon dedeins; et q̄ pentre cy & le dit fest de Seint Gregoire les gentz de la garde de Farndon dehors puissent eslire un autre Alderman sage sufficeant & able p' govner mesme la garde dehors, & estre nomez lalderman de la garde de Farndon dehors. Et q̄ les ditz deux Aldermans issint esluz puissent estre estahliz & nemye remoez si noun p cause resonable, come ordeinez est & gntez p nre dit f' le Roi en cest plement des auts Aldermans du dite Citee.

Et Vic Kanč, salm. Quoddam statutum in ultimo pliameto nro apud Westm̄ tento p nos de assensu Magnatum & Cōitatis regni nri Angl nobiscum ibidem tunc assistenciū editū tibi mittim⁹ in forma patentī; Mandantes qđ Statutum illud & om̄es & singulos articulos in eodem contentos, in Civitatibus Burgis Villis Ricatoriis & aliis locis infra ballivā tuam ubi melius expediri videris, publice pclamari & quantum ad te p̄inet firmi⁹ & inviolabili⁹ observari fač. T. R. apud Westm̄ primo die Junii.

p ipm Regem & consilium.

Consimilia bria dirigunt' singulis Vicecomitib; p Angl; ac Johi Duci Aquit & Lancast' vel ejus Cancellario in eodem Ducatu Lancast' sub eadem data.

D pclamāde statutoꝝ pclamand.

Anno 20° RICARDI, II. A.D. 1396 - 7.

Statutū de Anno vicesimo.

STATUTE OF THE TWENTIETH YEAR.

In Margine  
Roruli.

Recital of St.  
7 R. II. c. 13

THE KING at his Parliament holden at Westminster in the Feast of Saint Vincent, the Twentieth 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 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, Armour, 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.

LE ROY en son parlement tenuz a Westm̄ en la feste de Seint Vincent lan de son roialme vintisme, del assent des Prelatz f's & Cōmunes de son roialme en mesme le parlement, pur quiete & t'nquillite de son poeple ad fait deins estatutz & ordenances qensuient.

Pr̄mement, come en un estatut fait lan septisme du regne nre Seignur le Roy soit ordeignez & assentuz q̄ null hōme chivache deins le Roialme armez contre la fourme de lestatut de Norhampton sur ce fait, ne ovesq lancegaye deins mesme le roialme, et q̄ les ditz lancegayes soient de tout oustez deins le dit Roialme, come chose defendue par le Roy sur peyne de forfeiture dicelles lancegayes armures & auts hernoys quelconques, es mayns & possession dycelx qui les porta delors deinz mesme le Roialme encontre ycelles estatutz & ordenances sanz espale congie du Roy:



Nre Seignur le Roy considerant le g'nt clamour a luy fait en cest present plement de ce q̄ le dit estatut nest mye tenuz, Si ad ordeignez & establiz en mesme le plement q̄ les ditz estatutz soient pleinement tenuz & gardez & duement executz; et q̄ les ditz lancegayes soient tout outment oustez sur la peine contenue en le dit estatut de Northampton & outre de fair fyn & ranceon au Roy. Et outre ce q̄ nuft <sup>l'</sup>, 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 susdce; Sauvez & exceptz les offic's & Ministres du Roy enfaisantz leur offices. Et outre ce le Roy voet & ad ordeignez q̄ lestatut fait lan de son regne prinne de livree des Chaperons soit tenuz & gardez sur la peine contenue en mesme lestatut & sur peine destre emprisonnez & de fair fyn & ranceon au Roy.

Item q̄ Vadletz appelez Yomen ne nuft aut<sup>l'</sup> de meindre estat qesquier ne use ne porte nuft signe ne livree appelle livree de compaignie dascun <sup>l'</sup> deins le roialme, sil ne soit menial & familier ou officer continual de son dit <sup>l'</sup> et q̄ 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 q̄ nuft <sup>l'</sup> nautre du pais petit ne g'nt ne soit seant en Bank ovesq, les Justices as assises pndre en leur sessions es Countees Dengleire sur grief forfaiture vs le Roy; Et ad chargez ses ditz Justices qils ne soeffrent le contraire estre fait.

Item q̄ come il soit contenuz en un estatut de <sup>l'</sup> Edward nadgairs Roy Dengleire Aiel a nre <sup>l'</sup> le Roy qorest lan de son regne vynt & oetisme, q̄ nulle manne de nief q̄ soit frette de vs Engleire ou aillours soit artez de venir a nul port Dengleire 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 au<sup>l'</sup> infortune ou meschief a ascun port Dengleire & les Meistres & marins ou Marchantz de mesmes les niefs voillent vendre & deliv'er pte de leur marchandises p loure bone voluntee, bien lise a chescuny tieles marchandises achatre franchement sanz empeschement en le port ou tieles niefs viendront, tout ne soient les marchandises mises a la ire pur vendre; Et q̄ les Meistres Marins & Marchantz, aps ce qils avont issint venduz ce q̄ leur plerra de leur ditz biens & paie ent la custume, puissent f'unchement deputer & aler ove leur niefs & tout le remenant de leur bns pla ou leur plerra sanz custume ent paier: Nre Seignur le Roy p' la quiete & ease de son poeple voet q̄ le dit estatut soit tenuz & gardez en toutz pointz & duement executez nient contrestean ascune ordeignance ou usage a contr'rie.

Item pur ce q̄ les Cōmunes cunt fait compleint q̄ plusours g'ntz meschiefs extorsions & disease sont faitz p diverses gentz de mauveis condicion q̄ de leure auctoritee demesne pignont & font pndre roialment chivalx & auf's 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 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 xxvij 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'] 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,'] 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;'] 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 Ordinance or Usage to the contrary.

ITEM, Forasmuch as the Commons have made Complaint, that many great Mischiefs, Extorsions, 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 Truth they be in no wise privy of any Business or Message, but only in Deceit and Subtilty by such Colour

<sup>1</sup> *Putte*    <sup>2</sup> Omit this word.    <sup>3</sup> *Badge or Livery*    <sup>4</sup> Will  
<sup>5</sup> or other Misfortune or Mischief,    <sup>6</sup> put to land, to sell.

Confirmation thereof.

No Man shall ride or go armed.

The Statute Ric. II. c. 7. touching giving of Liveries, confirmed.

II. Liveries of Companies restrained.

III. None shall sit upon the Bench with Justices of Assise.

IV. Recital of St. 28 Edw. III. chapter 13, concerning Merchants Strangers.

Confirmation thereof.

V. Penalty for taking Horses, &c. for the King's Service, without Warrant.

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;  
notwithstand-  
ing 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 [to'] 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.

<sup>1</sup> so MS. Tr. 2.  
<sup>2</sup> at MS. Tr. 2.

{ banishid MS. Tr. 2.  
{ banished

p tiel colour & ymaginacion, & les ditz chivalx si hastivement chivachent & defolent nient eiantz ascun mañe conscience ou compassion en celle ptie, issint q̄ les ditz chivalx deviegnent tout depduz & foundez, null mañe chose ne denier paiantz pur ycelles, ne ascun mañe de viand donantz a eux; et auxi q̄ ascuns de tielx mañs de gentz, chaungeantz & variantz leur nouns, si p̄ignent & chivachent tielx chivalx & les amesment tout hors aillours, issint qils as queux ils sont ne p'ront unqs enap̄s p nul mañe voye leur ditz chivalx veire reavoir ne savoir ou ils sont devenuz, a ḡnt meschief pde & anientissement & destruccion & arrerisement du poure poeple du Roy leur husbandre & de leur vivre: Nre s̄ le Roy veullant p' quiete & ease de soñ poeple ent faire remede, voet & ad ordene q̄ nul desore en avant p̄igne null tiel chival ne beste en tiel mañe contre le gree [de ceux'] a qui ils sont; et si ascun le face & neit signe ou auctoritee du Roy suffisant, soit pris & emprisonnez tanq̄ il av̄a fait duement gree a partie.

Item nre s̄ le Roy est assentuz & ad ḡuntez de sa grace especiale p assent & accord de toutz s̄s espirituels & temporeles & de toutz les Cōmunes en cest parlement a Robt Bealknap̄ Johan Holt & William de Burgh Chivalers bannuz & dem'antz en Ireland, qils revendront en Engleŕre illeoques a demurer pur l'eme de leur vies; et qils soient psones hables al cōmune ley come lieges du Roy sanz estre de ce empescheez. Nient contrestant lestatut ent fait lan du regne nre dit s̄ le Roi unzisme. Sauvant toutdiz vs eux toutz auŷ points en le dit estatut contenues.

<sup>1</sup> Interlined on the Roll.

## Anno 21° RICARDI, II. A.D. 1397-8.

### Statutu de Anno vicesimo primo. STATUTE OF THE TWENTY-FIRST YEAR.

In Margine  
Rotuli.

IT 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.

I.  
Confirmation  
of Liberties.

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.

<sup>1</sup> Ricard

<sup>1</sup> Saint

Ex Rot. Stat. in Turr. Lond. II. m. 4, 3, 2, 1.\*

FAIT assavoir q̄ nre s̄ le Roy Richard par la g'ce de Dieu Roy Dengleŕre & de France & Seignio' Dirland, a son plement somons & comencez a Westm̄ lundy pschein ap̄s le fest del Exaltacion de la Sainte Croice & dilloeqes adjo'nez a [Solopbirs'] a la quinzeme de Saint Hiller adonqes pschein ensuant & illoeqes l'minez, al hon' de Dieu & de Sainte Eglise & p' la salvacion & seuretee de son roialme & bone gov'nance de son liege poeple, de lassent & accord des Prelates Ducs Contes Barons & Cōes de son roialme illoeqes assemblez ad fait c̄teines estatutz & ordenances qensuient.

Pr̄nement q̄ Sainte Eglise & les s̄s espirituels & temporels & auxint Citees & Burghs & auŷ Cōialtees du roialme eient & enjoyent leur libtees & franchises si avant come ils avoient & enjoierent resonablement en temps de ses nobles p̄genitours Roys Dengleŕre & en son temps.

<sup>1</sup> Salopbirs

\* The Various Readings in the Notes are from a separate Roll, containing a Duplicate of the Statute of this Twenty-first Year.



COMMENTARIES  
ON THE  
L A W S  
OF  
E N G L A N D.  
BOOK THE FIRST.

BY  
WILLIAM BLACKSTONE, Esq.  
VINERIAN PROFESSOR OF LAW,  
AND  
SOLICITOR GENERAL TO HER MAJESTY.

O X F O R D,  
PRINTED AT THE CLARENDON PRESS.

M. DCC. LXV.

1765 [From lectures read 1758]

gative, for which the offender's lands shall be seized till he return; and then he is liable to fine and imprisonment\*.

III. ANOTHER capacity, in which the king is considered in domestic affairs, is as the fountain of justice and general conservator of the peace of the kingdom. By the fountain of justice the law does not mean the *author* or *original*, but only the *distributor*. 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*<sup>γ</sup>. He is not the spring, but the reservoir; from whence right and equity are conducted, by a thousand chanel, to every individual. The original power of judicature, by the fundamental principles of society, is lodged in the society 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 select magistrates, who with more ease and expedition can hear and determine complaints; and in England this authority has immemorially been exercised by the king or his substitutes. He therefore has alone the right of erecting courts of judicature: for, though the constitution of the kingdom hath entrusted him with the whole executive power of the laws, it is impossible, as well as improper, that he should personally carry into execution this great and extensive trust: it is consequently necessary, that courts should be erected, to assist him in executing this power; and equally necessary, that, if erected, they should be erected by his authority. And hence it is, that all jurisdictions 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 person often heard and determined causes between party and party.

\* 1 Hawk. P. C. 22.

<sup>γ</sup> *Ad hoc autem creatus est et electus, ut justitiam faciat universis.* Brañ. l. 3. sr. 1. c. 9.

But at present, by the long and uniform usage of many ages, our kings have delegated their whole judicial power to the judges of their several 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 parliament<sup>z</sup>. And, in order to maintain both the dignity and independence of the judges in the superior 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 gesserint*, and their salaries ascertained 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 1 Geo. III. c. 23. enacted at the earnest recommendation of the king himself from the throne, the judges are continued in their offices during their good behaviour, notwithstanding any demise of the crown (which was formerly held<sup>a</sup> immediately to vacate their seats) and their full salaries are absolutely secured to them during the continuance of their commissions: his majesty having been pleased to declare, that “he looked upon the independence and uprightness of the judges, as essential to the impartial administration of justice; as one of the best securities of the rights and liberties of his subjects; and as most conducive to the honour of the crown<sup>b</sup>.”

IN criminal proceedings, or prosecutions for offences, it would still be a higher absurdity, if the king personally sat in judgment; because in regard to these he appears in another capacity, that of *prosecutor*. All offences are either against the king's peace, or his crown and dignity; and are so laid in every indictment. For, though in their consequences they generally seem (except in the case of treason and a very few others) to be rather offences against the kingdom than the king; yet, as the public, which is an invisible body, has delegated all its power and rights, with re-

<sup>z</sup> 2 Hawk. P. C. 2.

<sup>a</sup> Ld Raym. 747.

<sup>b</sup> Com. Journ. 3 Mar. 1761.



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 person to prosecute for all public offences and breaches of the peace, being the person injured in the eye of the law. And this notion was carried so far in the old Gothic constitution, (wherein the king was bound by his coronation oath to conserve the peace) that in case of any forcible injury offered to the person of a fellow subject, the offender was accused of a kind of perjury, in having violated the king's coronation oath; *dicebatur fregisse juramentum regis juratum*<sup>c</sup>. And hence also arises another branch of the prerogative, that of *pardon*ing 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 prosecutors, and not the crown; the offence being for the most part avowedly taken to be done against the public. Of prosecutions and pardons I shall treat more at large hereafter; and only mention them here, in this cursory manner, to shew the constitutional grounds of this power of the crown, and how regularly connected all the links are in this vast chain of prerogative.

IN this distinct and separate existence of the judicial power, in a peculiar body of men, nominated indeed, but not removeable at pleasure, by the crown, consists one main preservative of the public liberty; which cannot subsist long in any state, unless 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 subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legislators may depart from, yet judges are bound to observe. Were

<sup>c</sup> Stiernh. *de jure Goth.* l. 3. c. 3. A notion somewhat similar to this may be found in the *mirrour* c. 1. §. 5.

it joined with the executive, this union might soon be an over-balance for the legislative. For which reason, by the statute of 16 Car. I. c. 10. which abolished the court of star chamber, 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 instances, might soon 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 constitution, than uniting the provinces of a judge and a minister of state. And indeed; that the absolute power, claimed and exercised 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 assemblies. In Turkey, where every thing is centered in the sultan or his ministers, despotic power is in it's meridian, and wears a more dreadful aspect.

A CONSEQUENCE of this prerogative is the legal *ubiquity* of the king. His majesty, in the eye of the law, is always present in all his courts, though he cannot personally distribute justice<sup>d</sup>. His judges are the mirror by which the king's image is reflected. It is the regal office, and not the royal person, that is always present in court, always ready to undertake prosecutions, or pronounce judgment, for the benefit and protection of the subject. And from this ubiquity it follows, that the king can never be nonsuit<sup>e</sup>; for a nonsuit is the desertion of the suit or action by the non-appearance of the plaintiff in court. For the same reason also, in the forms of legal proceedings, the king is not said to appear *by his attorney*, as other men do; for he always appears in contemplation of law in his own proper person<sup>f</sup>.

FROM the same original, of the king's being the fountain of justice, we may also deduce the prerogative of issuing proclama-

<sup>d</sup> Fortesc. c. 8. 2 Inst. 186.

<sup>f</sup> Finch. L. 81.

<sup>e</sup> Co. Litt. 139.

tions,



tions, which is vested in the king alone. These proclamations have then a binding force, when (as sir Edward Coke observes<sup>2</sup>) they are grounded upon and enforce the laws of the realm. For, though the making of laws is entirely the work of a distinct part, the legislative branch, of the sovereign power, yet the manner, time, and circumstances of putting those laws in execution must frequently be left to the discretion of the executive magistrate. And therefore his constitutions or edicts, concerning these points, which we call proclamations, are binding upon the subject, where they do not either contradict the old laws, or tend to establish new ones; but only enforce the execution of such laws as are already in being, in such manner as the king shall judge necessary. Thus the established law is, that the king may prohibit any of his subjects from leaving the realm: a proclamation therefore forbidding this in general for three weeks, by laying an embargo upon all shipping in time of war<sup>3</sup>; will be equally binding as an act of parliament, because founded upon a prior law. A proclamation for disarming papists is also binding, being only in execution of what the legislature has first ordained: but a proclamation for allowing arms to papists, or for disarming any protestant subjects, will not bind; because the first would be to assume a dispensing power, the latter a legislative one; to the vesting of either of which in any single person the laws of England are absolutely 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 successor, about five years after<sup>4</sup>.

IV. THE king is likewise the fountain of honour, of office, and of privilege: and this in a different sense from that wherein he is stiled the fountain of justice; for here he is really the parent of them. It is impossible that government can be maintained

<sup>2</sup> 3 Inst. 162.

<sup>1</sup> Stat. 1 Edw. VI. c. 12.

<sup>4</sup> 4 Mod. 177, 179.

without

III. THE next species of subordinate magistrates, whom I am to consider, 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 conservation 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 sort are superseded by the modern justices.

THE kings majesty<sup>x</sup> is, by his office and dignity royal, the principal conservator of the peace within all his dominions; and may give authority to any other to see 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 steward of England, the lord marshal, and lord high constable of England (when any such 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 conservators of the peace throughout the whole kingdom, and may commit all breakers of it, or bind them in recognizances to keep it<sup>y</sup>: the other judges are only so in their own courts. The coroner is also a conservator of the peace within his own county<sup>z</sup>; as is also the sheriff<sup>a</sup>; and both of them may take a recognizance or security for the peace. Constables, tythingmen, and the like, are also conservators of the peace within their own jurisdictions; and may apprehend all breakers of the peace, and commit them till they find sureties for their keeping it<sup>b</sup>.

<sup>x</sup> Lambard. Eirenarch. 12.

<sup>y</sup> Lamb. 12.

<sup>z</sup> Britton. 3.

<sup>a</sup> F. N. B. 81.

<sup>b</sup> Lamb. 14.

THOSE

THOSE that were, without any office, simply and merely conservators 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 resignation of the crown, and had set up his son 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 castle to castle; till at last he met with an untimely death. To prevent therefore any risings, or other disturbance of the peace, the new king sent writs to all the sheriffs in England, the form of which is preserved by Thomas Walsingham<sup>d</sup>, giving a plausible account of the manner of his obtaining the crown; to wit, that it was done *ipsius patris beneplacito*: and withal commanding each sheriff that the peace be kept throughout his bailiwick, on pain and peril of disinherittance and loss of life and limb. And in a few weeks after the date of these writs, it was ordained in parliament<sup>e</sup>, 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 conservators of the peace taken from the people, and given to the king<sup>f</sup>; this assignment being construed to be by the king's commission<sup>g</sup>. But still they were called only conservators, wardens, or keepers of the peace, till the statute 34 Edw. III. c. 1. gave them the power of trying felonies; and then they acquired the more honorable appellation of justices<sup>h</sup>.

<sup>c</sup> Lamb. 16.<sup>d</sup> Hist. A. D. 1327.<sup>e</sup> Stat. 1 Edw. III. c. 16.<sup>f</sup> Lamb. 20.<sup>g</sup> Stat. 4 Edw. III. c. 2. and 18 Edw. III. st. 2. c. 2.<sup>h</sup> Lamb. 23.



THESE justices are appointed by the king's special commission under the great seal, the form of which was settled by all the judges, *A. D.* 1590<sup>i</sup>. This appoints them all<sup>k</sup>, jointly and severally, to keep the peace, and any two or more of them to enquire of and determine felonies, and other misdemeanors: in which number some particular justices, or one of them, are directed to be always included, and no business to be done without their presence; the words of the commission running thus, "*quorum aliquem vestrum, A. B. C. D. &c. unum esse volumus;*" whence the persons so named are usually called justices of the *quorum*. And formerly it was customary to appoint only a select 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* clause, except perhaps only some one inconsiderable person for the sake of propriety: and no exception is now allowable, for not expressing in the form of warrants, &c, that the justice who issued them is of the *quorum*<sup>l</sup>.

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 assigned 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 six, and afterwards to eight only. But this rule is now disregarded, and the cause seems to be (as Lambard observed long ago<sup>m</sup>) that the growing number of statute

<sup>i</sup> Lamb. 43.<sup>l</sup> Stat. 26 Geo. II. c. 27.<sup>k</sup> See the form itself, Lamb. 35. Burn. tit. justices, §. 1.<sup>m</sup> Lamb. 34.

laws,

laws, committed from time to time to the charge of justices of the peace, have occasioned also (and very reasonably) 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. ft. 1. c. 4. and ft. 2. c. 1. they must be resident in their several 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 20*l. per annum*. And, the rate of money being greatly altered since that time, it is now enacted by statute 5 Geo. II. c. 11. that every justice, except as is therein excepted, shall have 100*l. per annum* clear of all deductions; and, if he acts without such qualification, he shall forfeit 100*l.* which<sup>n</sup> is almost an equivalent to the 20*l. per annum* required in Henry the sixth's time: and of this qualification<sup>o</sup> the justice must now make oath. Also it is provided by the act 5 Geo. II. that no practising attorney, solicitor, 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 six months after<sup>p</sup>. 2. By express writ under the great seal<sup>q</sup>, discharging any particular person from being any longer justice. 3. By superseding the commission by writ of *superfedeas*, which suspends 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 silently, discharges all the former justices that are not included therein; for two commissions

<sup>n</sup> See bishop Fleetwood's calculations in his *chronicon pretiosum*.

<sup>o</sup> Stat. 18 Geo. II. c. 20.

<sup>p</sup> Stat. 1 Ann. c. 8.

<sup>q</sup> Lamb. 67.

cannot



cannot sublift at once. 5. By accession of the office of sheriff or coroner<sup>r</sup>. Formerly it was thought, that if a man was named in any commission 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<sup>r</sup> it is provided, that notwithstanding a new title of dignity, the justice on whom it is conferred shall still continue a justice.

THE power, office, and duty of a justice of the peace depend on his commission, and on the several statutes, which have created objects of his jurisdiction. His commission, first, empowers him singly to conserve the peace; and thereby gives him all the power of the antient conservators at the common law, in suppressing riots and affrays, in taking securities 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 jurisdiction at sessions, of which more will be said in it's proper place. And as to the powers given to one, two, or more justices by the several statutes, that from time to time have heaped upon them such an infinite variety of business, that few care to undertake, and fewer understand, the office; they are such and of so great importance to the public, that the country is greatly obliged to any worthy magistrate, that without sinister views of his own will engage in this troublesome service. And therefore, if a well meaning justice makes any undesigned slip 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<sup>r</sup>: which, among other privileges, prohibit such justices from being sued for any oversights without notice beforehand; and stop all suits begun, on tender made of sufficient amends. But, on the other hand, any malicious or tyrannical abuse of their office is sure to be severely punished; and all persons who recover a verdict against a justice, for any wilful or malicious injury, are entitled to double costs.

<sup>r</sup> Stat. 1 Mar. ft. 1. c. 8.

<sup>s</sup> Stat. 1 Edw. VI. c. 7.

<sup>t</sup> Stat. 7 Jac. I. c. 5. 21 Jac. I. c. 12.

24 Geo. II. c. 44.

IT is impossible upon our present 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 consider some officers of lower rank than those which have gone before, and of more confined jurisdiction; but still such as are universally in use through every part of the kingdom.

IV. FOURTHLY, then, of the constable. The word constable is frequently said to be derived from the Saxon, *koning-staple*, and to signify the support 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 sir 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 because, like the great constable of France, as well as the lord high constable of England, he was to regulate all matters of chivalry, tilts, tournaments, and feats of arms, which were performed on horseback. This great office of lord high constable hath been disused in England, except only upon great and solemn occasions, as the king's coronation and the like, ever since the attainder of Stafford duke of Buckingham under king Henry VIII; as in France it was suppressed about a century after by an edict of Louis XIII<sup>u</sup>: but from his office, says Lambard<sup>w</sup>, this lower constableness was at first drawn and fetched, and is as it were a very finger of that hand. For the statute of Winchester<sup>x</sup>, which

<sup>u</sup> Philips's life of Pole. ii. 111.

<sup>x</sup> 13 Edw. I. c. 6.

<sup>w</sup> of constables, 5.

first

*John Adams*

# COMMENTARIES

ON THE

L A W S

OF

E N G L A N D.

BOOK THE FOURTH.

BY

WILLIAM BLACKSTONE, Esq.

SOLICITOR GENERAL TO HER MAJESTY.

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## O F   O F F E N C E S   A G A I N S T   T H E   P U B L I C   P E A C E .

WE are next to consider offences against the public *peace*; the conservation of which is intrusted to the king and his officers, in the manner and for the reasons which were formerly mentioned at large<sup>a</sup>. 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 assembling* of *twelve* persons, or more, and not dispersing 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 since 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 suppress; 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 purposes: in which cases, if the persons were

<sup>a</sup> Vol. I. pag. 117. 268. 350.

commanded by proclamation to disperse, 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 assistants, if they killed any of the mob in endeavouring to suppress such riot. This was thought a necessary security in that sanguinary reign, when popery was intended to be re-established, which was like to produce great discontents: 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 also; 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 settlement, to renew it, and at one stroke 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 persons are unlawfully assembled to the disturbance of the peace, and any one justice of the peace, sheriff, under-sheriff, or mayor of a town, shall think proper to command them by proclamation to disperse, if they contemn his orders and continue together for one hour afterwards, such 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, such opposers and hinderers are felons, without benefit of clergy: and all persons to whom such proclamation *ought to have been made*, and knowing of such hindrance, and not dispersing, are felons, without benefit of clergy. There is the like indemnifying clause, in case any of the mob be unfortunately killed in the endeavour to disperse them; being copied from the act of queen Mary. And, by a subsequent clause of the new act, if any persons, so riotously assembled, begin even before proclamation to pull down any church, chapel, meeting-house, dwelling-house, or out-houses, they shall be felons without benefit of clergy.

2. BY

2. By statute 1 Hen. VII. c. 7. *unlawful hunting* in any legal forest, park, or warren, not being the king's property, *by night*, or with *painted faces*, was declared to be single felony. But now by the statute 9 Geo. I. c. 22. to appear armed in any open place by day, or night, with faces blacked or otherwise *disguised*, or (being so disguised) to hunt, wound, kill, or steal any deer, to rob a warren, or to steal fish, 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 disguise, to the breach of the public peace and the terror of his majesty's subjects.

3. ALSO by the same statute 9 Geo. I. c. 22. amended by statute 27 Geo. II. c. 15. knowingly to send any *letter* without a name, or with a fictitious name, *demanding* money, venison, or any other valuable thing, or *threatening* (without any demand) to kill, or fire the house of, any person, is made felony, without benefit of clergy. This offence was formerly high treason, by the statute 8 Hen. V. c. 6.

4. To pull down or destroy any *turnpike-gate*, or fence thereunto belonging, by the statute 1 Geo. II. c. 19. is punished with public whipping, and three months imprisonment; and to destroy the toll-houses, or any *sluice or lock* on a navigable river, is made felony to be punished with transportation for seven years. By the statute 5 Geo. II. c. 33. the offence of destroying turnpike-gates or fences, is made felony also, with transportation for seven years. And, lastly, by statute 8 Geo. II. c. 20. the offences of destroying both turnpikes upon roads, and sluices 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 misdemeanors, and no felonies: as,

5. A F-



5. AFFRAYS (from *affraier*, to terrify) are the fighting of two or more persons in some public place, to the terror of his majesty's subjects: for, if the fighting be in private, it is no *affray* but an *assault*<sup>b</sup>. Affrays may be suppressed by any private person present, who is justifiable in endeavouring to part the combatants, whatever consequence may ensue<sup>c</sup>. But more especially the constable, or other similar officer, however denominated, is bound to keep the peace; and to that purpose may break open doors to suppress an affray, or apprehend the affrayers; and may either carry them before a justice, or imprison them by his own authority for a convenient space till the heat is over; and may then perhaps also make them find sureties for the peace<sup>d</sup>. The punishment of common affrays is by fine and imprisonment; the measure of which must be regulated by the circumstances of the case: for, where there is any material aggravation, the punishment proportionably increases. As where two persons 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 strong aggravation of the affray, though no mischief has actually ensued<sup>e</sup>. Another aggravation is, when thereby the officers of justice are disturbed in the due execution of their office: or where a respect to the particular place ought to restrain and regulate men's behaviour, more than in common ones; as in the king's court, and the like. And upon the same account also all affrays in a church or church-yard are esteemed very heinous offences, as being indignities to him to whose service those places are consecrated. Therefore mere quarrelsome 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 person shall, by words only, quarrel, chide, or brawl, in a church or church-yard, the ordinary shall suspend him, if a layman, *ab ingressu ecclesiae*; and, if a clerk in orders,

<sup>b</sup> 1 Hawk. P. C. 134.

<sup>c</sup> *Ibid.* 136.

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<sup>d</sup> *Ibid.* 137.

<sup>e</sup> *Ibid.* 138.



from the ministration of his office during pleasure. And, if any person in such church or church-yard proceeds to smite or lay violent hands upon another, he shall be excommunicated *ipso 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* persons may be guilty of an affray: but,

6. RIOTS, routs, and *unlawful assemblies* must have *three* persons at least to constitute them. An *unlawful assembly* is when three, or more, do assemble themselves together to do an unlawful act, as to pull down inclosures, to destroy a warren or the game therein; and part without doing it, or making any motion towards it<sup>f</sup>. 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 some advances towards it<sup>g</sup>. A *riot* is where three or more actually do an unlawful act of violence, either with or without a common cause or quarrel<sup>h</sup>: as if they beat a man; or hunt and kill game in another's park, chase, warren, or liberty; or do any other unlawful act with force and violence; or even do a lawful act, as removing a nuisance, in a violent and tumultuous manner. The punishment of unlawful assemblies, if to the number of twelve, we have just now seen may be capital, according to the circumstances that attend it; but, from the number of three to eleven, is by fine and imprisonment only. The same is the case in riots and routs by the common law; to which the pillory in very enormous cases has been sometimes super-added<sup>i</sup>. And by the statute 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, assembly, or rout, arrest the rioters, and record upon the spot the nature and circumstances of the whole transaction;

<sup>f</sup> 3 Inst. 176.

<sup>g</sup> Bro. Abr. t. Riot. 4. 5.

<sup>h</sup> 3 Inst. 176.

<sup>i</sup> 1 Hawk. P. C. 159.

which

which record alone shall be a sufficient conviction of the offenders. In the interpretation of which statute it hath been holden, that all persons, noblemen and others, except women, clergymen, persons decrepit, and infants under fifteen, are bound to attend the justices in suppressing 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 justifiable. So that our antient law, previous to the modern riot act, seems pretty well to have guarded against any violent breach of the public peace; especially as any riotous assembly on a public or general account, as to redress grievances or pull down all inclosures, and also resisting the king's forces if sent 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 statute 13 Car. II. st. 1. c. 5. it is enacted, that not more than twenty names shall be signed to any petition to the king or either house of parliament, for any alteration of matters established by law in church or state; unless the contents thereof be previously approved, in the country, by three justices, or the majority of the grand jury at the assises or quarter sessions; and, in London, by the lord mayor, aldermen, and common council<sup>k</sup>: and that no petition shall be delivered by a company of more than ten persons: on pain in either case of incurring a penalty not exceeding 100*l*, and three months imprisonment.

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-

<sup>j</sup> 1 Hal. P. C. 495. 1 Hawk. P. C. 161. the restoration, usually taken the lead in

<sup>k</sup> This may be one reason (among others) petitions to parliament for the alteration of why the corporation of London has, since any established law.

merly allowable to every person disseised, or turned out of possession, unless his entry was taken away or barred by his own neglect, or other circumstances; which were explained more at large in a former volume<sup>1</sup>. But this being found very prejudicial to the public peace, it was thought necessary by several statutes to restrain all persons from the use of such violent methods, even of doing themselves justice; and much more if they have no justice in their claim<sup>m</sup>. So that the entry now allowed by law is a peaceable one; that forbidden is such as is carried on and maintained with force, with violence, and unusual 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 several 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 sufficient power of the county, may go to the place, and there record the force upon his own view, as in case of riots; and upon such conviction may commit the offender to gaol, till he makes fine and ransom to the king. And moreover the justice or justices have power to summon a jury, to try the forcible entry or detainer complained of: and, if the same be found by that jury, then, besides the fine on the offender, the justices shall make restitution 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 same may be done by indictment at the general sessions. But this provision does not extend to such as endeavour to maintain possession by force, where they themselves, or their ancestors, 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 unusual weapons, is a crime against the public peace, by terrifying the good people of the land; and is particularly prohibited

<sup>1</sup> See Vol. III. pag. 174, &c.

▪ 1 Hawk. P. C. 141.

by



by the statute of Northampton, 2 Edw. III. c. 3. upon pain of forfeiture of the arms, and imprisonment during the king's pleasure: in like manner as, by the laws of Solon, every Athenian was finable who walked about the city in armour<sup>n</sup>.

10. SPREADING *false news*, to make discord between the king and nobility, or concerning any great man of the realm, is punished by common law<sup>o</sup> with fine and imprisonment; which is confirmed by statutes Westm. 1. 3 Edw. I. c. 34. 2 Ric. II. ft. 1. c. 5. and 12 Ric. II. c. 11.

11. FALSE and *pretended prophecies*, with intent to disturb the peace, are equally unlawful, and more penal; as they raise enthusiastic jealousies in the people, and terrify them with imaginary fears. They are therefore punished by our law, upon the same principle that spreading of public news of any kind, without communicating it first to the magistrate, was prohibited by the antient Gauls<sup>p</sup>. Such false 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*l*, 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 same denomination. Therefore *challenges to fight*, either by word or letter, or to be the bearer of such challenge, are punishable by fine and imprisonment, according to the circumstances of the offence<sup>q</sup>. If this challenge arises on account of any mo-

<sup>n</sup> Pott. Antiqu. b. 1. c. 26.

<sup>o</sup> 2 Inst. 226. 3 Inst. 198.

<sup>p</sup> "Habent legibus sanctum, si quis quid de republica a finitimis rumore aut fama acceperit, uti ad magistratum deferat, neve cum alio communicet: quod saepe homines temerarios

"atque imperitos falsis rumoribus terreri, et

"ad facinus impelli, et de summis rebus consi-

"lium capere, cognitum est." Caes. de bell. Gall. lib. 6. cap. 19.

<sup>q</sup> 1 Hawk. P. C. 135. 138.



ney won at gaming, or if any assault or affray happen upon such account, the offender, by statute 9 Ann. c. 14. shall forfeit all his goods to the crown, and suffer two years imprisonment.

13. OF a nature very similar to challenges are *libels*, *libelli famosi*, which, taken in their largest and most extensive sense, signify any writings, pictures, or the like, of an immoral or illegal tendency; but, in the sense under which we are now to consider them, are malicious defamations of any person, and especially a magistrate, made public by either printing, writing, signs, or pictures, in order to provoke him to wrath, or expose him to public hatred, contempt, and ridicule<sup>r</sup>. The direct tendency of these libels is the breach of the public peace, by stirring up the objects of them to revenge, and perhaps to bloodshed. The communication of a libel to any one person is a publication in the eye of the law<sup>s</sup>: and therefore the sending 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<sup>t</sup>. For the same reason it is immaterial with respect to the essence of a libel, whether the matter of it be true or false<sup>u</sup>; since the provocation, and not the falsity, is the thing to be punished criminally: though, doubtless, the falsity 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<sup>w</sup>; for, if the charge be true, the plaintiff has received no private injury, and has no ground to demand a compensation for himself, 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 suit. But, in a criminal prosecution, the tendency which all libels have to create animosities, and to disturb the public peace, is the sole consideration of the law. And therefore, in such prosecutions,

<sup>r</sup> 1 Hawk. P. C. 193.

<sup>s</sup> Moor. 813.

<sup>t</sup> 2 Brownl. 151. 12 Rep. 35. Hob. 215.

Poph. 139. 1 Hawk. P. C. 195.

<sup>u</sup> Moor. 627. 5 Rep. 125. 11 Mod. 99.

<sup>w</sup> Sec Vol. III. pag. 125.

the

the only points to be considered are, first, the making or publishing of the book or writing; and, secondly, whether the matter be criminal: and, if both these points are against the defendant, the offence against the public is complete. The punishment of such libellers, for either making, repeating, printing, or publishing the libel, is fine, and such corporal punishment as the court in it's discretion 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<sup>y</sup>. Under the emperor Valentinian<sup>z</sup> it was again made capital, not only to write, but to publish, or even to omit destroying them. Our law, in this and many other respects, corresponds rather with the middle age of Roman jurisprudence, 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 instances which we have lately considered, where blasphemous, immoral, treasonable, schismatical, seditious, or scandalous libels are punished by the English law, some with a greater, others with a less degree of severity; the *liberty of the press*, properly understood, is by no means infringed or violated. The liberty of the press is indeed essential to the nature of a free state: but this consists in laying no *previous* restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public: to forbid this, is to destroy the freedom of the

\* 1 Hawk. P. C. 196.

<sup>y</sup> ————— *Quinetiam lex*

*Poenaque lata, malo quae nollet carmine quinquam*

*Describi: — vertere modum formidine fallis.* Hor. *ad Aug.* 152.

<sup>z</sup> *Cod.* 9. 36.

press:

press: but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. To subject the press to the restrictive power of a licenser, as was formerly done, both before and since the revolution<sup>a</sup>, is to subject all freedom of sentiment 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 present) any dangerous or offensive writings, which, when published, shall on a fair and impartial trial be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order, of government and religion, the only solid foundations of civil liberty. Thus the will of individuals is still left free; the abuse only of that free will is the object of legal punishment. Neither is any restraint hereby laid upon freedom of thought or enquiry: liberty of private sentiment is still left; the disseminating, or making public, of bad sentiments, destructive of the ends of society, is the crime which society corrects. A man (says a fine writer on this subject) may be allowed to keep poisons in his closet, but not publicly to vend them as cordials. And to this we may

<sup>a</sup> The art of printing, soon 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 star-chamber; which limited the number of printers, and of presses which each should employ, and prohibited new publications unless previously approved by proper licensers. On the demolition of this odious jurisdiction in 1641, the long parliament of Charles I, after their rupture with that prince, assumed the same powers as the star-chamber exercised with respect to the licensing 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 star-chamber decree of 1637. In 1662 was passed the statute 13 & 14 Car. II. c. 33. which (with some 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 subsequent part of that reign, (Com. Journ. 11 Feb. 1694. 26 Nov. 1695. 22 Oct. 1696. 9 Feb. 1697. 31 Jan. 1698.) yet the parliament resisted it so strongly, that it finally expired, and the press became properly free, in 1694; and has ever since so continued.

add,

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add, that the only plausible argument heretofore used for restraining the just freedom of the press, "that it was necessary "to prevent the daily abuse of it," will entirely lose its force, when it is shewn (by a reasonable exertion of the laws) that the press cannot be abused to any bad purpose, without incurring a suitable punishment: whereas it never can be used to any good one, when under the control of an inspector. So true will it be found, that to censure the licentiousness, is to maintain the liberty, of the press.

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